
A BILL FOR AN ACT

RELATING TO HOMEOWNERSHIP.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that homeownership
2 creates strong communities through economic growth.
3 Homeownership helps families to build equity and enjoy
4 stability. Homeowners have a greater sense of security,
5 continuity, belonging, and pride in their communities. However,
6 saving for a down payment is often cited as the biggest hurdle
7 for first-time home buyers, particularly for young people
8 grappling with student loan debt. The Hawaii Housing Planning
9 Study, 2016, prepared for the Hawaii Housing Finance and
10 Development Corporation found that twenty-eight per cent of
11 those interested in buying a home could not afford the down
12 payment.

13 The legislature further finds that individual housing
14 accounts help first-time homebuyers save money for a down
15 payment. However, due to the rising cost of buying a home in
16 Hawaii, the current ceiling for the aggregate total that can be
17 saved in an individual housing account is too low.



1 The purpose of this Act is to improve individual housing
2 accounts to help lower- and moderate-income families save for a
3 down payment to purchase a home.

4 SECTION 2. Section 235-5.5, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§235-5.5 Individual housing accounts.** (a) [~~There~~] For
7 individual housing accounts established prior to January 1,
8 2019, there shall be allowed as a deduction from gross income
9 the amount, not to exceed \$5,000, paid in cash during the
10 taxable year by an individual taxpayer to an individual housing
11 account established for the individual's benefit to provide
12 funding for the purchase of the individual's first principal
13 residence. A deduction not to exceed \$10,000 shall be allowed
14 for a married couple filing a joint return. No deduction shall
15 be allowed on any amounts distributed less than three hundred
16 sixty-five days from the date on which a contribution is made to
17 the account. Any deduction claimed for a previous taxable year
18 for amounts distributed less than three hundred sixty-five days
19 from the date on which a contribution was made shall be
20 disallowed and the amount deducted shall be included in the
21 previous taxable year's gross income and the tax reassessed.



1 The interest paid or accrued within the taxable year on the
2 account shall not be included in the individual's gross income.
3 For purposes of this [~~section, the term~~] subsection, "first
4 principal residence" means a residential property purchased with
5 the payment or distribution from the individual housing account
6 [~~which~~] that shall be owned and occupied as the only home by an
7 individual who did not have any interest in, individually, or
8 whose spouse did not have any interest in, if the individual is
9 married, a residential property within the last five years of
10 opening the individual housing account.

11 In the case of a married couple filing separate returns,
12 the sum of the deductions allowable to each of them for the
13 taxable year shall not exceed \$5,000, or \$10,000 for a joint
14 return, for amounts paid in cash, excluding interest paid or
15 accrued thereon.

16 The amounts paid in cash allowable as a deduction under
17 this [~~section~~] subsection to an individual for all taxable years
18 shall not exceed \$25,000, excluding interest paid or accrued.
19 In the case of married individuals having separate individual
20 housing accounts, the sum of the separate accounts and the



1 deduction under this [~~section~~] subsection shall not exceed
2 \$25,000, excluding interest paid or accrued thereon.

3 (b) For individual housing accounts established after
4 December 31, 2018, there shall be allowed as a deduction from
5 gross income the amount, not to exceed \$ _____, paid in cash
6 during the taxable year by an individual taxpayer to an
7 individual housing account established for the individual's
8 benefit to provide funding for the purchase of the individual's
9 first principal residence. A deduction from gross income not to
10 exceed \$ _____ shall be allowed for a married couple filing
11 a joint return. No deduction shall be allowed:

12 (1) On any amounts distributed less than three hundred
13 sixty-five days from the date on which a contribution
14 is made to the account; provided that any deduction
15 claimed for a previous taxable year for amounts
16 distributed less than three hundred sixty-five days
17 from the date on which a contribution was made shall
18 be disallowed and the amount deducted shall be
19 included in the previous taxable year's gross income
20 and the tax reassessed, and the interest paid or



1 accrued within the taxable year on the account shall
2 not be included in the individual's gross income;

3 (2) To any individual taxpayer, unless the taxpayer and
4 the taxpayer's spouse, if the taxpayer is married,
5 have, in the first taxable year in which a deduction
6 is claimed under this section, a household income at
7 or below one hundred twenty per cent of the area
8 median family income established by the United States
9 Department of Housing and Urban Development; and

10 (3) To any individual taxpayer, unless the taxpayer and
11 the taxpayer's spouse, if the taxpayer is married,
12 have, in the first taxable year in which a deduction
13 is claimed under this section completed homebuyer
14 education conducted by a housing counseling agency
15 approved by the United States Department of Housing
16 and Urban Development.

17 For purposes of this subsection, the term "first principal
18 residence" means a residential property purchased with the
19 payment or distribution from the individual housing account
20 which shall be owned and occupied as the only home by an
21 individual who did not have any interest in, individually, or



1 whose spouse did not have any interest in, if the individual is
2 married, a residential property within the last three years of
3 opening the individual housing account.

4 In the case of a married couple filing separate returns,
5 the sum of the deductions allowable to each of them for the
6 taxable year shall not exceed \$ _____, for amounts paid in
7 cash, excluding interest paid or accrued thereon.

8 The amounts paid in cash allowable as a deduction under
9 this subsection to an individual for all taxable years shall not
10 exceed \$ _____, excluding interest paid or accrued. In the
11 case of married individuals having separate individual housing
12 accounts, the sum of each separate account and the deduction
13 under this subsection shall not exceed \$ _____, excluding
14 interest paid or accrued thereon.

15 ~~[(b) For]~~ (c) With respect to individual housing accounts
16 established prior to January 1, 2019, for purposes of ~~[this~~
17 ~~section, the term]~~ subsection (a), "individual housing account"
18 means a trust created or organized in Hawaii for the exclusive
19 benefit of an individual, or, in the case of a married
20 individual, for the exclusive benefit of the individual and



1 spouse jointly, but only if the written governing instrument
2 creating the trust meets the following requirements:

3 (1) Contributions shall not be accepted for the taxable
4 year in excess of \$5,000 (or \$10,000 in the case of a
5 joint return) or in excess of \$25,000 for all taxable
6 years, exclusive of interest paid or accrued;

7 (2) The trustee is a bank, a savings and loan association,
8 a credit union, or a depository financial services
9 loan company, chartered, licensed, or supervised under
10 federal or state law, whose accounts are insured by
11 the Federal Deposit Insurance Corporation, the
12 National Credit Union Administration, or any agency of
13 this State or any federal agency established for the
14 purpose of insuring accounts in these financial
15 institutions. The financial institution must actively
16 make residential real estate mortgage loans in Hawaii;

17 (3) The assets of the trust shall be invested only in
18 fully insured savings or time deposits. Funds held in
19 the trust may be commingled for purposes of
20 investment, but individual records shall be maintained



- 1 by the trustee for each individual housing account
2 holder that show all transactions in detail;
- 3 (4) The entire interest of an individual or married couple
4 for whose benefit the trust is maintained shall be
5 distributed to the individual or couple [~~not~~] no later
6 than one hundred twenty months after the date on which
7 the first contribution is made to the trust;
- 8 (5) Except as provided in subsection [~~(g)~~] (j), the
9 trustee shall not distribute the funds in the account
10 unless the trustee:
- 11 (A) Verifies that the money is to be used for the
12 purchase of a first principal residence located
13 in Hawaii, and provides that the instrument of
14 payment is payable to the mortgagor, construction
15 contractor, or other vendor of the property
16 purchased; or
- 17 (B) Withholds an amount equal to ten per cent of the
18 amount withdrawn from the account and remits this
19 amount to the director of taxation within ten
20 days after the date of the withdrawal. The
21 amount withheld shall be applied to the liability



1 of the taxpayer under subsections [~~(e)~~] (e) and
2 [~~(e)~~] (g); and

3 (6) If any amounts are distributed before the expiration
4 of three hundred sixty-five days from the date on
5 which a contribution is made to the account, the
6 trustee shall [~~se~~] notify in writing the taxpayer and
7 the director[~~-~~] of taxation of this fact. If the
8 trustee makes the verification required in paragraph
9 (5) (A), then the department of taxation shall disallow
10 the deduction under subsection (a) and subsections
11 [~~(e)~~] (e), (g), and [~~(f)~~] (h) shall not apply to that
12 amount. If the trustee withholds an amount under
13 paragraph (5) (B), then the department of taxation
14 shall disallow the deduction under subsection (a), and
15 subsection [~~(e)~~] (g) shall apply, but subsection [~~(e)~~]
16 (e) shall not apply.

17 (d) With respect to individual housing accounts
18 established after December 31, 2018, for purposes of subsection
19 (b), "individual housing account" means a trust created or
20 organized in Hawaii for the exclusive benefit of an individual,
21 or, in the case of a married individual, for the exclusive



1 benefit of the individual and spouse jointly, but only if the
2 written governing instrument creating the trust meets the
3 following requirements:

4 (1) Contributions shall not be accepted for the taxable
5 year in excess of \$ _____ for an individual (or
6 \$ _____ in the case of a joint return) or in
7 excess of \$ _____ for all taxable years, exclusive
8 of interest paid or accrued;

9 (2) The trustee is a bank, a savings bank, a savings and
10 loan association, a credit union, a community
11 development financial institution, or a depository
12 financial services loan company, chartered, licensed,
13 certified, or supervised under federal or state law,
14 whose accounts are insured by the Federal Deposit
15 Insurance Corporation, the National Credit Union
16 Administration, or any agency of this State or any
17 federal agency established for the purpose of insuring
18 accounts in these financial institutions. The
19 financial institution may actively make residential
20 real estate mortgage loans in Hawaii;



- 1 (3) The assets of the trust shall be invested only in
2 insured savings or time deposits. Funds held in the
3 trust may be commingled for purposes of investment,
4 but individual records shall be maintained by the
5 trustee for each individual housing account holder
6 that show all transactions in detail and such records
7 as necessary to qualify for pass-through deposit
8 insurance under title 12 Code of Federal Regulations
9 sections 330.5 and 330.7;
- 10 (4) The entire interest of an individual or married couple
11 for whose benefit the trust is maintained shall be
12 distributed to the individual or couple no later than
13 months after the date on which the first
14 contribution is made to the trust;
- 15 (5) Except as provided in subsection (j), the trustee
16 shall not distribute the funds in the account unless
17 the trustee:
- 18 (A) Verifies that:
- 19 (i) The individual taxpayer, or the taxpayer and
20 the taxpayer's spouse, if the taxpayer is
21 married, have completed homebuyer education



1 conducted by a housing counseling agency
2 approved by the United States Department of
3 Housing and Urban Development; and
4 (ii) The money is to be used for the purchase of
5 a first principal residence located in
6 Hawaii, and provides that the instrument of
7 payment is payable to the mortgagor,
8 construction contractor, or other vendor of
9 the property purchased; or
10 (B) Withholds an amount equal to ten per cent of the
11 amount withdrawn from the account and remits this
12 amount to the director of taxation within ten
13 days after the date of the withdrawal. The
14 amount withheld shall be applied to the liability
15 of the taxpayer under subsections (e) and (g);
16 and
17 (6) If any amounts are distributed before the expiration
18 of three hundred sixty-five days from the date on
19 which a contribution is made to the account, the
20 trustee shall notify in writing the taxpayer and the
21 director of taxation of that fact. If the trustee



1 makes the verifications required in paragraph (5) (A),
2 then the department of taxation shall disallow the
3 deduction under subsection (b), and subsections (e),
4 (g), and (i) shall not apply to that amount. If the
5 trustee withholds an amount under paragraph (5) (B),
6 then the department of taxation shall disallow the
7 deduction under subsection (b), and subsection (g)
8 shall apply, but subsection (e) shall not apply.

9 ~~[(e)]~~ (e) Any contributions paid or distributed out of an
10 individual housing account shall be included in gross income by
11 the individual for whose benefit the account was established for
12 the taxable year in which the payment or distribution is
13 received, unless the amount is used exclusively in connection
14 with the purchase of the first principal residence in Hawaii for
15 the individual for whose benefit the account was established.

16 ~~[(d)]~~ (f) The transfer of an individual's interest in an
17 individual housing account to a spouse under a dissolution of
18 marriage decree or under a written instrument incident to a
19 dissolution of marriage shall not be considered a taxable
20 transfer made by the individual, and the interest, at the time
21 of the transfer, shall be treated as part of an individual



1 housing account of the transferee, and not of the transferor.
2 After the transfer, the account shall be treated, for purposes
3 of this section, as maintained for the benefit of the
4 transferee.

5 ~~(e)~~ (g) If a distribution from an individual housing
6 account to an individual for whose benefit the account was
7 established is made and not used in connection with the purchase
8 of the first principal residence in Hawaii for the individual,
9 the tax liability of the individual under this chapter for the
10 taxable year in which the distribution is received shall be
11 increased by an amount equal to ten per cent of the amount of
12 the distribution ~~which~~ that is includable in the individual's
13 gross income for the taxable year.

14 If, during any taxable year, the individual uses the
15 account or any portion thereof as security for a loan, ~~the~~
16 that portion ~~so~~ used shall be treated as if it had been
17 distributed to that individual.

18 ~~(f)~~ (h) If the individual for whose benefit the
19 individual housing account was established purchases a
20 residential property in Hawaii with the distribution from the
21 individual housing account:



- 1 (1) Before January 1, 1990, and if the individual sells in
2 any manner or method or by use of any instrument
3 conveying or transferring the residential property,
4 the gross income of the individual under this chapter
5 for the taxable year in which the residential property
6 is sold, conveyed, or transferred, whichever is
7 applicable, shall include an amount equal to the
8 amount of the distribution from the individual housing
9 account, and in addition, the gross income of the
10 individual shall be increased by an amount equal to
11 ten per cent of the total distribution from the
12 individual housing account; or
- 13 (2) After December 31, 1989, the individual shall report
14 one-tenth of the total distribution from the
15 individual housing account used to purchase the
16 residential property as gross income in the taxable
17 year in which the distribution is completed and in
18 each taxable year thereafter until all of the
19 distribution has been included in the individual's
20 gross income at the end of the tenth taxable year
21 after the purchase of the residential property. If



1 the individual sells in any manner or method or by use
2 of any instrument conveying or transferring the
3 residential property, the gross income of the
4 individual under this chapter for the taxable year in
5 which the residential property is sold, conveyed, or
6 transferred, whichever is applicable, shall include an
7 amount equal to the amount of the distribution from
8 the individual housing account not previously reported
9 as gross income, and in addition, the tax liability of
10 the individual shall be increased by an amount equal
11 to ten per cent of the total distribution from the
12 individual housing account. If the individual sells
13 the residential property in any manner as provided in
14 this paragraph after all of the distribution has been
15 included in the individual's gross income at the end
16 of the tenth taxable year after the purchase of the
17 residential property, the tax liability of the
18 individual shall not be increased by an amount equal
19 to ten per cent of the total distribution from the
20 individual housing account.



1 An individual who purchased a residential property in Hawaii
2 with the distribution from an individual housing account before
3 January 1, 1990, who is subject to paragraph (1) may elect to
4 report as provided in paragraph (2). The election shall be made
5 before January 1, 1991. If the individual makes the election,
6 the individual shall report one-tenth of the total distribution
7 from the individual housing account as gross income in the
8 taxable year in which the election occurs and in each taxable
9 year thereafter until all of the distribution has been included
10 in gross income as provided by paragraph (2). If the individual
11 making the election sells the residential property in any manner
12 as provided in paragraph (2), then the individual shall include
13 as income the amount of the distribution not previously reported
14 as income and increase the individual's tax liability as
15 provided in the second sentence of paragraph (2), except when
16 the third sentence of paragraph (2) applies.

17 In the alternative, any individual subject to paragraph (2)
18 who established the individual housing account before January 1,
19 1990, may elect within one year after the date of purchase, to
20 be subject to paragraph (1).



1 This subsection shall apply to individual housing accounts
2 established prior to January 1, 2019.

3 (i) If the individual for whose benefit an individual
4 housing account was established after December 31, 2018 and for
5 which a deduction was claimed under this section purchases a
6 residential property in Hawaii with the distribution from the
7 individual housing account, and if the individual sells in any
8 manner or method or by use of any instrument conveying or
9 transferring the residential property, the gross income of the
10 individual under this chapter for the taxable year in which the
11 residential property is sold, conveyed, or transferred,
12 whichever is applicable, shall include an amount equal to the
13 amount of the distribution from the individual housing account,
14 and in addition, the gross income of the individual shall be
15 increased by an amount equal to ten per cent of the total
16 distribution from the individual housing account; provided that
17 the amount included in gross income shall be reduced by ten per
18 cent for each full taxable year the individual, or the
19 individual's spouse, occupies the residential property as a
20 first principal residence.



1 [~~(g)~~] (j) No tax liability shall be imposed under this
2 section if[+]

3 ~~(1)~~ ~~The~~ the payment or distribution is attributable to
4 the individual dying or becoming totally disabled[+],
5 or

6 ~~(2)~~ ~~Residential~~ residential property subject to
7 subsection [~~(f)~~] (h) or (i) is transferred by will or
8 by operation of law or sold due to the death or total
9 disability of an individual or individual's spouse,
10 subject to the following:

11 (1) An individual shall not be considered to be totally
12 disabled unless proof is furnished of the total
13 disability in the form and manner as the director of of
14 taxation may require[-];

15 (2) Upon the death of an individual for whose benefit an
16 individual housing account has been established, the
17 funds in the account shall be payable to the estate of
18 the individual; provided that if the account was held
19 jointly by the decedent and a spouse of the decedent,
20 the account shall terminate and be paid to the
21 surviving spouse; or, if the surviving spouse so



1 elects, the spouse may continue the account as an
2 individual housing account ~~[]~~; and

3 (3) Upon the total disability of an individual for whose
4 benefit an individual housing account has been
5 established, the individual or the individual's
6 authorized representative may elect to continue the
7 account or terminate the account and be paid the
8 assets; provided that if the account was held jointly
9 by a totally disabled person and a spouse of that
10 person, then the spouse or an authorized
11 representative may elect to continue the account or
12 terminate the account and be paid the assets.

13 ~~[(h)]~~ (k) If the individual for whose benefit the
14 individual housing account was established subsequently marries
15 ~~[a person]~~ another individual who has or has had any interest in
16 residential property ~~[]~~ within the three years prior to the
17 marriage, the individual's housing account shall be terminated,
18 the funds therein shall be distributed to ~~[the]~~ that individual,
19 and the amount of the funds shall be includable in ~~[the]~~ that
20 individual's gross income for the taxable year in which ~~[such]~~
21 the marriage took place; provided that the tax liability defined



1 under [~~subsection (f)~~] subsections (h) and (i) shall not be
2 imposed.

3 [~~(i)~~] (1) The trustee of an individual housing account
4 shall make reports regarding the account to the director of
5 taxation and to the individual for whom the account is
6 maintained with respect to contributions, distributions, and
7 other matters as the director of taxation may require under
8 rules. The reports shall be filed at a time and in a manner as
9 may be required by rules adopted [~~under~~] pursuant to chapter 91.
10 [~~A person~~] An individual who fails to file a required report
11 shall be subject to a penalty of [~~\$10~~] \$ _____ to be paid to
12 the director of taxation for each instance of failure to file."

13 SECTION 3. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 4. This Act shall take effect on January 1, 2050.



Report Title:

Homeownership; Individual Housing Accounts; Deductions

Description:

Changes the annual contribution and deduction amounts, aggregate contribution amount, and deadline for distributing the entire interest for individual housing accounts established after 12/31/2018; allows community development financial institutions to serve as trustees of individual housing accounts established after 12/31/2018; and requires homebuyer education as a condition of distribution of funds in individual housing accounts by trustees. Effective 1/1/2050. (SD2)

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