
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Chapter 235, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:
4 "§235- Real estate investment trust returns; shareholder
5 agreements; mandatory payments. (a) Each real estate
6 investment trust shareholder receiving a dividend from the real
7 estate investment trust shall take into account for purposes of
8 this chapter a pro rata share of income attributable to the
9 State and the pro rata share of income not attributable to the
10 State, to the extent modified under this chapter, under rules
11 similar to those adopted pursuant to section 235-122(c). The
12 percentage of the dividend attributable to the State shall be
13 the same as the real estate investment trust's overall
14 percentage of income attributable to the State.
15 Each real estate investment trust shall make a return for
16 each taxable year, stating specifically:



- 1 (1) The items of its gross income and the deductions
2 allowable by this chapter;
- 3 (2) The name, address, and social security or federal
4 identification number of each person owning stock in
5 the real estate investment trust at any time during
6 the taxable year;
- 7 (3) The number of shares of stock owned by each
8 shareholder at all times during the taxable year;
- 9 (4) The income attributable to the State and income not
10 attributable to the State with respect to each
11 shareholder as determined under this chapter;
- 12 (5) Any modifications required under this chapter;
- 13 (6) The amount of money and other property distributed by
14 the real estate investment trust during the taxable
15 year to each shareholder;
- 16 (7) The amount of each distribution constituting a
17 dividend or capital gain dividend; and
- 18 (8) Any other information that the department, by form or
19 rule, may prescribe.
- 20 The real estate investment trust, on or before the day on
21 which its return is filed, shall furnish to each person who was



1 a shareholder during the year a copy of the information shown on
 2 the return as the department may prescribe by form or rule. Any
 3 return filed pursuant to this section, for purposes of sections
 4 235-111 and 235-112, shall be treated as a return filed by the
 5 real estate investment trust under section 235-92.

6 (b) The department shall permit any real estate investment
 7 trust to file composite returns and to make composite payments
 8 of tax on behalf of some or all of its nonresident shareholders.
 9 The department may permit composite returns and payments to be
 10 made on behalf of resident shareholders.

11 (c) A real estate investment trust shall file with the
 12 department, in the form prescribed by the department, the
 13 agreement of each nonresident shareholder of the real estate
 14 investment trust:

- 15 (1) To file a return and make timely payment of all taxes
 16 imposed by this State on the shareholder with respect
 17 to the income of the real estate investment trust; and
- 18 (2) To be subject to personal jurisdiction in this State
 19 for purposes of the collection of unpaid income tax,
 20 together with related interest and penalties.



1 If the real estate investment trust fails to timely file
2 the agreements required by paragraphs (1) and (2) on behalf of
3 each of its nonresident shareholders, then the real estate
4 investment trust, at the times set forth in subsection (d),
5 shall pay to this State on behalf of each nonresident
6 shareholder in respect of whom an agreement has not been timely
7 filed an amount equal to the highest marginal tax rate in effect
8 under section 235-71 (if the shareholder is a corporation) or
9 235-51 (for any other shareholder), multiplied by the amount of
10 the shareholder's pro rata share of the income attributable to
11 the State as reflected on the real estate investment trust's
12 return for the taxable period. A real estate investment trust
13 shall be entitled to recover a payment made pursuant to the
14 preceding sentence from the shareholder on whose behalf the
15 payment was made.

16 (d) The agreements required to be filed pursuant to
17 subsection (c) shall be filed at the following times:

18 (1) At the time the annual return is required to be filed
19 for the first taxable period for which the real estate
20 investment trust became subject to this chapter; and



1 (2) At the time the annual return is required to be filed
2 for any taxable period in which the real estate
3 investment trust had a nonresident shareholder on
4 whose behalf such an agreement has not been previously
5 filed.

6 (e) Any amount paid by the real estate investment trust to
7 this State pursuant to subsection (b) or (c) shall be considered
8 to be a payment by the shareholder on account of the income tax
9 imposed on the shareholder for the taxable period.

10 (f) Any officer of any real estate investment trust who
11 wilfully fails to provide any information, file any return or
12 agreement, or make any payment as required by this section or by
13 section 231-15.6 shall be guilty of a misdemeanor.

14 (g) As used in this section, a "real estate investment
15 trust" means a corporation for which a valid election under
16 section 856 of the Internal Revenue Code, as amended, is in
17 effect."

18 SECTION 2. New statutory material is underscored.

19 SECTION 3. This Act shall take effect on July 1, 2030, and
20 shall apply to taxable years beginning after December 31, 2018.



Report Title:

Real Estate Investment Trusts; Income Tax on Shareholders;
Withholding

Description:

Requires that real estate investment trusts file returns reporting their shareholders' pro rata shares of net income and net income attributable to this State. Provides for composite returns and requires withholding for those shareholders who do not agree to file returns or pay tax on their pro rata share of net income attributable to this State. Applies to taxable years beginning after 12/31/2018. (HB2702 HD1)

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