



EXECUTIVE CHAMBERS  
HONOLULU

DAVID Y. IGE  
GOVERNOR

June 7, 2019

**GOV. MSG. NO. 1197**

The Honorable Ronald D. Kouchi,  
President  
and Members of the Senate  
Thirtieth State Legislature  
State Capitol, Room 409  
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,  
Speaker and Members of the  
House of Representatives  
Thirtieth State Legislature  
State Capitol, Room 431  
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on June 7, 2019, the following bill was signed into law:

SB394 SD1 HD1 CD1

RELATING TO TAXATION.  
**ACT 096 (19)**

Sincerely,

DAVID Y. IGE  
Governor, State of Hawai'i

# A BILL FOR AN ACT

RELATING TO TAXATION.

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

1           SECTION 1. The purpose of this Act is to adopt market-

2 based sourcing for purposes of apportioning income under the

3 Uniform Division of Income for Tax Purposes Act (UDITPA), part

4 II of chapter 235, Hawaii Revised Statutes. UDITPA governs the

5 imposition of the Hawaii net income tax to taxpayers that carry

6 on business both within and without the State. Historically,

7 UDITPA has sourced intangibles and services to the place where

8 the income-producing activity is performed or where most of the

9 costs of performance are incurred.

10           As intangible property and services have become a greater

11 part of the economy, states have transitioned to market-based

12 sourcing for intangibles and services. Market-based sourcing

13 imposes tax in the place where taxpayers' markets are located

14 rather than only the location of taxpayers' activities. Today,

15 more than half of all states have made the transition to market-

16 based sourcing. This Act amends UDITPA to transition to market-

17 based sourcing for income from intangibles and services.

18 Specifically, this Act changes the sourcing rules for the Hawaii



1 sales factor for sales of services or intangibles to market-  
2 based sourcing.

3 This transition will ensure that Hawaii's income tax is  
4 keeping up with the changing economy and will foster uniformity  
5 with states that have also transitioned to market-based  
6 sourcing. This will reduce inter-state complexity and simplify  
7 inter-state compliance.

8 In addition, Hawaii's general excise tax utilizes a version  
9 of market-based sourcing. Therefore, transitioning the net  
10 income tax to market-based sourcing will increase consistency  
11 and efficiency between the two taxes.

12 SECTION 2. Section 235-37, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 **"§235-37 Apportionment; sales factor; nontangible**  
15 **personalty.** Sales, other than sales of tangible personal  
16 property, are in this State [~~if~~]:

17 (1) [~~The income producing activity is performed in this~~  
18 ~~State, or~~] In the case of intangible property, to the  
19 extent the intangible property is used in this State;  
20 or



1           (2) ~~[The income producing activity is performed both in~~  
 2           ~~and outside this State and a greater proportion of the~~  
 3           ~~income producing activity is performed in this State~~  
 4           ~~than in any other state, based on costs of~~  
 5           ~~performance.] In the case of a service, to the extent~~  
 6           ~~the service is used or consumed in this State."~~

7           SECTION 3. Statutory material to be repealed is bracketed  
 8           and stricken. New statutory material is underscored.

9           SECTION 4. This Act shall take effect upon its approval,  
 10          and shall apply to taxable years beginning after December 31,  
 11          2019.

APPROVED this        7        day of        JUN        , 2019

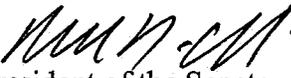


GOVERNOR OF THE STATE OF HAWAII

**THE SENATE OF THE STATE OF HAWAI'I**

Date: April 30, 2019  
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Thirtieth Legislature of the State of Hawai'i, Regular Session of 2019.

  
President of the Senate

  
Clerk of the Senate

SB No. 394, SD 1, HD 1, CD 1

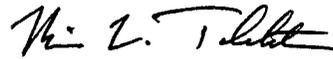
THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: April 30, 2019  
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirtieth Legislature of the State of Hawaii, Regular Session of 2019.



Scott K. Saiki  
Speaker  
House of Representatives



Brian L. Takeshita  
Chief Clerk  
House of Representatives