
A BILL FOR AN ACT

RELATING TO REAL ESTATE INVESTMENT TRUST FUNDS.

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 fund shall take into account for

8 purposes of this chapter a pro rata share of income attributable

9 to the State and the pro rata share of income not attributable

10 to the State, to the extent modified under this chapter, under

11 rules similar to those adopted pursuant to section 235-122(c).

12 The percentage of the dividend attributable to the State shall

13 be 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.



1 The real estate investment trust, on or before the day on
2 which its return is filed, shall furnish to each person who was
3 a shareholder during the year a copy of the information shown on
4 the return as the department may prescribe by form or rule. Any
5 return filed pursuant to this section, for purposes of sections
6 235-111 and 235-112, shall be treated as a return filed by the
7 real estate investment trust under section 235-92.

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

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

17 (1) To file a return and make timely payment of all taxes
18 imposed by this State on the shareholder with respect
19 to the income of the real estate investment trust; and



1 (2) To be subject to personal jurisdiction in this State
2 for purposes of the collection of unpaid income tax,
3 together with related interest and penalties.

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

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



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

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

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

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

17 (g) As used in this section, a "real estate investment
18 trust" means a corporation for which a valid election under
19 section 856 of the Internal Revenue Code of 1986, as amended, is
20 in effect."

21 SECTION 2. New statutory material is underscored.



H.B. NO. 1064

1 SECTION 3. This Act, upon its approval, shall apply to
2 taxable years beginning after December 31, 2019.
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JAN 23 2019



H.B. NO. 1064

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.

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