

JAN 16 2020

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# A BILL FOR AN ACT

RELATING TO THE CORPORATE DIVIDENDS RECEIVED DEDUCTION.

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

1           SECTION 1. The purpose of this Act is to correct the net  
2 income tax law to eliminate unconstitutional provisions as  
3 recognized by the department of taxation in Announcement 98-5  
4 and Tax Information Release 99-2, and thereby to conform the  
5 statutory language to the law as administered by the department  
6 of taxation.

7           SECTION 2. Section 235-7, Hawaii Revised Statutes, is  
8 amended by amending subsection (c) to read as follows:

9           "(c) The deductions of or based on dividends paid or  
10 received, allowed to a corporation under chapter 1, subchapter  
11 B, part VIII of the Internal Revenue Code, shall not be allowed.  
12 In lieu thereof there shall be allowed as a deduction the entire  
13 amount of dividends received by any corporation upon the shares  
14 of stock of a national banking association[~~7~~]; qualifying  
15 dividends, as defined in section 243(b) of the Internal Revenue  
16 Code, received by members of an affiliated group, [~~or~~] provided  
17 that "includible corporation" as used therein shall include



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1 foreign (non-United States) corporations; dividends received by  
2 a small business investment company operating under the Small  
3 Business Investment Act of 1958 (Public Law 85-699) [~~upon shares~~  
4 ~~of stock qualifying under paragraph (3),~~]; and seventy per cent  
5 of the amount received by any corporation as dividends[+

6 ~~(1) Upon~~ upon the shares of stock of another corporation,  
7 if [~~at the date of payment of the dividend at least~~  
8 ~~ninety five per cent of the other corporation's~~  
9 ~~capital stock is owned by one or more corporations~~  
10 ~~doing business in this State and if the other~~  
11 ~~corporation is subjected to an income tax in another~~  
12 ~~jurisdiction (but subjection to federal tax does not~~  
13 ~~constitute subjection to income tax in another~~  
14 ~~jurisdiction);~~ and

15 ~~(2) Upon the shares of stock of a bank or insurance~~  
16 ~~company organized and doing business under the laws of~~  
17 ~~the State;~~

18 ~~(3) Upon the shares of stock of another corporation, if at~~  
19 ~~least fifteen per cent of the latter corporation's~~  
20 ~~business, for the taxable year of the latter~~



1           ~~corporation preceding the payment of the dividend, has~~  
2           ~~been attributed to this State.~~

3   ~~However, except for national bank dividends, the deductions~~  
4   ~~under this subsection are not allowed when they would not have~~  
5   ~~been] otherwise allowed under section 243 of the Internal~~  
6   ~~Revenue Code[, as amended by Public Law 85-866, by reason of~~  
7   ~~subsections (b) and (c) of section 246 of the Internal Revenue~~  
8   ~~Code. For the purposes of this subsection fifteen per cent of a~~  
9   ~~corporation's business shall be deemed to have been attributed~~  
10   ~~to this State if fifteen per cent or more of the entire gross~~  
11   ~~income of the corporation as defined in this chapter (which for~~  
12   ~~the purposes of this subsection shall be computed without regard~~  
13   ~~to source in the State and shall include income not taxable by~~  
14   ~~reason of the fact that it is from property not owned in the~~  
15   ~~State or from a trade or business not carried on in the State in~~  
16   ~~whole or in part), under section 235-5 and the other provisions~~  
17   ~~of this chapter, shall have been attributed to the State and~~  
18   ~~subjected to assessment of the taxable income therefrom~~  
19   ~~(including the determination of the resulting net loss, if~~  
20   ~~any)]. "~~



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1 SECTION 3. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act, upon its approval, shall apply to  
4 taxable years beginning after December 31, 2019.

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INTRODUCED BY:

David L. ...  
Michelle D. ...

[Signature]

[Signature]



# S.B. NO. 2058

**Report Title:**

Income Tax; Dividends Received Deduction

**Description:**

Repeals the threshold requirements of the income tax deduction for dividends received.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

