A BILL FOR AN ACT

RELATING TO THE CORPORATE DIVIDENDS RECEIVED DEDUCTION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAI'I:

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

SECTION 2. Section 235-7, Hawaii Revised Statutes, is
amended by amending subsection (c) to read as follows:
"(c) The deductions of or based on dividends paid or
received, allowed to a corporation under chapter 1, subchapter
B, part VIII of the Internal Revenue Code, shall not be allowed.
In lieu thereof there shall be allowed as a deduction the entire
amount of dividends:
(1) Dividends received by any corporation upon the shares
of stock of a national banking association;
(2) Qualifying dividends, as defined in section 243(b) of the Internal Revenue Code, received by members of an affiliated group, [or—dividends as defined in sections 243(b) and 1504(a) of the Internal Revenue Code; provided that "includible corporation" as used therein shall include domestic and foreign corporations;

(3) Dividends received by a small business investment company operating under the Small Business Investment Act of 1958 (Public Law 85—699) [upon shares of stock qualifying under paragraph (3), seventy]; or

(4) Seventy per cent of the amount received by any corporation as dividends;

(1) Upon the shares of stock of another corporation, if [at the date of payment of the dividend at least ninety-five per cent of the other corporation's capital stock is owned by one or more corporations doing business in this State and if the other corporation is subjected to an income tax in another jurisdiction (but subject to federal tax does not
constitute subject to income tax in another
jurisdiction); and

(2) Upon the shares of stock of a bank or insurance
company organized and doing business under the laws of
the State,

(3) Upon the shares of stock of another corporation, if at
least fifteen per cent of the latter corporation's
business, for the taxable year of the latter
corporation preceding the payment of the dividend, has
been attributed to this State.

However, except for national bank dividends, the deductions
under this subsection are not allowed when they would not have
been otherwise allowed under section 243 of the Internal
Revenue Code[, as amended by Public Law 85-866, by reason of
subsections (b) and (c) of section 246 of the Internal Revenue
Code. For the purposes of this subsection fifteen per cent of a
corporation's business shall be deemed to have been attributed
to this State if fifteen per cent or more of the entire gross
income of the corporation as defined in this chapter (which for
the purposes of this subsection shall be computed without regard
to source in the State and shall include income not taxable by
reason of the fact that it is from property not owned in the State or from a trade or business not carried on in the State in whole or in part), under section 235.5 and the other provisions of this chapter, shall have been attributed to the State and subjected to assessment of the taxable income therefrom (including the determination of the resulting net loss, if any)."

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

SECTION 4. This Act shall take effect on July 1, 2050, and apply to taxable years beginning after December 31, 2019.
Report Title:
Income Tax; Dividends Received Deduction

Description:
Repeals the threshold requirements of the income tax deduction for dividends received. Effective 7/1/2050. (SD1)

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