

# S.B. NO. 2920

JAN 23 2020

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## A BILL FOR AN ACT

RELATING TO CONFORMITY TO THE INTERNAL REVENUE CODE.

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

1           SECTION 1. The purpose of this Act is to conform Hawaii  
2 income and estate and generation-skipping transfer tax laws to  
3 the Internal Revenue Code.

4           SECTION 2. Section 235-2.3, Hawaii Revised Statutes, is  
5 amended by amending subsection (a) to read as follows:

6           "(a) For all taxable years beginning after December 31,  
7 [~~2018~~] 2019, as used in this chapter, except as provided in  
8 section 235-2.35, "Internal Revenue Code" means subtitle A,  
9 chapter 1, of the federal Internal Revenue Code of 1986, as  
10 amended as of December 31, [~~2018~~] 2019, as it applies to the  
11 determination of gross income, adjusted gross income, ordinary  
12 income and loss, and taxable income, except those provisions of  
13 the Internal Revenue Code and federal public laws which,  
14 pursuant to this chapter, do not apply or are otherwise limited  
15 in application and except for the provisions of Public Law 109-  
16 001 which apply to section 170 of the Internal Revenue Code.  
17 The provisions of Public Law 109-001 to accelerate the deduction  
18 for charitable cash contributions for the relief of victims of

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1 the 2004 Indian Ocean tsunami are applicable for the calendar  
2 year that ended December 31, 2004, and the calendar year ending  
3 December 31, 2005.

4 Prior law shall continue to be used to determine:

5 (1) The basis of property, if a taxpayer first determined  
6 the basis of property in a taxable year to which prior  
7 law applies; and

8 (2) Gross income, adjusted gross income, ordinary income  
9 and loss, and taxable income for a taxable year to  
10 which prior law applies."

11 SECTION 3. Section 235-2.4, Hawaii Revised Statutes, is  
12 amended by amending subsection (ee) to read as follows:

13 "(ee) Sections 512 to 514 (with respect to taxation of  
14 business income of certain exempt organizations) of the Internal  
15 Revenue Code shall be operative for the purposes of this chapter  
16 as provided in this subsection.

17 "Unrelated business taxable income" means the same as in  
18 the Internal Revenue Code, except that:

19 (1) In the computation of unrelated business taxable  
20 income[÷],  
21 [~~(A) Sections~~] sections 235-3 to 235-5, and 235-7  
22 (except subsection (c)), shall apply; [~~and~~

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1           ~~(B) Section 512(a)(7) shall not apply;~~

2           (2) In the determination of the net operating loss  
3           deduction there shall not be taken into account any  
4           amount of income or deduction that is excluded in  
5           computing the unrelated business taxable income; and

6           (3) Unrelated business taxable income shall not include  
7           any income from a legal service plan.

8           For a person described in section 401 or 501 of the  
9           Internal Revenue Code, as modified by section 235-2.3, the tax  
10          imposed by section 235-51 or 235-71 shall be imposed upon the  
11          person's unrelated business taxable income."

12          SECTION 4. Section 236E-3, Hawaii Revised Statutes, is  
13          amended to read as follows:

14          "**§236E-3 Conformance to the Internal Revenue Code; general**  
15          **application.** For all decedents dying, or transfers occurring,  
16          after December 31, [~~2018,~~] 2019, as used in this chapter,  
17          "Internal Revenue Code" means subtitle B of the federal Internal  
18          Revenue Code of 1986, as amended as of December 31, [~~2018,~~]  
19          2019, as it applies to the determination of gross estate,  
20          adjusted gross estate, federal taxable estate, and generation-  
21          skipping transfers, except those provisions of the Internal

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1 Revenue Code and federal public laws that, pursuant to this  
2 chapter, do not apply or are otherwise limited in application."

3 SECTION 5. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 6. This Act shall take effect upon its approval;  
6 provided that:

7 (1) Sections 2 and 3 shall apply to taxable years  
8 beginning after December 31, 2019; and

9 (2) Section 4 shall apply to decedents dying or taxable  
10 transfers occurring after December 31, 2019.

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INTRODUCED BY:



BY REQUEST

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**Report Title:**

Conformity to the Internal Revenue Code for 2019; Income Tax;  
Estate and Generation-skipping Transfer Tax

**Description:**

Conforms Hawaii income and estate and generation-skipping  
transfer tax laws to the Internal Revenue Code of 1986, as  
amended as of December 31, 2019.

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

JUSTIFICATION SHEET

DEPARTMENT: Taxation.

TITLE: A BILL FOR AN ACT RELATING TO CONFORMITY TO THE INTERNAL REVENUE CODE.

PURPOSE: To amend Hawaii's income and estate and generation-skipping transfer tax laws to conform to changes made to the Internal Revenue Code in calendar year 2019.

MEANS: Amend sections 235-2.3(a) 235-2.4(ee), and 236E-3, Hawaii Revised Statutes (HRS).

JUSTIFICATION: Sections 235-2.5(c) and 236E-4(c), HRS, mandate that the Department of Taxation submit to each regular session of the Legislature a bill that amends Hawaii's income and estate and generation-skipping transfer tax laws to conform to changes in the Internal Revenue Code. This bill amends section 235-2.3(a), HRS, by changing the date as of which Hawaii adopts the Internal Revenue Code to December 31, 2019. This bill also amends section 236E-3, HRS, by changing the date as of which Hawaii adopts the Internal Revenue Code to December 31, 2019. These changes adopt income and estate and generation-skipping transfer tax law changes made in the 2019 calendar year. Additionally, this bill amends section 235-2.4(ee), HRS, to remove a reference to a repealed Internal Revenue Code provision. The amendment is technical and nonsubstantive.

Impact on the public: Conformity through amendments to the operative provisions of the Internal Revenue Code will minimize the burden on taxpayers to comply with the requirements of Hawaii's income and estate and generation-skipping transfer tax laws.

Impact on the department and other agencies:  
Conforming Hawaii's income and estate and generation-skipping transfer tax laws to that of the Internal Revenue Code will increase consistency between the state and federal jurisdictions.

GENERAL FUND: Pending.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: None.

OTHER AFFECTED  
AGENCIES: None.

EFFECTIVE DATE: Upon approval, income tax changes shall apply to taxable years beginning after December 31, 2019, and estate and generation-skipping transfer tax changes shall apply to decedents dying or taxable transfers occurring after December 31, 2019.