

S.B. NO. 1134

JAN 28 2015

A BILL FOR AN ACT

RELATING TO THE ESTATE AND GENERATION-SKIPPING TRANSFER TAXES.

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

1 SECTION 1. Act 220, Session Laws of Hawaii 2012, enacted
2 the Estate and Generation-Skipping Transfer Tax Reform Act,
3 designated as chapter 236E, Hawaii Revised Statutes, which
4 established the estate and generation skipping transfer taxes
5 based on the valuations, deduction, and expenses allowed for
6 federal transfer tax purposes but with tax rates independent of
7 the federal transfer taxes. The purposes of this Act are (1) to
8 make adopt operative Internal Revenue Code sections as of
9 December 31, 2014, and (2) to make technical nonsubstantive
10 changes to ensure uniformity throughout.

11 SECTION 2. Section 236E-3, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§236E-3 Conformance to the Internal Revenue Code; general**
14 **application.** For all decedents dying after January 25, 2012, as
15 used in this chapter, "Internal Revenue Code" means subtitle B
16 of the federal Internal Revenue Code of 1986, as amended as of
17 December 31, [~~2013~~] 2014, as it applies to the determination of
18 gross estate, adjusted gross estate, federal taxable estate, and

1 generation-skipping transfers, except those provisions of the
2 Internal Revenue Code and federal public laws that, pursuant to
3 this chapter, do not apply or are otherwise limited in
4 application."

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

7 " §236E-4 Administration, adoption, and interrelationship
8 of Internal Revenue Code and federal public laws with this
9 chapter. (a) Reference in provisions of the Internal Revenue
10 Code that are operative in this State to provisions in the
11 Internal Revenue Code that are not operative in this State shall
12 be considered inoperative for the purposes of determining the
13 gross estate, federal taxable estate, and generation-skipping
14 transfers; provided that:

15 (1) References to time limits and other administrative
16 provisions in subtitle F (sections 6001 to 7874) of
17 the Internal Revenue Code contained in operative
18 sections of the Internal Revenue Code shall be deemed
19 references to applicable provisions of this chapter or
20 chapter 231 or 232, and in the absence of applicable
21 provisions in this chapter or chapter 231 or 232, then
22 to rules adopted by the director of taxation under
23 subsection (b);

1 (2) If inoperative provisions of the Internal Revenue Code
2 have been codified in this chapter, the references
3 shall be deemed references to the codified provisions
4 in this chapter. Transitory and savings provisions in
5 federal public laws amending sections of the Internal
6 Revenue Code operative in this chapter shall be
7 operative for the purposes of this chapter.

8 Provisions in this chapter or chapter 231 or 232 in
9 conflict with the Internal Revenue Code or transitory
10 or savings provisions in federal public law shall
11 control; and

12 (3) Retroactive and prospective provisions in federal
13 public laws amending sections of the Internal Revenue
14 Code operative in this chapter affecting taxable years
15 beginning or ending before the December 31 [~~2011~~],
16 date in section 236E-3 shall be operative for the
17 purposes of this chapter.

18 (b) The director of taxation may adopt the rules and
19 regulations promulgated by the United States Secretary of
20 Treasury or a delegate of the Secretary relating to the
21 provisions of subtitle B of the Internal Revenue Code operative
22 in this chapter and any administrative provisions of subtitle F,
23 sections 6001 to 7874, of the Internal Revenue Code not in

1 conflict with or similar to provisions contained in this chapter
2 or chapter 231 or 232 either by reference or by setting them
3 forth in full; provided that any rule adopted pursuant to this
4 subsection shall be adopted pursuant to chapter 91.

5 (c) The department shall submit to the legislature, no
6 later than twenty days prior to the convening of each regular
7 session, proposed legislation to amend section 236E-3 and any
8 other sections and subsections of this chapter as may be
9 necessary to adopt the Internal Revenue Code as it exists on
10 [~~January 2, 2013.~~] the December 31 preceding the regular
11 session. In submitting the proposed legislation, the department
12 may provide that certain amendments made to the Internal Revenue
13 Code by Congress during the preceding calendar year shall not be
14 operative in this State or shall be limited in their operation.
15 The department shall also prepare a digest and explanation of
16 the amended provisions of the Internal Revenue Code recommended
17 for operation, as well as those provisions that are recommended
18 to be limited in their operation, or that are not recommended
19 for operation, and shall submit with the proposed legislation
20 required by this subsection the digest, explanation, and a
21 statement of revenue impact of the adoption of the proposed
22 legislation. In preparing the proposed legislation, digest, and

1 explanation, the department may request the assistance of the
2 legislative reference bureau.

3 It is the intent of the legislature to adopt all amendments
4 made to the Internal Revenue Code during the calendar year
5 preceding each regular session; provided that the legislature
6 may choose to adopt none of the amendments to the Internal
7 Revenue Code or may provide that certain amendments are limited
8 in their operation.

9 All provisions of the Internal Revenue Code referred to in
10 this chapter that apply to a husband and wife, spouses, or
11 persons in a legal marital relationship shall be deemed to apply
12 in this chapter to partners in a civil union with the same force
13 and effect as if they were "husband and wife", "spouses", or
14 other terms that describe persons in a legal marital
15 relationship."

16 SECTION 4. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 5. This Act, upon its approval, shall apply to
19 decedents dying or taxable transfers occurring after December
20 31, 2014.

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INTRODUCED BY



BY REQUEST

S.B. NO. 1134

Report Title:

Estate and Generation-skipping Transfer Tax Reform Act

Description:

Conforms chapter 236E, Hawaii Revised Statutes, to the Internal Revenue Code of 1986, as amended as of December 31, 2014, and makes technical, nonsubstantive changes.

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 ESTATE AND GENERATION-SKIPPING TRANSFER TAXES.

PURPOSE: To amend Hawaii's estate and generation-skipping transfer tax law to conform to the Internal Revenue Code as amended as of December 31, 2014, and make technical non-substantive changes.

MEANS: Amend sections 236E-3 and 236E-4, Hawaii Revised Statutes (HRS).

JUSTIFICATION: Section 236E-4, HRS, mandates that the Department of Taxation submit to each regular session of the Legislature a bill that amends Hawaii's estate and generation-skipping transfer tax law to conform to changes in the Internal Revenue Code. This bill amends section 236E-4, HRS, so that it conforms to the Internal Revenue Code as of December 31, 2014, as it relates to the estate and generation-skipping transfer tax.

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 estate and generation-skipping transfer tax law.

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

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION:

None.

OTHER AFFECTED
AGENCIES:

None.

EFFECTIVE DATE:

Upon approval, shall apply to decedents
dying or taxable transfers occurring after
December 31, 2014.