
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. The legislature finds that graduate education
2 provides students with advanced academic and professional
3 training to prepare them for high-level careers in academia or
4 as industry professionals in the private sector. To offset the
5 cost of graduate education, universities may provide a tuition
6 waiver of a certain number of credit hours in exchange for work
7 as a graduate assistant, teaching assistant, or research
8 assistant. Under existing law, this added benefit may not be
9 considered taxable income for all graduate assistants. The
10 legislature finds that as a quantifiable benefit, tuition
11 waivers for graduate assistants should be considered taxable
12 income for the purpose of state income taxation.

13 The taxation of benefits, including tuition waivers,
14 received by graduate assistants at the university of Hawaii is a
15 matter of statewide concern pursuant to article X, section 6, of
16 the Hawaii State Constitution.

17 Therefore, the purpose of this Act is to:



1 (1) Require any qualified tuition reduction for graduate
2 assistants enrolled in graduate level coursework to be
3 considered taxable income; and

4 (2) Restrict the qualified tuition reduction for graduate
5 assistants enrolled in graduate level coursework to be
6 equal to an amount not more than a certain percentage
7 of the resident tuition fee.

8 SECTION 2. Chapter 304A, Hawaii Revised Statutes, is
9 amended by adding two new sections to part II, subpart A, to be
10 appropriately designated and to read as follows:

11 "§304A- Graduate assistants; tuition waiver; taxable
12 income. (a) Any qualified tuition reduction for graduate
13 assistants enrolled in graduate level coursework shall be
14 considered taxable income under chapter 235.

15 (b) For purposes of this section:

16 "Graduate assistant" means a student in a renewable,
17 part-time academic appointment with responsibilities of teaching
18 and research in their unit of hire, and have roles as
19 professionals, albeit of an apprentice nature, in the university
20 community.



1 "Qualified tuition reduction" means the amount of any
 2 reduction in tuition provided to an employee who is a graduate
 3 student at an organization described in section 170(b)(1)(A)(ii)
 4 of the Internal Revenue Code for the education at such
 5 organization (or another organization described in section
 6 170(b)(1)(A)(ii) of the Internal Revenue Code) of:

- 7 (1) Such employee; or
- 8 (2) Any person treated as an employee (or whose use is
 9 treated as an employee use) under the rules of section
 10 132(h) of the Internal Revenue Code.

11 **§304A- Graduate assistants; tuition waiver; tuition**
 12 **fees; resident, nonresident.** (a) Any qualified tuition
 13 reduction for graduate assistants enrolled in graduate level
 14 coursework shall be equal to:

- 15 (1) For a graduate assistant who qualifies for resident
 16 tuition fees, an amount not more than _____ per
 17 cent of the resident tuition fee; and
- 18 (2) For a graduate assistant who qualifies for nonresident
 19 tuition fees, an amount not more than _____ per
 20 cent more than the resident tuition fee.

21 (b) For purposes of this section:



1 "Graduate assistant" means a student in a renewable, part-
2 time academic appointment with responsibilities of teaching and
3 research in their unit of hire, and have roles as professionals,
4 albeit of an apprentice nature, in the university community.

5 "Qualified tuition reduction" means the amount of any
6 reduction in tuition provided to an employee who is a graduate
7 student at an organization described in section 170(b)(1)(A)(ii)
8 of the Internal Revenue Code for the education at such
9 organization (or another organization described in section
10 170(b)(1)(A)(ii) of the Internal Revenue Code) of:

11 (1) Such employee; or

12 (2) Any person treated as an employee (or whose use is
13 treated as an employee use) under the rules of section
14 132(h) of the Internal Revenue Code."

15 SECTION 3. Section 235-2.4, Hawaii Revised Statutes, is
16 amended to read as follows:

17 **"§235-2.4 Operation of certain Internal Revenue Code**
18 **provisions; sections 63 to 530. (a) Section 63 (with respect**
19 **to taxable income defined) of the Internal Revenue Code shall be**
20 **operative for the purposes of this chapter, subject to the**
21 **following:**



- 1 (1) Section 63(c)(1)(B) (relating to the additional
2 standard deduction), 63(c)(1)(C) (relating to the real
3 property tax deduction), 63(c)(1)(D) (relating to the
4 disaster loss deduction), 63(c)(1)(E) (relating to the
5 motor vehicle sales tax deduction), 63(c)(4) (relating
6 to inflation adjustments), 63(c)(7) (defining the real
7 property tax deduction), 63(c)(8) (defining the
8 disaster loss deduction), 63(c)(9) (defining the motor
9 vehicle sales tax deduction), and 63(f) (relating to
10 additional amounts for the aged or blind) of the
11 Internal Revenue Code shall not be operative for
12 purposes of this chapter;
- 13 (2) Section 63(c)(2) (relating to the basic standard
14 deduction) of the Internal Revenue Code shall be
15 operative, except that the standard deduction amounts
16 provided therein shall instead mean:
- 17 (A) \$4,400 in the case of:
- 18 (i) A joint return as provided by section 235-
19 93; or
- 20 (ii) A surviving spouse (as defined in section
21 2(a) of the Internal Revenue Code);



- 1 (B) \$3,212 in the case of a head of household (as
2 defined in section 2(b) of the Internal Revenue
3 Code);
- 4 (C) \$2,200 in the case of an individual who is not
5 married and who is not a surviving spouse or head
6 of household; or
- 7 (D) \$2,200 in the case of a married individual filing
8 a separate return;
- 9 (3) Section 63(c)(5) (limiting the basic standard
10 deduction in the case of certain dependents) of the
11 Internal Revenue Code shall be operative, except that
12 the limitation shall be the greater of \$500 or the
13 individual's earned income; and
- 14 (4) The standard deduction amount for nonresidents shall
15 be calculated pursuant to section 235-5.
- 16 (b) Section 67 (with respect to the 2-percent floor on
17 miscellaneous itemized deductions) of the Internal Revenue Code
18 shall be operative for purposes of this chapter, except that the
19 suspension in section 67(g) shall not be operative for purposes
20 of this chapter.



1 (c) Section 68 (with respect to the overall limitation on
2 itemized deductions) of the Internal Revenue Code shall be
3 operative; provided that the:

4 (1) Thresholds shall be those that were operative for
5 federal tax year 2009; and

6 (2) Suspension in section 68(f) shall not be operative for
7 purposes of this chapter.

8 (d) Section 72 (with respect to annuities; certain
9 proceeds of endowment and life insurance contracts) of the
10 Internal Revenue Code shall be operative for purposes of this
11 chapter and be interpreted with due regard to section 235-7(a),
12 except that the ten per cent additional tax on early
13 distributions from retirement plans in section 72(t) shall not
14 be operative for purposes of this chapter.

15 (e) Section 85 (with respect to unemployment compensation)
16 of the Internal Revenue Code shall be operative for purposes of
17 this chapter, except that section 85(c) shall not be operative
18 for purposes of this chapter.

19 (f) Section 108 (with respect to income from discharge of
20 indebtedness) of the Internal Revenue Code shall be operative
21 for purposes of this chapter, except that section 108(i)



1 (relating to deferral and ratable inclusion of income arising
2 from business indebtedness discharged by the reacquisition of a
3 debt instrument) shall not be operative for purposes of this
4 chapter.

5 (g) Section 117(d) (with respect to qualified tuition
6 reduction) of the Internal Revenue Code shall be operative;
7 provided that qualified tuition reduction, as defined in this
8 subsection, for graduate assistants enrolled in graduate level
9 coursework shall be subject to income tax under this chapter.

10 For purposes of this subsection:

11 "Graduate assistant" means a student in a renewable, part-
12 time academic appointment with responsibilities of teaching and
13 research in their unit of hire, and have roles as professionals,
14 albeit of an apprentice nature, in the university community.

15 "Qualified tuition reduction" means the amount of any
16 reduction in tuition provided to an employee who is a graduate
17 student at an organization described in section 170(b)(1)(A)(ii)
18 of the Internal Revenue Code for the education at such
19 organization (or another organization described in section
20 170(b)(1)(A)(ii) of the Internal Revenue Code) of:

21 (1) Such employee; or



1 (2) Any person treated as an employee (or whose use is
2 treated as an employee use) under the rules of section
3 132(h) of the Internal Revenue Code.

4 [~~g~~] (h) Section 121 (with respect to exclusion of gain
5 from sale of principal residence) of the Internal Revenue Code
6 shall be operative for purposes of this chapter, except that for
7 the election under section 121(f), a reference to section 1034
8 treatment means a reference to section 235-2.4(n) in effect for
9 taxable year 1997.

10 [~~h~~] (i) Section 132 (with respect to certain fringe
11 benefits) of the Internal Revenue Code shall be operative for
12 purposes of this chapter, except that:

13 (1) The suspensions in section 132(f)(8) and 132(g)(2)
14 shall not be operative for purposes of this chapter;
15 and

16 (2) Section 132(n) shall not apply to United States
17 Department of Defense Homeowners Assistance Program
18 payments authorized by the American Recovery and
19 Reinvestment Act of 2009.

20 [~~i~~] (j) Section 162 (with respect to trade or business
21 expenses) of the Internal Revenue Code shall be operative for



1 the purposes of this chapter, except that sections 162(f)(2),
2 (3), and (4) (all of which relate to exceptions to the general
3 rule, established in section 162(f)(1), that no deduction is
4 allowed for the payment of fines or penalties) shall not be
5 operative for purposes of this chapter.

6 [~~+~~+] (k) Section 163 (with respect to interest) of the
7 Internal Revenue Code shall be operative for the purposes of
8 this chapter, except that the following provisions shall not be
9 operative for the purposes of this chapter:

- 10 (1) Section 163(d)(4)(B) (defining net investment income
11 to exclude dividends);
- 12 (2) Section 163(e)(5)(F) (suspension of applicable high-
13 yield discount obligation (AHYDO) rules);
- 14 (3) Section 163(h)(3)(F) (limiting mortgage interest); and
- 15 (4) Section 163(i)(1) as it applies to debt instruments
16 issued after January 1, 2010 (defining AHYDO).

17 [~~+~~+] (l) Section 164 (with respect to taxes) of the
18 Internal Revenue Code shall be operative for the purposes of
19 this chapter, except that:



- 1 (1) Section 164(b)(6)(B) (limiting the deduction for state
2 and local taxes) shall not be operative for the
3 purposes of this chapter;
- 4 (2) The deductions under section 164(a)(3) and (b)(5)
5 shall not be operative for corporate taxpayers and
6 shall be operative only for the following individual
7 taxpayers:
- 8 (A) A taxpayer filing a single return or a married
9 person filing separately with a federal adjusted
10 gross income of less than \$100,000;
- 11 (B) A taxpayer filing as a head of household with a
12 federal adjusted gross income of less than
13 \$150,000; and
- 14 (C) A taxpayer filing a joint return or as a
15 surviving spouse with a federal adjusted gross
16 income of less than \$200,000; and
- 17 (3) Section 164(a)(3) shall not be operative for any
18 amounts for which the credit under section 235-55 has
19 been claimed.



1 ~~(l)~~ (m) Section 165 (with respect to losses) of the
2 Internal Revenue Code shall be operative for purposes of this
3 chapter, except that:

- 4 (1) The amount prescribed by section 165(h)(1) (relating
5 to the limitation per casualty) of the Internal
6 Revenue Code shall be a \$100 limitation per casualty;
- 7 (2) Section 165(h)(3)(A) and (B) (both of which relate to
8 special rules for personal casualty gains and losses
9 in federally declared disasters) of the Internal
10 Revenue Code shall not be operative for the purposes
11 of this chapter;
- 12 (3) Section 165(h)(5) (relating to the limitation on the
13 deductibility of personal casualty losses that are not
14 attributable to federally declared disasters) shall
15 not be operative for purposes of this chapter; and
- 16 (4) Section 165 as operative for this chapter shall also
17 apply to losses sustained from the sale of stocks or
18 other interests issued through the exercise of the
19 stock options or warrants granted by a qualified high
20 technology business as defined in section 235-7.3.



1 [~~(m)~~] (n) Section 168 (with respect to the accelerated
2 cost recovery system) of the Internal Revenue Code shall be
3 operative for purposes of this chapter, except that sections
4 168(j) (relating to property on Indian reservations), 168(k)
5 (relating to the special allowance for certain property acquired
6 during the period specified therein), and 168(m) (relating to
7 the special allowance for certain reuse and recycling property)
8 of the Internal Revenue Code shall not be operative for purposes
9 of this chapter.

10 [~~(n)~~] (o) Section 172 (with respect to net operating loss
11 deductions) of the Internal Revenue Code shall be operative for
12 purposes of this chapter in the form that it existed as of
13 December 31, 2019, and as further provided in section 235-7(d).

14 [~~(o)~~] (p) Section 179 (with respect to the election to
15 expense certain depreciable business assets) of the Internal
16 Revenue Code shall be operative for purposes of this chapter,
17 except as provided in this subsection:

18 (1) The aggregate cost provided in section 179(b)(1),
19 which may be taken into account under section 179(a)
20 for any taxable year, shall not exceed \$25,000;



1 (2) The amount at which the reduction in limitation
2 provided in section 179(b)(2) begins shall exceed
3 \$200,000 for any taxable year; and

4 (3) The following shall not be operative for purposes of
5 this chapter:

6 (A) Defining section 179 property to include computer
7 software in section 179(d)(1);

8 (B) Inflation adjustments in section 179(b)(5);

9 (C) Irrevocable election in section 179(c)(2); and

10 (D) Special rules for qualified disaster assistance
11 property in section 179(e).

12 ~~(p)~~ (q) Section 198A (with respect to the expensing of
13 qualified disaster assistances expenses) of the Internal Revenue
14 Code shall not be operative for purposes of this chapter.

15 ~~(q)~~ (r) Section 217 (with respect to moving expenses) of
16 the Internal Revenue Code shall be operative for purposes of
17 this chapter, except that the suspension in section 217(k) shall
18 not be operative for purposes of this chapter.

19 ~~(r)~~ (s) Section 219 (with respect to retirement savings)
20 of the Internal Revenue Code shall be operative for the purpose
21 of this chapter. For the purpose of computing the limitation on



1 the deduction for active participants in certain pension plans
2 for state income tax purposes, adjusted gross income as used in
3 section 219 as operative for this chapter means federal adjusted
4 gross income.

5 ~~[(s)]~~ (t) Section 220 (with respect to medical savings
6 accounts) of the Internal Revenue Code shall be operative for
7 the purpose of this chapter, but only with respect to medical
8 services accounts that have been approved by the Secretary of
9 the Treasury of the United States.

10 ~~[(t)]~~ (u) Section 265 (with respect to expenses and
11 interest relating to tax-exempt income) of the Internal Revenue
12 Code shall be operative for purposes of this chapter; except
13 that section 265(b)(3)(G) and (7) shall not be operative and
14 section 265 shall not apply to expenses for royalties and other
15 income derived from any patents, copyrights, and trade secrets
16 by an individual or a qualified high technology business as
17 defined in section 235-7.3. These expenses shall be deductible.

18 ~~[(u)]~~ (v) Section 274 (with respect to the disallowance of
19 certain entertainment, etc., expenses) of the Internal Revenue
20 Code shall be operative for this chapter in the form that it
21 existed as of December 21, 2017.



1 [~~(v)~~] (w) Section 280E (with respect to expenditures in
2 connection with the illegal sale of drugs) of the Internal
3 Revenue Code shall be operative for the purposes of this
4 chapter, except that section 280E shall not be operative with
5 respect to the production and sale of medical cannabis and
6 manufactured cannabis products by dispensaries licensed under
7 chapter 329D and their subcontractors, as defined in section
8 329D-1.

9 [~~(w)~~] (x) Section 382 (with respect to limitation on net
10 operating loss carryforwards and certain built-in losses
11 following ownership change) of the Internal Revenue Code shall
12 be operative for the purposes of this chapter, except that
13 section 382(n) shall not be operative for purposes of this
14 chapter.

15 [~~(x)~~] (y) Section 408A (with respect to Roth Individual
16 Retirement Accounts) of the Internal Revenue Code shall be
17 operative for the purposes of this chapter, except that section
18 408A(d)(3)(A)(iii) shall not be operative for purposes of this
19 chapter. For the purposes of determining the aggregate amount
20 of contributions to a Roth Individual Retirement Account or
21 qualified rollover contribution to a Roth Individual Retirement



1 Account from an individual retirement plan other than a Roth
2 Individual Retirement Account, adjusted gross income as used in
3 section 408A as operative for this chapter means federal
4 adjusted gross income.

5 [~~y~~] (z) In administering the provisions of sections 410
6 to 417 (with respect to special rules relating to pensions,
7 profit sharing, stock bonus plans, etc.), sections 418 to 418E
8 (with respect to special rules for multiemployer plans), and
9 sections 419 and 419A (with respect to treatment of welfare
10 benefit funds) of the Internal Revenue Code, the department of
11 taxation shall adopt rules under chapter 91 relating to the
12 specific requirements under those sections and to other
13 administrative requirements under those sections as may be
14 necessary for the efficient administration of sections 410 to
15 419A.

16 In administering sections 401 to 419A (with respect to
17 deferred compensation) of the Internal Revenue Code, Public Law
18 93-406, section 1017(i), shall be operative for the purposes of
19 this chapter.

20 In administering section 402 (with respect to the
21 taxability of beneficiary of employees' trust) of the Internal



1 Revenue Code, the tax imposed on lump sum distributions by
2 section 402(e) of the Internal Revenue Code shall be operative
3 for the purposes of this chapter and the tax imposed therein is
4 hereby imposed by this chapter at the rate determined under this
5 chapter.

6 ~~[(z)]~~ (aa) In administering section 403 (with respect to
7 taxation of employee annuities) of the Internal Revenue Code,
8 any funds that represent pre-tax employee deferrals or
9 contributions that are distributed from the annuity and used
10 solely to obtain retirement credits under the state employees'
11 retirement system shall not be treated as a rollover for
12 purposes of section 403(b)(8)(A) of the Internal Revenue Code,
13 and those funds shall be subject to income tax under this
14 chapter.

15 ~~[(aa)]~~ (bb) Section 451 (which provides general rules for
16 taxable year of inclusion) of the Internal Revenue Code shall be
17 operative, except that section 451(k)(3) and (6), as it relates
18 to a qualified electric utility, shall not be operative for
19 purposes of this chapter.

20 ~~[(bb)]~~ (cc) In administering section 457 (with respect to
21 compensation plans of state and local governments and tax-exempt



1 organizations) of the Internal Revenue Code, any funds that
2 represent pre-tax employee deferrals or contributions that are
3 distributed from the deferred compensation plan and used solely
4 to obtain retirement credits under the state employees'
5 retirement system shall not be treated as a rollover for
6 purposes of section 457(e)(16)(A) of the Internal Revenue Code
7 and those funds shall be subject to income tax under this
8 chapter.

9 ~~(cc)~~ (dd) Section 461 (with respect to the general rule
10 for taxable year of deduction) of the Internal Revenue Code,
11 shall be operative for purposes of this chapter in the form that
12 it existed as of December 31, 2019.

13 ~~(dd)~~ (ee) Section 468B (with respect to special rules
14 for designated settlement funds) of the Internal Revenue Code
15 shall be operative for the purposes of this chapter and the tax
16 imposed therein is hereby imposed by this chapter at a rate
17 equal to the maximum rate in effect for the taxable year imposed
18 on estates and trusts under section 235-51.

19 ~~(ee)~~ (ff) Section 469 (with respect to passive
20 activities and credits limited) of the Internal Revenue Code
21 shall be operative for the purposes of this chapter. For the



1 purpose of computing the offset for rental real estate
2 activities for state income tax purposes, adjusted gross income
3 as used in section 469 as operative for this chapter means
4 federal adjusted gross income.

5 ~~(ff)~~ (gg) Sections 512 to 514 (with respect to taxation
6 of business income of certain exempt organizations) of the
7 Internal Revenue Code shall be operative for the purposes of
8 this chapter as provided in this subsection.

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

- 11 (1) In the computation of unrelated business taxable
12 income, sections 235-3 to 235-5, and 235-7 (except
13 subsection (c)), shall apply;
- 14 (2) In the determination of the net operating loss
15 deduction there shall not be taken into account any
16 amount of income or deduction that is excluded in
17 computing the unrelated business taxable income; and
- 18 (3) Unrelated business taxable income shall not include
19 any income from a legal service plan.

20 For a person described in section 401 or 501 of the
21 Internal Revenue Code, as modified by section 235-2.3, the tax



1 imposed by section 235-51 or 235-71 shall be imposed upon the
2 person's unrelated business taxable income.

3 ~~(gg)~~ (hh) Section 521 (with respect to cooperatives) and
4 subchapter T (sections 1381 to 1388, with respect to
5 cooperatives and their patrons) of the Internal Revenue Code
6 shall be operative for the purposes of this chapter as to any
7 cooperative fully meeting the requirements of section 421-23,
8 except that Internal Revenue Code section 521 cooperatives need
9 not be organized in Hawaii.

10 ~~(hh)~~ (ii) Sections 527 (with respect to political
11 organizations) and 528 (with respect to certain homeowners
12 associations) of the Internal Revenue Code shall be operative
13 for the purposes of this chapter and the taxes imposed in each
14 section are hereby imposed by this chapter at the rates
15 determined under section 235-71.

16 ~~(ii)~~ (jj) Section 529 (with respect to qualified tuition
17 programs) shall be operative for the purposes of this chapter,
18 except that sections 529(c)(6), 529(c)(7), and 529(e)(3)(A)(iii)
19 shall not be operative.

20 ~~(jj)~~ (kk) Section 529A (with respect to qualified ABLE
21 programs) shall be operative for the purposes of this chapter,



1 except that section 529A(c)(3) (with respect to additional tax
2 for distributions not used for disability expenses) shall not be
3 operative.

4 [~~(k)~~] (11) Section 530 (with respect to Coverdell
5 education savings accounts) of the Internal Revenue Code shall
6 be operative for the purposes of this chapter. For the purpose
7 of determining the maximum amount that a contributor could make
8 to an education individual retirement account for state income
9 tax purposes, modified adjusted gross income as used in section
10 530 as operative for this chapter means federal modified
11 adjusted gross income as defined in section 530."

12 SECTION 4. This Act does not affect rights and duties that
13 matured, penalties that were incurred, and proceedings that were
14 begun before its effective date.

15 SECTION 5. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 6. This Act, upon its approval, shall apply to
18 taxable years beginning after December 31, 2024.



Report Title:

UH; Graduate Assistants; Qualified Tuition Reduction; Tuition Fee; Taxable Income

Description:

Requires qualified tuition reduction for graduate assistants enrolled in graduate level coursework to be considered taxable income. Restricts the qualified tuition reduction for graduate assistants enrolled in graduate level coursework to be equal to a certain percentage of the resident tuition fee. (SD2)

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

