

JAN 19 2024

A BILL FOR AN ACT

RELATING TO CAPITAL GAINS.

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

1 SECTION 1. The legislature finds that Hawaii has a capital
2 gains tax rate of 7.25 per cent, which is lower than the tax
3 rate many of the State's residents pay on their wages and
4 salaries. The legislature further finds that the low capital
5 gains tax rate primarily benefits wealthy individuals, including
6 nonresidents who invest in real estate in the State. According
7 to the department of taxation, taxing capital gains at the same
8 rate as ordinary income could generate over \$132,000,000 in its
9 first year of implementation, with that amount rising to an
10 estimated \$187,000,000 within six years.

11 The legislature additionally finds that revenue generated
12 by taxing capital gains at the same rate as ordinary income
13 could be used to strengthen basic government programs, including
14 tax credits for working families, emergency preparedness,
15 disaster prevention, public education, affordable housing,
16 construction, mental health services, public preschool



1 programming, childcare access, climate change adaptation and
2 mitigation, and homeless services.

3 The legislature further finds that because section 55(b)(3)
4 of the Internal Revenue Code, which covers the maximum rate of
5 tax on net capital gain of noncorporate taxpayers, is
6 inoperative for the State, a simple repeal of the applicable
7 provisions of the State's tax laws will impose the ordinary
8 income tax rate to capital gains income.

9 Accordingly, the purpose of this Act is to strengthen tax
10 fairness for working families by taxing capital gains at the
11 same rate as ordinary income.

12 SECTION 2. Section 235-51, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§235-51 Tax imposed on individuals; rates.** (a) There is
15 hereby imposed on the taxable income of every:

16 (1) Taxpayer who files a joint return under section 235-
17 93; and

18 (2) Surviving spouse,

19 a tax determined in accordance with the following table:
20



1 In the case of any taxable year beginning after December
2 31, 2017:

3	If the taxable income is:	The tax shall be:
4	Not over \$4,800	1.40% of taxable income
5	Over \$4,800 but	\$67.00 plus 3.20% of
6	not over \$9,600	excess over \$4,800
7	Over \$9,600 but	\$221.00 plus 5.50% of
8	not over \$19,200	excess over \$9,600
9	Over \$19,200 but	\$749.00 plus 6.40% of
10	not over \$28,800	excess over \$19,200
11	Over \$28,800 but	\$1,363.00 plus 6.80% of
12	not over \$38,400	excess over \$28,800
13	Over \$38,400 but	\$2,016.00 plus 7.20% of
14	not over \$48,000	excess over \$38,400
15	Over \$48,000 but	\$2,707.00 plus 7.60% of
16	not over \$72,000	excess over \$48,000
17	Over \$72,000 but	\$4,531.00 plus 7.90% of
18	not over \$96,000	excess over \$72,000
19	Over \$96,000 but	\$6,427.00 plus 8.25% of
20	not over \$300,000	excess over \$96,000
21	Over \$300,000 but	\$23,257.00 plus 9.00% of



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1	not over \$350,000	excess over \$300,000
2	Over \$350,000 but	\$27,757.00 plus 10.00% of
3	not over \$400,000	excess over \$350,000
4	Over \$400,000	\$32,757.00 plus 11.00% of
5		excess over \$400,000.

6
7 (b) There is hereby imposed on the taxable income of every
8 head of a household a tax determined in accordance with the
9 following table:

10

11 In the case of any taxable year beginning after December
12 31, 2017:

13	If the taxable income is:	The tax shall be:
14	Not over \$3,600	1.40% of taxable income
15	Over \$3,600 but	\$50.00 plus 3.20% of
16	not over \$7,200	excess over \$3,600
17	Over \$7,200 but	\$166.00 plus 5.50% of
18	not over \$14,400	excess over \$7,200
19	Over \$14,400 but	\$562.00 plus 6.40% of
20	not over \$21,600	excess over \$14,400
21	Over \$21,600 but	\$1,022.00 plus 6.80% of



1	not over \$28,800	excess over \$21,600
2	Over \$28,800 but	\$1,512.00 plus 7.20% of
3	not over \$36,000	excess over \$28,800
4	Over \$36,000 but	\$2,030.00 plus 7.60% of
5	not over \$54,000	excess over \$36,000
6	Over \$54,000 but	\$3,398.00 plus 7.90% of
7	not over \$72,000	excess over \$54,000
8	Over \$72,000 but	\$4,820.00 plus 8.25% of
9	not over \$225,000	excess over \$72,000
10	Over \$225,000 but	\$17,443.00 plus 9.00% of
11	not over \$262,500	excess over \$225,000
12	Over \$262,500 but	\$20,818.00 plus 10.00% of
13	not over \$300,000	excess over \$262,500
14	Over \$300,000	\$24,568.00 plus 11.00% of
15		excess over \$300,000.

16

17 (c) There is hereby imposed on the taxable income of (1)
18 every unmarried individual (other than a surviving spouse, or
19 the head of a household) and (2) on the taxable income of every
20 married individual who does not make a single return jointly



1 with the individual's spouse under section 235-93 a tax
2 determined in accordance with the following table:

3

4 In the case of any taxable year beginning after December
5 31, 2017:

6	If the taxable income is:	The tax shall be:
7	Not over \$2,400	1.40% of taxable income
8	Over \$2,400 but	\$34.00 plus 3.20% of
9	not over \$4,800	excess over \$2,400
10	Over \$4,800 but	\$110.00 plus 5.50% of
11	not over \$9,600	excess over \$4,800
12	Over \$9,600 but	\$374.00 plus 6.40% of
13	not over \$14,400	excess over \$9,600
14	Over \$14,400 but	\$682.00 plus 6.80% of
15	not over \$19,200	excess over \$14,400
16	Over \$19,200 but	\$1,008.00 plus 7.20% of
17	not over \$24,000	excess over \$19,200
18	Over \$24,000 but	\$1,354.00 plus 7.60% of
19	not over \$36,000	excess over \$24,000
20	Over \$36,000 but	\$2,266.00 plus 7.90% of
21	not over \$48,000	excess over \$36,000



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1	Over \$48,000 but	\$3,214.00 plus 8.25% of
2	not over \$150,000	excess over \$48,000
3	Over \$150,000 but	\$11,629.00 plus 9.00% of
4	not over \$175,000	excess over \$150,000
5	Over \$175,000 but	\$13,879.00 plus 10.00% of
6	not over \$200,000	excess over \$175,000
7	Over \$200,000	\$16,379.00 plus 11.00% of
8		excess over \$200,000.

9

10 (d) The tax imposed by section 235-2.45 on estates and
 11 trusts shall be determined in accordance with the following
 12 table:

13

14 In the case of any taxable year beginning after December
 15 31, 2001:

16	If the taxable income is:	The tax shall be:
17	Not over \$2,000	1.40% of taxable income
18	Over \$2,000 but	\$28.00 plus 3.20% of
19	not over \$4,000	excess over \$2,000
20	Over \$4,000 but	\$92.00 plus 5.50% of
21	not over \$8,000	excess over \$4,000



1	Over \$8,000 but	\$312.00 plus 6.40% of
2	not over \$12,000	excess over \$8,000
3	Over \$12,000 but	\$568.00 plus 6.80% of
4	not over \$16,000	excess over \$12,000
5	Over \$16,000 but	\$840.00 plus 7.20% of
6	not over \$20,000	excess over \$16,000
7	Over \$20,000 but	\$1,128.00 plus 7.60% of
8	not over \$30,000	excess over \$20,000
9	Over \$30,000 but	\$1,888.00 plus 7.90% of
10	not over \$40,000	excess over \$30,000
11	Over \$40,000	\$2,678.00 plus 8.25% of
12		excess over \$40,000.

13

14 (e) Any taxpayer, other than a corporation, acting as a
15 business entity in more than one state who is required by this
16 chapter to file a return may elect to report and pay a tax of .5
17 per cent of the taxpayer's annual gross sales if the:

- 18 (1) Taxpayer's only activities in this State consist of
19 sales;
- 20 (2) Taxpayer does not own or rent real estate or tangible
21 personal property; and



1 (3) Taxpayer's annual gross sales in or into this State
2 during the tax year is not in excess of \$100,000.

3 ~~[(f) If a taxpayer has a net capital gain for any taxable~~
4 ~~year to which this subsection applies, then the tax imposed by~~
5 ~~this section shall not exceed the sum of:~~

6 ~~(1) The tax computed at the rates and in the same manner~~
7 ~~as if this subsection had not been enacted on the~~
8 ~~greater of:~~

9 ~~(A) The taxable income reduced by the amount of net~~
10 ~~capital gain, or~~

11 ~~(B) The amount of taxable income taxed at a rate~~
12 ~~below 7.25 per cent, plus~~

13 ~~(2) A tax of 7.25 per cent of the amount of taxable income~~
14 ~~in excess of the amount determined under paragraph~~
15 ~~(1).~~

16 ~~This subsection shall apply to individuals, estates, and~~
17 ~~trusts for taxable years beginning after December 31, 1986.]"~~

18 SECTION 3. Statutory material to be repealed is bracketed
19 and stricken.

20 SECTION 4. This Act, upon its approval, shall apply to
21 taxable years beginning after December 31, 2023.



1

INTRODUCED BY:

A handwritten signature in black ink, appearing to be a stylized 'R' or similar character, positioned above a horizontal line.

S.B. NO. 2325

Report Title:

Capital Gains Tax; Rate; Repeal

Description:

Taxes capital gains income at the same rate as ordinary income.

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

