
A BILL FOR AN ACT

RELATING TO INCOME TAX.

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

1 SECTION 1. Chapter 235, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§235- Anti-speculation capital gains tax on real
5 property. (a) In addition to the capital gains tax imposed
6 under this chapter, there shall be an anti-speculation capital
7 gains tax on the net capital gains realized by a seller of real
8 property, less commissions, fees, and other charges, if any,
9 related to the sale. The tax shall be as follows:

- 10 (1) If the real property was held by the seller for less
11 than six months prior to the sale, the tax shall be
12 sixty per cent of the capital gains owed;
13 (2) If the real property was held by the seller for at
14 least six months but less than twelve months prior to
15 the sale, the tax shall be thirty per cent of the
16 capital gains owed; or
17 (3) If the real property was held by the seller for at
18 least twelve months but not more than twenty-four



1 months, the tax shall be fifteen per cent of the
2 capital gains owed.

3 (b) This section shall not apply to:

4 (1) Residential property sold to provide affordable rental
5 housing for a period of not less than ten years to a
6 resident earning less than one hundred forty per cent
7 of the median Hawaii income, as determined by the
8 department;

9 (2) A principal residence sold by reason of a change in
10 place of employment, health, or unforeseen
11 circumstances, as exempted under section 121(c)(2)
12 (with respect to exclusion of gain from sale of
13 principal residence) of the Internal Revenue Code;

14 (3) Amounts realized from properties that are
15 involuntarily converted (destroyed, stolen, seized,
16 requisitioned, or condemned), as exempted under
17 section 1033 (with respect to involuntary conversions)
18 of the Internal Revenue Code;

19 (4) Residential property acquired from a decedent, as
20 provided under section 1014(b) (with respect to
21 property acquired from the decedent) of the Internal
22 Revenue Code;



1 (5) Residential property in which the owner has made
2 substantial investments in physical improvements or
3 infrastructure; or

4 (6) The sale of unimproved land.

5 (c) The tax realized pursuant to this section shall be
6 deposited into an escrow account to be forwarded to the
7 department. The department shall deposit all such tax
8 realizations into the rental housing trust fund under section
9 201H-202.

10 (d) This section shall not apply to properties that
11 qualify the seller for a county homeowner's exemption or to
12 military personnel selling property as a result of military
13 relocation orders."

14 SECTION 2. Section 201H-202, Hawaii Revised Statutes, is
15 amended by amending subsection (c) to read as follows:

16 "(c) The following may be deposited into the fund:
17 appropriations made by the legislature, private contributions,
18 moneys derived from the anti-speculation capital gains taxes
19 under section 235- , repayment of loans, interest, other
20 returns, and moneys from other sources."

21 SECTION 3. Section 235-51, Hawaii Revised Statutes, is
22 amended by amending subsection (f) to read as follows:



1 "(f) ~~[If]~~ Except as provided under section 235- , if a
2 taxpayer has a net capital gain for any taxable year to which
3 this subsection applies, then the tax imposed by this section
4 shall not exceed the sum of:

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

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

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

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

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

17 SECTION 4. This Act does not affect rights and duties that
18 matured, penalties that were incurred, and proceedings that were
19 begun, before its effective date.

20 SECTION 5. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 6. This Act shall take effect on July 1, 2050, and
2 shall apply to taxable years beginning after December 31, 2007
3 for sales or exchanges of property occurring on or after
4 January 1, 2008.



Report Title:

Income Tax; Real Property; Anti-speculation

Description:

Assesses a graduated anti-speculation tax on the capital gains realized on real property held from less than 6 months and up to 24 months before sold. Deposits realizations to Rental Housing Trust Fund. (SD1)

