
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 tax owed;

13 (2) If the real property was held by the seller for six
14 months but less than twelve months prior to the sale,
15 the tax shall be thirty per cent of the capital gains
16 tax owed; or

17 (3) If the real property was held by the seller for twelve
18 months up to and including twenty-four months, the tax



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

3 (b) This section shall not apply to:

4 (1) Real 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 reasons of a change in
10 place of employment, health, or unforeseen
11 circumstances, as exempted under section 121(c)(2) of
12 the Internal Revenue Code; or

13 (3) Amounts realized from properties that are
14 involuntarily converted (destroyed, stolen, seized,
15 requisitioned, or condemned), under section 1033 of
16 the Internal Revenue Code.

17 (c) The sale of unimproved real property shall be subject
18 to taxation under this section, unless otherwise prohibited
19 under this section.

20 (d) The tax realizations pursuant to this section shall be
21 deposited into an escrow account to be forwarded to the
22 department. The department shall deposit all such tax



1 realizations into the rental housing trust fund under section
2 201H-202.

3 (e) This section shall not apply to properties that
4 qualify for a county homeowners exemption or to military
5 personnel selling property as a result of military relocation
6 orders."

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

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

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

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

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



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

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

5 (2) A tax of 7.25 per cent of the amount of taxable income
6 in excess of the amount determined under paragraph
7 (1).

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

10 SECTION 4. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 5. 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 6. This Act shall take effect upon its approval
16 and shall apply to taxable years beginning after December 31,
17 2007 for sales or exchanges of property occurring on or after
18 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. (HB1002 HD1)

