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# 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 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 tax 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 tax 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 reason 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), as exempted under  
16           Section 1033 of 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 realized 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 the seller for a county homeowner's exemption or to  
5 military personnel selling property as a result of military  
6 relocation 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) [~~f~~] 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 HD2)

