
A BILL FOR AN ACT

RELATING TO IMPORTANT AGRICULTURAL LANDS.

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

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

4 "§235- Rental income from agricultural leases on
5 important agricultural land excluded from gross income. (a) In
6 addition to the exclusions in section 235-7, there shall be
7 excluded from gross income, adjusted gross income, and taxable
8 income, rental income, including lease rents, received by a
9 taxpayer subject to the taxes imposed by this chapter derived
10 from agricultural leases on lands identified and designated as
11 important agricultural lands pursuant to part III, chapter 205,
12 for the taxable year the rental income was recognized; provided
13 that:

14 (1) The minimum length of the lease term shall be:
15 (A) Twenty years; or
16 (B) Any other lease term length mutually agreeable to
17 lessor and lessee, if the amount of the lease
18 rent is set by an independent appraisal using the



1 lower of the comparable value or agricultural
2 capitalization appraisal methodologies;

3 and

4 (2) The lease is in effect and the lessee is continuously
5 and substantially undertaking agricultural activity on
6 the leased land, pursuant to chapter 205, as verified
7 by the department of agriculture on a regular basis
8 using a process determined by the department of
9 agriculture; provided that the exclusion shall not
10 apply if the lease is terminated or the department of
11 agriculture determines that the leased land is not
12 continuously and substantially being used for
13 agricultural activity.

14 The taxpayer shall be eligible for the exclusions initially for
15 up to twenty years; provided that the time period may be
16 extended for every year the term of the lease is extended;
17 provided further that the assignment of the original lease to
18 another lessee shall be for the time period remaining on the
19 original lease, unless the terms of the lease are renegotiated.

20 (b) Each taxpayer who claims the exclusion under this
21 section shall annually provide prescribed information to the
22 department of agriculture in the manner prescribed by the



1 department of agriculture, to enable an aggregated quantitative
2 and qualitative assessment of the impact of the exclusion."

3 SECTION 2. Section 237-24, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§237-24 Amounts not taxable.** This chapter shall not
6 apply to the following amounts:

- 7 (1) Amounts received under life insurance policies and
8 contracts paid by reason of the death of the insured;
- 9 (2) Amounts received (other than amounts paid by reason of
10 death of the insured) under life insurance, endowment,
11 or annuity contracts, either during the term or at
12 maturity or upon surrender of the contract;
- 13 (3) Amounts received under any accident insurance or
14 health insurance policy or contract or under workers'
15 compensation acts or employers' liability acts, as
16 compensation for personal injuries, death, or
17 sickness, including also the amount of any damages or
18 other compensation received, whether as a result of
19 action or by private agreement between the parties on
20 account of the personal injuries, death, or sickness;



- 1 (4) The value of all property of every kind and sort
2 acquired by gift, bequest, or devise, and the value of
3 all property acquired by descent or inheritance;
- 4 (5) Amounts received by any person as compensatory damages
5 for any tort injury to the person, or to the person's
6 character reputation, or received as compensatory
7 damages for any tort injury to or destruction of
8 property, whether as the result of action or by
9 private agreement between the parties (provided that
10 amounts received as punitive damages for tort injury
11 or breach of contract injury shall be included in
12 gross income);
- 13 (6) Amounts received as salaries or wages for services
14 rendered by an employee to an employer;
- 15 (7) Amounts received as alimony and other similar payments
16 and settlements;
- 17 (8) Amounts collected by distributors as fuel taxes on
18 "liquid fuel" imposed by chapter 243, and the amounts
19 collected by such distributors as a fuel tax imposed
20 by any Act of the Congress of the United States;
- 21 (9) Taxes on liquor imposed by chapter 244D on dealers
22 holding permits under that chapter;



- 1 (10) The amounts of taxes on cigarettes and tobacco
2 products imposed by chapter 245 on wholesalers or
3 dealers holding licenses under that chapter and
4 selling the products at wholesale;
- 5 (11) Federal excise taxes imposed on articles sold at
6 retail and collected from the purchasers thereof and
7 paid to the federal government by the retailer;
- 8 (12) The amounts of federal taxes under chapter 37 of the
9 Internal Revenue Code, or similar federal taxes,
10 imposed on sugar manufactured in the State, paid by
11 the manufacturer to the federal government;
- 12 (13) An amount up to, but not in excess of, \$2,000 a year
13 of gross income received by any blind, deaf, or
14 totally disabled person engaging, or continuing, in
15 any business, trade, activity, occupation, or calling
16 within the State; a corporation all of whose
17 outstanding shares are owned by an individual or
18 individuals who are blind, deaf, or totally disabled;
19 a general, limited, or limited liability partnership,
20 all of whose partners are blind, deaf, or totally
21 disabled; or a limited liability company, all of whose
22 members are blind, deaf, or totally disabled;



1 (14) Amounts received by a producer of sugarcane from the
2 manufacturer to whom the producer sells the sugarcane,
3 where:

4 (A) The producer is an independent cane farmer, so
5 classed by the Secretary of Agriculture under the
6 Sugar Act of 1948 (61 Stat. 922, Chapter 519) as
7 the Act may be amended or supplemented;

8 (B) The value or gross proceeds of sale of the sugar,
9 and other products manufactured from the
10 sugarcane, is included in the measure of the tax
11 levied on the manufacturer under section 237-
12 13(1) or (2);

13 (C) The producer's gross proceeds of sales are
14 dependent upon the actual value of the products
15 manufactured therefrom or the average value of
16 all similar products manufactured by the
17 manufacturer; and

18 (D) The producer's gross proceeds of sales are
19 reduced by reason of the tax on the value or sale
20 of the manufactured products;



- 1 (15) Money paid by the State or eleemosynary child-placing
2 organizations to foster parents for their care of
3 children in foster homes; [~~and~~]
- 4 (16) Amounts received by a cooperative housing corporation
5 from its shareholders in reimbursement of funds paid
6 by such corporation for lease rental, real property
7 taxes, and other expenses of operating and maintaining
8 the cooperative land and improvements; provided that
9 such a cooperative corporation is a corporation:
- 10 (A) Having one and only one class of stock
11 outstanding;
- 12 (B) Each of the stockholders of which is entitled
13 solely by reason of the stockholder's ownership
14 of stock in the corporation, to occupy for
15 dwelling purposes a house, or an apartment in a
16 building owned or leased by the corporation; and
- 17 (C) No stockholder of which is entitled (either
18 conditionally or unconditionally) to receive any
19 distribution not out of earnings and profits of
20 the corporation except in a complete or partial
21 liquidation of the corporation[~~-~~]; and



1 (17) Rental income, including lease rents, derived from
2 agricultural leases on lands identified and designated
3 as important agricultural lands pursuant to part III,
4 chapter 205, for the taxable year the rental income
5 was recognized; provided that:
6 (A) The minimum length of the lease term shall be:
7 (i) Twenty years; or
8 (ii) Any other lease term length mutually
9 agreeable to lessor and lessee, if the
10 amount of the lease rent is set by an
11 independent appraisal using the lower of the
12 comparable value or agricultural
13 capitalization appraisal methodologies;
14 (B) The lease is in effect and the lessee is
15 continuously and substantially undertaking
16 agricultural activity on the leased land,
17 pursuant to chapter 205, as verified by the
18 department of agriculture on a regular basis
19 using a process determined by the department of
20 agriculture; provided that the exemption shall
21 not apply if the lease is terminated or the
22 department of agriculture determines that the



1 leased land is not continuously and substantially
2 being used for agricultural activity; and
3 (C) The taxpayer shall be eligible for the exemption
4 initially for up to twenty years and for every
5 year the term of the lease is extended; provided
6 that the assignment of the original lease to
7 another lessee shall be for the time period
8 remaining on the original lease, unless the terms
9 of the lease are renegotiated."

10 SECTION 3. There is appropriated out of the general
11 revenues of the State of Hawaii the sum of \$ or so much
12 thereof as may be necessary for fiscal year 2007-2008 and the
13 sum of \$ or so much thereof as may be necessary for fiscal
14 year 2008-2009 for the department of agriculture to collect and
15 analyze data to make an aggregated quantitative and qualitative
16 assessment of the impact of the exclusion of rental income from
17 important agricultural land from the income tax law.

18 The sum appropriated shall be expended by the department of
19 agriculture for the purposes of this Act.

20 SECTION 4. The department of agriculture shall submit to
21 the legislature an annual report, no later than twenty days
22 prior to the convening of each regular session, beginning with



1 the regular session of 2009, regarding the quantitative and
2 qualitative assessment of the impact of the exclusion of rental
3 income from important agricultural land from the income tax law.

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

6 SECTION 6. This Act shall take effect upon its approval.



Report Title:

Important Agricultural Lands; Tax Incentives

Description:

Excludes rental income derived from agricultural leases on important agricultural lands from gross and adjusted gross income, and taxable income, under certain conditions, and exempts rental income derived from agricultural leases on important agricultural lands from the general excise tax law, under certain conditions. (HB1639 HD1)

