
A BILL FOR AN ACT

RELATING TO REAL PROPERTY TAX WITHHOLDING RATES.

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

1 SECTION 1. Currently, when a nonresident sells real
2 property in Hawaii, five per cent of the gross receipts from the
3 sale are withheld against the potential income tax liability on
4 the gain from the sale. The withholding provision is commonly
5 referred to as the Hawaii Real Property Tax Act (Tax Act). On
6 long-term capital gains, the maximum rate of tax is 7.25 per
7 cent; on short-term capital gains, the maximum rate of tax is
8 8.25 per cent. In contrast, the withholding under the Tax Act
9 is five per cent of the gross selling price.

10 Therefore, it is possible for the income tax liability to
11 exceed the amount of withholding. Furthermore, in some
12 instances, the nonresident seller may have been renting the
13 property and may have failed to pay the transient accommodations
14 tax and the general excise tax on the rental income. In such
15 cases, the nonresident taxpayer may fail to file a state income
16 tax return. Increasing the rate of withholding under the Tax
17 Act would encourage greater compliance with state tax laws by



1 nonresidents seeking a refund, thereby reducing the State's tax
2 losses.

3 SECTION 2. Section 235-68, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 "(b) Unless otherwise provided in this section, every
6 transferee shall deduct and withhold a tax equal to [~~five~~] eight
7 and one-quarter per cent of the amount realized on the
8 disposition of Hawaii real property. Every person required to
9 withhold a tax under this section is made liable for the tax and
10 is relieved of liability for or upon the claim or demand of any
11 other person for the amount of any payments to the department
12 made in accordance with this section."

13 SECTION 3. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 4. This Act shall take effect upon its approval
16 and shall apply to taxable years beginning after December 31,
17 2007.

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Report Title:

Tax withholding rates; Real property

Description:

Increases the amount of the withholding tax on the disposition of real property by a nonresident seller from 5 percent to 8.25 percent.

