
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Section 235-2.45, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§235-2.45 Operation of certain Internal Revenue Code**
4 **provisions; sections 641 to 7518.** (a) Section 641 (with
5 respect to imposition of tax) of the Internal Revenue Code shall
6 be operative for the purposes of this chapter subject to the
7 following:

- 8 (1) The deduction for exemptions shall be allowed as
9 provided in section 235-54(b);
- 10 (2) The deduction for contributions and gifts in
11 determining taxable income shall be limited to the
12 amount allowed in the case of an individual, unless
13 the contributions and gifts are to be used exclusively
14 in the State; and
- 15 (3) The tax imposed by section 1(e) of the Internal
16 Revenue Code as applied by section 641 of the Internal
17 Revenue Code is hereby imposed by this chapter at the



1 rate and amount as determined under section 235-51 on
2 estates and trusts.

3 (b) Section 667 (with respect to treatment of amounts
4 deemed distributed by trusts in preceding years) of the Internal
5 Revenue Code shall be operative for the purposes of this chapter
6 and the tax imposed therein is hereby imposed by this chapter at
7 the rate determined under this chapter; except that the
8 reference to tax-exempt interest to which section 103 of the
9 Internal Revenue Code applies in section 667(a) of the Internal
10 Revenue Code shall instead be a reference to tax-exempt interest
11 to which section 235-7(b) applies.

12 (c) Section 685 (with respect to treatment of qualified
13 funeral trusts) of the Internal Revenue Code shall be operative
14 for purposes of this chapter, except that the tax imposed under
15 this chapter shall be computed at the tax rates provided under
16 section 235-51, and no deduction for the exemption amount
17 provided in section 235-54(b) shall be allowed. The cost-of-
18 living adjustment determined under section 1(f)(3) of the
19 Internal Revenue Code shall be operative for the purpose of
20 applying section 685(c)(3) under this chapter.

21 (d) Section 704 of the Internal Revenue Code (with respect
22 to a partner's distributive share) shall be operative for



1 purposes of this chapter; except that section 704(b)(2) shall
2 not apply to:

3 (1) Allocations of the high technology business investment
4 tax credit allowed by section 235-110.9;

5 (2) Allocations of net operating loss pursuant to section
6 235-111.5;

7 (3) Allocations of the attractions and educational
8 facilities tax credit allowed by section 235-110.46;

9 or

10 (4) Allocations of low-income housing tax credits among
11 partners under section 235-110.8.

12 (e) Section 1212 (with respect to capital loss carrybacks
13 and carryforwards) of the Internal Revenue Code shall be
14 operative for the purposes of this chapter; except that for the
15 purposes of this chapter the capital loss carryback provisions
16 of section 1212 shall not be operative and the capital loss
17 carryforward allowed by section 1212(a) shall be limited to five
18 years; except for a qualified high technology business as
19 defined in section 235-7.3, which shall be limited to fifteen
20 years.

21 (f) Subchapter S (sections 1361 to 1379) (with respect to
22 tax treatment of S corporations and their shareholders) of



1 chapter 1 of the Internal Revenue Code shall be operative for
2 the purposes of this chapter as provided in part VII.

3 (g) Section 1400N (with respect to tax benefits for Gulf
4 Opportunity Zone) of the Internal Revenue Code shall be
5 operative for the purposes of this chapter, except that sections
6 1400N(a) (with respect to tax-exempt bond financing); 1400N(b)
7 (with respect to advance refundings of certain tax-exempt
8 bonds); 1400N(d) (with respect to special allowance for certain
9 property acquired on or after August 28, 2005); 1400N(e) (with
10 respect to increase in expensing under section 179); 1400N(h)
11 (with respect to increase in rehabilitation credit); 1400N(l)
12 (with respect to credit to holders of Gulf tax credit bonds);
13 1400N(m) (with respect to application of new markets tax credit
14 to investments in community development entities serving Gulf
15 Opportunity Zone); 1400N(n) (with respect to treatment of
16 representations regarding income eligibility for purposes of
17 qualified residential rental project requirements) shall not be
18 operative for purposes of this chapter.

19 (h) Section 1400S (with respect to additional tax relief
20 provisions) of the Internal Revenue Code shall be operative for
21 the purposes of this chapter, except that section 1400S(d) (with



1 respect to the special rule for determining earned income) shall
2 not be operative for the purposes of this chapter.

3 (i) Section 6015 (with respect to relief from joint and
4 several liability on joint return) of the Internal Revenue Code
5 is operative for purposes of this chapter.

6 (j) Sections 6103(i)(3)(C) and 6103(i)(7) (with respect to
7 disclosures of information to the United States Justice
8 Department or appropriate federal or state law enforcement
9 agency for purposes of investigating terrorist incidents,
10 threats, or activities, and for analyzing intelligence
11 concerning investigating terrorist incidents, threats, or
12 activities) of the Internal Revenue Code shall be operative for
13 the purposes of this chapter.

14 (k) Subchapter C (sections 6221 to 6233) (with respect to
15 tax treatment of partnership items) of chapter 63 of the
16 Internal Revenue Code shall be operative for the purposes of
17 this chapter.

18 (l) Subchapter D (sections 6240 to 6255) (with respect to
19 simplified audit procedures for electing large partnerships) of
20 the Internal Revenue Code shall be operative for the purposes of
21 this chapter, with due regard to chapter 232 relating to tax
22 appeals.



1 (m) Section 6511(h) (with respect to running of periods of
2 limitation suspended while taxpayer is unable to manage
3 financial affairs due to disability) of the Internal Revenue
4 Code shall be operative for purposes of this chapter, with due
5 regard to section 235-111 relating to the limitation period for
6 assessment, levy, collection, or credit.

7 (n) Section 7491 (with respect to burden of proof) of the
8 Internal Revenue Code shall be operative for the purposes of
9 this chapter.

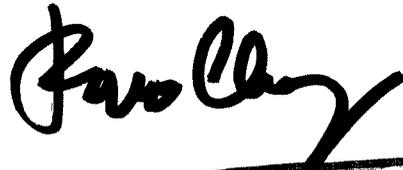
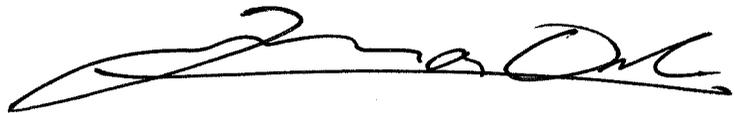
10 [~~n~~] (o) Section 7518 (with respect to capital
11 construction fund for commercial fishers) of the Internal
12 Revenue Code shall be operative for the purposes of this
13 chapter. Qualified withdrawals for the acquisition,
14 construction, or reconstruction of any qualified asset that is
15 attributable to deposits made before the effective date of this
16 section shall not reduce the basis of the asset when withdrawn.
17 Qualified withdrawals shall be treated on a first-in-first-out
18 basis."

19 SECTION 2. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

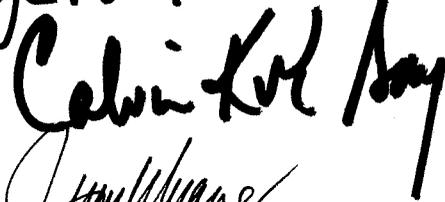
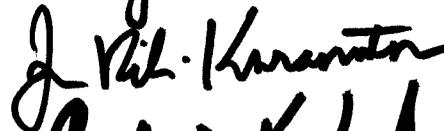


1 SECTION 3. This Act shall take effect upon its approval
2 and shall apply to taxable years beginning after December 31,
3 2006.
4

INTRODUCED BY: Kirk Caldwell



Mary B. Lee



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Report Title:

Taxation; Burden of Proof

Description:

Conforms state tax law to section 7491 (with respect to burden of proof) of the Internal Revenue Code.

