
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Section 235-2.3, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) The following Internal Revenue Code subchapters,
4 parts of subchapters, sections, subsections, and parts of
5 subsections shall not be operative for the purposes of this
6 chapter, unless otherwise provided:

7 (1) Subchapter A (sections 1 to 59A) (with respect to
8 determination of tax liability), except section
9 1(h)(2) (relating to net capital gain reduced by the
10 amount taken into account as investment income),
11 except sections 2(a), 2(b), and 2(c) (with respect to
12 the definition of "surviving spouse" and "head of
13 household"), except section 41 (with respect to the
14 credit for increasing research activities), except
15 section 42 (with respect to low-income housing
16 credit), and except sections 47 and 48, as amended, as
17 of December 31, 1984 (with respect to certain
18 depreciable tangible personal property). For



1 treatment, see sections 235-110.91, 235-110.7, and
2 235-110.8;

3 (2) Section 78 (with respect to dividends received from
4 certain foreign corporations by domestic corporations
5 choosing foreign tax credit);

6 (3) Section 86 (with respect to social security and tier 1
7 railroad retirement benefits);

8 (4) Section 103 (with respect to interest on state and
9 local bonds). For treatment, see section 235-7(b);

10 (5) Section 114 (with respect to extraterritorial income).

11 For treatment, any transaction as specified in the
12 transitional rule for 2005 and 2006 as specified in
13 the American Jobs Creation Act of 2004 section 101(d)
14 and any transaction that has occurred pursuant to a
15 binding contract as specified in the American Jobs
16 Creation Act of 2004 section 101(f) are inoperative;

17 (6) Section 120 (with respect to amounts received under
18 qualified group legal services plans). For treatment,
19 see section 235-7(a)(9) to (11);

20 (7) Section 122 (with respect to certain reduced uniformed
21 services retirement pay). For treatment, see section
22 235-7(a)(3);



(8) Section 135 (with respect to income from United States savings bonds used to pay higher education tuition and fees). For treatment, see section 235-7(a)(1);

(9) Subchapter B (sections 141 to 150) (with respect to tax exemption requirements for state and local bonds);

(10) Section 151 (with respect to allowance of deductions for personal exemptions). For treatment, see section 235-54;

(11) Section 179B (with respect to expensing of capital costs incurred in complying with Environmental Protection Agency sulphur regulations);

(12) Section 181 (with respect to special rules for certain film and television productions);

(13) Section 196 (with respect to deduction for certain unused investment credits);

(14) Section 199 (with respect to the U.S. production activities deduction);

(15) Section 222 (with respect to qualified tuition and related expenses);

(16) Sections 241 to 247 (with respect to special deductions for corporations). For treatment, see section 235-7(c);



- (17) Section 280C (with respect to certain expenses for which credits are allowable). For treatment, see section 235-110.91;
- (18) Section 291 (with respect to special rules relating to corporate preference items);
- (19) Section 367 (with respect to foreign corporations);
- (20) Section 501(c)(12), (15), and (16) (with respect to exempt organizations); except for companies that provide potable water under section 501(c)(12);
- (21) Section 515 (with respect to taxes of foreign countries and possessions of the United States);
- (22) Subchapter G (sections 531 to 565) (with respect to corporations used to avoid income tax on shareholders);
- (23) Subchapter H (sections 581 to 597) (with respect to banking institutions), except section 584 (with respect to common trust funds). For treatment, see chapter 241;
- (24) Section 642(a) and (b) (with respect to special rules for credits and deductions applicable to trusts). For treatment, see sections 235-54(b) and 235-55;



- 1 (25) Section 646 (with respect to tax treatment of electing
2 Alaska Native settlement trusts);
- 3 (26) Section 668 (with respect to interest charge on
4 accumulation distributions from foreign trusts);
- 5 (27) Subchapter L (sections 801 to 848) (with respect to
6 insurance companies). For treatment, see sections
7 431:7-202 and 431:7-204;
- 8 (28) Section 853 (with respect to foreign tax credit
9 allowed to shareholders). For treatment, see section
10 235-55;
- 11 (29) Subchapter N (sections 861 to 999) (with respect to
12 tax based on income from sources within or without the
13 United States), except sections 985 to 989 (with
14 respect to foreign currency transactions). For
15 treatment, see sections 235-4, 235-5, and 235-7(b),
16 and 235-55;
- 17 (30) Section 1042(g) (with respect to sales of stock in
18 agricultural refiners and processors to eligible farm
19 cooperatives);
- 20 (31) Section 1055 (with respect to redeemable ground
21 rents);



- 1 (32) Section 1057 (with respect to election to treat
2 transfer to foreign trust, etc., as taxable exchange);
- 3 (33) Sections 1291 to 1298 (with respect to treatment of
4 passive foreign investment companies);
- 5 (34) Subchapter Q (sections 1311 to 1351) (with respect to
6 readjustment of tax between years and special
7 limitations);
- 8 (35) Subchapter R (sections 1352 to 1359) (with respect to
9 election to determine corporate tax on certain
10 international shipping activities using per ton rate);
- 11 (36) Subchapter U (sections 1391 to 1397F) (with respect to
12 designation and treatment of empowerment zones,
13 enterprise communities, and rural development
14 investment areas). For treatment, see chapter 209E;
- 15 (37) Subchapter W (sections 1400 to 1400C) (with respect to
16 District of Columbia enterprise zone);
- 17 (38) Section 14000 (with respect to education tax
18 benefits);
- 19 (39) Section 1400P (with respect to housing tax benefits);
- 20 (40) Section 1400R (with respect to employment relief); and
- 21 (41) Section 1400T (with respect to special rules for
22 mortgage revenue bonds)."



SECTION 2. Section 237-23, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) This chapter shall not apply to the following persons:

- (1) Public service companies as that term is defined in section 239-2, with respect to the gross income, either actual gross income or gross income estimated and adjusted, that is included in the measure of the tax imposed by chapter 239;
- (2) Public utilities owned and operated by the State or any county, or other political subdivision thereof;
- (3) Fraternal benefit societies, orders, or associations, operating under the lodge system, or for the exclusive benefit of the members of the fraternity itself, operating under the lodge system, and providing for the payment of death, sick, accident, prepaid legal services, or other benefits to the members of the societies, orders, or associations, and to their dependents;
- (4) Corporations, associations, trusts, or societies organized and operated exclusively for religious, charitable, scientific, or educational purposes, as



1 well as that of operating senior citizens housing
2 facilities qualifying for a loan under the laws of the
3 United States as authorized by section 202 of the
4 Housing Act of 1959, as amended, as well as that of
5 operating a prepaid legal services plan, as well as
6 that of operating or managing a homeless facility, or
7 any other program for the homeless authorized under
8 part VII of chapter 356D;

9 (5) Business leagues, chambers of commerce, boards of
10 trade, civic leagues, agricultural and horticultural
11 organizations, and organizations operated exclusively
12 for the benefit of the community and for the promotion
13 of social welfare that shall include the operation of
14 a prepaid legal service plan, and from which no profit
15 inures to the benefit of any private stockholder or
16 individual;

17 (6) Hospitals, infirmaries, and sanitararia;

18 (7) Cooperative associations incorporated under chapter
19 421 or Code section 521 cooperatives which fully meet
20 the requirements of section 421-23, except Code
21 section 521 cooperatives need not be organized in
22 Hawaii; provided that:



1 (A) The exemption shall apply only to the gross
2 income derived from activities that are pursuant
3 to purposes and powers authorized by chapter 421,
4 except those provisions pertaining to or
5 requiring corporate organization in Hawaii do not
6 apply to Code section 521 cooperatives;

7 (B) The exemption shall not relieve any person who
8 receives any proceeds of sale from the
9 association of the duty of returning and paying
10 the tax on the total gross proceeds of the sales
11 on account of which the payment was made, in the
12 same amount and at the same rate as would apply
13 thereto had the sales been made directly by the
14 person, and all those persons shall be so
15 taxable; and

16 (C) As used in this paragraph, "section 521
17 cooperatives" mean associations that qualify as a
18 cooperative under section 521 (with respect to
19 exemption of farmers' cooperatives from tax) of
20 the Internal Revenue Code of 1986, as amended;

21 (8) Persons affected with Hansen's disease and kokuas,
22 with respect to business within the county of Kalawao;



1 (9) Corporations, companies, associations, or trusts
2 organized for the establishment and conduct of
3 cemeteries no part of the net earnings of which inures
4 to the financial benefit of any private stockholder or
5 individual; provided that the exemption shall apply
6 only to the activities of those persons in the conduct
7 of cemeteries and shall not apply to any activity the
8 primary purpose of which is to produce income, even
9 though the income is to be used for or in the
10 furtherance of the exempt activities of those persons;
11 [and]

12 (10) Nonprofit shippers associations operating under part
13 296 of the Civil Aeronautics Board Economic
14 Regulations~~[-]~~; and

15 (11) Companies that provide potable water and are exempt
16 under section 501(c)(12) of the Internal Revenue Code
17 of 1986, as amended."

18 SECTION 3. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

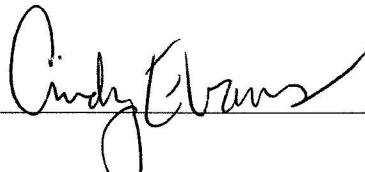


H.B. NO.23

1 SECTION 4. This Act shall take effect upon approval, and
2 shall apply to taxable years beginning after December 31, 2008.

3

INTRODUCED BY:


JAN 21 2009



Report Title:

Income Tax; General Excise Tax; Potable Water

Description:

Provides an income tax and general excise tax exemption for companies that provide potable water and are tax exempt under section 501(c)(12) of the IRC. Applicable to taxable years beginning after 12/31/08.

