



EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

June 16, 2014

GOV. MSG. NO. 1189

The Honorable Donna Mercado Kim,
President
and Members of the Senate
Twenty-Seventh State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Joseph M. Souki,
Speaker and Members of the
House of Representatives
Twenty-Seventh State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kim, Speaker Souki, and Members of the Legislature:

This is to inform you that on June 16, 2014, the following bill was signed into law:

SB2886 SD1 HD1

RELATING TO CONFORMITY OF THE HAWAII
INCOME TAX LAW TO THE INTERNAL
REVENUE CODE
ACT 088 (14)

Alaka
Neil Abercrombie

NEIL ABERCROMBIE
Governor, State of Hawaii

A BILL FOR AN ACT

RELATING TO CONFORMITY OF THE HAWAII INCOME TAX LAW TO THE
INTERNAL REVENUE CODE.

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

1 SECTION 1. The purpose of this Act is to conform Hawaii
2 income tax law to the Internal Revenue Code.

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

5 "(a) For all taxable years beginning after December 31,
6 ~~[2012,]~~ 2013, as used in this chapter, except as provided in
7 section 235-2.35, "Internal Revenue Code" means subtitle A,
8 chapter 1, of the federal Internal Revenue Code of 1986, as
9 amended as of ~~[January 2, 2013,]~~ December 31, 2013, as it
10 applies to the determination of gross income, adjusted gross
11 income, ordinary income and loss, and taxable income, except
12 those provisions of the Internal Revenue Code and federal public
13 laws which, pursuant to this chapter, do not apply or are
14 otherwise limited in application and except for the provisions
15 of Public Law 109-001, which apply to section 170 of the
16 Internal Revenue Code. The provisions of Public Law 109-001 to
17 accelerate the deduction for charitable cash contributions for



1 the relief of victims of the 2004 Indian Ocean tsunami are
2 applicable for the calendar year that ended December 31, 2004,
3 and the calendar year ending December 31, 2005.

4 Sections 235-2, 235-2.1, and 235-2.2 shall continue to be
5 used to determine:

- 6 (1) The basis of property, if a taxpayer first determined
7 the basis of property in a taxable year to which
8 ~~[such]~~ these sections apply, and if ~~[such]~~ the
9 determination was made before January 1, 1978; and
10 (2) Gross income, adjusted gross income, ordinary income
11 and loss, and taxable income for a taxable year to
12 which ~~[such]~~ these sections apply where ~~[such]~~ the
13 taxable year begins before January 1, 1978."

14 SECTION 3. Section 235-2.4, Hawaii Revised Statutes, is
15 amended as follows:

16 1. By amending subsections (a) and (b) to read:

17 "(a) Section 63 (with respect to taxable income defined)
18 of the Internal Revenue Code shall be operative for the purposes
19 of this chapter, subject to the following:

- 20 (1) ~~[Sections]~~ Section 63(c)(1)(B) (relating to the
21 additional standard deduction), 63(c)(1)(C) (relating
22 to the real property tax deduction), 63(c)(1)(D)



(relating to the disaster loss deduction), 63(c)(1)(E)
(relating to the motor vehicle sales tax deduction),
63(c)(4) (relating to inflation adjustments), 63(c)(7)
(defining the real property tax deduction), 63(c)(8)
(defining the disaster loss deduction), 63(c)(9)
(defining the motor vehicle sales tax deduction), and
63(f) (relating to additional amounts for the aged or
blind) of the Internal Revenue Code shall not be
operative for purposes of this chapter;

(2) Section 63(c)(2) (relating to the basic standard
deduction) of the Internal Revenue Code shall be
operative, except that the standard deduction amounts
provided therein shall instead mean:

(A) \$4,400 in the case of:

(i) A joint return as provided by section 235-
93; or

(ii) A surviving spouse (as defined in section
2(a) of the Internal Revenue Code);

(B) \$3,212 in the case of a head of household (as
defined in section 2(b) of the Internal Revenue
Code);



1 (C) \$2,200 in the case of an individual who is not
2 married and who is not a surviving spouse or head
3 of household; or

4 (D) \$2,200 in the case of a married individual filing
5 a separate return;

6 (3) Section 63(c)(5) (limiting the basic standard
7 deduction in the case of certain dependents) of the
8 Internal Revenue Code shall be operative, except that
9 the limitation shall be the greater of \$500 or ~~[such]~~
10 the individual's earned income; and

11 (4) The standard deduction amount for nonresidents shall
12 be calculated pursuant to section 235-5.

13 (b) Section 68 (with respect to the overall limitation on
14 itemized deductions) of the Internal Revenue Code shall be
15 operative~~[, except that sections 68(f) and 68(g) shall not be~~
16 ~~operative]~~; provided that the thresholds shall be those that
17 were operative for federal tax year 2009."

18 2. By amending subsection (g) to read:

19 "(g) Section 132 (with respect to certain fringe benefits)
20 of the Internal Revenue Code shall be operative for purposes of
21 this chapter, except that the provision in section 132(f)(2)
22 that equalizes the dollar amounts for sections 132(f)(2)(A) and



(B) ~~[after February 17, 2009, until January 1, 2011,]~~ shall not be operative and except that section 132(n) shall not apply to United States Department of Defense Homeowners Assistance Program payments authorized by the American Recovery and Reinvestment Act of 2009."

3. By amending subsections (i) and (j) to read:

"(i) Section 164 (with respect to taxes) of the Internal Revenue Code shall be operative for the purposes of this chapter, except that:

(1) ~~[Sections]~~ Section 164(a)(6) and ~~[164(b)(6)]~~ (b)(6) shall not be operative for the purposes of this chapter; ~~[and]~~

(2) The deductions under ~~[sections]~~ section 164(a)(3) and ~~[164(b)(5)]~~ (b)(5) shall not be operative for corporate taxpayers and shall be operative only for the following individual taxpayers:

(A) A taxpayer filing a single return or a married person filing separately with a federal adjusted gross income of less than \$100,000;

(B) A taxpayer filing as a head of household with a federal adjusted gross income of less than \$150,000; and



(C) A taxpayer filing a joint return or as a surviving spouse with a federal adjusted gross income of less than \$200,000[-]; and

(3) Section 164(a)(3) shall not be operative for any amounts for which the credit under section 235-55 has been claimed.

(j) Section 165 (with respect to losses) of the Internal Revenue Code shall be operative for purposes of this chapter, except that the amount prescribed by sections 165(h)(1) (relating to the limitation per casualty) of the Internal Revenue Code shall be a \$100 limitation per casualty, and ~~[sections]~~ section 165(h)(3)(A) and ~~[165(h)(3)(B)]~~ (B) (both of which relate to special rules for personal casualty gains and losses in federally declared disasters) of the Internal Revenue Code shall not be operative for the purposes of this chapter. Section 165 as operative for this chapter shall also apply to losses sustained from the sale of stocks or other interests issued through the exercise of the stock options or warrants granted by a qualified high technology business as defined in section 235-7.3."

4. By amending subsection (1) to read:



1 "(l) Section 172 (with respect to net operating loss
2 deductions) of the Internal Revenue Code shall be operative for
3 purposes of this chapter, as further provided in section 235-
4 7(d), except that ~~[sections]~~ section 172(b)(1)(J) and ~~[172(j)]~~
5 (j) (both of which relate to qualified disaster losses) of the
6 Internal Revenue Code shall not be operative for purposes of
7 this chapter."

8 5. By amending subsection (q) to read:

9 "(q) Section 265 (with respect to expenses and interest
10 relating to tax-exempt income) of the Internal Revenue Code
11 shall be operative for purposes of this chapter; except that
12 ~~[sections]~~ section 265(b)(3)(G) and ~~[265(b)(7)]~~ (7) shall not be
13 operative and ~~[that]~~ section 265 shall not apply to expenses for
14 royalties and other income derived from any patents, copyrights,
15 and trade secrets by an individual or a qualified high
16 technology business as defined in section 235-7.3. Such
17 expenses shall be deductible."

18 6. By amending subsections (t) and (u) to read:

19 "(t) In administering the provisions of sections 410 to
20 417 (with respect to special rules relating to pensions, profit
21 sharing, stock bonus plans, etc.), sections 418 to 418E (with
22 respect to special rules for multiemployer plans), and sections



1 419 and 419A (with respect to treatment of welfare benefit
2 funds) of the Internal Revenue Code, the department of taxation
3 shall adopt rules under chapter 91 relating to the specific
4 requirements under [~~such~~] those sections and to [~~such~~] other
5 administrative requirements under those sections as may be
6 necessary for the efficient administration of sections 410 to
7 419A.

8 In administering sections 401 to 419A (with respect to
9 deferred compensation) of the Internal Revenue Code, Public Law
10 93-406, section 1017(i), shall be operative for the purposes of
11 this chapter.

12 In administering section 402 (with respect to the
13 taxability of beneficiary of employees' trust) of the Internal
14 Revenue Code, the tax imposed on lump sum distributions by
15 section 402(e) of the Internal Revenue Code shall be operative
16 for the purposes of this chapter and the tax imposed therein is
17 hereby imposed by this chapter at the rate determined under this
18 chapter.

19 (u) In administering section 403 (with respect to taxation
20 of employee annuities) of the Internal Revenue Code, any funds
21 that represent pre-tax employee deferrals or contributions that
22 are distributed from the annuity and used solely to obtain



1 retirement credits under the state employees' retirement system
2 shall not be treated as a rollover for purposes of section
3 403(b)(8)(A) of the Internal Revenue Code, and ~~[such]~~ those
4 funds shall be subject to income tax under this chapter."

5 7. By amending subsection (w) to read:

6 "(w) In administering section 457 (with respect to
7 compensation plans of state and local governments and tax-exempt
8 organizations) of the Internal Revenue Code, any funds that
9 represent pre-tax employee deferrals or contributions that are
10 distributed from the deferred compensation plan and used solely
11 to obtain retirement credits under the state employees'
12 retirement system shall not be treated as a rollover for
13 purposes of section 457(e)(16)(A) of the Internal Revenue Code
14 and ~~[such]~~ those funds shall be subject to income tax under this
15 chapter."

16 8. By amending subsection (dd) to read:

17 "(dd) Section 530 (with respect to ~~[education individual~~
18 ~~retirement accounts)]~~ Coverdell education savings accounts) of
19 the Internal Revenue Code shall be operative for the purposes of
20 this chapter. For the purpose of determining the maximum amount
21 that a contributor could make to an education individual
22 retirement account for state income tax purposes, modified



1 adjusted gross income as used in section 530 as operative for
2 this chapter means federal modified adjusted gross income as
3 defined in section 530."

4 SECTION 4. Section 235-2.45, Hawaii Revised Statutes, is
5 amended as follows:

6 1. By amending subsection (e) to read:

7 "(e) Section 1202 (with respect to partial exclusion for
8 gain from certain small business stock) of the Internal Revenue
9 Code shall be operative for purposes of this chapter, except
10 that section 1202(a) (3) and (4) shall not be operative for
11 purposes of this chapter."

12 2. By amending subsection (h) to read:

13 "(h) Subchapter S (sections 1361 to 1379) (with respect to
14 tax treatment of S corporations and their shareholders) of
15 chapter 1 of the Internal Revenue Code shall be operative for
16 the purposes of this chapter as provided in part VII; except
17 that ~~[sections]~~ section 1374(d) (7) (B) ~~[and 1374(d) (7) (C)]~~, (C),
18 and (D) shall not be operative for purposes of this chapter."

19 3. By amending subsection (m) to read:

20 "(m) ~~[Subchapter C (sections 6221 to 6233)]~~ Sections 6221,
21 6222, and 6231 (with respect to tax treatment of partnership



1 items) of subchapter C of chapter 63 of the Internal Revenue
2 Code shall be operative for the purposes of this chapter."

3 SECTION 5. Section 235-2.5, Hawaii Revised Statutes, is
4 amended by amending subsection (c) to read as follows:

5 "(c) The department of taxation shall submit to each
6 regular session of the legislature a bill to amend sections 235-
7 2.3, 235-2.4, and 235-2.45 and such other sections and
8 subsections of this chapter as may be necessary to adopt the
9 Internal Revenue Code as it exists on [~~January 2, 2013.~~] the
10 December 31 preceding such regular session. In submitting the
11 bill the department may provide that certain amendments to the
12 Internal Revenue Code by Congress during the preceding calendar
13 year shall not be operative in this State or as operative are
14 limited in their operation. The department shall also prepare a
15 digest and explanation of the amended provisions of the Internal
16 Revenue Code recommended for operation, as well as those
17 provisions [~~which~~] that are limited in their operation, or
18 [~~which~~] that are not recommended for operation, and shall submit
19 with the bill required by this subsection the digest,
20 explanation, and a statement of revenue impact of the adoption
21 of [~~such~~] the bill. In preparing the bill, digest, and



1 explanation the department may request the assistance of the
2 office of the legislative reference bureau.

3 It is the intent of the legislature that it shall each year
4 adopt all amendments to the Internal Revenue Code for the
5 calendar year preceding the year in which the legislature meets;
6 provided that the legislature may choose to adopt none of the
7 amendments to the Internal Revenue Code or may provide that
8 certain amendments are limited in their operation."

9 SECTION 6. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 7. This Act shall take effect upon its approval
12 and shall apply to taxable years beginning after December 31,
13 2013.

APPROVED this 16 day of JUN, 2014



GOVERNOR OF THE STATE OF HAWAII