

---

---

## A BILL FOR AN ACT

RELATING TO TAXATION.

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

1           SECTION 1. Section 235-2.4, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "§235-2.4 Operation of certain Internal Revenue Code  
4 provisions; sections 63 to 530. (a) Section 63 (with respect  
5 to taxable income defined) of the Internal Revenue Code shall be  
6 operative for the purposes of this chapter, subject to the  
7 following:

8           (1) Section 63(c)(1)(B) (relating to the additional  
9 standard deduction), 63(c)(1)(C) (relating to the real  
10 property tax deduction), 63(c)(1)(D) (relating to the  
11 disaster loss deduction), 63(c)(1)(E) (relating to the  
12 motor vehicle sales tax deduction), 63(c)(4) (relating  
13 to inflation adjustments), 63(c)(7) (defining the real  
14 property tax deduction), 63(c)(8) (defining the  
15 disaster loss deduction), 63(c)(9) (defining the motor  
16 vehicle sales tax deduction), and 63(f) (relating to  
17 additional amounts for the aged or blind) of the



1 Internal Revenue Code shall not be operative for  
2 purposes of this chapter;

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

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

8 (i) A joint return as provided by section 235-  
9 93; or

10 (ii) A surviving spouse (as defined in section  
11 2(a) of the Internal Revenue Code);

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

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

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

20 (3) Section 63(c)(5) (limiting the basic standard  
21 deduction in the case of certain dependents) of the



1 Internal Revenue Code shall be operative, except that  
2 the limitation shall be the greater of \$500 or the  
3 individual's earned income; and

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

6 (b) Section 68 (with respect to the overall limitation on  
7 itemized deductions) of the Internal Revenue Code shall be  
8 operative; provided that the thresholds shall be those that were  
9 operative for federal tax year 2009.

10 (c) Section 72 (with respect to annuities; certain  
11 proceeds of endowment and life insurance contracts) of the  
12 Internal Revenue Code shall be operative for purposes of this  
13 chapter and be interpreted with due regard to section 235-7(a),  
14 except that the ten per cent additional tax on early  
15 distributions from retirement plans in section 72(t) shall not  
16 be operative for purposes of this chapter.

17 (d) Section 85 (with respect to unemployment compensation)  
18 of the Internal Revenue Code shall be operative for purposes of  
19 this chapter, except that section 85(c) shall not be operative  
20 for purposes of this chapter.



1           (e) Section 108 (with respect to income from discharge of  
2 indebtedness) of the Internal Revenue Code shall be operative  
3 for purposes of this chapter, except that section 108(i)  
4 (relating to deferral and ratable inclusion of income arising  
5 from business indebtedness discharged by the reacquisition of a  
6 debt instrument) shall not be operative for purposes of this  
7 chapter.

8           (f) Section 121 (with respect to exclusion of gain from  
9 sale of principal residence) of the Internal Revenue Code shall  
10 be operative for purposes of this chapter, except that for the  
11 election under section 121(f), a reference to section 1034  
12 treatment means a reference to section 235-2.4(s) in effect for  
13 taxable year 1997.

14           (g) Section 132 (with respect to certain fringe benefits)  
15 of the Internal Revenue Code shall be operative for purposes of  
16 this chapter, except that the provision in section 132(f)(2)  
17 that equalizes the dollar amounts for sections 132(f)(2)(A) and  
18 (B) shall not be operative and except that section 132(n) shall  
19 not apply to United States Department of Defense Homeowners  
20 Assistance Program payments authorized by the American Recovery  
21 and Reinvestment Act of 2009.



1        (h) Section 162 (with respect to trade or business  
2 expenses) of the Internal Revenue Code shall be operative for  
3 purposes of this chapter, except that, for taxable years  
4 beginning after December 31, 2015, no deduction shall be allowed  
5 for the provision of employee benefits to the extent that the  
6 value of the benefits provided to an employee exceeds an amount  
7 calculated by multiplying the State's median household income  
8 for the taxable year by fifty.

9        [~~h~~] (i) Section 163 (with respect to interest) of the  
10 Internal Revenue Code shall be operative for the purposes of  
11 this chapter, except that provisions in section 163(d)(4)(B)  
12 (defining net investment income to exclude dividends), section  
13 163(e)(5)(F) (suspension of applicable high-yield discount  
14 obligation (AHYDO) rules) and section 163(i)(1) as it applies to  
15 debt instruments issued after January 1, 2010, (defining AHYDO)  
16 shall not be operative for the purposes of this chapter.

17        [~~i~~] (j) Section 164 (with respect to taxes) of the  
18 Internal Revenue Code shall be operative for the purposes of  
19 this chapter, except that:

20            (1) Section 164(a)(6) and (b)(6) shall not be operative  
21            for the purposes of this chapter;



1           (2) The deductions under section 164(a)(3) and (b)(5)  
2           shall not be operative for corporate taxpayers and  
3           shall be operative only for the following individual  
4           taxpayers:  
5           (A) A taxpayer filing a single return or a married  
6           person filing separately with a federal adjusted  
7           gross income of less than \$100,000;  
8           (B) A taxpayer filing as a head of household with a  
9           federal adjusted gross income of less than  
10           \$150,000; and  
11           (C) A taxpayer filing a joint return or as a  
12           surviving spouse with a federal adjusted gross  
13           income of less than \$200,000; and  
14           (3) Section 164(a)(3) shall not be operative for any  
15           amounts for which the credit under section 235-55 has  
16           been claimed.  
17           ~~[(j)]~~ (k) Section 165 (with respect to losses) of the  
18           Internal Revenue Code shall be operative for purposes of this  
19           chapter, except that the amount prescribed by sections 165(h)(1)  
20           (relating to the limitation per casualty) of the Internal  
21           Revenue Code shall be a \$100 limitation per casualty, and



1 section 165(h)(3)(A) and (B) (both of which relate to special  
2 rules for personal casualty gains and losses in federally  
3 declared disasters) of the Internal Revenue Code shall not be  
4 operative for the purposes of this chapter. Section 165 as  
5 operative for this chapter shall also apply to losses sustained  
6 from the sale of stocks or other interests issued through the  
7 exercise of the stock options or warrants granted by a qualified  
8 high technology business as defined in section 235-7.3.

9 ~~[(k)]~~ (l) Section 168 (with respect to the accelerated  
10 cost recovery system) of the Internal Revenue Code shall be  
11 operative for purposes of this chapter, except that sections  
12 168(j) (relating to property on Indian reservations), 168(k)  
13 (relating to the special allowance for certain property acquired  
14 during the period specified therein), 168(m) (relating to the  
15 special allowance for certain reuse and recycling property), and  
16 168(n) (relating to the special allowance for qualified disaster  
17 assistance property) of the Internal Revenue Code shall not be  
18 operative for purposes of this chapter.

19 ~~[(l)]~~ (m) Section 172 (with respect to net operating loss  
20 deductions) of the Internal Revenue Code shall be operative for  
21 purposes of this chapter, as further provided in section 235-



1 7(d), except that section 172(b)(1)(J) and (j) (both of which  
2 relate to qualified disaster losses) of the Internal Revenue  
3 Code shall not be operative for purposes of this chapter.

4 ~~(m)~~ (n) Section 179 (with respect to the election to  
5 expense certain depreciable business assets) of the Internal  
6 Revenue Code shall be operative for purposes of this chapter,  
7 except as provided in this subsection:

8 (1) The aggregate cost provided in section 179(b)(1) which  
9 may be taken into account under section 179(a) for any  
10 taxable year shall not exceed \$25,000;

11 (2) The amount at which the reduction in limitation  
12 provided in section 179(b)(2) begins shall exceed  
13 \$200,000 for any taxable year; and

14 (3) The following shall not be operative for purposes of  
15 this chapter:

16 (A) Defining section 179 property to include computer  
17 software in section 179(d)(1);

18 (B) Inflation adjustments in section 179(b)(5);

19 (C) Irrevocable election in section 179(c)(2); and

20 (D) Special rules for qualified disaster assistance  
21 property in section 179(e).





1           ~~[(n)]~~ (o) Section 198A (with respect to the expensing of  
2 qualified disaster assistances expenses) of the Internal Revenue  
3 Code shall not be operative for purposes of this chapter.

4           ~~[(e)]~~ (p) Section 219 (with respect to retirement savings)  
5 of the Internal Revenue Code shall be operative for the purpose  
6 of this chapter. For the purpose of computing the limitation on  
7 the deduction for active participants in certain pension plans  
8 for state income tax purposes, adjusted gross income as used in  
9 section 219 as operative for this chapter means federal adjusted  
10 gross income.

11           ~~[(p)]~~ (q) Section 220 (with respect to medical savings  
12 accounts) of the Internal Revenue Code shall be operative for  
13 the purpose of this chapter, but only with respect to medical  
14 services accounts that have been approved by the Secretary of  
15 the Treasury of the United States.

16           ~~[(q)]~~ (r) Section 265 (with respect to expenses and  
17 interest relating to tax-exempt income) of the Internal Revenue  
18 Code shall be operative for purposes of this chapter; except  
19 that section 265(b)(3)(G) and (7) shall not be operative and  
20 section 265 shall not apply to expenses for royalties and other  
21 income derived from any patents, copyrights, and trade secrets



1 by an individual or a qualified high technology business as  
2 defined in section 235-7.3. Such expenses shall be deductible.

3 ~~[(s)]~~ (s) Section 382 (with respect to limitation on net  
4 operating loss carryforwards and certain built-in losses  
5 following ownership change) of the Internal Revenue Code shall  
6 be operative for the purposes of this chapter, except that  
7 section 382(n) shall not be operative for purposes of this  
8 chapter.

9 ~~[(s)]~~ (t) Section 408A (with respect to Roth Individual  
10 Retirement Accounts) of the Internal Revenue Code shall be  
11 operative for the purposes of this chapter, except that section  
12 408A(d)(3)(A)(iii) shall not be operative for purposes of this  
13 chapter. For the purposes of determining the aggregate amount  
14 of contributions to a Roth Individual Retirement Account or  
15 qualified rollover contribution to a Roth Individual Retirement  
16 Account from an individual retirement plan other than a Roth  
17 Individual Retirement Account, adjusted gross income as used in  
18 section 408A as operative for this chapter means federal  
19 adjusted gross income.

20 ~~[(t)]~~ (u) In administering the provisions of sections 410  
21 to 417 (with respect to special rules relating to pensions,



1 profit sharing, stock bonus plans, etc.), sections 418 to 418E  
2 (with respect to special rules for multiemployer plans), and  
3 sections 419 and 419A (with respect to treatment of welfare  
4 benefit funds) of the Internal Revenue Code, the department of  
5 taxation shall adopt rules under chapter 91 relating to the  
6 specific requirements under those sections and to other  
7 administrative requirements under those sections as may be  
8 necessary for the efficient administration of sections 410 to  
9 419A.

10 In administering sections 401 to 419A (with respect to  
11 deferred compensation) of the Internal Revenue Code, Public Law  
12 93-406, section 1017(i), shall be operative for the purposes of  
13 this chapter.

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



1        [~~u~~] (v) In administering section 403 (with respect to  
2 taxation of employee annuities) of the Internal Revenue Code,  
3 any funds that represent pre-tax employee deferrals or  
4 contributions that are distributed from the annuity and used  
5 solely to obtain retirement credits under the state employees'  
6 retirement system shall not be treated as a rollover for  
7 purposes of section 403(b)(8)(A) of the Internal Revenue Code,  
8 and those funds shall be subject to income tax under this  
9 chapter.

10        [~~v~~] (w) Section 451 (which provides general rules for  
11 taxable year of inclusion) of the Internal Revenue Code shall be  
12 operative, except that the provisions of sections 451(i)(3) and  
13 451(i)(6), as they relate to a qualified electric utility, shall  
14 not be operative for purposes of this chapter.

15        [~~w~~] (x) In administering section 457 (with respect to  
16 compensation plans of state and local governments and tax-exempt  
17 organizations) of the Internal Revenue Code, any funds that  
18 represent pre-tax employee deferrals or contributions that are  
19 distributed from the deferred compensation plan and used solely  
20 to obtain retirement credits under the state employees'  
21 retirement system shall not be treated as a rollover for



1 purposes of section 457(e)(16)(A) of the Internal Revenue Code  
2 and those funds shall be subject to income tax under this  
3 chapter.

4 [~~x~~] (y) Section 468B (with respect to special rules for  
5 designated settlement funds) of the Internal Revenue Code shall  
6 be operative for the purposes of this chapter and the tax  
7 imposed therein is hereby imposed by this chapter at a rate  
8 equal to the maximum rate in effect for the taxable year imposed  
9 on estates and trusts under section 235-51.

10 [~~y~~] (z) Section 469 (with respect to passive activities  
11 and credits limited) of the Internal Revenue Code shall be  
12 operative for the purposes of this chapter. For the purpose of  
13 computing the offset for rental real estate activities for state  
14 income tax purposes, adjusted gross income as used in section  
15 469 as operative for this chapter means federal adjusted gross  
16 income.

17 [~~z~~] (aa) Sections 512 to 514 (with respect to taxation  
18 of business income of certain exempt organizations) of the  
19 Internal Revenue Code shall be operative for the purposes of  
20 this chapter as provided in this subsection.



1 "Unrelated business taxable income" means the same as in  
2 the Internal Revenue Code, except that in the computation  
3 thereof sections 235-3 to 235-5, and 235-7 (except subsection  
4 (c)), shall apply, and in the determination of the net operating  
5 loss deduction there shall not be taken into account any amount  
6 of income or deduction that is excluded in computing the  
7 unrelated business taxable income. Unrelated business taxable  
8 income shall not include any income from a legal service plan.

9 For a person described in section 401 or 501 of the  
10 Internal Revenue Code, as modified by section 235-2.3, the tax  
11 imposed by section 235-51 or 235-71 shall be imposed upon the  
12 person's unrelated business taxable income.

13 [~~aa~~] (bb) Section 521 (with respect to cooperatives) and  
14 subchapter T (sections 1381 to 1388, with respect to  
15 cooperatives and their patrons) of the Internal Revenue Code  
16 shall be operative for the purposes of this chapter as to any  
17 cooperative fully meeting the requirements of section 421-23,  
18 except that Internal Revenue Code section 521 cooperatives need  
19 not be organized in Hawaii.

20 [~~bb~~] (cc) Sections 527 (with respect to political  
21 organizations) and 528 (with respect to certain homeowners



1 associations) of the Internal Revenue Code shall be operative  
2 for the purposes of this chapter and the taxes imposed in each  
3 section are hereby imposed by this chapter at the rates  
4 determined under section 235-71.

5 [~~ee~~] dd Section 529 (with respect to qualified tuition  
6 programs) shall be operative for the purposes of this chapter,  
7 except that sections 529(c)(6) and 529(e)(3)(A)(iii) shall not  
8 be operative.

9 [~~dd~~] ee Section 530 (with respect to Coverdell  
10 education savings accounts) of the Internal Revenue Code shall  
11 be operative for the purposes of this chapter. For the purpose  
12 of determining the maximum amount that a contributor could make  
13 to an education individual retirement account for state income  
14 tax purposes, modified adjusted gross income as used in section  
15 530 as operative for this chapter means federal modified  
16 adjusted gross income as defined in section 530."

17 SECTION 2. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.



1 SECTION 3. This Act, upon its approval, shall apply to  
2 taxable years beginning after December 31, 2015.

3

INTRODUCED BY:           *Hal Abrah*          

JAN 21 2015





# H.B. NO. 35

**Report Title:**

Taxation; Employee Benefits; Deduction

**Description:**

Limits the amount that an employer may deduct for benefits provided to an employee to 50 times the State's median household income.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

