

JAN 23 2015

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 ~~[(e)]~~ (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 ~~[(r)]~~ (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.






S.B. NO. 780

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

3

INTRODUCED BY:



S.B. NO. 780

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.

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