
A BILL FOR AN ACT

RELATING TO HOMEOWNERSHIP.

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

1 SECTION 1. The legislature finds that homeownership
2 creates strong communities through economic growth.
3 Homeownership helps families to build equity and enjoy
4 stability. Homeowners have a greater sense of security,
5 continuity, belonging, and pride in their communities. However,
6 saving for a down payment is often cited as the biggest hurdle
7 for first-time home buyers, particularly for young people
8 grappling with student loan debt. The 2016 Hawaii Housing
9 Planning Study found that twenty-eight per cent of those
10 interested in buying a home could not afford the down payment.

11 The legislature further finds that individual housing
12 accounts help first-time homebuyers save money for a down
13 payment. However, due to the rising cost of buying a home in
14 Hawaii, the current ceiling for the aggregate total that can be
15 saved in an individual housing account is too low.



1 The purpose of this Act is to improve individual housing
2 accounts to help low-income families save for a down payment to
3 purchase a home.

4 SECTION 2. Section 235-5.5, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§235-5.5 Individual housing accounts.** (a) There shall
7 be allowed as a deduction from gross income the amount, not to
8 exceed [~~\$5,000,~~] \$ _____, paid in cash during the taxable year
9 by an individual taxpayer to an individual housing account
10 established for the individual's benefit to provide funding for
11 the purchase of the individual's first principal residence.

12 ~~[A deduction]~~ There shall be allowed as a deduction, not to
13 exceed [~~\$10,000 shall be allowed for~~] \$ _____, paid in cash
14 during the taxable year by a married couple filing a joint
15 return[-] to an individual housing account established for the
16 individual's benefit to provide funding for the purchase of the
17 individual's first principal residence. In the case of a
18 married couple filing separate returns, the sum of the
19 deductions allowable to each of them for the taxable year shall
20 not exceed \$ _____, or \$ _____ for a joint return, for



1 amounts paid in cash, excluding interest paid or accrued
2 thereon.

3 There shall be allowed as a deduction from gross income the
4 amount, not to exceed \$, paid in cash during the taxable
5 year by an immediate family member of the individual or an
6 immediate family member of the individual's spouse, if the
7 individual is married, to an individual housing account
8 established for the individual's benefit to provide funding for
9 the purchase of the individual's first principal residence.

10 No deduction shall be allowed on any amounts distributed
11 less than three hundred sixty-five days from the date on which a
12 contribution is made to the account. Any deduction claimed for
13 a previous taxable year for amounts distributed less than three
14 hundred sixty-five days from the date on which a contribution
15 was made shall be disallowed and the amount deducted shall be
16 included in the previous taxable year's gross income and the tax
17 reassessed. The interest paid or accrued within the taxable
18 year on the account shall not be included in the individual's
19 gross income. ~~[For purposes of this section, the term "first~~
20 ~~principal residence" means a residential property purchased with~~
21 ~~the payment or distribution from the individual housing account~~



~~1 which shall be owned and occupied as the only home by an
2 individual who did not have any interest in, individually, or
3 whose spouse did not have any interest in, if the individual is
4 married, a residential property within the last five years of
5 opening the individual housing account.~~

~~6 In the case of a married couple filing separate returns,
7 the sum of the deductions allowable to each of them for the
8 taxable year shall not exceed \$5,000, or \$10,000 for a joint
9 return, for amounts paid in cash, excluding interest paid or
10 accrued thereon.]~~

11 The amounts paid in cash allowable as a deduction under
12 this section to an individual or immediate family member for all
13 taxable years shall not exceed \$25,000, excluding interest paid
14 or accrued. In the case of married individuals having separate
15 individual housing accounts, the sum of the separate accounts
16 and the deduction under this section shall not exceed \$25,000,
17 excluding interest paid or accrued thereon.

18 (b) For purposes of this section, the term "individual
19 housing account" means a trust created or organized in Hawaii
20 for the exclusive benefit of an individual, or, in the case of a
21 married individual, for the exclusive benefit of the individual



1 and spouse jointly, but only if the written governing instrument
2 creating the trust meets the following requirements:

3 (1) Contributions shall not be accepted for the taxable
4 year in excess of [~~\$5,000~~] \$ _____ for an individual
5 or immediate family member (or [~~\$10,000~~] \$ _____ in
6 the case of a joint return) or in excess of \$25,000
7 for all taxable years, exclusive of interest paid or
8 accrued;

9 (2) The trustee is a bank, a savings and loan association,
10 a credit union, a community development financial
11 institution, or a depository financial services loan
12 company, chartered, licensed, certified, or supervised
13 under federal or state law, whose accounts are insured
14 by the Federal Deposit Insurance Corporation, the
15 National Credit Union Administration, or any agency of
16 this State or any federal agency established for the
17 purpose of insuring accounts in these financial
18 institutions. The financial institution [~~must~~] may
19 actively make residential real estate mortgage loans
20 in Hawaii;



(3) The assets of the trust shall be invested only in fully insured savings or time deposits. Funds held in the trust may be commingled for purposes of investment, but individual records shall be maintained by the trustee for each individual housing account holder that show all transactions in detail;

(4) The entire interest of an individual or married couple for whose benefit the trust is maintained shall be distributed to the individual or couple not later than ~~[one hundred twenty]~~ ____ months after the date on which the first contribution is made to the trust;

(5) Except as provided in subsection (g), the trustee shall not distribute the funds in the account unless the trustee:

(A) Verifies that the money is to be used for the purchase of a first principal residence located in Hawaii, and provides that the instrument of payment is payable to the mortgagor, construction contractor, or other vendor of the property purchased; or



1 (B) Withholds an amount equal to ten per cent of the
2 amount withdrawn from the account and remits this
3 amount to the director within ten days after the
4 date of the withdrawal. The amount withheld
5 shall be applied to the liability of the taxpayer
6 under subsections (c) and (e); and

7 (6) If any amounts are distributed before the expiration
8 of three hundred sixty-five days from the date on
9 which a contribution is made to the account, the
10 trustee shall so notify in writing the taxpayer and
11 the director. If the trustee makes the verification
12 required in paragraph (5) (A), then the department
13 shall disallow the deduction under subsection (a) and
14 subsections (c), (e), and (f) shall not apply to that
15 amount. If the trustee withholds an amount under
16 paragraph (5) (B), then the department shall disallow
17 the deduction under subsection (a) and subsection (e)
18 shall apply, but subsection (c) shall not apply.

19 (c) Any contributions paid or distributed out of an
20 individual housing account shall be included in gross income by
21 the individual for whose benefit the account was established for



1 the taxable year in which the payment or distribution is
2 received, unless the amount is used exclusively in connection
3 with the purchase of the first principal residence in Hawaii for
4 the individual for whose benefit the account was established.

5 (d) The transfer of an individual's interest in an
6 individual housing account to a spouse under a dissolution of
7 marriage decree or under a written instrument incident to a
8 dissolution of marriage shall not be considered a taxable
9 transfer made by the individual, and the interest, at the time
10 of the transfer, shall be treated as part of an individual
11 housing account of the transferee, and not of the transferor.
12 After the transfer, the account shall be treated, for purposes
13 of this section, as maintained for the benefit of the
14 transferee.

15 (e) If a distribution from an individual housing account
16 to an individual for whose benefit the account was established
17 is made and not used in connection with the purchase of the
18 first principal residence in Hawaii for the individual, the tax
19 liability of the individual under this chapter for the taxable
20 year in which the distribution is received shall be increased by
21 an amount equal to ten per cent of the amount of the



1 distribution which is includable in the individual's gross
2 income for the taxable year.

3 If, during any taxable year, the individual uses the
4 account or any portion thereof as security for a loan, the
5 portion so used shall be treated as if it had been distributed
6 to that individual.

7 (f) If the individual for whose benefit the individual
8 housing account was established purchases a residential property
9 in Hawaii with the distribution from the individual housing
10 account:

11 (1) Before January 1, 1990, and if the individual sells in
12 any manner or method or by use of any instrument
13 conveying or transferring the residential property,
14 the gross income of the individual under this chapter
15 for the taxable year in which the residential property
16 is sold, conveyed, or transferred, whichever is
17 applicable, shall include an amount equal to the
18 amount of the distribution from the individual housing
19 account, and in addition, the gross income of the
20 individual shall be increased by an amount equal to



1 ten per cent of the total distribution from the
2 individual housing account; or

3 (2) After December 31, 1989, the individual shall report
4 one-tenth of the total distribution from the
5 individual housing account used to purchase the
6 residential property as gross income in the taxable
7 year in which the distribution is completed and in
8 each taxable year thereafter until all of the
9 distribution has been included in the individual's
10 gross income at the end of the tenth taxable year
11 after the purchase of the residential property. If
12 the individual sells in any manner or method or by use
13 of any instrument conveying or transferring the
14 residential property, the gross income of the
15 individual under this chapter for the taxable year in
16 which the residential property is sold, conveyed, or
17 transferred, whichever is applicable, shall include an
18 amount equal to the amount of the distribution from
19 the individual housing account not previously reported
20 as gross income, and in addition, the tax liability of
21 the individual shall be increased by an amount equal



1 to ten per cent of the total distribution from the
2 individual housing account. If the individual sells
3 the residential property in any manner as provided in
4 this paragraph after all of the distribution has been
5 included in the individual's gross income at the end
6 of the tenth taxable year after the purchase of the
7 residential property, the tax liability of the
8 individual shall not be increased by an amount equal
9 to ten per cent of the total distribution from the
10 individual housing account.

11 An individual who purchased a residential property in Hawaii
12 with the distribution from an individual housing account before
13 January 1, 1990, who is subject to paragraph (1) may elect to
14 report as provided in paragraph (2). The election shall be made
15 before January 1, 1991. If the individual makes the election,
16 the individual shall report one-tenth of the total distribution
17 from the individual housing account as gross income in the
18 taxable year in which the election occurs and in each taxable
19 year thereafter until all of the distribution has been included
20 in gross income as provided by paragraph (2). If the individual
21 making the election sells the residential property in any manner



1 as provided in paragraph (2), then the individual shall include
2 as income the amount of the distribution not previously reported
3 as income and increase the individual's tax liability as
4 provided in the second sentence of paragraph (2), except when
5 the third sentence of paragraph (2) applies.

6 In the alternative, any individual subject to paragraph (2)
7 who established the individual housing account before January 1,
8 1990, may elect within one year after the date of purchase, to
9 be subject to paragraph (1).

10 (g) No tax liability shall be imposed under this section
11 if:

12 (1) The payment or distribution is attributable to the
13 individual dying or becoming totally disabled; or

14 (2) Residential property subject to subsection (f) is
15 transferred by will or by operation of law or sold due
16 to the death or total disability of an individual or
17 individual's spouse,

18 subject to the following:

19 An individual shall not be considered to be totally
20 disabled unless proof is furnished of the total disability in
21 the form and manner as the director may require.



1 Upon the death of an individual for whose benefit an
2 individual housing account has been established, the funds in
3 the account shall be payable to the estate of the individual;
4 provided that if the account was held jointly by the decedent
5 and a spouse of the decedent, the account shall terminate and be
6 paid to the surviving spouse; or, if the surviving spouse so
7 elects, the spouse may continue the account as an individual
8 housing account. Upon the total disability of an individual for
9 whose benefit an individual housing account has been
10 established, the individual or the individual's authorized
11 representative may elect to continue the account or terminate
12 the account and be paid the assets; provided that if the account
13 was held jointly by a totally disabled person and a spouse of
14 that person, then the spouse or an authorized representative may
15 elect to continue the account or terminate the account and be
16 paid the assets.

17 (h) If the individual for whose benefit the individual
18 housing account was established subsequently marries a person
19 who has or has had any interest in residential property, the
20 individual's housing account shall be terminated, the funds
21 therein shall be distributed to the individual, and the amount



1 of the funds shall be includable in the individual's gross
2 income for the taxable year in which such marriage took place;
3 provided that the tax liability defined under subsection (f)
4 shall not be imposed.

5 (i) The trustee of an individual housing account shall
6 make reports regarding the account to the director and to the
7 individual for whom the account is maintained with respect to
8 contributions, distributions, and other matters as the director
9 may require under rules. The reports shall be filed at a time
10 and in a manner as may be required by rules adopted under
11 chapter 91. A person who fails to file a required report shall
12 be subject to a penalty of [~~\$10~~] \$_____ to be paid to the
13 director for each instance of failure to file.

14 (j) For purposes of this section:

15 "First principal residence" means a residential property
16 purchased with the payment or distribution from the individual
17 housing account which shall be owned and occupied as the only
18 home by an individual who did not have any interest in,
19 individually, or whose spouse did not have any interest in, if
20 the individual is married, a residential property within the
21 last five years of opening the individual housing account.



1 "Immediate family member" includes parents, grandparents,
2 or sibling."

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

5 SECTION 4. This Act shall take effect on January 1, 2050.

6



Report Title:

Homeownership; Individual Housing Accounts; Deductions

Description:

Changes the annual contribution amount, aggregate contribution amount, and number of taxable months for an individual housing account. Allows immediate family members to contribute to an individual housing account. Allows Community Development Financial Institutions to administer individual housing accounts. (HB2747 HD1)

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