
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Chapter 235, Hawaii Revised Statutes, is
2 amended by adding a new section to part VI to be appropriately
3 designated and to read as follows:

4 "§235- Real estate investment trust returns;
5 withholding on dividends paid. (a) Each real estate investment
6 trust shareholder's pro rata share of income attributable to the
7 State and the shareholder's pro rata share of income not
8 attributable to the State, to the extent modified under this
9 chapter, shall be taken into account by the shareholder for the
10 purposes of this chapter under rules similar to those adopted
11 pursuant to section 235-122(c).

12 (b) Every real estate investment trust shall make a return
13 for each taxable year, stating specifically:

14 (1) The items of its gross income and the deductions
15 allowable by this chapter;

16 (2) The name, address, and social security or federal
17 identification number of each person owning stock in



1 the real estate investment trust at any time during
2 the taxable year;

3 (3) The number of shares of stock owned by each
4 shareholder at all times during the taxable year;

5 (4) The income attributable to the State and income not
6 attributable to the State with respect to each
7 shareholder as determined under this chapter;

8 (5) Any modifications required under this chapter;

9 (6) The amount of money and other property distributed by
10 the real estate investment trust during the taxable
11 year to each shareholder;

12 (7) The date of each distribution; and

13 (8) Any other information the department may prescribe by
14 form or rule.

15 (c) The real estate investment trust, on or before the day
16 on which the return is filed, shall furnish to each person who
17 was a shareholder during the year a copy of the information
18 shown on the return as the department may prescribe by form or
19 rule. Any return filed pursuant to this section, for purposes
20 of sections 235-111 and 235-112, shall be treated as a return
21 filed by the real estate investment trust under section 235-92.



1 (d) The department may permit composite returns and
2 payments to be made on behalf of resident shareholders.

3 (e) A real estate investment trust shall withhold and pay
4 to this State, on behalf of any shareholder, an amount equal to
5 five per cent multiplied by the amount of the shareholder's pro
6 rata share of the income attributable to the State, as reflected
7 on the real estate investment trust's return for the taxable
8 period. A real estate investment trust shall be entitled to
9 recover a payment made pursuant to this subsection from the
10 shareholder on whose behalf the payment was made.

11 (f) The amount withheld by a real estate investment trust
12 under subsection (e) shall be the minimum tax due to Hawaii by
13 each real estate investment trust shareholder on their Hawaii
14 source income. A real estate investment trust shareholder that
15 is not otherwise required to file Hawaii tax returns need not
16 file a Hawaii return to report the income received and tax paid.
17 Any real estate investment trust shareholder that is tax exempt
18 under federal income tax law shall not be liable for the minimum
19 tax on their real estate investment trust income and may file a
20 claim for refund for the amount withheld and paid to the State
21 by the real estate investment trust.



1 (g) Any amount paid by the real estate investment trust to
2 this State pursuant to subsection (d) or (e) shall be considered
3 to be a payment by the shareholder on account of the income tax
4 imposed on the shareholder for the taxable period.

5 (h) Any officer of any real estate investment trust who
6 wilfully fails to provide any information, file any return or
7 agreement, or make any payment as required by this section or
8 section 231-15.6 shall be guilty of a misdemeanor.

9 (i) As used in this section:

10 "Real estate investment trust" means a corporation, trust,
11 or association for which a valid election in accordance with
12 section 856 of the Internal Revenue Code, as amended, is in
13 effect.

14 "Real estate investment trust shareholder" or "shareholder"
15 means any person who is ultimately responsible for the payment
16 of tax on a portion of the real estate investment trust's income
17 from dividend distributions."

18 SECTION 2. New statutory material is underscored.

19 SECTION 3. This Act shall take effect on July 1, 2050, and
20 shall apply to taxable years beginning after December 31, 2018.



Report Title:

Taxation; Income Tax; Tax Returns; Real Estate Investment Trusts

Description:

Requires that real estate investment trusts file returns reporting their shareholders' pro rata shares of net income and net income attributable to this State. Requires withholding on all payments to shareholders. Applies to taxable years beginning after 12/31/2018. Effective 7/1/2050. (SD1)

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