



GOV. MSG. NO. 1219

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

June 28, 2021

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Thirty First State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Thirty First State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on June 28, 2021, the following bill was signed into law:

SB1203 SD1 HD1 CD1

RELATING TO TITLE 14, HAWAII REVISED
STATUTES
ACT 117 (21)

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

1 capacity [~~in any taxation district in which returns are~~
2 required]."

3 SECTION 4. Section 231-31, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§231-31 Nonresidents engaged in business, etc., service
6 of process on, designation of agent for service of process.

7 Every nonresident individual who, jointly, severally, or jointly
8 and severally, is subject to a tax upon the gross or net income
9 from, or sales of, an occupation, trade, or business carried on
10 in the State, in whole or in part, or upon the carrying on of
11 [~~such~~] the occupation, trade, or business, or upon the use or
12 keeping for use of property therein, shall file with the
13 department of taxation [~~in the district in which the occupation,~~
14 ~~trade, or business is carried on,~~] in the form and manner
15 prescribed by the department, the name and address of a person
16 residing within the State upon whom process may be served, and
17 in default of [~~such~~] the designation, and if the nonresident
18 individual cannot be found in the State, service of process in
19 any action for the collection of the taxes may be made on any
20 manager, superintendent, or other person in charge, employed in
21 the carrying on of the occupation, trade, or business, with like



1 effect as if the person so served had been designated by the
2 nonresident as the nonresident's agent for such purpose;
3 provided that nothing therein shall preclude the service of
4 process in any other manner provided by law."

5 SECTION 5. Section 235-7, Hawaii Revised Statutes, is
6 amended by amending subsections (c) and (d) to read as follows:

7 "(c) The deductions of or based on dividends paid or
8 received, allowed to a corporation under chapter 1,
9 subchapter B, part VIII of the Internal Revenue Code, shall not
10 be allowed. In lieu thereof there shall be allowed as a
11 deduction the entire amount of [~~dividends~~]:

12 (1) Dividends received by any corporation upon the shares
13 of stock of a national banking association[~~7~~
14 ~~qualifying~~];

15 (2) Qualifying dividends, as defined in section 243(b) of
16 the Internal Revenue Code, received by members of an
17 affiliated group[~~, or dividends~~]; provided that
18 "includible corporation" as used therein shall include
19 domestic and foreign corporations;

20 (3) Dividends received by a small business investment
21 company operating under the Small Business Investment



1 Act of 1958 (Public Law 85-699) [~~upon shares of stock~~
2 ~~qualifying under paragraph (3), seventy~~];
3 (4) Seventy per cent of the amount received by any
4 corporation as dividends [+
5 ~~(1) Upon~~] upon the shares of stock of another corporation,
6 if [~~at the date of payment of the dividend at least~~
7 ~~ninety five per cent of the other corporation's~~
8 ~~capital stock is owned by one or more corporations~~
9 ~~doing business in this State and if the other~~
10 ~~corporation is subjected to an income tax in another~~
11 ~~jurisdiction (but subsection to federal tax does not~~
12 ~~constitute subsection to income tax in another~~
13 ~~jurisdiction)~~; and
14 ~~(2) Upon the shares of stock of a bank or insurance~~
15 ~~company organized and doing business under the laws of~~
16 ~~the State;~~
17 ~~(3) Upon the shares of stock of another corporation, if at~~
18 ~~least fifteen per cent of the latter corporation's~~
19 ~~business, for the taxable year of the latter~~
20 ~~corporation preceding the payment of the dividend, has~~
21 ~~been attributed to this State.~~



1 ~~However, except for national bank dividends, the deductions~~
2 ~~under this subsection are not allowed when they would not have~~
3 ~~been] otherwise allowed under section 243 of the Internal~~
4 ~~Revenue Code [, as amended by Public Law 85-866, by reason of~~
5 ~~subsections (b) and (c) of section 246 of the Internal Revenue~~
6 ~~Code. For the purposes of this subsection fifteen per cent of a~~
7 ~~corporation's business shall be deemed to have been attributed~~
8 ~~to this State if fifteen per cent or more of the entire gross~~
9 ~~income of the corporation as defined in this chapter (which for~~
10 ~~the purposes of this subsection shall be computed without regard~~
11 ~~to source in the State and shall include income not taxable by~~
12 ~~reason of the fact that it is from property not owned in the~~
13 ~~State or from a trade or business not carried on in the State in~~
14 ~~whole or in part), under section 235-5 and the other provisions~~
15 ~~of this chapter, shall have been attributed to the State and~~
16 ~~subjected to assessment of the taxable income therefrom~~
17 ~~(including the determination of the resulting net loss, if~~
18 ~~any)] .~~

19 ~~[(d) (1) For taxable years ending before January 1, 1967,~~
20 ~~the net operating loss deductions allowed as carrybacks and~~
21 ~~carryovers by the Internal Revenue Code shall not be allowed.~~



1 ~~In lieu thereof the net operating loss deduction shall consist~~
2 ~~of the excess of the deductions allowed by this chapter over the~~
3 ~~gross income, computed with the modifications specified in~~
4 ~~paragraphs (1) to (4) of section 172(d) of the Internal Revenue~~
5 ~~Code, and with the further modification stated in paragraph (3)~~
6 ~~hereof, and shall be allowed as a deduction in computing the~~
7 ~~taxable income of the taxpayer for the succeeding taxable year,~~
8 ~~(2) (A)]~~ (d) With respect to net operating loss
9 deductions resulting from net operating losses
10 for taxable years ending after December 31, 1966,
11 the net operating loss deduction provisions of
12 the Internal Revenue Code shall apply[, provided
13 ~~that there shall be no net operating loss~~
14 ~~deduction carried back to any taxable year ending~~
15 ~~prior to January 1, 1967,~~
16 ~~(B)~~ ~~In the case of a taxable year beginning in 1966~~
17 ~~and ending in 1967, the entire amount of all net~~
18 ~~operating loss deductions carried back to the~~
19 ~~taxable year shall be limited to that portion of~~
20 ~~taxable income for such taxable year which the~~



1 ~~number of days in 1967 bears to the total days in~~
2 ~~the taxable year ending in 1967; and~~

3 ~~(C) The computation of any net operating loss~~
4 ~~deduction for a taxable year covered by this~~
5 ~~subsection shall require the further~~
6 ~~modifications stated in paragraphs (3), (4), and~~
7 ~~(5) of this subsection;]~~ provided that:

8 ~~[(3)]~~ (1) In computing the net operating loss deduction
9 allowed by this subsection, there shall be included in
10 gross income the amount of interest which is excluded
11 from gross income by subsection (a), decreased by the
12 amount of interest paid or accrued which is disallowed
13 as a deduction by subsection (e). In determining the
14 amount of the net operating loss deduction under this
15 subsection of any corporation, there shall be
16 disregarded the net operating loss of such corporation
17 for any taxable year for which the corporation is an
18 electing small business corporation;

19 ~~[(4)]~~ (2) No net operating loss carryback or carryover
20 shall be allowed by this chapter if not allowed under
21 section 172 of the Internal Revenue Code; and



1 ~~(5)~~ (3) The election to relinquish the entire carryback
2 period with respect to a net operating loss allowed
3 under section 172(b)(3)(C) of the Internal Revenue
4 Code shall be operative for the purposes of this
5 chapter; provided that no taxpayer shall make such an
6 election as to a net operating loss of a business
7 where such net operating loss occurred in the
8 taxpayer's business prior to the taxpayer entering
9 business in this State ~~[, and~~

10 ~~(6) The five year carryback period for net operating~~
11 ~~losses for any taxable year ending during 2001 and~~
12 ~~2002 in section 172(b)(1)(H) of the Internal Revenue~~
13 ~~Code as it read on December 31, 2008, shall not be~~
14 ~~operative for purposes of this chapter; and~~

15 ~~(7) The election for the carryback for 2008 or 2009 net~~
16 ~~operating losses of small businesses as provided in~~
17 ~~section 172(b)(1)(H) of the Internal Revenue Code as~~
18 ~~it read on December 31, 2009, shall not be operative~~
19 ~~for purposes of this chapter]."~~

20 SECTION 6. Section 235-12.5, Hawaii Revised Statutes, is
21 amended by amending subsection (a) to read as follows:



1 " (a) [~~When the requirements of subsection (d) are met,~~
2 each] Each individual or corporate taxpayer that files an
3 individual or corporate net income tax return for a taxable year
4 may claim a tax credit under this section against the Hawaii
5 state individual or corporate net income tax. The tax credit
6 may be claimed for every eligible renewable energy technology
7 system that is installed and placed in service in the State by a
8 taxpayer during the taxable year. The tax credit may be claimed
9 as follows:

10 (1) For each solar energy system: thirty-five per cent of
11 the actual cost or the cap amount determined in
12 subsection (b); provided that:

13 (A) For taxable years beginning after December 31,
14 2019, and except as provided in subparagraphs (B)
15 and (C), no tax credit may be claimed for a solar
16 energy system that is five megawatts in total
17 output capacity or larger and requires a power
18 purchase agreement approved by the public
19 utilities commission;

20 (B) A solar energy system that is five megawatts in
21 total output capacity or larger, installed and



1 placed in service pursuant to a power purchase
2 agreement approved or pending approval by a
3 decision and order by the public utilities
4 commission prior to December 31, 2019, shall
5 continue to receive a tax credit equal to thirty-
6 five per cent of the actual cost, or \$500,000 per
7 solar energy system that has a total output
8 capacity of at least one thousand kilowatts per
9 system of direct current, whichever is less; and
10 (C) For each solar energy system integrated with a
11 pumped hydroelectric energy storage system, the
12 tax credit may be claimed for thirty-five
13 per cent of the actual cost or the cap amount
14 determined in subsection (b), whichever is less;
15 provided that applicable project approval filings
16 have been made to the public utilities commission
17 by December 31, 2021; or
18 (2) For each wind-powered energy system: twenty per cent
19 of the actual cost or the cap amount determined in
20 subsection (b), whichever is less;



1 provided further that multiple owners of a single system shall
2 be entitled to a single tax credit; and provided further that
3 the tax credit shall be apportioned between the owners in
4 proportion to their contribution to the cost of the system.

5 In the case of a partnership, S corporation, estate, or
6 trust, the tax credit allowable is for every eligible renewable
7 energy technology system that is installed and placed in service
8 in the State by the entity. The cost upon which the tax credit
9 is computed shall be determined at the entity level.
10 Distribution and share of credit shall be determined pursuant to
11 administrative rule."

12 SECTION 7. Section 235-51, Hawaii Revised Statutes, is
13 amended by amending subsections (a), (b), and (c) to read as
14 follows:

15 "(a) There is hereby imposed on the taxable income of
16 every:

17 (1) Taxpayer who files a joint return under
18 section 235 93; and

19 (2) Surviving spouse,

20 a tax determined in accordance with the following table:



1 ~~[In the case of any taxable year beginning after~~
2 ~~December 31, 2001:~~

3	If the taxable income is:	The tax shall be:
4	Not over \$4,000	1.40% of taxable income
5	Over \$4,000 but	\$56.00 plus 3.20% of
6	not over \$8,000	excess over \$4,000
7	Over \$8,000 but	\$184.00 plus 5.50% of
8	not over \$16,000	excess over \$8,000
9	Over \$16,000 but	\$624.00 plus 6.40% of
10	not over \$24,000	excess over \$16,000
11	Over \$24,000 but	\$1,136.00 plus 6.80% of
12	not over \$32,000	excess over \$24,000
13	Over \$32,000 but	\$1,680.00 plus 7.20% of
14	not over \$40,000	excess over \$32,000
15	Over \$40,000 but	\$2,256.00 plus 7.60% of
16	not over \$60,000	excess over \$40,000
17	Over \$60,000 but	\$3,776.00 plus 7.90% of
18	not over \$80,000	excess over \$60,000
19	Over \$80,000	\$5,356.00 plus 8.25% of
20		excess over \$80,000.



1 ~~In the case of any taxable year beginning after~~
2 ~~December 31, 2006:~~

3	If the taxable income is:	The tax shall be:
4	Not over \$4,800	1.40% of taxable income
5	Over \$4,800 but	\$67.00 plus 3.20% of
6	not over \$9,600	excess over \$4,800
7	Over \$9,600 but	\$221.00 plus 5.50% of
8	not over \$19,200	excess over \$9,600
9	Over \$19,200 but	\$749.00 plus 6.40% of
10	not over \$28,800	excess over \$19,200
11	Over \$28,800 but	\$1,363.00 plus 6.80% of
12	not over \$38,400	excess over \$28,800
13	Over \$38,400 but	\$2,016.00 plus 7.20% of
14	not over \$48,000	excess over \$38,400
15	Over \$48,000 but	\$2,707.00 plus 7.60% of
16	not over \$72,000	excess over \$48,000
17	Over \$72,000 but	\$4,531.00 plus 7.90% of
18	not over \$96,000	excess over \$72,000
19	Over \$96,000	\$6,427.00 plus 8.25% of
20		excess over \$96,000.]



1	In the case of any taxable year beginning after	
2	December 31, 2017:	
3	If the taxable income is:	The tax shall be:
4	Not over \$4,800	1.40% of taxable income
5	Over \$4,800 but	\$67.00 plus 3.20% of
6	not over \$9,600	excess over \$4,800
7	Over \$9,600 but	\$221.00 plus 5.50% of
8	not over \$19,200	excess over \$9,600
9	Over \$19,200 but	\$749.00 plus 6.40% of
10	not over \$28,800	excess over \$19,200
11	Over \$28,800 but	\$1,363.00 plus 6.80% of
12	not over \$38,400	excess over \$28,800
13	Over \$38,400 but	\$2,016.00 plus 7.20% of
14	not over \$48,000	excess over \$38,400
15	Over \$48,000 but	\$2,707.00 plus 7.60% of
16	not over \$72,000	excess over \$48,000
17	Over \$72,000 but	\$4,531.00 plus 7.90% of
18	not over \$96,000	excess over \$72,000
19	Over \$96,000 but	\$6,427.00 plus 8.25% of
20	not over \$300,000	excess over \$96,000



1	Over \$300,000 but	\$23,257.00 plus 9.00% of
2	not over \$350,000	excess over \$300,000
3	Over \$350,000 but	\$27,757.00 plus 10.00% of
4	not over \$400,000	excess over \$350,000
5	Over \$400,000	\$32,757.00 plus 11.00% of
6		excess over \$400,000.

7 (b) There is hereby imposed on the taxable income of every
8 head of a household a tax determined in accordance with the
9 following table:

10 ~~[In the case of any taxable year beginning after~~
11 ~~December 31, 2001:~~

12	If the taxable income is:	The tax shall be:
13	Not over \$3,000	1.40% of taxable income
14	Over \$3,000 but	\$42.00 plus 3.20% of
15	not over \$6,000	excess over \$3,000
16	Over \$6,000 but	\$138.00 plus 5.50% of
17	not over \$12,000	excess over \$6,000
18	Over \$12,000 but	\$468.00 plus 6.40% of
19	not over \$18,000	excess over \$12,000
20	Over \$18,000 but	\$852.00 plus 6.80% of
21	not over \$24,000	excess over \$18,000



1 ~~Over \$24,000 but~~ ~~\$1,260.00 plus 7.20% of~~
2 ~~not over \$30,000~~ ~~excess over \$24,000~~
3 ~~Over \$30,000 but~~ ~~\$1,692.00 plus 7.60% of~~
4 ~~not over \$45,000~~ ~~excess over \$30,000~~
5 ~~Over \$45,000 but~~ ~~\$2,832.00 plus 7.90% of~~
6 ~~not over \$60,000~~ ~~excess over \$45,000~~
7 ~~Over \$60,000~~ ~~\$4,017.00 plus 8.25% of~~
8 ~~excess over \$60,000.~~

9 ~~In the case of any taxable year beginning after~~
10 ~~December 31, 2006:~~

11 ~~If the taxable income is:~~ ~~The tax shall be:~~
12 ~~Not over \$3,600~~ ~~1.40% of taxable income~~
13 ~~Over \$3,600 but~~ ~~\$50.00 plus 3.20% of~~
14 ~~not over \$7,200~~ ~~excess over \$3,600~~
15 ~~Over \$7,200 but~~ ~~\$166.00 plus 5.50% of~~
16 ~~not over \$14,400~~ ~~excess over \$7,200~~
17 ~~Over \$14,400 but~~ ~~\$562.00 plus 6.40% of~~
18 ~~not over \$21,600~~ ~~excess over \$14,400~~
19 ~~Over \$21,600 but~~ ~~\$1,022.00 plus 6.80% of~~
20 ~~not over \$28,800~~ ~~excess over \$21,600~~



1	Over \$28,800 but	\$1,512.00 plus 7.20% of
2	not over \$36,000	excess over \$28,800
3	Over \$36,000 but	\$2,030.00 plus 7.60% of
4	not over \$54,000	excess over \$36,000
5	Over \$54,000 but	\$3,398.00 plus 7.90% of
6	not over \$72,000	excess over \$54,000
7	Over \$72,000	\$4,820.00 plus 8.25% of
8		excess over \$72,000.]

9 In the case of any taxable year beginning after
10 December 31, 2017:

11	If the taxable income is:	The tax shall be:
12	Not over \$3,600	1.40% of taxable income
13	Over \$3,600 but	\$50.00 plus 3.20% of
14	not over \$7,200	excess over \$3,600
15	Over \$7,200 but	\$166.00 plus 5.50% of
16	not over \$14,400	excess over \$7,200
17	Over \$14,400 but	\$562.00 plus 6.40% of
18	not over \$21,600	excess over \$14,400
19	Over \$21,600 but	\$1,022.00 plus 6.80% of
20	not over \$28,800	excess over \$21,600



1	Over \$28,800 but	\$1,512.00 plus 7.20% of
2	not over \$36,000	excess over \$28,800
3	Over \$36,000 but	\$2,030.00 plus 7.60% of
4	not over \$54,000	excess over \$36,000
5	Over \$54,000 but	\$3,398.00 plus 7.90% of
6	not over \$72,000	excess over \$54,000
7	Over \$72,000 but	\$4,820.00 plus 8.25% of
8	not over \$225,000	excess over \$72,000
9	Over \$225,000 but	\$17,443.00 plus 9.00% of
10	not over \$262,500	excess over \$225,000
11	Over \$262,500 but	\$20,818.00 plus 10.00% of
12	not over \$300,000	excess over \$262,500
13	Over \$300,000	\$24,568.00 plus 11.00% of
14		excess over \$300,000.

15 (c) There is hereby imposed on the taxable income of (1)
 16 every unmarried individual (other than a surviving spouse, or
 17 the head of a household) and (2) on the taxable income of every
 18 married individual who does not make a single return jointly
 19 with the individual's spouse under section 235-93 a tax
 20 determined in accordance with the following table:



1	[In the case of any taxable year beginning after	
2	December 31, 2001.	
3	If the taxable income is:	The tax shall be:
4	Not over \$2,000	1.40% of taxable income
5	Over \$2,000 but	\$28.00 plus 3.20% of
6	not over \$4,000	excess over \$2,000
7	Over \$4,000 but	\$92.00 plus 5.50% of
8	not over \$8,000	excess over \$4,000
9	Over \$8,000 but	\$312.00 plus 6.40% of
10	not over \$12,000	excess over \$8,000
11	Over \$12,000 but	\$568.00 plus 6.80% of
12	not over \$16,000	excess over \$12,000
13	Over \$16,000 but	\$840.00 plus 7.20% of
14	not over \$20,000	excess over \$16,000
15	Over \$20,000 but	\$1,128.00 plus 7.60% of
16	not over \$30,000	excess over \$20,000
17	Over \$30,000 but	\$1,888.00 plus 7.90% of
18	not over \$40,000	excess over \$30,000
19	Over \$40,000	\$2,678.00 plus 8.25% of
20		excess over \$40,000.



1 ~~In the case of any taxable year beginning after~~
2 ~~December 31, 2006:~~

3	If the taxable income is:	The tax shall be:
4	Not over \$2,400	1.40% of taxable income
5	Over \$2,400 but	\$34.00 plus 3.20% of
6	not over \$4,800	excess over \$2,400
7	Over \$4,800 but	\$110.00 plus 5.50% of
8	not over \$9,600	excess over \$4,800
9	Over \$9,600 but	\$374.00 plus 6.40% of
10	not over \$14,400	excess over \$9,600
11	Over \$14,400 but	\$682.00 plus 6.80% of
12	not over \$19,200	excess over \$14,400
13	Over \$19,200 but	\$1,008.00 plus 7.20% of
14	not over \$24,000	excess over \$19,200
15	Over \$24,000 but	\$1,354.00 plus 7.60% of
16	not over \$36,000	excess over \$24,000
17	Over \$36,000 but	\$2,266.00 plus 7.90% of
18	not over \$48,000	excess over \$36,000
19	Over \$48,000	\$3,214.00 plus 8.25% of
20		excess over \$48,000.]



1	In the case of any taxable year beginning after	
2	December 31, 2017:	
3	If the taxable income is:	The tax shall be:
4	Not over \$2,400	1.40% of taxable income
5	Over \$2,400 but	\$34.00 plus 3.20% of
6	not over \$4,800	excess over \$2,400
7	Over \$4,800 but	\$110.00 plus 5.50% of
8	not over \$9,600	excess over \$4,800
9	Over \$9,600 but	\$374.00 plus 6.40% of
10	not over \$14,400	excess over \$9,600
11	Over \$14,400 but	\$682.00 plus 6.80% of
12	not over \$19,200	excess over \$14,400
13	Over \$19,200 but	\$1,008.00 plus 7.20% of
14	not over \$24,000	excess over \$19,200
15	Over \$24,000 but	\$1,354.00 plus 7.60% of
16	not over \$36,000	excess over \$24,000
17	Over \$36,000 but	\$2,266.00 plus 7.90% of
18	not over \$48,000	excess over \$36,000
19	Over \$48,000 but	\$3,214.00 plus 8.25% of
20	not over \$150,000	excess over \$48,000



1 Over \$150,000 but \$11,629.00 plus 9.00% of
 2 not over \$175,000 excess over \$150,000
 3 Over \$175,000 but \$13,879.00 plus 10.00% of
 4 not over \$200,000 excess over \$175,000
 5 Over \$200,000 \$16,379.00 plus 11.00% of
 6 excess over \$200,000."

7 SECTION 8. Section 235-62, Hawaii Revised Statutes, is
 8 amended by amending subsection (b) to read as follows:

9 "(b) The return shall be in [~~such~~] the form, including
 10 computer printouts or other electronic formats, and contain
 11 [~~such~~] the information [~~as may be~~] prescribed by the director of
 12 taxation. The return shall be filed [~~with the director at the~~
 13 ~~first taxation district in Honolulu.~~] in the form and manner
 14 prescribed by the department."

15 SECTION 9. Section 235-99, Hawaii Revised Statutes, is
 16 amended to read as follows:

17 "§235-99 [~~Same;~~] Returns; place for filing. Returns shall
 18 be filed [~~with the collector for the taxation district in which~~
 19 ~~is located the legal residence or principal place of business of~~
 20 ~~the person making the return, or, if such person has no legal~~
 21 ~~residence or principal place of business in the State, then with~~



1 ~~the collector at Honolulu.]~~ in the form and manner prescribed by
2 the department."

3 SECTION 10. Section 237-30, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) The taxes levied hereunder shall be payable in
6 monthly installments on or before the twentieth day of the
7 calendar month following the month in which they accrue. The
8 taxpayer, on or before the twentieth day of the calendar month
9 following the month in which the taxes accrue, shall make out
10 and sign a return of the installment of tax for which the
11 taxpayer is liable for the preceding month and transmit the
12 same, together with a remittance, in the form required by
13 section 237-31, for the amount of the tax, to ~~[the office of]~~
14 the department of taxation in the ~~[appropriate district~~
15 ~~hereinafter designated.]~~ form and manner prescribed by the
16 department."

17 SECTION 11. Section 237-33, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "§237-33 Annual return, payment of tax. On or before the
20 twentieth day of the fourth month following the close of the
21 taxable year, each taxpayer shall make a return showing the



1 value of products, gross proceeds of sales or gross income, and
2 compute the amount of tax chargeable against the taxpayer in
3 accordance with this chapter and deduct the amount of monthly
4 payments (as hereinbefore provided), and transmit with the
5 taxpayer's report a remittance in the form required by
6 section 237-31 covering the residue of the tax chargeable
7 against the taxpayer [~~to the district office of the department~~
8 ~~of taxation hereinafter designated~~]. The return shall be signed
9 by the taxpayer, if made by an individual, or by the president,
10 vice-president, secretary, or treasurer of a corporation, if
11 made on behalf of a corporation. If made on behalf of a
12 partnership, firm, society, unincorporated association, group,
13 hui, joint adventure, joint stock company, corporation, trust
14 estate, decedent's estate, trust, or other entity, any
15 individual delegated by the entity shall sign the same on behalf
16 of the taxpayer. If for any reason it is not practicable for
17 the individual taxpayer to sign the return, it may be done by
18 any duly authorized agent. The department, for good cause
19 shown, may extend the time for making the return on the
20 application of any taxpayer and grant such reasonable additional



1 time within which to make the same as may, by it, be deemed
2 advisable.

3 Section 232-2 applies to the annual return, but not to a
4 monthly return."

5 SECTION 12. Section 237-34, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

7 "(a) All monthly and annual returns shall be transmitted
8 ~~[to the office of the taxation district in which the privilege~~
9 ~~upon which the tax accrued is exercised. Where the privilege is~~
10 ~~exercised in more than one taxation district the returns shall~~
11 ~~be transmitted to the office of the first district.] in the form~~
12 and manner prescribed by the department."

13 SECTION 13. Section 237-37, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "§237-37 Refunds and credits. If the amount already paid
16 exceeds that which should have been paid on the basis of the tax
17 recomputed as provided in section 237-36, the excess so paid
18 shall be immediately refunded to the taxpayer in the manner
19 provided in section 231-23(c). The taxpayer may, at the
20 taxpayer's election, apply an overpayment credit to taxes
21 subsequently accruing hereunder. ~~[All refunds and the details~~



1 ~~thereof, including the names of the persons receiving the refund~~
2 ~~and the amount refunded shall be accessible for the inspection~~
3 ~~of the public in the office of the department of taxation in the~~
4 ~~taxation district in which the person receiving the refund made~~
5 ~~the person's returns.]~~

6 No recourse may be had except under section 40-35 or by
7 appeal for refunds of taxes paid pursuant to an assessment by
8 the director of taxation[7]; provided that if the assessment by
9 the director shall contain clerical errors, transposition of
10 figures, typographical errors, and errors in calculation or if
11 there shall be an illegal or erroneous assessment, the usual
12 refunds procedures shall apply. No refund or overpayment credit
13 may be had under this section in any event unless the original
14 payment of the tax was due to the law having been interpreted or
15 applied in respect of the taxpayer concerned differently than in
16 respect of taxpayers generally. As to all tax payment for which
17 a refund or credit is not authorized by this section (including
18 without prejudice to the generality of the foregoing cases of
19 unconstitutionality) the remedies provided by appeal or under
20 section 40-35 are exclusive."



1 SECTION 14. Section 237D-6.5, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) All remittances of taxes imposed under this chapter
4 shall be made by cash, bank drafts, cashier's check, money
5 order, or certificate of deposit [~~to the office of the taxation~~
6 ~~district to which the return was transmitted.~~] in the form and
7 manner prescribed by the department."

8 SECTION 15. Section 237D-7, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "§237D-7 Annual return. On or before the twentieth day of
11 the fourth month following the close of the taxable year, every
12 person who has become liable for the payment of the taxes under
13 this chapter during the preceding tax year shall file a return
14 summarizing that person's liability under this chapter for the
15 year, in [~~such~~] the form [as] and manner prescribed by the
16 [~~director prescribes.~~] department. The operator or plan manager
17 shall transmit with the return a remittance covering the residue
18 of the tax chargeable to the operator or plan manager, if any[~~r~~
19 ~~to the office of the appropriate state district tax assessor~~
20 ~~designated in section 237D-8~~]. The return shall be signed by
21 the taxpayer, if made by an individual, or by the president,



1 vice-president, secretary, or treasurer of a corporation, if
2 made on behalf of a corporation. If made on behalf of a
3 partnership, firm, society, unincorporated association, group,
4 hui, joint adventure, joint stock company, corporation, trust
5 estate, decedent's estate, trust, or other entity, any
6 individual delegated by the entity shall sign the same on behalf
7 of the taxpayer. If for any reason it is not practicable for
8 the individual taxpayer to sign the return, it may be done by
9 any duly authorized agent. The department, for good cause
10 shown, may extend the time for making the return on the
11 application of any taxpayer and grant such reasonable additional
12 time within which to make the return as the department may deem
13 advisable.

14 Section 232-2 applies to the annual return, but not to a
15 monthly return."

16 SECTION 16. Section 237D-1, Hawaii Revised Statutes, is
17 amended by deleting the definition of "director".

18 [~~"Director" means the director of taxation.~~]

19 SECTION 17. Section 237D-8, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "§237D-8 Filing of returns. All monthly, quarterly,
2 semiannual, and annual returns shall be transmitted [~~to the~~
3 ~~office of the taxation district in which the taxes arose or to~~
4 ~~the office of the first taxation district in Honolulu.] in the
5 form and manner prescribed by the department."~~

6 SECTION 18. Section 238-5, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

8 "(a) On or before the twentieth day of each calendar
9 month, any person who has become liable for the payment of a tax
10 under this chapter during the preceding calendar month in
11 respect of any property, services, or contracting, or the use
12 thereof, shall file a return [~~with the assessor of the taxation~~
13 ~~district in which the property was held or the services or~~
14 ~~contracting were received when the tax first became payable, or~~
15 ~~with the director of taxation at Honolulu,] in the form and
16 manner prescribed by the department, setting forth a description
17 of the property, services, or contracting and the character and
18 quantity thereof in sufficient detail to identify the same or
19 otherwise in such reasonable detail as the director by rule
20 shall require, and the purchase price or value thereof as the
21 case may be. The return shall be accompanied by a remittance in~~



1 full of the tax, computed at the rate specified in section 238-2
2 or 238-2.3 upon the price or value so returned. Any tax
3 remaining unpaid after the twentieth day following the end of
4 the calendar month during which the tax first became payable
5 shall become delinquent; provided that a receipt from a seller
6 required or authorized to collect the tax, given to a taxpayer
7 in accordance with section 238-6, shall be sufficient to relieve
8 the taxpayer from further liability for the tax to which the
9 receipt may refer, or for the return thereof."

10 SECTION 19. Section 239-4, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "§239-4 Returns. Each public service company, on or
13 before the twentieth day of the fourth month following the close
14 of the taxable year, shall file [~~with the office of the~~
15 ~~department of taxation for the district within which the~~
16 ~~principal office of the public service company is maintained~~] a
17 return in [~~such~~] the form [as] and manner prescribed by the
18 department [~~may prescribe~~], showing its taxable gross income for
19 the preceding taxable year. In case any public service company
20 engages in lines of business other than its public service
21 company business, the receipts therefrom shall not be subject to



1 tax under this chapter, but the same tax liabilities shall
2 attach to the public service company on account of the other
3 lines of business as would exist if no public service company
4 business were engaged in. In the case of a public utility
5 subject to the rate of tax imposed by section 239-5(a) or (b),
6 if the public utility engages in lines of business other than
7 its public utility business the real property used in connection
8 with the other lines of business shall be taxed, in accordance
9 with the applicable county tax ordinance, the same as if no
10 public utility business were done. In the case of a public
11 utility remitting payments to a county of a portion of the
12 revenues generated from the tax imposed by section 239-5(a), the
13 public utility shall also file with the director of finance of
14 the county to which such payment is paid, a statement showing
15 all gross income from the public utility business upon which the
16 tax is calculated and the allocation of that gross income among
17 the counties."

18 SECTION 20. Section 243-1, Hawaii Revised Statutes, is
19 amended by deleting the definition of "director".

20 [~~"Director" means the director of finance of the State.~~]



1 SECTION 21. Section 243-3.5, Hawaii Revised Statutes, is
2 amended by amending subsection (e) to read as follows:

3 "(e) Each distributor subject to the tax imposed by
4 subsection (a) or (b), on or before the last day of each
5 calendar month, shall file ~~[with the director, on forms~~
6 ~~prescribed, prepared, and furnished by the director]~~, in the
7 form and manner prescribed by the department, a return statement
8 of the tax under this section for which the distributor is
9 liable for the preceding month. The form and payment of the tax
10 shall be transmitted to the department ~~[of taxation in the~~
11 ~~appropriate district.]~~ in the form and manner prescribed by the
12 department."

13 SECTION 22. Section 243-10, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§243-10 Statements and payments.** Each distributor and
16 each person subject to section ~~[243-4(b)]~~, 243-4, on or before
17 the twentieth day of each calendar month, shall file with the
18 ~~[director of taxation]~~, department, on forms prescribed~~[~~
19 ~~prepared, and furnished]~~ by the ~~[director]~~, department, a
20 statement, authenticated as provided in section 231-15, showing
21 separately for each county and for the island of Lanai and the



1 island of Molokai within which and whereon fuel is sold or used
2 during each preceding month of the calendar year, the following:

- 3 (1) The total number of gallons of fuel refined,
4 manufactured, or compounded by the distributor or
5 person within the State and sold or used by the
6 distributor or person, and if for ultimate use in
7 another county or on either island, the name of that
8 county or island;
- 9 (2) The total number of gallons of fuel acquired by the
10 distributor or person during the month from persons
11 not subject to the tax on the transaction or only
12 subject to tax thereon at the rate of 1 cent per
13 gallon, as the case may be, and sold or used by the
14 distributor or person, and if for ultimate use in
15 another county or on either island, the name of that
16 county or island;
- 17 (3) The total number of gallons of fuel sold by the
18 distributor or person to the United States or any
19 department or agency thereof, or to any other person
20 or entity, or used in any manner, the effect of which



1 sale or use is to exempt the fuel from the tax imposed
2 by this chapter; and

3 (4) Additional information relative to the acquisition,
4 purchase, manufacture, or importation into the State,
5 and the sale, use, or other disposition, of diesel oil
6 by the distributor or person during the month, as
7 prescribed by the department [~~of taxation~~] by rule
8 [~~shall prescribe~~].

9 At the time of submitting the foregoing report to the
10 department, each distributor and person shall pay the tax on
11 each gallon of fuel (including diesel oil) sold or used by the
12 distributor or person in each county and on the island of Lanai
13 and the island of Molokai during the preceding month, as shown
14 by the statement and required by this chapter; provided that the
15 tax shall not apply to any fuel exempted and so long as the same
16 is exempted from the imposition of the tax by the Constitution
17 or laws of the United States; and the tax shall be paid only
18 once upon the same fuel; provided further that a licensed
19 distributor shall be entitled, in computing the tax the licensed
20 distributor is required to pay, to deduct from the gallons of
21 fuel reported for the month for each county or for the island of



1 Lanai or the island of Molokai, as the case may be, one gallon
2 for each ninety-nine gallons of like liquid fuel sold by retail
3 dealers in that county or on that island during the month, as
4 shown by certificates furnished by the retail dealers to the
5 distributor and attached to the distributor's report. All taxes
6 payable for any month shall be delinquent after the expiration
7 of the twentieth day of the following month.

8 Statements filed under this section concerning the number
9 of gallons of fuel refined, manufactured, compounded, imported,
10 sold or used by the distributor or person ~~[are]~~ shall be public
11 records."

12 SECTION 23. Section 244D-4, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) Every person who sells or uses any liquor in the
15 State not taxable under this chapter, in respect of the
16 transaction by which the person or the person's vendor acquired
17 the liquor, shall pay a gallonage tax ~~[which]~~ that is hereby
18 imposed at the following rates for the various liquor categories
19 defined in section 244D-1:

20 ~~[For the period July 1, 1997, to June 30, 1998, the tax~~
21 ~~rate shall be:~~



- 1 ~~(1) \$5.92 per wine gallon on distilled spirits;~~
- 2 ~~(2) \$2.09 per wine gallon on sparkling wine;~~
- 3 ~~(3) \$1.36 per wine gallon on still wine;~~
- 4 ~~(4) \$0.84 per wine gallon on cooler beverages;~~
- 5 ~~(5) \$0.92 per wine gallon on beer other than draft beer;~~
- 6 ~~(6) \$0.53 per wine gallon on draft beer;]~~

7 On July 1, 1998, and thereafter, the tax rate shall be:

- 8 (1) \$5.98 per wine gallon on distilled spirits;
- 9 (2) \$2.12 per wine gallon on sparkling wine;
- 10 (3) \$1.38 per wine gallon on still wine;
- 11 (4) \$0.85 per wine gallon on cooler beverages;
- 12 (5) \$0.93 per wine gallon on beer other than draft beer;

13 and

- 14 (6) \$0.54 per wine gallon on draft beer;

15 and at a proportionate rate for any other quantity so sold or
16 used."

17 SECTION 24. Section 244D-6, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "§244D-6 Return, form, contents. Every taxpayer shall, on
20 or before the twentieth day of each month, file with the
21 department [~~of taxation in the taxation district in which the~~



1 ~~taxpayer's business premises are located, or with the department~~
2 ~~in Honolulu,~~ a return showing all sales of liquor by gallonage
3 and dollar volume in each liquor category defined in
4 section 244D-1 and taxed under section 244D-4(a) made by the
5 taxpayer during the preceding month, showing separately the
6 amount of the nontaxable sales, and the amount of the taxable
7 sales, and the tax payable thereon. ~~[The return shall also show~~
8 ~~the amount of liquor by gallonage and dollar volume in each~~
9 ~~liquor category defined in section 244D-1 and taxed under~~
10 ~~section 244D-4(a) used during the preceding month which is~~
11 ~~subject to tax, and the tax payable thereon.]~~ The form and
12 manner of the return shall be prescribed by the department and
13 shall contain ~~[such]~~ any information ~~[as it]~~ the department may
14 deem necessary for the proper administration of this chapter."

15 SECTION 25. Section 245-2.5, Hawaii Revised Statutes, is
16 amended as follows:

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

18 "(a) ~~[Beginning December 1, 2006, every]~~ Every retailer
19 engaged in the retail sale of cigarettes and other tobacco
20 products upon which a tax is required to be paid under this
21 chapter shall obtain a retail tobacco permit.



1 (b) [~~Beginning March 1, 2007, it~~] It shall be unlawful for
2 any retailer engaged in the retail sale of cigarettes and other
3 tobacco products upon which a tax is required to be paid under
4 this chapter to sell, possess, keep, acquire, distribute, or
5 transport cigarettes or other tobacco products for retail sale
6 unless a retail tobacco permit has been issued to the retailer
7 under this section and the retail tobacco permit is in full
8 force and effect."

9 2. By amending subsection (1) to read:

10 "(1) A permittee shall keep a complete and accurate record
11 of the permittee's cigarette or tobacco product inventory. The
12 records shall:

13 (1) Include:

14 (A) A written statement containing the name and
15 address of the permittee's source of its
16 cigarettes and tobacco products;

17 (B) The date of delivery, quantity, trade name or
18 brand, and price of the cigarettes and tobacco
19 products; and

20 (C) Documentation in the form of any purchase orders,
21 invoices, bills of lading, other written



1 statements, books, papers, or records in whatever
2 format, including electronic format, which
3 substantiate the purchase or acquisition of the
4 cigarettes and tobacco products stored or offered
5 for sale; and

6 (2) Be offered for inspection and examination within
7 twenty-four hours of demand by the department or the
8 attorney general, and shall be preserved for a period
9 of [~~three~~] five years; provided that:

10 (A) Specified records may be destroyed if the
11 department and the attorney general both consent
12 to their destruction within the [~~three-year~~]
13 five-year period; and

14 (B) Either the department or the attorney general may
15 adopt rules pursuant to chapter 91 that require
16 specified records to be kept longer than a period
17 of [~~three~~] five years."

18 SECTION 26. Section 245-9, Hawaii Revised Statutes, is
19 amended by amending subsections (a) and (b) to read as follows:

20 "(a) The department and the attorney general may examine
21 all records, including tax returns [~~and reports under~~



1 ~~section 245-31,]~~ required to be kept or filed under this
2 chapter, and books, papers, and records of any person engaged in
3 the business of wholesaling or dealing cigarettes and tobacco
4 products, to verify the accuracy of the payment of the taxes
5 imposed by this chapter. Every person in possession of any
6 books, papers, and records, and the person's agents and
7 employees, are directed and required to give the department and
8 the attorney general the means, facilities, and opportunities
9 for the examinations.

10 (b) The department and the attorney general may inspect
11 the operations, premises, and storage areas of any entity
12 engaged in the sale of cigarettes, or the contents of a specific
13 vending machine, during regular business hours. This inspection
14 shall include inspection of all statements, books, papers, and
15 records in whatever format, including electronic format,
16 pertaining to the acquisition, possession, transportation, sale,
17 or use of packages of cigarettes and tobacco products other than
18 cigarettes, to verify the accuracy of the payment of taxes
19 imposed by this chapter, and of the contents of cartons and
20 shipping or storage containers to ascertain that all individual
21 packages of cigarettes have an affixed stamp of proper



1 denomination as required by this chapter. This inspection may
2 also verify that all stamps were produced under the authority of
3 the department. Every entity in possession of any books,
4 papers, and records, and the entity's agents and employees, are
5 directed and required to give the department and the attorney
6 general the means, facilities, and opportunities for the
7 examinations. [~~For purposes of this chapter "entity" means one~~
8 ~~or more individuals, a company, corporation, a partnership, an~~
9 ~~association, or any other type of legal entity.] "~~

10 SECTION 27. Section 245-41, Hawaii Revised Statutes, is
11 amended by amending subsection (c) to read as follows:

12 "(c) Where the attorney general [~~initiates and~~] conducts
13 an investigation resulting in the imposition and collection of a
14 criminal fine pursuant to this part, one hundred per cent of the
15 fine shall be distributed to the attorney general to be
16 deposited to the credit of the department of the attorney
17 general's tobacco enforcement special fund; provided that if the
18 attorney general engages the prosecuting attorney for the
19 investigation or prosecution, or both, resulting in the
20 imposition and collection of a criminal fine under this part,



1 the fine shall be shared equally between the attorney general
2 and the prosecuting attorney."

3 SECTION 28. Section 251-1, Hawaii Revised Statutes, is
4 amended by deleting the definition of "director".

5 [~~"Director" means the director of taxation.~~"]

6 SECTION 29. Section 251-5, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "§251-5 Remittances. All remittances of surcharge taxes
9 imposed under this chapter shall be made by cash, bank draft,
10 cashier's check, money order, or certificate of deposit [~~to the~~
11 ~~office of the taxation district to which the return was~~
12 ~~transmitted.~~] in the form and manner prescribed by the
13 department. The department shall deposit the moneys into the
14 state treasury to the credit of the state highway fund."

15 SECTION 30. Section 251-7, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "[+]§251-7[+] Filing of returns. All monthly, quarterly,
18 semiannual, and annual returns shall be transmitted [~~to the~~
19 ~~office of the taxation district in which the person's place of~~
20 ~~business is situated or to the office of the first taxation~~



1 ~~district in Honolulu.] in the form and manner prescribed by the~~
2 ~~department."~~

3 SECTION 31. Section 235-5.6, Hawaii Revised Statutes, is
4 repealed.

5 ~~["§235-5.6] Individual development account contribution~~
6 ~~tax credit. (a) There shall be allowed to each taxpayer~~
7 ~~subject to the tax imposed under this chapter, an individual~~
8 ~~development account contribution tax credit certified under~~
9 ~~chapter 257 which shall be applied against the taxpayer's net~~
10 ~~income tax liability, if any, imposed by this chapter for the~~
11 ~~taxable year in which the credit is properly claimed.~~

12 ~~(b) The individual development account contribution tax~~
13 ~~credit shall be equal to fifty per cent of the amount~~
14 ~~contributed by the taxpayer to a fiduciary organization as~~
15 ~~defined by and in the manner prescribed in chapter 257. If a~~
16 ~~deduction is taken under section 170 (with respect to charitable~~
17 ~~contributions and gifts) of the Internal Revenue Code, no tax~~
18 ~~credit shall be allowed for that portion of the contribution for~~
19 ~~which the deduction was taken.~~

20 ~~(c) If the tax credit under this section exceeds the~~
21 ~~taxpayer's income tax liability, the excess of the tax credit~~



1 ~~over liability may be used as a credit against the taxpayer's~~
2 ~~income tax liability in subsequent years until exhausted. All~~
3 ~~claims, including any amended claims, for tax credits under this~~
4 ~~section shall be filed on or before the end of the twelfth month~~
5 ~~following the close of the taxable year for which the credit may~~
6 ~~be claimed. Failure to comply with the foregoing provision~~
7 ~~shall constitute a waiver of the right to claim the credit.~~

8 ~~(d) Application for the credit under this section shall be~~
9 ~~upon forms provided by the department.~~

10 ~~(e) The credit under this section shall be available for~~
11 ~~taxable years beginning after December 31, 1999, but shall not~~
12 ~~be available for taxable years beginning after December 31,~~
13 ~~2004."]~~

14 SECTION 32. Section 235-111.5. Hawaii Revised Statutes, is
15 repealed.

16 ~~["§235-111.5 High technology; sale of unused net operating~~
17 ~~loss carryover. (a) A qualified high technology business as~~
18 ~~defined in section 235-7.3 may apply to the department to sell~~
19 ~~its unused net operating loss carryover to another taxpayer. If~~
20 ~~approved by the department, a qualified high technology business~~
21 ~~may sell its unused net operating loss carryover to another~~



1 ~~taxpayer in an amount equal to at least seventy five per cent of~~
2 ~~the amount of the surrendered tax benefit, computed at the~~
3 ~~corporate rate pursuant to section 235 71, provided that the~~
4 ~~qualified high technology business may sell no more than~~
5 ~~\$500,000 of its unused net operating loss carryover to another~~
6 ~~taxpayer per year. In the case of partnerships, limited~~
7 ~~liability partnerships, limited liability companies classified~~
8 ~~as partnerships, and S corporations, each partner, member, or~~
9 ~~shareholder may sell its share of the entity's total net~~
10 ~~operating loss. The tax benefit purchased by the buyer shall be~~
11 ~~claimed in the year for which the sale is approved by the~~
12 ~~department. Any use of the purchased net operating loss~~
13 ~~carryover for tax carryback or carryforward purposes shall~~
14 ~~comply with applicable law. The income from the sale of the net~~
15 ~~operating loss carryover received by the seller shall be~~
16 ~~reported on its tax return in the taxable year received but~~
17 ~~shall not be considered taxable income.~~

18 ~~(b) No application for the sale of unused net operating~~
19 ~~losses shall be approved if the seller is a qualified high~~
20 ~~technology business that:~~



- 1 ~~(1) Has demonstrated positive net income in either of the~~
- 2 ~~two previous full years of ongoing operations as~~
- 3 ~~determined on its financial statements,~~
- 4 ~~(2) Has demonstrated a ratio of one hundred ten per cent~~
- 5 ~~or greater of operating revenues divided by operating~~
- 6 ~~expenses in either of the two previous full years of~~
- 7 ~~operations as determined on its financial statements,~~
- 8 ~~or~~
- 9 ~~(3) Is directly or indirectly at least fifty per cent~~
- 10 ~~owned or controlled by another corporation that has~~
- 11 ~~demonstrated positive net income in either of the two~~
- 12 ~~previous full years of ongoing operations as~~
- 13 ~~determined on its financial statements or is part of a~~
- 14 ~~consolidated group of affiliate corporations, as filed~~
- 15 ~~for federal income tax purposes, that in the aggregate~~
- 16 ~~has demonstrated positive net income in either of the~~
- 17 ~~two previous full years of ongoing operations as~~
- 18 ~~determined on its combined financial statements.~~

19 ~~In the case of partnerships, limited liability~~
20 ~~partnerships, limited liability companies classified as~~
21 ~~partnerships, and S corporations, the application for the sale~~



1 ~~of unused net operating losses shall only be approved to the~~
2 ~~extent that all partners, members, or shareholders certify that~~
3 ~~they have not received a tax benefit from the losses.~~

4 ~~(c) As used in this section:~~

5 ~~"Net operating loss" means a net operating loss for income~~
6 ~~tax purposes occurring in the two taxable years preceding the~~
7 ~~year in which the sale of net operating loss carryover occurs.~~

8 ~~"Surrendered tax benefit" means the tax liability saved if~~
9 ~~the net operating loss carryforward could have been used by the~~
10 ~~qualified high technology business.~~

11 ~~(d) This section shall only apply to sales of net~~
12 ~~operating loss carryovers after December 31, 2000, and before~~
13 ~~January 1, 2004."]~~

14 SECTION 33. Section 239-11, Hawaii Revised Statutes, is
15 repealed.

16 [~~"§239-11 Exemption of certain contract carriers. (a)~~
17 ~~There shall be exempted and excluded from the measure of the tax~~
18 ~~imposed by this chapter the gross income from any contract~~
19 ~~carrier by water which is engaged primarily in the business of~~
20 ~~transporting persons between harbors or wharves of the various~~
21 ~~counties for interisland cruises within the State, provided that~~



1 ~~such exemption shall be applicable for the period July 1, 1981,~~
2 ~~to June 30, 1996.~~

3 ~~(b) Any contract carrier and related partners, if any,~~
4 ~~claiming an exemption under subsection (a) shall submit an~~
5 ~~annual financial report, prepared by an independent certified~~
6 ~~public accountant, to the department of taxation and to the~~
7 ~~department of business, economic development, and tourism on or~~
8 ~~before the fifteenth day of the fifth month following the close~~
9 ~~of each taxable year for which the exemption is being claimed,~~
10 ~~provided that in addition to reports in 1992, 1993, 1994, and~~
11 ~~1995, an annual financial report shall be due on or before~~
12 ~~March 1, 1996. The annual financial report, prepared in a form~~
13 ~~approved by the director of taxation, shall include but not be~~
14 ~~limited to:~~

- 15 ~~(1) A balance sheet of assets and liabilities,~~
16 ~~(2) A statement of income and expenses,~~
17 ~~(3) Supplementary information to financial statements,~~
18 ~~(4) A summary of financial condition, and~~
19 ~~(5) An apportionment of income and expenses of the~~
20 ~~contract carrier and related partners, if any, within~~
21 ~~and without the State.~~



1 ~~Within thirty days of the receipt of the financial report~~
2 ~~from the contract carrier and related partners, if any, the~~
3 ~~director of taxation shall submit relevant financial data to the~~
4 ~~legislature. Failure to comply with this subsection by the~~
5 ~~contract carrier or related partners, if any, as determined by~~
6 ~~the director of taxation, shall constitute a waiver of the right~~
7 ~~to claim the exemption."]~~

8 SECTION 34. Section 239-12, Hawaii Revised Statutes, is
9 repealed.

10 ~~"[§239-12] Call centers; exemption; engaging in business;~~
11 ~~definitions. (a) This chapter shall not apply to amounts~~
12 ~~received from a person operating a call center by a person~~
13 ~~engaged in business as a telecommunications common carrier for~~
14 ~~interstate or foreign telecommunications services, including~~
15 ~~toll free telecommunications, telecommunications capabilities~~
16 ~~for electronic mail, voice and data telecommunications,~~
17 ~~computerized telephone support, facsimile, wide area~~
18 ~~telecommunications services, or computer to computer~~
19 ~~communication.~~

20 ~~(b) The department, by rule, may provide that the person~~
21 ~~providing the telecommunications service may take from the~~



~~1 person operating a call center a certificate, in a form that the
2 department shall prescribe, certifying that the amounts received
3 for telecommunications services are for operating a call center.
4 If the certificate is required by rule of the department, the
5 absence of the certificate in itself shall give rise to the
6 presumption that the amounts received from the sale of
7 telecommunications services are not for operating a call center.~~

~~8 (c) As used in this section:~~

~~9 "Call center" means a physical or electronic operation that
10 focuses on providing customer service and support for computer
11 hardware and software companies, manufacturing companies,
12 software service organizations, and telecommunications support
13 services, within an organization in which a managed group of
14 individuals spend most of their time engaging in business by
15 telephone, usually working in a computer automated environment,
16 provided that the operation shall not include telemarketing or
17 sales.~~

~~18 "Customer service and support" means product support,
19 technical assistance, sales support, phone or computer based
20 configuration assistance, software upgrade help lines, and
21 traditional help desk services.~~



1 ~~(d) This section shall not apply to income received after~~
2 ~~June 30, 2010.~~"]

3 SECTION 35. Section 243-8, Hawaii Revised Statutes, is
4 repealed.

5 ~~["§243-8 License taxes payable monthly. License taxes~~
6 ~~imposed by this chapter shall be paid in monthly installments to~~
7 ~~the department of taxation."]~~

8 SECTION 36. Section 245-31, Hawaii Revised Statutes, is
9 repealed.

10 ~~["§245-31 Monthly report on distributions of cigarettes~~
11 ~~and tobacco products, and purchases of stamps. (a) On or~~
12 ~~before the twentieth day of each month, every licensee shall~~
13 ~~file on forms prescribed by the department.~~

14 ~~(1) A report of the licensee's distributions of cigarettes~~
15 ~~and purchases of stamps during the preceding month,~~

16 ~~and~~

17 ~~(2) Any other information that the department may require~~
18 ~~to carry out this part.~~

19 ~~(b) On or before the twentieth day of each month, every~~
20 ~~licensee shall file on forms prescribed by the department.~~



- 1 ~~(1) A report of the licensee's distributions of tobacco~~
2 ~~products and the wholesale costs of tobacco products~~
3 ~~during the preceding month, and~~
- 4 ~~(2) Any other information that the department may require~~
5 ~~to carry out this part."]~~

PART III

7 SECTION 37. Section 235-2.45, Hawaii Revised Statutes, is
8 amended by amending subsection (d) to read as follows:

9 "(d) Section 704 of the Internal Revenue Code (with
10 respect to a partner's distributive share) shall be operative
11 for purposes of this chapter; except that section 704(b)(2)
12 shall not apply to:

13 (1) Allocations of the high technology business investment
14 tax credit allowed by section 235-110.9 for
15 investments made before May 1, 2009;

16 ~~[(2) Allocations of net operating loss pursuant to section~~
17 ~~235-111.5,] or~~

18 ~~[(3)]~~ (2) Allocations of low-income housing tax credits
19 among partners under section 235-110.8."

20 SECTION 38. Section 257-10, Hawaii Revised Statutes, is
21 repealed.



1 ~~["§257-10 Tax credit. (a) Taxpayers subject to the tax~~
2 ~~imposed under chapter 235 who contribute matching funds for~~
3 ~~individual development accounts may be eligible for the tax~~
4 ~~credit provided under section 235-5.6.~~

5 ~~(b) Individuals, organizations, and businesses seeking the~~
6 ~~tax credit can contribute a matching share to designated~~
7 ~~individuals or contribute to a fiduciary organization and permit~~
8 ~~it to allocate the funds to all of its participants on a~~
9 ~~proportionate basis.~~

10 ~~(c) The administrator of the fiduciary organization, with~~
11 ~~the cooperation of the participating organizations, shall~~
12 ~~maintain records of the names of contributors and the total~~
13 ~~amount each contributor contributes to an individual development~~
14 ~~account match fund for the taxable year. All contributions~~
15 ~~shall be verified by the department of human services. The~~
16 ~~department of human services shall total all contributions that~~
17 ~~the department certifies. Upon each determination, the~~
18 ~~department of human services shall issue a certificate to the~~
19 ~~taxpayer. The taxpayer shall file the certificate with the~~
20 ~~taxpayer's tax return with the department of taxation.~~



THE SENATE OF THE STATE OF HAWAI‘I

Date: April 27, 2021
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Thirty-First Legislature of the State of Hawai‘i, Regular Session of 2021.


President of the Senate


Clerk of the Senate

SB No. 1203, SD 1, HD 1, CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: April 27, 2021

Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-First Legislature of the State of Hawaii, Regular Session of 2021.



Scott K. Saiki
Speaker
House of Representatives



Brian L. Takeshita
Chief Clerk
House of Representatives