
A BILL FOR AN ACT

RELATING TO REAL ESTATE INVESTMENT TRUSTS.

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

1 SECTION 1. The legislature finds that real estate
2 investment trusts play a significant role in Hawaii's economy,
3 and that the State would benefit from the accurate collection of
4 data about their economic activities.

5 The legislature recognizes that the assets and revenues
6 generated by real estate investment trusts may have not been
7 reported to and accurately recorded by the State. The
8 legislature notes that there are no state tax forms specifically
9 for real estate investment trusts, nor are there any clear
10 methods for real estate investment trusts to annually report
11 their financial status and declare profits, losses, deductions,
12 and credits to the State. As Hawaii faces major budget
13 shortfalls this year and for several years to come, it is
14 imperative that all business entities provide accurate reporting
15 of their assets and generated revenues.



1 The legislature further finds that real estate investment
2 trusts should notify the State and annually report the same tax
3 information they provide to the Internal Revenue Service.

4 Accordingly, the purpose of this Act is to authorize the
5 department of taxation to require real estate investment trusts
6 operating in the State to notify the State of the real estate
7 investment trusts' existence and annually report information
8 required by the department, including a copy of the real estate
9 investment trusts' federal return, with the real estate
10 investment trusts' state tax return.

11 SECTION 2. Section 235-71, Hawaii Revised Statutes, is
12 amended by amending subsection (d) to read as follows:

13 "(d) In the case of a real estate investment trust there
14 is imposed on the taxable income, computed as provided in
15 sections 857 and 858 of the Internal Revenue Code but with the
16 changes and adjustments made by this chapter (without prejudice
17 to the generality of the foregoing, the deduction for dividends
18 paid is limited to such amount of dividends as is attributable
19 to income taxable under this chapter), a tax consisting in the
20 sum of the following: 4.4 per cent if the taxable income is not
21 over \$25,000, 5.4 per cent if over \$25,000 but not over



1 \$100,000, and on all over \$100,000, 6.4 per cent. In addition
2 to any other penalty provided by law any real estate investment
3 trust whose tax liability for any taxable year is deemed to be
4 increased pursuant to section 859(b)(2)(A) or 860(c)(1)(A) after
5 December 31, 1978, (relating to interest and additions to tax
6 determined with respect to the amount of the deduction for
7 deficiency dividends allowed) of the Internal Revenue Code shall
8 pay a penalty in an amount equal to the amount of interest for
9 which such trust is liable that is attributable solely to such
10 increase. The penalty payable under this subsection with
11 respect to any determination shall not exceed one-half of the
12 amount of the deduction allowed by section 859(a), or 860(a)
13 after December 31, 1978, of the Internal Revenue Code for such
14 taxable year.

15 Notwithstanding the foregoing, beginning January 1, 2022,
16 the department shall require a real estate investment trust
17 subject to this chapter to:

18 (1) Notify the department, in the manner prescribed by the
19 department, of its operation as a real estate
20 investment trust in the State no later than fifteen
21 days from the first day of operation in the State;



1 provided that for real estate investment trusts
2 operating in the State as of July 1, 2021, the
3 department shall be notified no later than January 15,
4 2022;

5 (2) Properly designate on its tax return that it is a real
6 estate investment trust as required by the department;

7 (3) Complete its tax return in the specific manner
8 required by the department, including following line-
9 by-line instructions; and

10 (4) Submit a copy of the federal return covering the same
11 period with each return filed under this chapter.

12 Any real estate investment trust that fails to comply with these
13 requirements shall be assessed a penalty of \$50 per day."

14 SECTION 3. New statutory material is underscored.

15 SECTION 4. This Act shall take effect on January 1, 2022.



Report Title:

Real Estate Investment Trusts; Department of Taxation; Reporting Requirements; Penalties

Description:

Authorizes the department of taxation to require real estate investment trusts to notify the department of its presence within the State and to report the assets and revenues generated annually. Effective 1/1/2022. (SD1)

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