

S .B. NO. 1195

JAN 27 2021

A BILL FOR AN ACT

RELATING TO CONFORMITY TO THE INTERNAL REVENUE CODE.

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

1 SECTION 1. The purpose of this Act is to conform Hawaii
2 income and estate and generation-skipping transfer tax laws to
3 the Internal Revenue Code.

4 SECTION 2. Section 235-2.3, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) For all taxable years beginning after December 31,
7 [~~2019,~~] 2020, as used in this chapter, except as provided in
8 this section and section 235-2.35, "Internal Revenue Code" means
9 subtitle A, chapter 1, of the federal Internal Revenue Code of
10 1986, as amended as of [~~March 27, 2020,~~] December 31, 2020, as
11 it applies to the determination of gross income, adjusted gross
12 income, ordinary income and loss, and taxable income, except
13 those provisions of the Internal Revenue Code which, pursuant to
14 this chapter, do not apply or are otherwise limited in
15 application.

16 Sections 1106(i) (relating to exclusion of loan forgiveness
17 from gross income), 2202(b) (relating to loans from retirement
18 plans), and 2205 (relating to charitable contributions) of

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1 Public Law 116-136 shall be operative for purposes of this
2 chapter. No amount received under section 2201 (relating to
3 recovery rebates) of Public Law 116-136 shall be included in
4 gross income for purposes of this chapter.

5 Prior law shall continue to be used to determine:

6 (1) The basis of property, if a taxpayer first determined
7 the basis of property in a taxable year to which prior
8 law applies; and

9 (2) Gross income, adjusted gross income, ordinary income
10 and loss, and taxable income for a taxable year to
11 which prior law applies."

12 SECTION 3. Section 236E-3, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§236E-3 Conformance to the Internal Revenue Code; general**
15 **application.** For all decedents dying, or transfers occurring,
16 after December 31, [~~2019~~] 2020, as used in this chapter,
17 "Internal Revenue Code" means subtitle B of the federal Internal
18 Revenue Code of 1986, as amended as of December 31, [~~2019~~]
19 2020, as it applies to the determination of gross estate,
20 adjusted gross estate, federal taxable estate, and generation-
21 skipping transfers, except those provisions of the Internal

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1 Revenue Code and federal public laws that, pursuant to this
2 chapter, do not apply or are otherwise limited in application."

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

5 SECTION 5. This Act shall take effect upon its approval;
6 provided that:

7 (1) Section 2 shall apply to taxable years beginning after
8 December 31, 2020; and

9 (2) Section 3 shall apply to decedents dying or taxable
10 transfers occurring after December 31, 2020.

11

INTRODUCED BY: _____



BY REQUEST

S.B. NO. 1195

Report Title:

Conformity to the Internal Revenue Code for 2020; Income Tax;
Estate and Generation-skipping Transfer Tax

Description:

Conforms Hawaii income and estate and generation-skipping
transfer tax laws to the Internal Revenue Code of 1986, as
amended as of December 31, 2020.

*The summary description of legislation appearing on this page is for informational purposes only and is
not legislation or evidence of legislative intent.*

JUSTIFICATION SHEET

DEPARTMENT: Taxation.

TITLE: A BILL FOR AN ACT RELATING TO CONFORMITY TO THE INTERNAL REVENUE CODE.

PURPOSE: To amend Hawaii's income and estate and generation-skipping transfer tax laws to conform to changes made to the Internal Revenue Code in calendar year 2020.

MEANS: Amend sections 235-2.3(a) and 236E-3, Hawaii Revised Statutes (HRS).

JUSTIFICATION: Sections 235-2.5(c) and 236E-4(c), HRS, mandate that the Department of Taxation submit to each regular session of the Legislature a bill that amends Hawaii's income and estate and generation-skipping transfer tax laws to conform to changes in the Internal Revenue Code. This bill amends section 235-2.3(a), HRS, by changing the date as of which Hawaii adopts the Internal Revenue Code to December 31, 2020. This bill also amends section 236E-3, HRS, by changing the date as of which Hawaii adopts the Internal Revenue Code to December 31, 2020. These changes adopt income and estate and generation-skipping transfer tax law changes made in the 2020 calendar year.

Impact on the public: Conformity through amendments to the operative provisions of the Internal Revenue Code will minimize the burden on taxpayers to comply with the requirements of Hawaii's income and estate and generation-skipping transfer tax laws.

Impact on the department and other agencies: Conforming Hawaii's income and estate and generation-skipping transfer tax laws to that of the Internal Revenue Code will

increase consistency between the state and federal jurisdictions.

GENERAL FUND: Pending.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: None.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval, income tax changes shall apply to taxable years beginning after December 31, 2020, and estate and generation-skipping transfer tax changes shall apply to decedents dying or taxable transfers occurring after December 31, 2020.