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# A BILL FOR AN ACT

RELATING TO TITLE 14, HAWAII REVISED STATUTES.

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

1 SECTION 1. The purpose of this Act is to make numerous  
2 amendments to title 14, Hawaii Revised Statutes, for the purpose  
3 of simplifying and streamlining administration of the tax law.

4 PART I

5 SECTION 2. Section 231-1, Hawaii Revised Statutes, is  
6 amended by adding a new definition to be appropriately inserted  
7 and to read as follows:

8 "Director" means the director of taxation, unless the  
9 context clearly indicates otherwise."

10 SECTION 3. Section 231-15.7, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 **"§231-15.7 Returns by fiduciaries.** The returns,  
13 statements, or answers required under chapters of the law under  
14 title 14 administered by the department shall be made, in the  
15 form and manner prescribed by the department, by the personal  
16 representative, trustee, guardian, or other fiduciary in such



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, subchapter  
9 B, part VIII of the Internal Revenue Code, shall not be allowed.  
10 In lieu thereof there shall be allowed as a deduction the entire  
11 amount of [~~dividends~~]:

12 (1) Dividends received by any corporation upon the shares  
13 of stock of a national banking association[~~—~~  
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 subjection to federal tax does not~~  
12 ~~constitute subjection 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 per  
13 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 section 235-  
18 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 December~~  
2 ~~31, 2001:~~

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



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

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



1 In the case of any taxable year beginning after December  
2 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
21	Over \$300,000 but	\$23,257.00 plus 9.00% of



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

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

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

11	<del>If the taxable income is:</del>	<del>The tax shall be:</del>
12	<del>Not over \$3,000</del>	<del>1.40% of taxable income</del>
13	<del>Over \$3,000 but</del>	<del>\$42.00 plus 3.20% of</del>
14	<del>not over \$6,000</del>	<del>excess over \$3,000</del>
15	<del>Over \$6,000 but</del>	<del>\$138.00 plus 5.50% of</del>
16	<del>not over \$12,000</del>	<del>excess over \$6,000</del>
17	<del>Over \$12,000 but</del>	<del>\$468.00 plus 6.40% of</del>
18	<del>not over \$18,000</del>	<del>excess over \$12,000</del>
19	<del>Over \$18,000 but</del>	<del>\$852.00 plus 6.80% of</del>
20	<del>not over \$24,000</del>	<del>excess over \$18,000</del>
21	<del>Over \$24,000 but</del>	<del>\$1,260.00 plus 7.20% of</del>



1	<del>not over \$30,000</del>	<del>excess over \$24,000</del>
2	<del>Over \$30,000 but</del>	<del>\$1,692.00 plus 7.60% of</del>
3	<del>not over \$45,000</del>	<del>excess over \$30,000</del>
4	<del>Over \$45,000 but</del>	<del>\$2,832.00 plus 7.90% of</del>
5	<del>not over \$60,000</del>	<del>excess over \$45,000</del>
6	<del>Over \$60,000</del>	<del>\$4,017.00 plus 8.25% of</del>
7		<del>excess over \$60,000.</del>

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

10	<del>If the taxable income is:</del>	<del>The tax shall be:</del>
11	<del>Not over \$3,600</del>	<del>1.40% of taxable income</del>
12	<del>Over \$3,600 but</del>	<del>\$50.00 plus 3.20% of</del>
13	<del>not over \$7,200</del>	<del>excess over \$3,600</del>
14	<del>Over \$7,200 but</del>	<del>\$166.00 plus 5.50% of</del>
15	<del>not over \$14,400</del>	<del>excess over \$7,200</del>
16	<del>Over \$14,400 but</del>	<del>\$562.00 plus 6.40% of</del>
17	<del>not over \$21,600</del>	<del>excess over \$14,400</del>
18	<del>Over \$21,600 but</del>	<del>\$1,022.00 plus 6.80% of</del>
19	<del>not over \$28,800</del>	<del>excess over \$21,600</del>
20	<del>Over \$28,800 but</del>	<del>\$1,512.00 plus 7.20% of</del>
21	<del>not over \$36,000</del>	<del>excess over \$28,800</del>





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

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

18 ~~[In the case of any taxable year beginning after December~~  
19 ~~31, 2001:~~

20	<del>If the taxable income is:</del>	<del>The tax shall be:</del>
21	<del>Not over \$2,000</del>	<del>1.40% of taxable income</del>



1	<del>Over \$2,000 but</del>	<del>\$28.00 plus 3.20% of</del>
2	<del>not over \$4,000</del>	<del>excess over \$2,000</del>
3	<del>Over \$4,000 but</del>	<del>\$92.00 plus 5.50% of</del>
4	<del>not over \$8,000</del>	<del>excess over \$4,000</del>
5	<del>Over \$8,000 but</del>	<del>\$312.00 plus 6.40% of</del>
6	<del>not over \$12,000</del>	<del>excess over \$8,000</del>
7	<del>Over \$12,000 but</del>	<del>\$568.00 plus 6.80% of</del>
8	<del>not over \$16,000</del>	<del>excess over \$12,000</del>
9	<del>Over \$16,000 but</del>	<del>\$840.00 plus 7.20% of</del>
10	<del>not over \$20,000</del>	<del>excess over \$16,000</del>
11	<del>Over \$20,000 but</del>	<del>\$1,128.00 plus 7.60% of</del>
12	<del>not over \$30,000</del>	<del>excess over \$20,000</del>
13	<del>Over \$30,000 but</del>	<del>\$1,888.00 plus 7.90% of</del>
14	<del>not over \$40,000</del>	<del>excess over \$30,000</del>
15	<del>Over \$40,000</del>	<del>\$2,678.00 plus 8.25% of</del>
16		<del>excess over \$40,000.</del>

17 ~~In the case of any taxable year beginning after December~~  
 18 ~~31, 2006:~~

19	<del>If the taxable income is:</del>	<del>The tax shall be:</del>
20	<del>Not over \$2,400</del>	<del>1.40% of taxable income</del>
21	<del>Over \$2,400 but</del>	<del>\$34.00 plus 3.20% of</del>

1	<del>not over \$4,800</del>	<del>excess over \$2,400</del>
2	<del>Over \$4,800 but</del>	<del>\$110.00 plus 5.50% of</del>
3	<del>not over \$9,600</del>	<del>excess over \$4,800</del>
4	<del>Over \$9,600 but</del>	<del>\$374.00 plus 6.40% of</del>
5	<del>not over \$14,400</del>	<del>excess over \$9,600</del>
6	<del>Over \$14,400 but</del>	<del>\$682.00 plus 6.80% of</del>
7	<del>not over \$19,200</del>	<del>excess over \$14,400</del>
8	<del>Over \$19,200 but</del>	<del>\$1,008.00 plus 7.20% of</del>
9	<del>not over \$24,000</del>	<del>excess over \$19,200</del>
10	<del>Over \$24,000 but</del>	<del>\$1,354.00 plus 7.60% of</del>
11	<del>not over \$36,000</del>	<del>excess over \$24,000</del>
12	<del>Over \$36,000 but</del>	<del>\$2,266.00 plus 7.90% of</del>
13	<del>not over \$48,000</del>	<del>excess over \$36,000</del>
14	<del>Over \$48,000</del>	<del>\$3,214.00 plus 8.25% of</del>
15		<del>excess over \$48,000.]</del>

16 In the case of any taxable year beginning after December  
 17 31, 2017:

18	If the taxable income is:	The tax shall be:
19	Not over \$2,400	1.40% of taxable income
20	Over \$2,400 but	\$34.00 plus 3.20% of
21	not over \$4,800	excess over \$2,400



1 Over \$4,800 but \$110.00 plus 5.50% of  
2 not over \$9,600 excess over \$4,800  
3 Over \$9,600 but \$374.00 plus 6.40% of  
4 not over \$14,400 excess over \$9,600  
5 Over \$14,400 but \$682.00 plus 6.80% of  
6 not over \$19,200 excess over \$14,400  
7 Over \$19,200 but \$1,008.00 plus 7.20% of  
8 not over \$24,000 excess over \$19,200  
9 Over \$24,000 but \$1,354.00 plus 7.60% of  
10 not over \$36,000 excess over \$24,000  
11 Over \$36,000 but \$2,266.00 plus 7.90% of  
12 not over \$48,000 excess over \$36,000  
13 Over \$48,000 but \$3,214.00 plus 8.25% of  
14 not over \$150,000 excess over \$48,000  
15 Over \$150,000 but \$11,629.00 plus 9.00% of  
16 not over \$175,000 excess over \$150,000  
17 Over \$175,000 but \$13,879.00 plus 10.00% of  
18 not over \$200,000 excess over \$175,000  
19 Over \$200,000 \$16,379.00 plus 11.00% of  
20 excess over \$200,000."



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

3 "(b) The return shall be in [~~such~~] the form, including  
4 computer printouts or other electronic formats, and contain  
5 [~~such~~] the information [~~as may be~~] prescribed by the director of  
6 taxation. The return shall be filed [~~with the director at the~~  
7 ~~first taxation district in Honolulu.~~] in the form and manner  
8 prescribed by the department."

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

11 "**§235-99 [~~Same,~~] Returns; place for filing.** Returns shall  
12 be filed [~~with the collector for the taxation district in which~~  
13 ~~is located the legal residence or principal place of business of~~  
14 ~~the person making the return, or, if such person has no legal~~  
15 ~~residence or principal place of business in the State, then with~~  
16 ~~the collector at Honolulu.~~] in the form and manner prescribed by  
17 the department."

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

20 "(a) The taxes levied hereunder shall be payable in  
21 monthly installments on or before the twentieth day of the



1 calendar month following the month in which they accrue. The  
2 taxpayer, on or before the twentieth day of the calendar month  
3 following the month in which the taxes accrue, shall make out  
4 and sign a return of the installment of tax for which the  
5 taxpayer is liable for the preceding month and transmit the  
6 same, together with a remittance, in the form required by  
7 section 237-31, for the amount of the tax, to [~~the office of~~]  
8 the department of taxation in the [~~appropriate district~~  
9 ~~hereinafter designated.~~] form and manner prescribed by the  
10 department."

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

13 "**§237-33 Annual return, payment of tax.** On or before the  
14 twentieth day of the fourth month following the close of the  
15 taxable year, each taxpayer shall make a return showing the  
16 value of products, gross proceeds of sales or gross income, and  
17 compute the amount of tax chargeable against the taxpayer in  
18 accordance with this chapter and deduct the amount of monthly  
19 payments (as hereinbefore provided), and transmit with the  
20 taxpayer's report a remittance in the form required by section  
21 237-31 covering the residue of the tax chargeable against the



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

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

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

20 "(a) All monthly and annual returns shall be transmitted  
21 [~~to the office of the taxation district in which the privilege~~



1 ~~upon which the tax accrued is exercised. Where the privilege is~~  
2 ~~exercised in more than one taxation district the returns shall~~  
3 ~~be transmitted to the office of the first district.] in the form~~  
4 ~~and manner prescribed by the department."~~

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

7 "**§237-37 Refunds and credits.** If the amount already paid  
8 exceeds that which should have been paid on the basis of the tax  
9 recomputed as provided in section 237-36, the excess so paid  
10 shall be immediately refunded to the taxpayer in the manner  
11 provided in section 231-23(c). The taxpayer may, at the  
12 taxpayer's election, apply an overpayment credit to taxes  
13 subsequently accruing hereunder. [~~All refunds and the details~~  
14 ~~thereof, including the names of the persons receiving the refund~~  
15 ~~and the amount refunded shall be accessible for the inspection~~  
16 ~~of the public in the office of the department of taxation in the~~  
17 ~~taxation district in which the person receiving the refund made~~  
18 ~~the person's returns.]~~

19 No recourse may be had except under section 40-35 or by  
20 appeal for refunds of taxes paid pursuant to an assessment by  
21 the director of taxation, provided that if the assessment by the



1 director shall contain clerical errors, transposition of  
2 figures, typographical errors, and errors in calculation or if  
3 there shall be an illegal or erroneous assessment, the usual  
4 refunds procedures shall apply. No refund or overpayment credit  
5 may be had under this section in any event unless the original  
6 payment of the tax was due to the law having been interpreted or  
7 applied in respect of the taxpayer concerned differently than in  
8 respect of taxpayers generally. As to all tax payment for which  
9 a refund or credit is not authorized by this section (including  
10 without prejudice to the generality of the foregoing cases of  
11 unconstitutionality) the remedies provided by appeal or under  
12 section 40-35 are exclusive."

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

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

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



1           "**§237D-7 Annual return.** On or before the twentieth day of  
2 the fourth month following the close of the taxable year, every  
3 person who has become liable for the payment of the taxes under  
4 this chapter during the preceding tax year shall file a return  
5 summarizing that person's liability under this chapter for the  
6 year, in [~~such~~] the form [~~as~~] the director prescribes. The  
7 operator or plan manager shall transmit with the return a  
8 remittance covering the residue of the tax chargeable to the  
9 operator or plan manager, if any[~~, to the office of the~~  
10 ~~appropriate state district tax assessor designated in section~~  
11 ~~237D-8~~]. The return shall be signed by the taxpayer, if made by  
12 an individual, or by the president, vice-president, secretary,  
13 or treasurer of a corporation, if made on behalf of a  
14 corporation. If made on behalf of a partnership, firm, society,  
15 unincorporated association, group, hui, joint adventure, joint  
16 stock company, corporation, trust estate, decedent's estate,  
17 trust, or other entity, any individual delegated by the entity  
18 shall sign the same on behalf of the taxpayer. If for any  
19 reason it is not practicable for the individual taxpayer to sign  
20 the return, it may be done by any duly authorized agent. The  
21 department, for good cause shown, may extend the time for making



1 the return on the application of any taxpayer and grant such  
2 reasonable additional time within which to make the return as  
3 the department may deem advisable.

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

6 SECTION 16. Section 237D-8, Hawaii Revised Statutes, is  
7 amended to read as follows:

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

13 SECTION 17. Section 238-5, Hawaii Revised Statutes, is  
14 amended by amending subsection (a) to read as follows:

15 "(a) On or before the twentieth day of each calendar  
16 month, any person who has become liable for the payment of a tax  
17 under this chapter during the preceding calendar month in  
18 respect of any property, services, or contracting, or the use  
19 thereof, shall file a return [~~with the assessor of the taxation~~  
20 ~~district in which the property was held or the services or~~  
21 ~~contracting were received when the tax first became payable, or~~



1 ~~with the director of taxation at Honolulu,]~~ in the form and  
2 manner prescribed by the department, setting forth a description  
3 of the property, services, or contracting and the character and  
4 quantity thereof in sufficient detail to identify the same or  
5 otherwise in such reasonable detail as the director by rule  
6 shall require, and the purchase price or value thereof as the  
7 case may be. The return shall be accompanied by a remittance in  
8 full of the tax, computed at the rate specified in section 238-2  
9 or 238-2.3 upon the price or value so returned. Any tax  
10 remaining unpaid after the twentieth day following the end of  
11 the calendar month during which the tax first became payable  
12 shall become delinquent; provided that a receipt from a seller  
13 required or authorized to collect the tax, given to a taxpayer  
14 in accordance with section 238-6, shall be sufficient to relieve  
15 the taxpayer from further liability for the tax to which the  
16 receipt may refer, or for the return thereof."

17 SECTION 18. Section 239-4, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "**§239-4 Returns.** Each public service company, on or  
20 before the twentieth day of the fourth month following the close  
21 of the taxable year, shall file [~~with the office of the~~



1 ~~department of taxation for the district within which the~~  
2 ~~principal office of the public service company is maintained]~~ a  
3 return in [~~such~~] the form [~~as~~] and manner prescribed by the  
4 department [~~may prescribe~~], showing its taxable gross income for  
5 the preceding taxable year. In case any public service company  
6 engages in lines of business other than its public service  
7 company business, the receipts therefrom shall not be subject to  
8 tax under this chapter, but the same tax liabilities shall  
9 attach to the public service company on account of the other  
10 lines of business as would exist if no public service company  
11 business were engaged in. In the case of a public utility  
12 subject to the rate of tax imposed by section 239-5(a) or (b),  
13 if the public utility engages in lines of business other than  
14 its public utility business the real property used in connection  
15 with the other lines of business shall be taxed, in accordance  
16 with the applicable county tax ordinance, the same as if no  
17 public utility business were done. In the case of a public  
18 utility remitting payments to a county of a portion of the  
19 revenues generated from the tax imposed by section 239-5(a), the  
20 public utility shall also file with the director of finance of  
21 the county to which such payment is paid, a statement showing



1 all gross income from the public utility business upon which the  
2 tax is calculated and the allocation of that gross income among  
3 the counties."

4 SECTION 19. Section 243-3.5, Hawaii Revised Statutes, is  
5 amended by amending subsection (e) to read as follows:

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

16 SECTION 20. Section 243-10, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "**§243-10 Statements and payments.** Each distributor and  
19 each person subject to section [~~243-4(b),~~] 243-4, on or before  
20 the twentieth day of each calendar month, shall file with the  
21 [~~director of taxation,~~] department, on forms prescribed[~~,~~



1 ~~prepared, and furnished~~] by the [~~director,~~] department, a  
2 statement, authenticated as provided in section 231-15, showing  
3 separately for each county and for the island of Lanai and the  
4 island of Molokai within which and whereon fuel is sold or used  
5 during each preceding month of the calendar year, the following:

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



1 department or agency thereof, or to any other person  
2 or entity, or used in any manner, the effect of which  
3 sale or use is to exempt the fuel from the tax imposed  
4 by this chapter;

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

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



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

10 Statements filed under this section concerning the number  
11 of gallons of fuel refined, manufactured, compounded, imported,  
12 sold or used by the distributor or person are public records."

13 SECTION 21. Section 244D-4, Hawaii Revised Statutes, is  
14 amended by amending subsection (a) to read as follows:

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



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

- 3       ~~(1) \$5.92 per wine gallon on distilled spirits;~~  
4       ~~(2) \$2.09 per wine gallon on sparkling wine;~~  
5       ~~(3) \$1.36 per wine gallon on still wine;~~  
6       ~~(4) \$0.84 per wine gallon on cooler beverages;~~  
7       ~~(5) \$0.92 per wine gallon on beer other than draft beer;~~  
8       ~~(6) \$0.53 per wine gallon on draft beer;]~~

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

- 10       (1) \$5.98 per wine gallon on distilled spirits;  
11       (2) \$2.12 per wine gallon on sparkling wine;  
12       (3) \$1.38 per wine gallon on still wine;  
13       (4) \$0.85 per wine gallon on cooler beverages;  
14       (5) \$0.93 per wine gallon on beer other than draft beer;  
15       (6) \$0.54 per wine gallon on draft beer;

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

18       SECTION 22. Section 244D-6, Hawaii Revised Statutes, is  
19 amended to read as follows:

20       "**§244D-6 Return, form, contents.** Every taxpayer shall, on  
21 or before the twentieth day of each month, file with the



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

16 SECTION 23. Section 245-2.5, Hawaii Revised Statutes, is  
17 amended as follows:

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

19 "(a) [~~Beginning December 1, 2006, every~~] Every retailer  
20 engaged in the retail sale of cigarettes and other tobacco



1 products upon which a tax is required to be paid under this  
2 chapter shall obtain a retail tobacco permit.

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

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

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

15 (1) Include:

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

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



1 (C) Documentation in the form of any purchase orders,  
 2 invoices, bills of lading, other written  
 3 statements, books, papers, or records in whatever  
 4 format, including electronic format, which  
 5 substantiate the purchase or acquisition of the  
 6 cigarettes and tobacco products stored or offered  
 7 for sale; and

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

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

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

20 SECTION 24. Section 245-9, Hawaii Revised Statutes, is  
 21 amended by amending subsections (a) and (b) to read as follows:



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

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



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

11 SECTION 25. Section 245-41, Hawaii Revised Statutes, is  
12 amended by amending subsection (c) to read as follows:

13 "(c) Where the attorney general [~~initiates and~~] conducts  
14 an investigation resulting in the imposition and collection of a  
15 criminal fine pursuant to this part, one hundred per cent of the  
16 fine shall be distributed to the attorney general to be  
17 deposited to the credit of the department of the attorney  
18 general's tobacco enforcement special fund; provided that if the  
19 attorney general engages the prosecuting attorney for the  
20 investigation or prosecution, or both, resulting in the  
21 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 26. Section 251-5, Hawaii Revised Statutes, is  
4 amended to read as follows:

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

12 SECTION 27. Section 251-7, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 "[~~§~~]**§251-7**[~~§~~] **Filing of returns.** All monthly, quarterly,  
15 semiannual, and annual returns shall be transmitted [~~to the~~  
16 ~~office of the taxation district in which the person's place of~~  
17 ~~business is situated or to the office of the first taxation~~  
18 ~~district in Honolulu.~~] in the form and manner prescribed by the  
19 department."

20 SECTION 28. Section 235-5.6, Hawaii Revised Statutes, is  
21 repealed.



1           ~~["§235-5.6] Individual development account contribution~~

2 ~~tax credit.~~ (a) ~~There shall be allowed to each taxpayer~~  
3 ~~subject to the tax imposed under this chapter, an individual~~  
4 ~~development account contribution tax credit certified under~~  
5 ~~chapter 257 which shall be applied against the taxpayer's net~~  
6 ~~income tax liability, if any, imposed by this chapter for the~~  
7 ~~taxable year in which the credit is properly claimed.~~

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

16           ~~(c) If the tax credit under this section exceeds the~~  
17 ~~taxpayer's income tax liability, the excess of the tax credit~~  
18 ~~over liability may be used as a credit against the taxpayer's~~  
19 ~~income tax liability in subsequent years until exhausted. All~~  
20 ~~claims, including any amended claims, for tax credits under this~~  
21 ~~section shall be filed on or before the end of the twelfth month~~



1 following the close of the taxable year for which the credit may  
2 be claimed. Failure to comply with the foregoing provision  
3 shall constitute a waiver of the right to claim the credit.

4 (d) Application for the credit under this section shall be  
5 upon forms provided by the department.

6 (e) The credit under this section shall be available for  
7 taxable years beginning after December 31, 1999, but shall not  
8 be available for taxable years beginning after December 31,  
9 2004." ]

10 SECTION 29. Section 235-111.5. Hawaii Revised Statutes, is  
11 repealed.

12 [ "~~§235-111.5 High technology; sale of unused net operating~~  
13 ~~loss carryover.~~ (a) A qualified high technology business as  
14 defined in section 235-7.3 may apply to the department to sell  
15 its unused net operating loss carryover to another taxpayer. If  
16 approved by the department, a qualified high technology business  
17 may sell its unused net operating loss carryover to another  
18 taxpayer in an amount equal to at least seventy five per cent of  
19 the amount of the surrendered tax benefit, computed at the  
20 corporate rate pursuant to section 235-71; provided that the  
21 qualified high technology business may sell no more than



1 ~~\$500,000 of its unused net operating loss carryover to another~~  
2 ~~taxpayer per year. In the case of partnerships, limited~~  
3 ~~liability partnerships, limited liability companies classified~~  
4 ~~as partnerships, and S corporations, each partner, member, or~~  
5 ~~shareholder may sell its share of the entity's total net~~  
6 ~~operating loss. The tax benefit purchased by the buyer shall be~~  
7 ~~claimed in the year for which the sale is approved by the~~  
8 ~~department. Any use of the purchased net operating loss~~  
9 ~~carryover for tax carryback or carryforward purposes shall~~  
10 ~~comply with applicable law. The income from the sale of the net~~  
11 ~~operating loss carryover received by the seller shall be~~  
12 ~~reported on its tax return in the taxable year received but~~  
13 ~~shall not be considered taxable income.~~

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

17 ~~(1) Has demonstrated positive net income in either of the~~  
18 ~~two previous full years of ongoing operations as~~  
19 ~~determined on its financial statements;~~

20 ~~(2) Has demonstrated a ratio of one hundred ten per cent~~  
21 ~~or greater of operating revenues divided by operating~~



1 ~~expenses in either of the two previous full years of~~  
2 ~~operations as determined on its financial statements,~~  
3 ~~or~~

4 ~~(3) Is directly or indirectly at least fifty per cent~~  
5 ~~owned or controlled by another corporation that has~~  
6 ~~demonstrated positive net income in either of the two~~  
7 ~~previous full years of ongoing operations as~~  
8 ~~determined on its financial statements or is part of a~~  
9 ~~consolidated group of affiliate corporations, as filed~~  
10 ~~for federal income tax purposes, that in the aggregate~~  
11 ~~has demonstrated positive net income in either of the~~  
12 ~~two previous full years of ongoing operations as~~  
13 ~~determined on its combined financial statements.~~

14 ~~In the case of partnerships, limited liability~~  
15 ~~partnerships, limited liability companies classified as~~  
16 ~~partnerships, and S corporations, the application for the sale~~  
17 ~~of unused net operating losses shall only be approved to the~~  
18 ~~extent that all partners, members, or shareholders certify that~~  
19 ~~they have not received a tax benefit from the losses.~~

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



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

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

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

10       SECTION 30. Section 237D-1, Hawaii Revised Statutes, is  
11 amended by repealing the definition of "director".

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

13       SECTION 31. Section 239-11, Hawaii Revised Statutes, is  
14 repealed.

15       ~~[ "**§239-11 Exemption of certain contract carriers.** (a)~~  
16 ~~There shall be exempted and excluded from the measure of the tax~~  
17 ~~imposed by this chapter the gross income from any contract~~  
18 ~~carrier by water which is engaged primarily in the business of~~  
19 ~~transporting persons between harbors or wharves of the various~~  
20 ~~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 March~~  
12 ~~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 32. 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 33. Section 243-1, Hawaii Revised Statutes, is  
4 amended by repealing the definition of "director".

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

6       SECTION 34. Section 243-8, Hawaii Revised Statutes, is  
7 repealed.

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

11       SECTION 35. Section 245-31, Hawaii Revised Statutes, is  
12 repealed.

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

17       ~~(1) A report of the licensee's distributions of cigarettes~~  
18       ~~and purchases of stamps during the preceding month;~~  
19       ~~and~~

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





1       ~~[(2) Allocations of net operating loss pursuant to section~~  
2           ~~235-111.5; or~~  
3       ~~(3)]~~ (2) Allocations of low-income housing tax credits  
4           among partners under section 235-110.8."

5       SECTION 38. Section 257-10, Hawaii Revised Statutes, is  
6 repealed:

7       ~~["§257-10 Tax credit. (a) Taxpayers subject to the tax~~  
8 ~~imposed under chapter 235 who contribute matching funds for~~  
9 ~~individual development accounts may be eligible for the tax~~  
10 ~~credit provided under section 235-5.6.~~

11       ~~(b) Individuals, organizations, and businesses seeking the~~  
12 ~~tax credit can contribute a matching share to designated~~  
13 ~~individuals or contribute to a fiduciary organization and permit~~  
14 ~~it to allocate the funds to all of its participants on a~~  
15 ~~proportionate basis.~~

16       ~~(c) The administrator of the fiduciary organization, with~~  
17 ~~the cooperation of the participating organizations, shall~~  
18 ~~maintain records of the names of contributors and the total~~  
19 ~~amount each contributor contributes to an individual development~~  
20 ~~account match fund for the taxable year. All contributions~~  
21 ~~shall be verified by the department of human services. The~~



1 ~~department of human services shall total all contributions that~~  
 2 ~~the department certifies. Upon each determination, the~~  
 3 ~~department of human services shall issue a certificate to the~~  
 4 ~~taxpayer. The taxpayer shall file the certificate with the~~  
 5 ~~taxpayer's tax return with the department of taxation.~~

6 ~~When the total amount of certified contributions reaches~~  
 7 ~~\$1,000,000, the department shall immediately discontinue~~  
 8 ~~certifying contributions and notify the department of taxation.~~  
 9 ~~In no instance, shall the total amount of certified~~  
 10 ~~contributions exceed \$1,000,000 over the five year period~~  
 11 ~~between January 1, 2000, and December 31, 2004.~~

12 ~~(d) The State shall provide no more than \$1,000,000 in tax~~  
 13 ~~credits for private individuals, businesses, and organizations~~  
 14 ~~contributing funds to individual development account programs." ]~~

PART III

16 SECTION 39. Statutory material to be repealed is bracketed  
 17 and stricken. New statutory material is underscored.

18 SECTION 40. This Act shall take effect upon its approval.



**Report Title:**

Taxation; Housekeeping Amendments

**Description:**

Amends title 14, Hawaii Revised Statutes, to make nonsubstantive changes for clarity and to delete obsolete provisions. (SD1)

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

