
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 (REITs) may have not
7 been reported to and recorded accurately by the State. The
8 legislature notes that there are no state tax forms specifically
9 for REITs. Nor are there any clear methods for REITs to
10 annually report their statuses and deductions to the State. As
11 Hawaii faces major budget shortfalls this year and several years
12 to come, it is imperative that all corporations provide accurate
13 reporting of its assets and revenues generated.

14 The legislature further finds that real estate investment
15 trusts should notify the State and annually report assets and
16 revenues, the same information provided to the Internal Revenue
17 Service.



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1 Accordingly, the purpose of this Act is to require REITs
2 operating in the State to notify the State of the REIT's
3 existence and annually provide the information required by the
4 department of taxation, including a copy of the REIT's federal
5 return with the REIT's state tax return.

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

8 "(d) In the case of a real estate investment trust there
9 is imposed on the taxable income, computed as provided in
10 sections 857 and 858 of the Internal Revenue Code but with the
11 changes and adjustments made by this chapter (without prejudice
12 to the generality of the foregoing, the deduction for dividends
13 paid is limited to such amount of dividends as is attributable
14 to income taxable under this chapter), a tax consisting in the
15 sum of the following: 4.4 per cent if the taxable income is not
16 over \$25,000, 5.4 per cent if over \$25,000 but not over
17 \$100,000, and on all over \$100,000, 6.4 per cent. In addition
18 to any other penalty provided by law any real estate investment
19 trust whose tax liability for any taxable year is deemed to be
20 increased pursuant to section 859(b)(2)(A) or 860(c)(1)(A) after
21 December 31, 1978, (relating to interest and additions to tax



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1 determined with respect to the amount of the deduction for
2 deficiency dividends allowed) of the Internal Revenue Code shall
3 pay a penalty in an amount equal to the amount of interest for
4 which such trust is liable that is attributable solely to such
5 increase. The penalty payable under this subsection with
6 respect to any determination shall not exceed one-half of the
7 amount of the deduction allowed by section 859(a), or 860(a)
8 after December 31, 1978, of the Internal Revenue Code for such
9 taxable year.

10 Notwithstanding the foregoing, for taxable years beginning
11 after December 31, 2020, a real estate investment trust subject
12 to this chapter shall:

13 (1) Notify the department, in the manner prescribed by the
14 department, of its operation as a real estate
15 investment trust in the State no later than ninety
16 days from the first day of operation in the State;
17 provided that for real estate investment trusts
18 operating in the State as of July 1, 2021, the
19 department shall be notified no later than October 31,
20 2021;



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- 1 (2) Properly designate on its tax return that it is a real
- 2 estate investment trust as required by the department;
- 3 (3) Complete its tax return in the specific manner
- 4 required by the department, including following line-
- 5 by-line instructions;
- 6 (4) Submit a copy of the federal return covering the same
- 7 period with each Hawaii return; and
- 8 (5) Failure to comply with these requirements shall be
- 9 assessed to the real estate investment trust at \$50.00
- 10 per day."

11 SECTION 3. New statutory material is underscored.

12 SECTION 4. This Act, upon its approval, shall apply to
13 taxable years beginning after December 31, 2020.

14

INTRODUCED BY: 

JAN 22 2021



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Report Title:

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

Description:

Requires real estate investment trusts to notify the department of taxation of its presence within the State and to report the assets and revenues generated annually. Imposes a daily monetary fine for noncompliance.

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