

JAN 18 2023

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# A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Section 235-68, Hawaii Revised Statutes, is  
2 amended by amending subsections (a) and (b) to read as follows:

3 "(a) As used in this section:

4 "Nonresident person" means every person other than a  
5 resident person.

6 "Property" or "real property" has the meaning as the same  
7 term is defined in section 231-1.

8 "Resident person" means any:

- 9 (1) Individual included in the definition of resident in  
10 section 235-1;
- 11 (2) Corporation incorporated or granted a certificate of  
12 authority under chapter 414, 414D, or 415A;
- 13 (3) Partnership formed or registered under chapter 425 or  
14 425E;
- 15 (4) Foreign partnership qualified to transact business  
16 pursuant to chapter 425 or 425E;



# S.B. NO. 34

- 1           (5) Limited liability company formed under chapter 428 or  
2           any foreign limited liability company registered under  
3           chapter 428; provided that if a single member limited  
4           liability company has not elected to be taxed as a  
5           corporation, the single member limited liability  
6           company shall be disregarded for purposes of this  
7           section and this section shall be applied as if the  
8           sole member is the transferor;
- 9           (6) Limited liability partnership formed under chapter  
10          425;
- 11          (7) Foreign limited liability partnership qualified to  
12          transact business under chapter 425;
- 13          (8) Trust included in the definition of resident trust in  
14          section 235-1; or
- 15          (9) Estate included in the definition of resident estate  
16          in section 235-1.

17          "Residential real property" means fee simple or leasehold  
18 real property upon which is situated:

- 19          (1) From one to four dwelling units; or
- 20          (2) A residential condominium or cooperative apartment,



1 the primary use of which is occupancy as a residence by any  
2 natural person or persons, regardless of whether the property  
3 owner resides on the property.

4 "Transferee" means any person, the State and the counties  
5 and their respective subdivisions, agencies, authorities, and  
6 boards, acquiring real property which is located in Hawaii.

7 "Transferor" means any person disposing real property that  
8 is located in Hawaii.

9 (b) Unless otherwise provided in this section, every  
10 transferee shall deduct and withhold a tax equal to 7.25 per  
11 cent of the amount realized on the disposition of Hawaii real  
12 property[-]; provided that, if the real property being disposed  
13 of is residential real property, the transferee shall instead  
14 deduct and withhold a tax equal to seventy-five per cent of the  
15 amount realized on the disposition of the Hawaii real property.

16 Every person required to withhold a tax under this section  
17 is made liable for the tax and is relieved of liability for or  
18 upon the claim or demand of any other person for the amount of  
19 any payments to the department made in accordance with this  
20 section."



# S.B. NO. 34

1 SECTION 2. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 3. This Act, upon its approval, shall apply to  
4 real estate dispositions that occur on or after  
5 September 15, 2023.

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INTRODUCED BY:

A handwritten signature in black ink, consisting of a large, stylized letter 'A' followed by a horizontal line extending to the right.

# S.B. NO. 34

**Report Title:**

Hawaii Real Property Tax Law; Income Taxation; Residential Real Property; Nonresidents

**Description:**

Amends the taxes withheld on the amount realized by nonresidents from the disposition of Hawaii residential real property from 7.25% to 75%. Applies to real estate dispositions that occur on or after 9/15/2023.

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

