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# A BILL FOR AN ACT

RELATING TO THE ESTATE TAX.

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

1           SECTION 1. Section 236D-4, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "~~{}~~§236D-4~~{}~~ Nonresidents; tax imposed~~{;- exemption}~~."

4           (a) A tax in an amount computed as provided in this section is  
5 imposed on the transfer of the taxable estate located in Hawaii  
6 of every nonresident.

7           (b) The tax shall be computed by multiplying the federal  
8 credit by a fraction, the numerator of which is the value of the  
9 property located in Hawaii, and the denominator of which is the  
10 value of the decedent's gross estate.

11           ~~[(c) The transfer of the property of a nonresident is~~  
12 ~~exempt from the tax imposed by this section to the extent that~~  
13 ~~the property of residents is exempt from taxation under the laws~~  
14 ~~of the state in which the nonresident is domiciled, except that:~~

15           ~~(1) Real property having an actual situs in this State,~~  
16           ~~whether or not held in a trust the corpus of which is~~



1 ~~included in a decedent's gross estate for federal~~  
2 ~~estate tax purposes;~~

3 ~~(2) A beneficial interest in a land trust which owns real~~  
4 ~~property located in the State; and~~

5 ~~(3) Tangible personal property having an actual situs in~~  
6 ~~this State;~~

7 ~~shall be subject to tax under this section.]"~~

8 SECTION 2. Section 236D-4.5, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 "~~[§236D-4.5]~~ **Nonresidents not citizens; tax imposed[;**

11 **exemption].** (a) A tax in an amount computed as provided in  
12 this section is imposed on the noncitizen transfer of the  
13 taxable estate located in Hawaii of every nonresident decedent  
14 who was not a citizen at the time of their death.

15 (b) The tax shall be computed by multiplying the federal  
16 credit by a fraction, the numerator of which is the value of the  
17 property with a situs in Hawaii, and the denominator of which is  
18 the value of the decedent's gross estate.

19 ~~[(c) The noncitizen transfer of the property of a~~  
20 ~~nonresident not a citizen is exempt from the tax imposed by this~~  
21 ~~section to the extent that the property of residents is exempt~~



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1 ~~from taxation under the laws of the state in which the~~  
2 ~~nonresident not a citizen is domiciled; except that the~~  
3 ~~following shall be subject to tax under this section:~~

4 ~~(1) Real property having an actual situs in this State,~~  
5 ~~whether or not held in a trust the corpus of which is~~  
6 ~~included in a decedent's gross estate for federal~~  
7 ~~estate tax purposes;~~

8 ~~(2) A beneficial interest in a land trust that owns real~~  
9 ~~property located in the State; and~~

10 ~~(3) Tangible and intangible personal property having a~~  
11 ~~situs in this State.]~~

12 [~~(d)~~] (c) "Situs" as used in this section means the  
13 location of a decedent's property within the meaning of section  
14 2104 of the Internal Revenue Code, including regulations and  
15 other guidance issued thereunder, substituting "Hawaii" for "the  
16 United States".

17 SECTION 3. Section 236E-6, Hawaii Revised Statutes, is  
18 amended by amending subsection (a) to read as follows:

19 "(a) An exclusion from a Hawaii taxable estate shall be  
20 allowed to the estate of every decedent against the tax imposed



1 by section 236E-8. For the purpose of this section, the  
 2 applicable exclusion amount is ~~[equal to:~~  
 3 ~~(1) The federal applicable exclusion amount;~~  
 4 ~~(2) The exemption equivalent of the unified credit reduced~~  
 5 ~~by the amount of taxable gifts made by the decedent~~  
 6 ~~that reduces the amount of the federal applicable~~  
 7 ~~exclusion amount; or~~  
 8 ~~(3) The exemption equivalent of the unified credit on the~~  
 9 ~~decedent's federal estate tax return,~~  
 10 ~~as set forth for the decedent in chapter 11 of the Internal~~  
 11 ~~Revenue Code as amended as of December 21, 2017, as if the~~  
 12 ~~decedent died on December 31, 2017,] \$ \_\_\_\_\_, and as further~~  
 13 ~~adjusted pursuant to subsection (b)."~~

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

16 SECTION 5. This Act shall take effect on January 1, 2024,  
 17 and shall apply to decedents dying or taxable transfers  
 18 occurring after December 31, 2022.

19

INTRODUCED BY:



JAN 17 2023



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**Report Title:**

Taxation; Estate Tax; Exclusion; Exemption; Nonresidents;  
Nonresidents Not Citizens; Department of Taxation

**Description:**

Amends the exclusion amount of Hawaii's estate tax. Repeals exemption for tax imposed on transfer of taxable estate located in Hawaii for nonresidents and nonresidents who are not citizens. Applicable to decedents dying or taxable transfers occurring after 12/31/2022. Effective 1/1/2024.

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

