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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 235-51, Hawaii Revised Statutes, is  
2 amended by amending subsection (f) to read as follows:

3           "(f) If a taxpayer has a net capital gain for any taxable  
4 year to which this subsection applies, then:

5           (1) For a resident taxpayer, the tax imposed by this  
6           section shall not exceed the sum of:

7           ~~[(1)]~~ (A) The tax computed at the rates and in the  
8           same manner as if this subsection had not been  
9           enacted on the greater of:

10           ~~[(A)]~~ (i) The taxable income reduced by the  
11           amount of net capital gain, or

12           ~~[(B)]~~ (ii) The amount of taxable income taxed at  
13           a rate below 7.25 per cent, plus

14           ~~[(2)]~~ (B) A tax of 7.25 per cent of the amount of  
15           taxable income in excess of the amount determined  
16           under ~~[paragraph (1).]~~ subparagraph (A);



1        (2) For a nonresident taxpayer, the tax imposed by this  
2        section shall not exceed the sum of:

3        (A) The tax computed at the rates and in the same  
4        manner as if this subsection had not been enacted  
5        on the greater of:

6        (i) The taxable income reduced by the amount of  
7        net capital gain, or

8        (ii) The amount of taxable income taxed at a rate  
9        below 29 per cent, plus

10       (B) A tax of 29 per cent of the amount of taxable  
11       income in excess of the amount determined under  
12       subparagraph (A); and

13       (3) For a foreign taxpayer, the tax imposed by this  
14       section shall not exceed the sum of:

15       (A) The tax computed at the rates and in the same  
16       manner as if this subsection had not been enacted  
17       on the greater of:

18       (i) The taxable income reduced by the amount of  
19       net capital gain, or

20       (ii) The amount of taxable income taxed at a rate  
21       below 150 per cent, plus



1           (B) A tax of 150 per cent of the amount of taxable  
2                           income in excess of the amount determined under  
3                           subparagraph (A).

4           This subsection shall apply to individuals, estates, and  
5 trusts for taxable years beginning after December 31, 1986."

6           SECTION 2. Section 235-71.5, Hawaii Revised Statutes, is  
7 amended to read as follows:

8           "**§235-71.5 Alternative tax for corporations.** (a)  
9 Section 1201 (with respect to alternative tax for corporations)  
10 of the Internal Revenue Code of 1986, as amended as of  
11 December 31, 1996, shall be operative for the purposes of this  
12 chapter and shall be applied as set forth in this section.

13           (b) If for any taxable year a resident corporation,  
14 regulated investment company, or real estate investment trust  
15 has a net capital gain, then, in lieu of the tax imposed by  
16 section 235-71, there is hereby imposed a tax (if such tax is  
17 less than the tax imposed under section 235-71) which shall  
18 consist of the sum of:

19           (1) A tax computed on the taxable income reduced by the  
20 amount of the net capital gain, at the rates and in



1 the manner as if this section had not been enacted,  
2 plus

3 (2) The sum of:

4 (A) 3.08 per cent of the lesser of:

5 (i) The net capital gain determined by including  
6 only the gain or loss which is properly  
7 taken into account for the portion of the  
8 taxable year before April 1, 1987 (i.e., the  
9 amount in paragraph (1)), or

10 (ii) The net capital gain for the taxable year,  
11 plus

12 (B) 4 per cent of the excess (if any) of:

13 (i) The net capital gain for the taxable year,  
14 over

15 (ii) The amount of the net capital gain taken  
16 into account under subparagraph (A).

17 (c) If for any taxable year a nonresident corporation,  
18 regulated investment company, or real estate investment trust  
19 has a net capital gain, then, in lieu of the tax imposed by  
20 section 235-71, there is hereby imposed a tax (if the tax is



1 less than the tax imposed under section 235-71) that shall  
2 consist of the sum of:

3 (1) A tax computed on the taxable income reduced by the  
4 amount of the net capital gain, at the rates and in  
5 the manner as if this section had not been enacted,  
6 plus

7 (2) The sum of:

8 (A) 3.08 per cent of the lesser of:

9 (i) The net capital gain determined by including  
10 only the gain or loss that is properly taken  
11 into account for the portion of the taxable  
12 year before April 1, 1987 (i.e., the amount  
13 in paragraph (1)), or

14 (ii) The net capital gain for the taxable year,  
15 plus

16 (B) 16 per cent of the excess (if any) of:

17 (i) The net capital gain for the taxable year,  
18 over

19 (ii) The amount of the net capital gain taken  
20 into account under subparagraph (A).



1        (d) If for any taxable year a foreign corporation,  
2 regulated investment company, or real estate investment trust  
3 has a net capital gain, then, in lieu of the tax imposed by  
4 section 235-71, there is hereby imposed a tax (if the tax is  
5 less than the tax imposed under section 235-71) that shall  
6 consist of the sum of:

7        (1) A tax computed on the taxable income reduced by the  
8 amount of the net capital gain, at the rates and in  
9 the manner as if this section had not been enacted,  
10 plus

11        (2) The sum of:

12        (A) 3.08 per cent of the lesser of:

13                (i) The net capital gain determined by including  
14 only the gain or loss that is properly taken  
15 into account for the portion of the taxable  
16 year before April 1, 1987 (i.e., the amount  
17 in paragraph (1)), or

18                (ii) The net capital gain for the taxable year,  
19 plus

20        (B) 150 per cent of the excess (if any) of:



- 1                    (i) The net capital gain for the taxable year,
- 2                                    over
- 3                    (ii) The amount of the net capital gain taken
- 4                                    into account under subparagraph (A)."

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

7            SECTION 4. This Act, upon its approval, shall apply to  
8 taxable years beginning after December 31, 2023.

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INTRODUCED BY: *Dennis*

JAN 24 2024



# H.B. NO. 2734

**Report Title:**

Capital Gains Tax; Income Tax; Nonresident taxpayers; Foreign Taxpayers; Increase

**Description:**

Increases the capital gains tax for nonresident and foreign taxpayers. Increases the alternative capital gains tax for corporations for nonresident and foreign corporations.

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