
A BILL FOR AN ACT

RELATING TO THE INDIVIDUAL HOUSING ACCOUNT PROGRAM.

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

1 SECTION 1. The legislature finds that the affordable
2 housing crisis continues to be one of the State's most
3 significant and challenging social problems and is a critical
4 issue for many Hawaii residents. As the cost of housing
5 increases, the State must continue to assist residents by
6 finding methods of increasing options for homeownership. Saving
7 for a down payment on a home loan continues to be a barrier for
8 many Hawaii residents, with a limited number of programs
9 available to assist in this endeavor.

10 The purpose of this Act is to update the individual housing
11 accounts law by increasing the contribution levels and maximum
12 account levels to reflect current housing prices more
13 accurately. This will allow taxable income to be reduced by
14 contributions to the first-time home buyer savings account, thus
15 encouraging first time home ownership by incentivizing saving
16 for a down payment and closing costs. This incentive



1 acknowledges the significant financial and civic benefits of
2 home ownership in the State.

3 SECTION 2. Section 235-5.5, Hawaii Revised Statutes, is
4 amended as follows:

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

6 "(a) There shall be allowed as a deduction from gross
7 income the amount, not to exceed [~~\$5,000,~~] \$15,000, paid in cash
8 during the taxable year by an individual taxpayer to an
9 individual housing account established for the individual's
10 benefit to provide funding for the purchase of the individual's
11 first principal residence. A deduction not to exceed [~~\$10,000~~]
12 \$30,000 shall be allowed for a married couple filing a joint
13 return. No deduction shall be allowed on any amounts
14 distributed less than three hundred sixty-five days from the
15 date on which a contribution is made to the account. Any
16 deduction claimed for a previous taxable year for amounts
17 distributed less than three hundred sixty-five days from the
18 date on which a contribution was made shall be disallowed and
19 the amount deducted shall be included in the previous taxable
20 year's gross income and the tax reassessed. The interest paid
21 or accrued within the taxable year on the account shall not be



1 included in the individual's gross income. For purposes of this
2 section, [~~the term~~] "first principal residence" means a
3 residential property purchased with the payment or distribution
4 from the individual housing account, which shall be owned and
5 occupied as the only home by an individual who did not have any
6 interest in, individually, or whose spouse did not have any
7 interest in, if the individual is married, a residential
8 property within the last five years of opening the individual
9 housing account.

10 In the case of a married couple filing separate returns,
11 the sum of the deductions allowable to each of them for the
12 taxable year shall not exceed [~~\$5,000,~~] \$15,000, or [~~\$10,000~~]
13 \$30,000 for a joint return, for amounts paid in cash, excluding
14 interest paid or accrued thereon.

15 The amounts paid in cash allowable as a deduction under
16 this section to an individual for all taxable years shall not
17 exceed [~~\$25,000,~~] \$200,000, excluding interest paid or accrued.

18 In the case of married individuals having separate individual
19 housing accounts, the sum of the separate accounts and the
20 deduction under this section shall not exceed [~~\$25,000,~~]
21 \$200,000, excluding interest paid or accrued thereon.



1 (b) For purposes of this section, [~~the term~~] "individual
2 housing account" means a trust created or organized in Hawaii
3 for the exclusive benefit of an individual, or, in the case of a
4 married individual, for the exclusive benefit of the individual
5 and spouse jointly, but only if the written governing instrument
6 creating the trust meets the following requirements:

7 (1) Contributions shall not be accepted for the taxable
8 year in excess of [~~\$5,000~~] \$15,000 (or [~~\$10,000~~]
9 \$30,000 in the case of a joint return) or in excess of
10 [~~\$25,000~~] \$200,000 for all taxable years, exclusive of
11 interest paid or accrued;

12 (2) The trustee is a bank, a savings and loan association,
13 a credit union, or a depository financial services
14 loan company, chartered, licensed, or supervised under
15 federal or state law, whose accounts are insured by
16 the Federal Deposit Insurance Corporation, the
17 National Credit Union Administration, or any agency of
18 this State or any federal agency established for the
19 purpose of insuring accounts in these financial
20 institutions. The financial institution must actively
21 make residential real estate mortgage loans in Hawaii;



- 1 (3) The assets of the trust shall be invested only in
2 fully insured savings or time deposits. Funds held in
3 the trust may be commingled for purposes of
4 investment, but individual records shall be maintained
5 by the trustee for each individual housing account
6 holder that show all transactions in detail;
- 7 (4) The entire interest of an individual or married couple
8 for whose benefit the trust is maintained shall be
9 distributed to the individual or couple not later than
10 one hundred twenty months after the date on which the
11 first contribution is made to the trust;
- 12 (5) Except as provided in subsection (g), the trustee
13 shall not distribute the funds in the account unless
14 the trustee:
- 15 (A) Verifies that the money is to be used for the
16 purchase of a first principal residence located
17 in Hawaii, and provides that the instrument of
18 payment is payable to the mortgagor, construction
19 contractor, or other vendor of the property
20 purchased; or



1 (B) Withholds an amount equal to ten per cent of the
2 amount withdrawn from the account and remits this
3 amount to the director within ten days after the
4 date of the withdrawal. The amount withheld
5 shall be applied to the liability of the taxpayer
6 under subsections (c) and (e); and

7 (6) If any amounts are distributed before the expiration
8 of three hundred sixty-five days from the date on
9 which a contribution is made to the account, the
10 trustee shall so notify in writing the taxpayer and
11 the director. If the trustee makes the verification
12 required in paragraph (5) (A), then the department
13 shall disallow the deduction under subsection (a) and
14 subsections (c), (e), and (f) shall not apply to that
15 amount. If the trustee withholds an amount under
16 paragraph (5) (B), then the department shall disallow
17 the deduction under subsection (a) and subsection (e)
18 shall apply, but subsection (c) shall not apply."

19 2. By amending subsections (f) and (g) to read:

20 "(f) If the individual for whose benefit the individual
21 housing account was established purchases a residential property



1 in Hawaii with the distribution from the individual housing
2 account[+]

3 ~~(1) Before January 1, 1990, and if the individual sells in~~
4 ~~any manner or method or by use of any instrument~~
5 ~~conveying or transferring the residential property,~~
6 ~~the gross income of the individual under this chapter~~
7 ~~for the taxable year in which the residential property~~
8 ~~is sold, conveyed, or transferred, whichever is~~
9 ~~applicable, shall include an amount equal to the~~
10 ~~amount of the distribution from the individual housing~~
11 ~~account, and in addition, the gross income of the~~
12 ~~individual shall be increased by an amount equal to~~
13 ~~ten per cent of the total distribution from the~~
14 ~~individual housing account; or~~

15 ~~(2) After December 31, 1989], the individual shall report~~
16 ~~one-tenth of the total distribution from the~~
17 ~~individual housing account used to purchase the~~
18 ~~residential property as gross income in the taxable~~
19 ~~year in which the distribution is completed and in~~
20 ~~each taxable year thereafter until all of the~~
21 ~~distribution has been included in the individual's~~



1 gross income at the end of the tenth taxable year
2 after the purchase of the residential property. If
3 the individual sells in any manner or method or by use
4 of any instrument conveying or transferring the
5 residential property, the gross income of the
6 individual under this chapter for the taxable year in
7 which the residential property is sold, conveyed, or
8 transferred, whichever is applicable, shall include an
9 amount equal to the amount of the distribution from
10 the individual housing account not previously reported
11 as gross income, and in addition, the tax liability of
12 the individual shall be increased by an amount equal
13 to ten per cent of the total distribution from the
14 individual housing account. If the individual sells
15 the residential property in any manner as provided in
16 this paragraph after all of the distribution has been
17 included in the individual's gross income at the end
18 of the tenth taxable year after the purchase of the
19 residential property, the tax liability of the
20 individual shall not be increased by an amount equal



1 to ten per cent of the total distribution from the
2 individual housing account.

3 ~~[An individual who purchased a residential property in Hawaii~~
4 ~~with the distribution from an individual housing account before~~
5 ~~January 1, 1990, who is subject to paragraph (1) may elect to~~
6 ~~report as provided in paragraph (2). The election shall be made~~
7 ~~before January 1, 1991. If the individual makes the election,~~
8 ~~the individual shall report one-tenth of the total distribution~~
9 ~~from the individual housing account as gross income in the~~
10 ~~taxable year in which the election occurs and in each taxable~~
11 ~~year thereafter until all of the distribution has been included~~
12 ~~in gross income as provided by paragraph (2). If the individual~~
13 ~~making the election sells the residential property in any manner~~
14 ~~as provided in paragraph (2), then the individual shall include~~
15 ~~as income the amount of the distribution not previously reported~~
16 ~~as income and increase the individual's tax liability as~~
17 ~~provided in the second sentence of paragraph (2), except when~~
18 ~~the third sentence of paragraph (2) applies.~~

19 ~~In the alternative, any individual subject to paragraph (2)~~
20 ~~who established the individual housing account before January 1,~~



1 ~~1990, may elect within one year after the date of purchase, to~~
2 ~~be subject to paragraph (1).]~~

3 (g) No tax liability shall be imposed under this section
4 if:

5 (1) The payment or distribution is attributable to the
6 individual dying or becoming totally disabled; or

7 (2) Residential property subject to subsection (f) is
8 transferred by will or by operation of law or sold due
9 to the death or total disability of an individual or
10 individual's spouse,

11 subject to the following:

12 An individual shall not be considered to be totally
13 disabled unless proof is furnished of the total disability [~~in~~
14 ~~the form and manner as the director may require.] as defined in
15 section 235-1.~~

16 Upon the death of an individual for whose benefit an
17 individual housing account has been established, the funds in
18 the account shall be payable to the estate of the individual;
19 provided that if the account was held jointly by the decedent
20 and a spouse of the decedent, the account shall terminate and be
21 paid to the surviving spouse; or, if the surviving spouse so



1 elects, the spouse may continue the account as an individual
2 housing account. Upon the total disability of an individual for
3 whose benefit an individual housing account has been
4 established, the individual or the individual's authorized
5 representative may elect to continue the account or terminate
6 the account and be paid the assets; provided that if the account
7 was held jointly by a totally disabled person and a spouse of
8 that person, then the spouse or an authorized representative may
9 elect to continue the account or terminate the account and be
10 paid the assets."

11 SECTION 3. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 4. This Act shall take effect on June 30, 3000.

14



Report Title:

Individual Housing Account; Contribution Level; Maximum Account Level

Description:

Amends the individual housing account laws to increase the contribution levels and maximum account levels. Effective 6/30/3000. (HD1)

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