
A BILL FOR AN ACT

RELATING TO THE ESTATE TAX.

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

1 SECTION 1. The legislature finds that the estate tax is a
2 fair way to reduce income inequality and invest in the needs of
3 Hawai'i's working families. The tax applies to only the
4 wealthiest individuals in the State, such that the vast majority
5 of working families never pay a penny in estate taxes. For
6 example, although the estate tax applied to only forty-nine
7 estates in 2022, it raised \$57,400,000 in tax revenue for the
8 State by simply requiring the ultra-rich, who can best afford
9 the burden of an estate tax, to pay their fair share. This
10 taxation regime promotes meritocracy by ensuring that upward
11 mobility for the working and middle classes remains a reality,
12 while also preventing the development of an idle aristocratic
13 class formed solely through the inheritance of accumulated
14 wealth. As the nonpartisan Brookings Institution puts it,
15 "[t]he estate tax helps provide equal opportunity by reducing
16 the size of massive inheritances. It is hard to see why



1 children of the rich should be allowed to inherit scads of money
2 tax-free when other forms of income are taxed."

3 The legislature further finds that substantial wealth still
4 evades the current estate tax due to exemptions in existing law.
5 In certain circumstances, nonresidents are not required to pay
6 estate tax on property that is exempt from taxation under the
7 laws of the state where the nonresident is domiciled. These
8 provisions threaten the uniform fairness of the estate taxation
9 regime and exempt a potentially massive amount of wealth from
10 the estate tax.

11 The legislature also finds that in 1910, President Theodore
12 Roosevelt stated, "The absence of effective state...restraint
13 upon unfair money-getting has tended to create a small class of
14 enormously wealthy and economically powerful men, whose chief
15 object is to hold and increase their power ... Therefore, I
16 believe in a...graduated inheritance tax on big fortunes,
17 properly safeguarded against evasion[.]" These words are as
18 salient today as they were over a century ago. It remains
19 necessary to safeguard the efficacy of the estate tax against
20 evasion by ensuring that massive accumulations of wealth do not



1 escape taxation due to the peculiarities of the laws of another
2 state.

3 Accordingly, the purpose of this Act is to remove
4 exemptions from the estate tax granted to a nonresident whose
5 taxable estate is exempt under the law of the state where the
6 nonresident is domiciled.

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

9 "[~~§~~]**§236D-4**[~~§~~] **Nonresidents; tax imposed**[~~;- exemption~~].

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

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

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



1 ~~(1) Real property having an actual situs in this State,~~
2 ~~whether or not held in a trust the corpus of which is~~
3 ~~included in a decedent's gross estate for federal~~
4 ~~estate tax purposes;~~
5 ~~(2) A beneficial interest in a land trust which owns real~~
6 ~~property located in the State; and~~
7 ~~(3) Tangible personal property having an actual situs in~~
8 ~~this State;~~
9 ~~shall be subject to tax under this section.] "~~

10 SECTION 3. Section 236D-4.5, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "~~[+]§236D-4.5[+] Nonresidents not citizens; tax imposed[+~~
13 ~~exemption].~~ (a) A tax in an amount computed as provided in
14 this section is imposed on the noncitizen transfer of the
15 taxable estate located in Hawaii of every nonresident decedent
16 who was not a citizen at the time of their death.

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



1 ~~[(c) The noncitizen transfer of the property of a~~
2 ~~nonresident not a citizen is exempt from the tax imposed by this~~
3 ~~section to the extent that the property of residents is exempt~~
4 ~~from taxation under the laws of the state in which the~~
5 ~~nonresident not a citizen is domiciled, except that the~~
6 ~~following shall be subject to tax under this section:~~

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

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

13 ~~(3) Tangible and intangible personal property having a~~
14 ~~situs in this State.~~

15 ~~(d)]~~ (c) "Situs" as used in this section means the
16 location of a decedent's property within the meaning of section
17 2104 of the Internal Revenue Code, including regulations and
18 other guidance issued thereunder, substituting "Hawaii" for "the
19 United States".

20 SECTION 4. Section 236E-6, Hawaii Revised Statutes, is
21 amended by amending subsection (a) to read as follows:



1 "(a) An exclusion from a Hawaii taxable estate shall be
2 allowed to the estate of every decedent against the tax imposed
3 by section 236E-8. For the purpose of this section, the
4 applicable exclusion amount is ~~[equal to:~~

5 ~~(1) The federal applicable exclusion amount,~~

6 ~~(2) The exemption equivalent of the unified credit reduced~~
7 ~~by the amount of taxable gifts made by the decedent~~
8 ~~that reduces the amount of the federal applicable~~
9 ~~exclusion amount; or~~

10 ~~(3) The exemption equivalent of the unified credit on the~~
11 ~~decedent's federal estate tax return,~~

12 ~~as set forth for the decedent in chapter 11 of the Internal~~
13 ~~Revenue Code as amended as of December 21, 2017, as if the~~
14 ~~decedent died on December 31, 2017,] \$ _____, and as further~~
15 ~~adjusted pursuant to subsection (b)."~~

16 SECTION 5. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 6. This Act shall take effect on July 1, 2050, and
19 shall apply to decedents dying or taxable transfers occurring
20 after December 31, 2024.



Report Title:

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

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 12/31/2024. Effective 7/1/2050. (SD1)

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

