

JAN 21 2026

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# A BILL FOR AN ACT

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RELATING TO TAXATION.

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

1       SECTION 1. The legislature finds that the majority of  
2 income received from real estate investment trusts by corporate  
3 entities doing business in Hawaii is not taxed at the state  
4 level. They enjoy a preference that exempts them from paying  
5 taxes on dividends paid on revenues generated in Hawaii.  
6 According to the department of taxation, the estimated amount of  
7 income tax revenues that will be foregone in the 2026 taxable  
8 year may be as much as \$26,800,000.

9       The legislature also finds that, in September 2016, the  
10 department of business, economic development, and tourism,  
11 through its research and economic analysis division,  
12 commissioned a report to evaluate the recovery of income tax  
13 revenues from real estate investment trusts within the State.  
14 The findings revealed that Hawaii received only \$954,842 from  
15 in-state residents paying taxes on dividend income associated  
16 with Hawaii real estate investment trusts. In contrast, the  
17 majority of the real estate investment trust income taxes were



1 paid to other states by out-of-state shareholders receiving  
2 dividends, meaning that Hawaii did not benefit from the bulk of  
3 the income generated by real estate investment trusts operating  
4 within its borders. The legislature further finds that real  
5 estate investment trust income generated through the use of  
6 state resources should be taxed in Hawaii to benefit the State.

7 Accordingly, the purpose of this Act is to disallow the  
8 dividends paid deduction for real estate investment trusts.

9 SECTION 2. Section 235-2.3, Hawaii Revised Statutes, is  
10 amended by amending subsection (b) to read as follows:

11 "(b) The following Internal Revenue Code subchapters,  
12 parts of subchapters, sections, subsections, and parts of  
13 subsections shall not be operative for the purposes of this  
14 chapter, unless otherwise provided:

- 15 (1) Subchapter A (sections 1 to 59A) (with respect to  
16 determination of tax liability), except section  
17 1(h)(2) (relating to net capital gain reduced by the  
18 amount taken into account as investment income),  
19 except sections 2(a), 2(b), and 2(c) (with respect to  
20 the definition of "surviving spouse" and "head of  
21 household"), except section 41 (with respect to the



1 credit for increasing research activities), except  
2 section 42 (with respect to low-income housing  
3 credit), except sections 47 and 48, as amended, as of  
4 December 31, 1984 (with respect to certain depreciable  
5 tangible personal property), and except section  
6 48(d)(3), as amended, as of February 17, 2009 (with  
7 respect to the treatment of United States Department  
8 of Treasury grants made under section 1603 of the  
9 American Recovery and Reinvestment Tax Act of 2009).

10 For treatment, see sections 235-110.91, 235-110.7, and  
11 235-110.8;

12 (2) Section 78 (with respect to dividends received from  
13 certain foreign corporations by domestic corporations  
14 choosing foreign tax credit);

15 (3) Section 86 (with respect to social security and tier 1  
16 railroad retirement benefits);

17 (4) Section 91 (with respect to certain foreign branch  
18 losses transferred to specified 10-percent owned  
19 foreign corporations);

20 (5) Section 103 (with respect to interest on state and  
21 local bonds). For treatment, see section 235-7(b);



1 (6) Section 114 (with respect to extraterritorial income).

2 For treatment, any transaction as specified in the  
3 transitional rule for 2005 and 2006 as specified in  
4 the American Jobs Creation Act of 2004 section 101(d)  
5 and any transaction that has occurred pursuant to a  
6 binding contract as specified in the American Jobs  
7 Creation Act of 2004 section 101(f) are inoperative;

8 (7) Section 120 (with respect to amounts received under  
9 qualified group legal services plans). For treatment,  
10 see section 235-7(a)(9) to (11);

11 (8) Section 122 (with respect to certain reduced uniformed  
12 services retirement pay). For treatment, see section  
13 235-7(a)(3);

14 (9) Section 135 (with respect to income from United States  
15 savings bonds used to pay higher education tuition and  
16 fees). For treatment, see section 235-7(a)(1);

17 (10) Section 139C (with respect to COBRA premium  
18 assistance);

19 (11) Subchapter B (sections 141 to 150) (with respect to  
20 tax exemption requirements for state and local bonds);



- 1       (12) Section 151 (with respect to allowance of deductions  
2           for personal exemptions). For treatment, see  
3           section 235-54;
- 4       (13) Section 179B (with respect to expensing of capital  
5           costs incurred in complying with Environmental  
6           Protection Agency sulphur regulations);
- 7       (14) Section 181 (with respect to special rules for certain  
8           film and television productions);
- 9       (15) Section 196 (with respect to deduction for certain  
10          unused investment credits);
- 11       (16) Section 199 (with respect to the U.S. production  
12          activities deduction);
- 13       (17) Section 199A (with respect to qualified business  
14          income);
- 15       (18) Section 222 (with respect to qualified tuition and  
16          related expenses);
- 17       (19) Sections 241 to 247 (with respect to special  
18          deductions for corporations). For treatment, see  
19          section 235-7(c);



- 1       (20)   Section 250 (with respect to foreign-derived  
2            intangible income and global intangible low-taxed  
3            income);
- 4       (21)   Section 267A (with respect to certain related party  
5            amounts paid or accrued in hybrid transactions or with  
6            hybrid entities);
- 7       (22)   Section 280C (with respect to certain expenses for  
8            which credits are allowable). For treatment, see  
9            section 235-110.91;
- 10      (23)   Section 291 (with respect to special rules relating to  
11            corporate preference items);
- 12      (24)   Section 367 (with respect to foreign corporations);
- 13      (25)   Section 501(c)(12), (15), (16) (with respect to exempt  
14            organizations); except that section 501(c)(12) shall  
15            be operative for companies that provide potable water  
16            to residential communities that lack any access to  
17            public utility water services;
- 18      (26)   Section 515 (with respect to taxes of foreign  
19            countries and possessions of the United States);



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- 1       (27) Subchapter G (sections 531 to 565) (with respect to
- 2           corporations used to avoid income tax on
- 3           shareholders);
- 4       (28) Subchapter H (sections 581 to 597) (with respect to
- 5           banking institutions), except section 584 (with
- 6           respect to common trust funds). For treatment, see
- 7           chapter 241;
- 8       (29) Section 642(a) and (b) (with respect to special rules
- 9           for credits and deductions applicable to trusts). For
- 10          treatment, see sections 235-54(b) and 235-55;
- 11       (30) Section 646 (with respect to tax treatment of electing
- 12          Alaska Native settlement trusts);
- 13       (31) Section 668 (with respect to interest charge on
- 14          accumulation distributions from foreign trusts);
- 15       (32) Subchapter L (sections 801 to 848) (with respect to
- 16          insurance companies). For treatment, see sections
- 17          431:7-202 and 431:7-204;
- 18       (33) Section 853 (with respect to foreign tax credit
- 19          allowed to shareholders). For treatment, see
- 20          section 235-55;



1       (34) Section 853A (with respect to credits from tax credit  
2       bonds allowed to shareholders);

3       (35) Section 857(b)(2)(B) (with respect to the dividends  
4       paid deduction for real estate investment trusts);

5       ~~[(35)]~~ (36) Subchapter N (sections 861 to 999) (with respect  
6       to tax based on income from sources within or without  
7       the United States), except sections 985 to 989 (with  
8       respect to foreign currency transactions). For  
9       treatment, see sections 235-4, 235-5, and 235-7(b),  
10      and 235-55;

11      ~~[(36)]~~ (37) Section 1042(g) (with respect to sales of stock  
12      in agricultural refiners and processors to eligible  
13      farm cooperatives);

14      ~~[(37)]~~ (38) Section 1055 (with respect to redeemable ground  
15      rents);

16      ~~[(38)]~~ (39) Section 1057 (with respect to election to treat  
17      transfer to foreign trust, etc., as taxable exchange);

18      ~~[(39)]~~ (40) Sections 1291 to 1298 (with respect to treatment  
19      of passive foreign investment companies);

20      ~~[(40)]~~ (41) Subchapter Q (sections 1311 to 1351) (with  
21      respect to readjustment of tax between years and





1 special limitations), except for section 1341 (with  
2 respect to computation of tax where taxpayer restores  
3 substantial amount held under claim of right);  
4 ~~[(41)]~~ (42) Subchapter R (sections 1352 to 1359) (with  
5 respect to election to determine corporate tax on  
6 certain international shipping activities using per  
7 ton rate);  
8 ~~[(42)]~~ (43) Subchapter U (sections 1391 to 1397F) (with  
9 respect to designation and treatment of empowerment  
10 zones, enterprise communities, and rural development  
11 investment areas). For treatment, see chapter 209E;  
12 ~~[(43)]~~ (44) Subchapter W (sections 1400 to 1400C) (with  
13 respect to District of Columbia enterprise zone);  
14 ~~[(44)]~~ (45) Section 14000 (with respect to education tax  
15 benefits);  
16 ~~[(45)]~~ (46) Section 1400P (with respect to housing tax  
17 benefits);  
18 ~~[(46)]~~ (47) Section 1400R (with respect to employment  
19 relief);  
20 ~~[(47)]~~ (48) Section 1400T (with respect to special rules for  
21 mortgage revenue bonds);



1       ~~[(48)]~~ (49) Section 1400U-1 (with respect to allocation of  
2               recovery zone bonds);

3       ~~[(49)]~~ (50) Section 1400U-2 (with respect to recovery zone  
4               economic development bonds); and

5       ~~[(50)]~~ (51) Section 1400U-3 (with respect to recovery zone  
6               facility bonds)."

7       SECTION 3. Section 235-71, Hawaii Revised Statutes, is  
8       amended by amending subsection (d) to read as follows:

9       "(d) In the case of a real estate investment trust there  
10       is imposed on the taxable income, computed as provided in  
11       sections 857 and 858 of the Internal Revenue Code but with the  
12       changes and adjustments made by this chapter (without prejudice  
13       to the generality of the foregoing, for the taxable years  
14       beginning before January 1, 2026, the deduction for dividends  
15       paid is limited to ~~[such]~~ the amount of dividends as is  
16       attributable to income taxable under this chapter~~[+7]~~ and, for  
17       taxable years beginning after December 31, 2025, no deductions  
18       for dividends paid shall be allowed), a tax consisting in the  
19       sum of the following: 4.4 per cent if the taxable income is not  
20       over \$25,000, 5.4 per cent if over \$25,000 but not over  
21       \$100,000, and on all over \$100,000, 6.4 per cent. In addition



1 to any other penalty provided by law any real estate investment  
2 trust whose tax liability for any taxable year is deemed to be  
3 increased pursuant to section 859(b)(2)(A) or 860(c)(1)(A) after  
4 December 31, 1978, (relating to interest and additions to tax  
5 determined with respect to the amount of the deduction for  
6 deficiency dividends allowed) of the Internal Revenue Code shall  
7 pay a penalty in an amount equal to the amount of interest for  
8 which the trust is liable that is attributable solely to the  
9 increase. The penalty payable under this subsection with  
10 respect to any determination shall not exceed one-half of the  
11 amount of the deduction allowed by section 859(a), or 860(a)  
12 after December 31, 1978, of the Internal Revenue Code for the  
13 taxable year.

14 Notwithstanding the foregoing, beginning January 1, 2022,  
15 the department shall require a real estate investment trust  
16 subject to this chapter to:

- 17 (1) Notify the department, in the manner prescribed by the  
18 department, of its operation as a real estate  
19 investment trust in the State no later than fifteen  
20 days from the first day of operation in the State;  
21 provided that, for real estate investment trusts



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operating in the State as of July 1, 2021, the  
department shall be notified no later than January 15,  
2022;

(2) Properly designate on its tax return that it is a real  
estate investment trust, as required by the  
department;

(3) Complete its tax return in the specific manner  
required by the department, including following  
line-by-line instructions; and

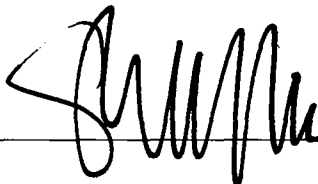
(4) Submit a copy of the real estate investment trust's  
federal tax return covering the same period with each  
state tax return that the real estate investment trust  
files with the department under this chapter.

Any real estate investment trust that fails to comply with these  
requirements shall be assessed a penalty of \$50 per day."

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

SECTION 5. This Act, upon its approval, shall apply to  
taxable years beginning after December 31, 2025.

INTRODUCED BY:




# S.B. NO. 2362

**Report Title:**

Income Tax; Real Estate Investment Trusts; Dividends Paid  
Deduction

**Description:**

Disallows the dividends paid deduction for real estate  
investment trusts.

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