

ACT 15

S.B. NO. 3114

A Bill for an Act Relating to Conformity to the Internal Revenue Code.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 235-2.3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) For all taxable years beginning after December 31, [1988,] 1989, as used in this chapter “Internal Revenue Code” means subtitle A, chapter 1 of the federal Internal Revenue Code of 1954 as amended as of December 31, [1988,] 1989, as it applies to the determination of gross income, adjusted gross income, ordinary income and loss, and taxable income except those provisions of the Internal Revenue Code and federal Public Law which pursuant to this chapter, this section, and sections 235-2.4 and 235-2.5 do not apply or are otherwise limited in application; provided that section 1202 (with respect to deductions for capital gains) of the Internal Revenue Code of 1954 as amended as of December 31, 1986, shall be operative for the purposes of this chapter until March 31, 1987, and shall apply to any capital gains properly taken before April 1, 1987, except that the deduction provided in section 1202(a) shall be fifty-five per cent of the net capital gain.

Sections 235-2, 235-2.1, and 235-2.2 shall continue to be used to determine (1) the basis of property, if a taxpayer first determined the basis of property in a taxable year to which such sections apply, and if such determination was made before January 1, 1978, and (2) gross income, adjusted gross income, ordinary income and loss, and taxable income for a taxable year to which such sections apply where such taxable year begins before January 1, 1978.”

SECTION 2. Section 235-7.5, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

“(g) Election to claim certain unearned income of child on parent’s return.

- (1) If:
 - (A) Any child to whom this section applies has gross income for the taxable year only from interest and dividends (including Alaska Permanent Fund dividends),
 - (B) Such gross income is more than \$500 and less than \$5,000,
 - (C) No estimated tax payments for such year are made in the name and social security number of such child, and no amount has been deducted and withheld under section 3406 (with respect to backup withholding) of the Internal Revenue Code, and
 - (D) The parent of such child (as determined under subsection (e)) elects the application of paragraph (2),
 such child shall be treated (other than for purposes of this paragraph) as having no gross income for such year and shall not be required to file a return under this chapter.
- (2) In the case of a parent making the election under this subsection:
 - (A) The gross income of each child to whom such election applies (to the extent the gross income of such child exceeds \$1,000) shall be included in such parent’s gross income for the taxable year,

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- (B) The tax imposed by this section for such year with respect to such parent shall be the amount equal to the sum of:
- (i) The amount determined under section 235-51 after the application of subparagraph (A), plus
 - (ii) For each such child, the lesser of \$75 or fifteen per cent of the excess of the gross income of such child over \$500.
- (3) The director shall prescribe such rules as may be necessary or appropriate to carry out the purposes of this subsection.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act, upon its approval, shall apply to taxable years beginning after December 31, 1989.

(Approved April 17, 1990.)