

ACT 99

H.B. NO. 2941

A Bill for an Act Relating to Individual Housing Accounts.

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

SECTION 1. Section 235-5.5, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) If the individual for whose benefit the individual housing account was established purchases a residential property in Hawaii with the distribution from the individual housing account [and thereafter]:

- (1) Before January 1, 1990, and if the individual sells in any manner or method or by use of any instrument conveying or transferring [such] the residential property, the gross income of the individual under this chapter for the taxable year in which the residential property is sold, conveyed, or transferred, whichever is applicable, shall include an amount equal to the amount of the distribution from the individual housing account, and in addition, the tax liability of the individual shall be increased by an amount equal to ten per cent of the distribution from the individual housing account.
- (2) After December 31, 1989, the individual shall report one-tenth of the total distribution from the individual housing account used to purchase the residential property as gross income in the taxable year in which the distribution is completed and in each taxable year thereafter until all of the distribution has been included in the individual’s gross income at the end of the tenth taxable year after the purchase of the residential property. If the individual sells in any

manner or method or by use of any instrument conveying or transferring the residential property, the gross income of the individual under this chapter for the taxable year in which the residential property is sold, conveyed, or transferred, whichever is applicable, shall include an amount equal to the amount of the distribution from the individual housing account not previously reported as gross income, and in addition, the tax liability of the individual shall be increased by an amount equal to ten per cent of the distribution from the individual housing account.

An individual who purchased a residential property in Hawaii with the distribution from an individual housing account before January 1, 1990, who is subject to paragraph (1) may elect to report as provided in paragraph (2). The election shall be made before January 1, 1991. If the individual makes the election, the individual shall report one-tenth of the total distribution from the individual housing account as gross income in the taxable year in which the election occurs and in each taxable year thereafter until all of the distribution has been included in gross income as provided by paragraph (2). If the individual making the election sells the residential property in any manner as provided in paragraph (2), then the individual shall include as income the amount of the distribution not previously reported as income and increase the individual's tax liability as provided in the second sentence of paragraph (2)."

SECTION 2. Section 235-5.5, Hawaii Revised Statutes, is amended by amending subsection (g) as follows:

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

- (1) The payment or distribution is attributable to the individual dying or becoming totally disabled; or
- (2) Residential property subject to subsection (f) is transferred by will or by operation of law or sold due to the death or total disability of an individual or individual's spouse,

subject to the following:

An individual shall not be considered to be totally disabled unless proof is furnished of the total disability in the form and manner as the director may require.

Upon the death of an individual for whose benefit an individual housing account has been established, the funds in the account shall be payable to the estate of the individual; provided that if the account was held jointly by the decedent and a spouse of the decedent, the account shall terminate and be paid to the surviving spouse; or, if the surviving spouse so elects, [such] the spouse may continue the account as an individual housing account. Upon the total disability of an individual for whose benefit an individual housing account has been established, the individual or the individual's authorized representative may elect to continue the account or terminate the account and be paid the assets; provided that if the account was held jointly by a totally disabled person and a spouse of [such] that person, then the [spouses] spouse or an authorized representative may elect to continue the account or terminate the account and be paid the assets.”

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 May 31, 1990.)