

ACT 24

S.B. NO. 1702

A Bill for an Act Relating to Taxation.

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

SECTION 1. Chapter 235, Hawaii Revised Statutes, is amended by adding a new section to part VII to be appropriately designated and to read as follows:

“§235- Transition rule. (a) A corporation for which an S election was in effect for federal purposes but not for Hawaii purposes for the taxable period immediately preceding the taxable period beginning after December 31, 1989, may elect before December 31, 1992, not to have section 235-125(a) apply to carryforwards from taxable periods preceding the taxable period beginning after December 31, 1989, for which a Hawaii S election was not in effect. An election pursuant to this section shall be applicable to all such carryforward items.

(b) A net operating loss carryforward subject to an election under this section shall be allowed as a deduction in computing S corporation taxable income after all other items of income and deductions have been taken into account in accordance with this part and shall not reduce S corporation taxable income below zero.

(c) A carryforward, other than a net operating loss carryforward, subject to an election under this section shall be taken into account by the corporation in computing taxable income as though an S election were not in effect for the year. In computing taxable income under this subsection, the allowance of a deduction for a net operating loss carryforward shall be determined in accordance with subsection (b).

(d) No carryforwards subject to the election under this section may be carried forward to a C corporation year within the meaning of Internal Revenue Code section 1371(b).

(e) An election pursuant to this section shall be made on a timely filed (including extension) S corporation income tax return for the first taxable period beginning after December 31, 1989, or an amended return filed before December 31, 1992. A copy of the election shall be attached to the S corporation tax return for each year to which the carryforward is carried.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act, upon its approval, shall apply to tax years beginning after December 31, 1989.

(Approved April 17, 1991.)

**Note**

1. Edited pursuant to HRS §23G-16.5.