

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 to read as follows:

“§235-2.3 Conformance to the federal Internal Revenue Code; general application. (a) For all taxable years beginning after December 31, [1989,] 1990, 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, [1989,] 1990, 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.

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

- (1) Subchapter A (sections 1 to 59A) (with respect to determination of tax liability), except section 42 (with respect to the low-income housing credit), except sections 47 and 48, as amended, as of December 31, 1984 (with respect to certain depreciable tangible personal property), and except section 51 (with respect to the targeted jobs credit). For treatment, see sections 235-110.7, 235-110.8, and 235-55.91.
- (2) Section 78 (with respect to dividends received from certain foreign corporations by domestic corporations choosing foreign tax credit).
- (3) Section 86 (with respect to social security and tier 1 railroad retirement benefits).
- (4) Section 103 (with respect to interest on state and local bonds). For treatment, see section 235-7(b).
- (5) Section 120 (with respect to amounts received under qualified group legal services plans). For treatment, see [sections 235-2.4 and] section 235-7(a)(9) to (11).
- (6) Section 122 (with respect to certain reduced uniformed services retirement pay). For treatment, see section 235-7(a)(3).
- (7) Section 135 (with respect to income from United States saving bonds used to pay higher education tuition and fees). For treatment, see section 235-7(a)(1).

- (8) Subchapter B (sections 141 to 150) (with respect to tax exemption requirements for state and local bonds).
- (9) Section 151 (with respect to allowance of deductions for personal exemptions). For treatment, see section 235-54.
- (10) Section 196 (with respect to deduction for certain unused investment credits).
- (11) [Subchapter B, part VIII (sections] Sections 241 to [250)] 247 (with respect to special deductions for corporations)[, except sections 248 (with respect to organizational expenditures) and 249 (with respect to limitation on deduction of bond premium on repurchase)]. For treatment, see section 235-7(c).
- (12) Section 269A (with respect to personal service corporations formed or availed of to avoid or evade income tax).
- (13) Section 280C (with respect to certain expenses for which credits are allowable).
- [(14) Section 280D, (with respect to portion of chapter 45 taxes for which credit or refund is allowable under section 6429).
- (15) (14) Section 291 (with respect to special rules relating to corporate preference items).
- [(16) (15) Section 367 (with respect to foreign corporations).
- [(17) (16) Section 501(c)(12), (15), (16) (with respect to exempt organizations).
- [(18) (17) Section 515 (with respect to taxes of foreign countries and possessions of the United States).
- [(19) (18) Section 521 (with respect to exemption of farmers cooperatives from tax). For treatment, see section 421-23.
- [(20) (19) Subchapter G (sections 531 to 565) (with respect to corporations used to avoid income tax on shareholders).
- [(21) (20) Subchapter H (sections 581 to 597) (with respect to banking institutions). For treatment, see chapter 241.
- [(22) (21) Section 642(a), (b), and (d) (with respect to special rules for credits and deductions).
- [(23) (22) Section 668 (with respect to interest charge on accumulation distributions from foreign trusts).
- [(24) (23) Subchapter L (sections 801 to [847]) 848 (with respect to insurance companies). For treatment, see sections 431:7-202 and 431:7-204.
- [(25) (24) Section 853 (with respect to foreign tax credit allowed to shareholders). For treatment, see section 235-55.
- [(26) (25) Subchapter N (sections 861 to 999) (with respect to tax based on income from sources within or without the United States), except part IV (sections 991 to 997) (with respect to domestic international sales corporations). For treatment, see sections 235-4, 235-5, and 235-7(b).
- [(27) (26) Section 1055 (with respect to redeemable ground rents).
- [(28) (27) Section 1057 (with respect to election to treat transfer to foreign trust, etc., as taxable exchange).
- [(29) (28) Subchapter Q (sections 1311 to 1351) (with respect to readjustment of tax between years and special limitations).
- [(30) (29) Subchapter T (sections 1381 to 1388) (with respect to cooperatives and their patrons). For treatment, see chapter 421.”

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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,
 - (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] \$10 or [fifteen] two 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, 1990.

(Approved April 26, 1991.)