

ACT 45

S.B. NO. 1195

A Bill for an Act Relating to Taxpayer Communication Confidentiality Privileges.
Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 231, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§231- Confidentiality privileges relating to taxpayer communications. Section 7525 (with respect to confidentiality privileges relating to taxpayer communications) of the Internal Revenue Code shall be operative for the purposes of this title. All references to Internal Revenue Code sections within section 7525 shall be operative for purposes of this section. The term “Internal Revenue Service” as used in section 7525(a)(2)(A) means the department; the term “federal court” as used in section 7525(a)(2)(B) means state court; and the term “United States” as used in section 7525(a)(2)(B) means State.”

SECTION 2. Section 235-2.45, Hawaii Revised Statutes, is amended to read as follows:

“§235-2.45 Operation of certain Internal Revenue Code provisions; sections 641 to [7525;] 7518. (a) Section 641 (with respect to imposition of tax) of the Internal Revenue Code shall be operative for the purposes of this chapter subject to the following:

- (1) The deduction for exemptions shall be allowed as provided in section 235-54(b);
- (2) The deduction for contributions and gifts in determining taxable income shall be limited to the amount allowed in the case of an individual, unless the contributions and gifts are to be used exclusively in the State; and
- (3) The tax imposed by section 1(e) of the Internal Revenue Code as applied by section 641 of the Internal Revenue Code is hereby imposed by this chapter at the rate and amount as determined under section 235-51 on estates and trusts.

(b) Section 667 (with respect to treatment of amounts deemed distributed by trusts in preceding years) of the Internal Revenue Code shall be operative for the purposes of this chapter and the tax imposed therein is hereby imposed by this chapter at the rate determined under this chapter; except that the reference to tax-exempt interest to which section 103 of the Internal Revenue Code applies in section 667(a) of the Internal Revenue Code shall instead be a reference to tax-exempt interest to which section 235-7(b) applies.

(c) Section 685 (with respect to treatment of qualified funeral trusts) of the Internal Revenue Code shall be operative for purposes of this chapter, except that the tax imposed under this chapter shall be computed at the tax rates provided under section 235-51, and no deduction for the exemption amount provided in section 235-54(b) shall be allowed. The cost-of-living adjustment determined under section 1(f)(3) of the Internal Revenue Code shall be operative for the purpose of applying section 685(c)(3) under this chapter.

(d) Section 704 of the Internal Revenue Code (with respect to a partner’s distributive share) shall be operative for purposes of this chapter; except that[,] section 704(b)(2) shall not apply to allocations of low-income housing tax credits among partners under section 235-110.8.

(e) Section 704 of the Internal Revenue Code (with respect to a partner's distributive share) shall be operative for purposes of this chapter; except that ~~[[section 704(b)(2)]]~~ shall not apply to allocations of the high technology business investment tax credit allowed by section 235-110.9.

(f) Section 1212 (with respect to capital loss carrybacks and carryforwards) of the Internal Revenue Code shall be operative for the purposes of this chapter; except that for the purposes of this chapter the capital loss carryback provisions of section 1212 shall not be operative and the capital loss carryforward allowed by section 1212(a) shall be limited to five years.

(g) Subchapter S (sections 1361 to 1379) (with respect to tax treatment of S corporations and their shareholders) of chapter 1 of the Internal Revenue Code shall be operative for the purposes of this chapter as provided in part VII.

(h) Section 6015 (with respect to relief from joint and several liability on joint return) of the Internal Revenue Code is operative for purposes of this chapter.

(i) Subchapter C (sections 6221 to 6233) (with respect to tax treatment of partnership items) of chapter 63 of the Internal Revenue Code shall be operative for the purposes of this chapter.

(j) Subchapter D (sections 6240 to 6255) (with respect to simplified audit procedures for electing large partnerships) of the Internal Revenue Code shall be operative for the purposes of this chapter, with due regard to chapter 232 relating to tax appeals.

(k) Section 6511(h) (with respect to running of periods of limitation suspended while taxpayer is unable to manage financial affairs due to disability) of the Internal Revenue Code shall be operative for purposes of this chapter, with due regard to section 235-111 relating to the limitation period for assessment, levy, collection, or credit.

(l) Section 7518 (with respect to capital construction fund for commercial fishers) of the Internal Revenue Code shall be operative for the purposes of this chapter. Qualified withdrawals for the acquisition, construction, or reconstruction of any qualified asset that is attributable to deposits made before the effective date of this section shall not reduce the basis of the asset when withdrawn. Qualified withdrawals shall be treated on a first-in-first-out basis.

~~[(m) Section 7525 (with respect to confidentiality privileges relating to taxpayer communications) of the Internal Revenue Code shall be operative for the purposes of this chapter. All references to Internal Revenue Code sections within section 7525 of the Internal Revenue Code shall be operative for purposes of this section. The term "Internal Revenue Service" as used in section 7525(a)(2)(A) of the Internal Revenue Code means the department; the term "federal court" as used in section 7525(a)(2)(B) means state court; and the term "United States" as used in section 7525(a)(2)(B) means State.]~~

SECTION 3. Statutory material to be repealed is bracketed.¹ New statutory material is underscored.²

SECTION 4. This Act, upon its approval, shall apply to taxable years beginning after December 31, 2000.

(Approved April 26, 2001.)

Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.