

A Bill for an Act Relating to Conformity of the Hawaii Income Tax Law 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, [2006,] 2007, as used in this chapter, “Internal Revenue Code” means subtitle A, chapter 1, of the federal Internal Revenue Code of 1986, as amended as of December 31, [2006,] 2007, 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 laws which, pursuant to this chapter, do not apply or are otherwise limited in application and except for the provisions of Public Law 109-001 which apply to section 170 of the Internal Revenue Code. The provisions of Public Law 109-001 to accelerate the deduction for charitable cash contributions for the relief of victims of the 2004 Indian Ocean tsunami are applicable for the calendar year that ended December 31, 2004, and the calendar year ending December 31, 2005.

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 235-2.4, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

“(g) Section 179 (with respect to the election to expense certain depreciable business assets) of the Internal Revenue Code shall be operative for purposes of this chapter, except that provisions relating to:

- (1) The increase of the maximum deduction to \$100,000 for taxable years beginning after 2002 and before 2008, and the increase of the maximum deduction to \$125,000 for taxable years beginning after 2006 and before 2011, in section 179(b)(1);
- (2) The increase of the qualifying investment amount to \$400,000 for taxable years beginning after 2002 and before 2008, and the increase of the qualifying investment amount to \$500,000 for taxable years beginning after 2006 and before 2011, in section 179(b)(2);
- (3) Defining section 179 property to include computer software in section 179(d)(1);
- (4) Inflation adjustments in section 179(b)(5); and
- (5) Irrevocable election in section 179(c)(2);

shall not be operative for the purposes of this chapter.”

SECTION 3. Section 235-2.45, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

“(g) Section 1400N (with respect to tax benefits for Gulf Opportunity Zone) of the Internal Revenue Code shall be operative for the purposes of this chapter, except that sections 1400N(a) (with respect to tax-exempt bond financing); 1400N(b) (with respect to advance refundings of certain tax-exempt bonds); 1400N(c) (with

respect to the low income housing credit); 1400N(d) (with respect to special allowance for certain property acquired on or after August 28, 2005); 1400N(e) (with respect to increase in expensing under section 179); 1400N(h) (with respect to increase in rehabilitation credit); 1400N(l) (with respect to credit to holders of Gulf tax credit bonds); 1400N(m) (with respect to application of new markets tax credit to investments in community development entities serving Gulf Opportunity Zone); 1400N(n) (with respect to treatment of representations regarding income eligibility for purposes of qualified residential rental project requirements) shall not be operative for purposes of this chapter.”

SECTION 4. Section 235-2.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Reference in provisions of the Internal Revenue Code which are operative in this State to provisions in the Internal Revenue Code which are not operative in this State shall be considered inoperative for the purposes of determining gross income, adjusted gross income, ordinary income and loss, and taxable income; provided that:

- (1) References to time limits and other administrative provisions in subtitle F (sections 6001 to 7873) of the Internal Revenue Code contained in operative sections of the Internal Revenue Code shall be deemed references to applicable provisions of this chapter or chapter 231 or 232, and in the absence of applicable provisions in this chapter or chapter 231 or 232, then to rules adopted by the director of taxation under subsection (b);
- (2) If inoperative provisions of the Internal Revenue Code have been codified in this chapter such references shall be deemed references to the codified provisions in this chapter. Transitory and savings provisions in federal Public Laws amending sections of the Internal Revenue Code operative in this chapter shall be operative for the purposes of this chapter. Provisions in this chapter or chapter 231 or 232 in conflict with the Internal Revenue Code or transitory or savings provisions in federal Public Law shall control; and
- (3) Retroactive and prospective provisions in federal Public Laws amending sections of the federal Internal Revenue Code operative in this chapter affecting taxable years beginning or ending before the December 31 date in section 235-2.3 shall be operative for the purposes of this chapter; provided that the effective dates in Public Law 96-471 placing it in effect for the taxable year 1980 shall be operative for the purposes of this chapter.”

SECTION 5. Section 235-55.91, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) For purposes of this section:

“Hiring date” means the day the vocational rehabilitation referral is hired by the employer.

“Qualified first-year wages” means, with respect to any vocational rehabilitation referral, qualified wages attributable to service rendered during the one-year period beginning with the day the individual begins work for the employer.

“Qualified wages” means the wages paid or incurred by the employer during the taxable year to an individual who is a vocational rehabilitation referral and more than one-half of the wages paid or incurred for such an individual is for services performed in a trade or business of the employer.

“Vocational rehabilitation referral” means any individual who is certified by the department of human services vocational rehabilitation and services for the blind

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division in consultation with the Hawaii state employment service of the department of labor and industrial relations as:

- (1) Having a physical or mental disability which, for such individual, constitutes or results in a substantial handicap to employment; and
- (2) Having been referred to the employer upon completion of (or while receiving) rehabilitative services pursuant to:
  - (A) An individualized written rehabilitation plan under the State's plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973, as amended; ~~or~~
  - (B) A program of vocational rehabilitation carried out under chapter 31 of ~~title~~ Title 38, United States Code[-]; or
  - (C) An individual work plan developed and implemented by an employment network pursuant to subsection (g) of section 1148 of the Social Security Act, as amended, with respect to which the requirements of such subsection are met.

“Wages” has the meaning given to such term by section 3306(b) of the Internal Revenue Code (determined without regard to any dollar limitation contained in the Internal Revenue Code section). “Wages” shall not include:

- (1) Amounts paid or incurred by an employer for any period to any vocational rehabilitation referral for whom the employer receives state or federally funded payments for on-the-job training of the individual for the period;
- (2) Amounts paid to an employer (however utilized by the employer) for any vocational rehabilitation referral under a program established under section 414 of the Social Security Act; and
- (3) If the principal place of employment is at a plant or facility, and there is a strike or lockout involving vocational rehabilitation referrals at the plant or facility, amounts paid or incurred by the employer to the vocational rehabilitation referral for services which are the same as, or substantially similar to, those services performed by employees participating in, or affected by, the strike or lockout during the period of strike or lockout.”

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval and shall apply to taxable years beginning after December 31, 2007; provided that the retroactive and prospective effective dates contained in the congressional acts relating to the Internal Revenue Code and enacted during 2007 shall be operative for chapter 235, Hawaii Revised Statutes.

(Approved May 22, 2008.)