

ACT 45

S.B. NO. 1203

A Bill for an Act Relating to Conformity of the Hawaii Estate and Generation-Skipping Transfer Tax Law to the Internal Revenue Code.

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

SECTION 1. The purpose of this Act is to conform the Hawaii estate and generation-skipping transfer tax law to the Internal Revenue Code. On January 2, 2013, Public Law 112-240, also known as the American Taxpayer Relief Act of 2012, was enacted by the federal government. Public Law 112-240 included many provisions that extended tax features that expired or were set to expire. By adopting the Internal Revenue Code as amended as of January 2, 2013, instead of December 31, 2012, Hawaii estate and generation-skipping transfer tax law will conform more closely to the Internal Revenue Code as the stated legislative intent in section 236E-5, Hawaii Revised Statutes, suggests.

SECTION 2. Section 236E-3, Hawaii Revised Statutes, is amended to read as follows:

**“[§236E-3] Conformance to the Internal Revenue Code; general application.** For all decedents dying after January 25, 2012, as used in this chapter, “Internal Revenue Code” means subtitle B of the federal Internal Revenue Code of 1986, as amended as of ~~December 31, 2011,~~ January 2, 2013, as it applies to the determination of gross estate, adjusted gross estate, federal taxable estate, and generation-skipping transfers, except those provisions of the Internal Revenue Code and federal public laws that, pursuant to this chapter, do not apply or are otherwise limited in application.”

SECTION 3. Section 236E-4, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The department shall submit to the legislature, no later than twenty days prior to the convening of each regular session, proposed legislation to amend section 236E-3 and any other sections and subsections of this chapter as may be necessary to adopt the Internal Revenue Code as it exists on ~~the December 31 preceding the regular session.~~ January 2, 2013. In submitting the proposed legislation, the department may provide that certain amendments made to the Internal Revenue Code by Congress during the preceding calendar year shall not be operative in this State or shall be limited in their operation. The department shall also prepare a digest and explanation of the amended provisions of the Internal Revenue Code recommended for operation, as well as those provisions that are recommended to be limited in their operation, or that are not recommended for operation, and shall submit with the proposed legislation required by this subsection the digest, explanation, and a statement of revenue impact of the adoption of the proposed legislation. In preparing the proposed legislation, digest, and explanation, the department may request the assistance of the legislative reference bureau.

It is the intent of the legislature to adopt all amendments made to the Internal Revenue Code during the calendar year preceding each regular session; provided that the legislature may choose to adopt none of the amendments to the Internal Revenue Code or may provide that certain amendments are limited in their operation.

All provisions of the Internal Revenue Code referred to in this chapter that apply to a husband and wife, spouses, or persons in a legal marital relationship shall be deemed to apply in this chapter to partners in a civil union with the same force and effect as if they were “husband and wife”, “spouses”, or other terms that describe persons in a legal marital relationship.”

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved April 23, 2013.)