

ACT 89

H.B. NO. 1041

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. The purpose of this Act is to conform Hawaii income and estate and generation-skipping transfer tax laws to the Internal Revenue Code.

SECTION 2. 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, ~~[2019,]~~ 2020, as used in this chapter, except as provided in this section and section 235-2.35, “Internal Revenue Code” means subtitle A, chapter 1, of the federal Internal Revenue Code of 1986, as amended as of ~~[March 27, 2020,]~~ December 31, 2020, 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 which, pursuant to this chapter, do not apply or are otherwise limited in application.

Sections 276(b)(1) (relating to subsequent paycheck protection program loans), 277 (relating to emergency financial aid grants), 278(b)(1) (relating to emergency EIDL grants and targeted EIDL advances), 278(c)(1) (relating to subsidy for certain loan payments), and 278(d)(1) (relating to grants for shuttered venue operators) of Division N of Public Law 116-260 shall be operative for purposes of this chapter. Sections 213 (relating to modification of limitations on charitable contributions) and 214 (relating to temporary special rules for health and dependent care flexible spending arrangements) of Division EE of Public Law 116-260 shall be operative for purposes of this chapter. Sections 301, 302, and 304 (relating to disaster tax relief) of Division EE of Public Law 116-260 shall be operative for purposes of this chapter. No amount received under section 272 (relating to additional 2020 recovery rebates for individuals) of Division N of Public Law 116-260 shall be included in gross income for purposes of this chapter.

Sections ~~[1106(i)(relating]~~ 1106(i) (relating to exclusion of loan forgiveness from gross income), ~~[2202(b)(relating]~~ 2202(b) (relating to loans from retirement plans), and 2205 (relating to charitable contributions) of Public Law 116-136 shall be operative for purposes of this chapter. No amount received

under section 2201 (relating to recovery rebates) of Public Law 116-136 shall be included in gross income for purposes of this chapter.

Prior law 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 prior law applies; and
- (2) Gross income, adjusted gross income, ordinary income and loss, and taxable income for a taxable year to which prior law applies.”

SECTION 3. 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, or transfers occurring, after December 31, ~~[2019;]~~ 2020, 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, ~~[2019;]~~ 2020, 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 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; provided that:

- (1) Section 2 shall apply to taxable years beginning after December 31, 2020; and
- (2) Section 3 shall apply to decedents dying or taxable transfers occurring after December 31, 2020.

(Approved June 25, 2021.)