

2009 Tax Acts

Administrative Proposals			
Dept/No.	Description	Senate	House
TAX-01	<p>INCOME - Annual conformity measure that would update references to the federal Code within subtitle A of Chapter 1. Provides that the following sections of the Internal Revenue Code (IRC) shall not be operable for Hawaii income tax purposes: sections 63(c)(1)(B) (relating to the additional standard deduction), 63(c)(1)(C) (relating to the real property tax deduction), 63(c)(1)(D) (relating to the disaster loss deduction), 63(c)(4) (relating to inflation adjustments), 63(c)(7) (defining the real property tax deduction), 63(c)(8) (defining the disaster loss deduction), and 63(f) (relating to additional amounts for the aged or blind). The motor vehicle sales tax deduction provisions under IRS section 63(c)1(E) shall be operative for Hawaii income tax purposes.</p> <p>IRC section 165 (with respect to losses) shall be operative for Hawaii income tax purposes except that the amount prescribed by section 165(h)(1) (relating to the limitation per casualty) shall be a \$100 limitation per casualty, and sections 165(h)(3)(A) and 165(h)(3)(B) (both of which relate to special rules for losses in federally declared disasters) shall not be operative for purposes of this chapter.</p> <p>IRC section 172 (with respect to net operating loss deductions) shall be operative as further provided in section HRS 235-7(d), except that sections 172(b)(1)(J) and 172(j) (both of which relate to qualified disaster losses) of the Internal Revenue Code shall not be operative for purposes of this chapter.</p> <p>The increase in IRC Section 179 (with respect to the election to expense certain depreciable business assets) dollar amounts to \$250,000 for tax years beginning after 2008, the increase in section 179 investment limitation to \$800,000 for tax years beginning after 2008, the special rules for qualified disaster assistance property in section 179(e) shall not be operative for purposes of this chapter.</p> <p>IRC section 198A (with respect to the expensing of qualified disaster assistance expenses) shall not be operative for purposes of this chapter.</p> <p>IRC section 451 (which provided general rules for taxable year of inclusion) shall be operative, except that the provisions of 451(i)(3) and 451(i)(6) as they relate to a qualified electric utility shall not be operative for purposes of this chapter.</p> <p>IRC section 1221 (with respect to the definition of capital assets) shall be operative except that the provisions of section 301 of Public Law 110-343, which provides that gain or loss from the sale or exchange of any applicable preferred stock by any applicable financial institution (such terms being defined by Public Law 110-343) shall be treated as ordinary income or loss, shall not be operative. A sale or exchange of any applicable preferred stock by any applicable financial institution (as those terms are defined by section 301 of Public Law 110-343) shall be treated as a sale of a capital asset and taxed accordingly.</p> <p>Provides that IRC section 6501(e) (with respect to limitation on assessment and collection where there is a substantial omission of items) shall be operative for Hawaii income tax purposes.</p> <p>This measure takes effect on July 1, 2009.</p>	971, CD-1 Act 133 6/18/09	

TAX-02	ADMINISTRATION - Establishes a special enforcement section to investigate "cash-based" businesses that are not paying their fair share of taxes. The measure is aimed at reducing the "tax gap" for Hawaii which according to the purpose clause of the measure is estimated to be \$2 billion in unreported and unpaid taxes each year with \$1 billion attributed to the cash economy.	972, CD-1 Act 134 6/18/09	
BUF-13	MISCELLANEOUS - Transfers moneys determined to be in excess of the requirements of the various special funds to the general fund. Among the more notable funds being raided are the enhanced 911 fund, the beverage deposit fund, and the dwelling unit revolving fund. Repeals central service and administrative fee exemptions and transfers interest earned from short-term investment or deposit of moneys of certain special or revolving funds or special accounts into the general fund until 7/1/15.	884, CD-1 Act 79 5/28/09	

Legislative Tax Proposals

TAX	Bill No.	Description	Status
ADMIN.	SB 1327, HD-1	Reduces the amount of interest payable on any overpayment of tax from two-thirds of one percent each month or fraction thereof, to one-third of one percent for each month or fraction thereof, applicable to claims for refund made on or after 1/1/09	Act 40 5/5/09
	SB 1461, CD-2	Provides that taxpayers who are required to file a return electronically or remit any federal taxes electronically with the federal government to also electronically file a state return and electronically remit their taxes to the state. Requires an employer who is required to remit any withheld taxes to the federal government on a semi-weekly schedule to also remit any withheld taxes due to the state on a semi-weekly schedule. Advances the date of the filing of monthly, quarterly, and semi-annual general excise tax returns from the last day of the calendar, quarter, or semi-annual month to the 20th day. Also extends the general excise tax exemption for amounts received by a timeshare association and by the suboperator of a hotel from a timeshare association or from the operator of the hotel that are disbursed for employee wages, salaries, payroll taxes, insurance premiums and benefits from 12/31/09 to 12/31/10 and provides that the exemption shall not exceed \$400,000 per taxable year ending on or between 1/1/10 and 1/1/11.	Act 196 7/15/09
INCOME	SB 199, CD-2	Provides that for tax years beginning on 1/1/09 and ending on 12/31/10, any tax credit claimed under HRS sections 235-110.51, 235-110.9, 241-4.8 or 431-7-209, shall not exceed 80% of a taxpayer's tax liability for the taxable year in which the credit is claimed and any tax credit claimed shall not result in any credit carryovers for any investments made on or after 5/1/09. The partner distributive share tax incentive shall not be applicable to investments made after 5/1/09. Suspends the capital goods excise tax credit between 1/1/09 and 12/31/09. Provides that the investment tax credit allocation ratio of 1 to 1 shall be applicable to investments made on or after 5/1/09 and shall be subject to the 80% limitation.	Act 178 7/16/09
	SB 464, CD-2	Provides that a taxpayer may claim a refundable tax credit for a solar energy or solar electric energy system if the taxpayer claims a reduction in the amount of credit by 30%. Reduces the tax credit for certain energy systems used to meet the substitute renewable energy technology requirements for single-family residential properties. Also allows a taxpayer with tax-exempt pension income, or a taxpayer filing single or married filing single with an adjusted gross income of \$20,000 or less, or a taxpayer who is married, a head of household, or qualifying widower with a dependent child and has an adjusted gross income of \$40,000 or less to claim a refundable tax credit for any renewable energy system. (See HB 1464, CD-1)	Act 154 6/25/09
	HB 35, CD-1	Proposes a general tax refund credit of \$1 per qualified exemption to satisfy the constitutional mandate requiring the refund of excess revenues to taxpayers for the 2009 tax year	Act 84 6/2/09

HB 1464, CD-1	Clarifies the state renewable tax credits: (1) relating to wind energy systems to provide that if all or a portion of the system is used to fulfill the substitute renewable energy requirement pursuant to HRS section 196-6.5(a)(3), then the credit shall be reduced by 20% of the actual system cost or \$1,500, whichever is less; and (2) relating to photovoltaic energy systems to provide that if all or a portion of the system is used to fulfill the substitute renewable energy requirement pursuant to HRS section 196-6.5(a)(3), then the credit shall be reduced by 35% of the actual system cost or \$2,250, whichever is less. (See SB 464, CD-2)	Act 155 6/25/09
HB 1495, CD-1	Repeals the deduction for wagering losses under the state income tax, applicable to tax years beginning after 12/31/08	Act 165 7/1/09
HB 1544, CD-1	Provides that the phase out of the personal exemption under IRC section 151(d)(3) shall be operable for Hawaii income tax purposes, provided that the threshold income amounts under IRC section 151(d)(3)(C) shall be reduced by 25% for Hawaii income tax purposes. The threshold income amounts used to determine the reduction shall be the amounts in place on 7/1/08. This act shall be repealed on 6/30/15.	Vetoed 7/15/09 Override Act 14 Spec. Sess 7/15/09
HB 1550, CD-1	Provides that in administering IRC section 403 (with respect to taxation of employee annuities), section 403(b)(8)(A) shall not be operative for state income tax purposes when funds that represent pre-tax employee deferrals or contributions are used solely to obtain retirement credits under the state employee retirement system. Also provides that in administering IRC section 457 (with respect to rollover amounts in deferred compensation plans for state and local governments), section 457(16)(A) shall not be operative for state income tax purposes when such funds that represent pre-tax employee deferrals or contributions are used solely to obtain retirement credits under the state employee retirement system. Applicable to tax years beginning after 12/31/08.	Act 181 7/15/09
HB 1739, CD-1	Establishes penalties for: (1) the understatement of a taxpayer's tax liability by a tax preparer, similar to those on the federal level, for persons who prepare tax returns for compensation; (2) the promotion of abusive tax shelters; and (3) the filing of a claim for refund or credit that is an excessive amount and provides that the person filing such claim shall be subject to a penalty of 20% of the excessive amount. A tax of 20% shall be added to any tax due if it is determined that the tax paid is substantially understated. Extends the statute of limitations for six years after the filing of a return for the omission of information to allow the department of taxation to recover unpaid taxes. Also provides that income, general excise, TAT, use, fuel, conveyance, rental motor vehicle and tour vehicle surcharge tax, nursing facility tax, and insurance premiums taxes may be collected by levy or court proceeding within 15 years after the assessment of the tax if the tax was imposed within the three-year period of limitation. Allows the department of taxation to issue a "John Doe Summons" similar to that on the federal level. The measure also adopts provisions for the failure to collect and pay withholding taxes and provides that such failure shall constitute a class C felony.	Act 166 7/1/09
HB 1747, CD-1	Increases income tax rates for tax years beginning after 12/31/08 as follows: Joint, 9.0% over \$300,000 to 11% over \$400,000 of taxable income; Head of Household, 9.0% over \$225,000 to 11% over \$300,000 of taxable income; Individuals, 9.0% over \$150,000 to 11% over \$200,000 of taxable income. Repeals this measure on 12/31/15. Also increases the standard deduction to \$4,400 for joint returns or surviving spouses, \$3,212 for head of households; \$2,200 for individuals or married taxpayers filing separately and the personal exemption to \$1,144 for tax years beginning after 12/31/10. Repeals this act on 12/31/15.	Vetoed 5/7/09 Override Act 60 5/8/09

GENERAL EXCISE	SB 427, CD-1	Clarifies that amounts received by a managed care support coordinator of the TRICARE program established under the 10 United States Code chapter 55 for reimbursement of costs or advances made pursuant to a contract with the United States shall be exempt from general excise taxation between 7/1/09 and 12/31/13	Act 70 5/22/09
	SB 1678 CD-1	Conforms Hawaii's general excise tax law to the Streamlined Sale and Use Tax provisions by reorganizing Hawaii's general excise tax law to establish separate chapters to impose: (1) the 0.5% rate on wholesale transactions; (2) provide for the taxation of importation of property, services and contracting; (3) taxation of insurance producers taxed at 0.15%. Also adds several new sections to HRS chapter 237 to establish sourcing rules to determine when a product or service is taxed, including telecommunication services. Adds several sections to HRS chapter 255D to establish provisions relating to the determination of the proper general excise or use tax between different tax jurisdictions, rounding on tax computations, amnesty for registered sellers who pay, collect, or remit general excise or use taxes in accordance with the terms of the Streamlined Sale and Use Tax Agreement, tax rate changes by a county, certified service provider, confidentiality of records, and liability for uncollected taxes and rate changes. This act shall take effect when the U.S. Congress enacts legislation overturning <i>Quill v. North Dakota</i> , 504 U.S. 298 (1992), by consenting to the Streamlined Sales and Use Tax Agreement. Also establishes a committee to oversee the department of taxation's implementation, administration, and compliance of the Streamlined Sales and Use Tax Agreement.	Vetoed 7/15/09
	HB 1405, CD-1	Provides that the sale of tangible personal property or services by a person soliciting business through an independent contractor or representative if the person enters into an agreement with a resident of this state under which the resident, for a commission or other consideration, refers potential customers to the person, whether by a link on an internet website or otherwise, and if the cumulative gross receipts from sales by the person to customers in the state who are referred to the person by such a resident is in excess of \$10,000 in the 12-month period ending on the last day of the most recent calendar quarter before the calendar quarter in which the sale is made, shall be taxable under the general excise tax. Also adds provisions to create a nexus standard for taxing out-of-state businesses on their business activities in the state.	Vetoed 7/1/09
TAT	SB 1111, CD-1	Increases the tax on transient accommodations from 7.25% to 8.25% between 7/1/09 and 6/30/10; to 9.25% between 7/1/10 to 6/30/15. The proceeds attributable to the increase in the tax rate over 7.25% shall be deposited into the general fund. Repeals this act on 6/30/15.	Vetoed 5/7/09 Override Act 61 5/8/09
	HB 754, CD-2	Provides that for fiscal year 2011, after all revenues have been distributed, 12.5% of remaining revenues shall be deposited into the tourism special fund with any excess deposited into the general fund. Erroneously refers to the wrong section of the law.	Vetoed 7/15/09 Override Act 5 Spec. Sess. 7/15/09
FUEL	HB 371, CD-1	Increases the tax on naphtha fuel used in a power generating facility from 1 cent to 2 cents per gallon effective 7/1/09. Extends the sunset date of Act 103, SLH 2007, from 12/31/09 to 12/31/12.	Act 198 7/15/09

	HB 1271, CD-1	Renames the environmental response tax the environmental response, energy and food security tax. Increases the rate of tax from 5 cents per barrel to \$1.05 on each barrel and provides that 5 cents of the tax shall be deposited into the environmental response revolving fund; 55 cents shall be deposited into the energy security special fund; 10 cents shall be deposited into the energy systems development special fund and 35 cents shall be deposited into the agricultural development and food security special fund. Establishes the Hawaii economic development task force whose purpose is to: (1) facilitate the accelerated adoption and completion of renewable energy projects, energy efficiency programs, agricultural infrastructure and development; and (2) develop and maintain a broad overview of energy and security issues that apply an interdisciplinary approach to ensure that energy and food policy development is integrated within the overall economic, social, environmental and cultural aspects of society. Establishes a Hawaii clean energy initiative program within the department of business, economic development and tourism (DBEDT), to manage the state's transition to a clean energy economy. Also provides for the establishment of a renewable energy branch in DBEDT to coordinate and promote renewable energy initiatives.	Vetoed 7/15/09
TOBACCO	HB 895, CD-1	Increases the tax on tobacco products other than cigarettes from 40% to 70% on and after 9/30/09, but repeals the 40% rate as of the date of the override. Cigars with a ring gauge of 30 or more shall be subject to an excise tax of 50% of the wholesale price on and after 9/30/09. Since the definition of "other tobacco products" is not amended, these cigars may also be subject to the 70% rate on other tobacco products. Provides that little cigars, as defined, shall be taxed as cigarettes on 10/1/09 at the rate of 11 cents. The measure also provides that smokeless tobacco and pipe tobacco shall be subject to the tobacco tax.	Vetoed 5/7/09 Override Act 58 5/8/09
	HB 1175, CD-1	Increases the tax on cigarettes from 11 cents to 13 cents per cigarette on 7/1/09; to 14 cents on 7/1/10; and to 15 cents on 7/1/11	Act 56 5/7/09
CONVEY- ANCE	HB 1741, CD-1	Increases the conveyance tax rates on residential and nonresidential properties in excess of \$2 million with a top tax rate of \$1.00 per hundred dollars of value for all real property and \$1.25 for non-owner occupied residential property in excess of \$10 million. Temporarily reduces the earmarking by 5% each to the: (1) rental housing trust fund; and (2) the natural area reserve fund between 7/1/09 to 6/30/12.	Vetoed 5/7/09 Override Act 59 5/8/09
MISC.	SB 292, CD-1	Reallocates the distribution of moneys in the Hawaii tobacco settlement special fund and provides that 25½% shall be deposited into the state general fund between 7/1/09 and 6/30/15	Act 119 6/12/09
	SB 1248, CD-1	Extends enterprise zone provisions to include the development, sale, or production of, or research related to all types of genetically-engineered medical, agricultural or maritime biotechnology products. Amends the definition of "qualified business" to include limited liability companies. Amends the enterprise zone requirements to allow the receipts, sales, and employees of a business in all enterprise zones located within the same county to count toward qualification requirements. Extends the enterprise zone tax credits and exemptions for businesses engaged in the manufacturing of tangible personal property or producing or processing agricultural products for an additional three years and limits the general excise tax exemption for qualified businesses engaged in the production of genetically-engineered agricultural products to 10 years.	Act 174 7/10/09
	HB 1809, CD-1	Expands the electronic waste and recycling program in the state to include a television recovery system program to encourage the recycling of televisions in the state on 1/1/10. Requires a manufacturer or retailer of such devices to pay a fee of \$2,500 per year as a prerequisite to selling such devices in the state and requires a manufacturer to recycle any television sold in the state.	Act 183 7/15/09