1. Section 18-235-1.14, Hawaii Administrative Rules, is amended by amending subsection (d) to read as follows:

"(d) For purposes of this section, earned income includes wages, salaries, tips, business interest income, other employment compensation, and net earnings from self-employment for the taxable year. Gross earnings from self-employment for the taxable year unless gross earnings for the taxable year are less than $60,000, in which case all net earnings from self-employment are included in earned income in lieu of gross earnings from self-employment. For purposes of this subsection, all entities shall be disregarded. Earned income does not include interest, dividends, capital gains, pensions, or deferred compensation.

Example 1:

Taxpayer retires on disability that is total and permanent and receives an insurance settlement. Taxpayer does not engage in any other employment. The insurance settlement is invested and Taxpayer receives $35,000 in interest, dividends, and capital gains during the taxable year. Taxpayer is not engaged in a substantial gainful business or occupation because earned income does not include interest, dividends, and capital gains.

Example 2:

Taxpayer works for wages and receives $20,000 in wages for the taxable year. Taxpayer
also has net earnings from self-employment of $8,000 and gross earnings from self-employment of $75,000 for the taxable year. Taxpayer has earned income of $95,000 for the taxable year and is engaged in a substantial gainful business or occupation because earned income includes the $20,000 in wages and $75,000 of gross earnings from self-employment.

Example 3:

Taxpayer has gross earnings from self-employment of $60,000 for the taxable year. Taxpayer is engaged in a substantial gainful business or occupation because earned income includes the $60,000 of gross earnings from self-employment.

Example 4:

Taxpayer has gross earnings from self-employment of $59,999 and net earnings from self-employment of $30,000 for the taxable year. Taxpayer has earned income of $30,000 for the taxable year and is not engaged in a substantial gainful business or occupation. Taxpayer’s earned income includes net earnings from self-employment because gross earnings from self-employment are less than $60,000 for the taxable year.

Example 5:

Taxpayer works for wages and receives $10,000 in wages for the taxable year. Taxpayer also has gross earnings from self-employment of $59,999 and net earnings from self-employment of $25,000 for the taxable year. Taxpayer has earned income of $35,000 for the taxable year and is engaged in a substantial gainful business or occupation because earned income includes the
$10,000 of wages and the $25,000 of net earnings from self-employment.

Example 6:

Taxpayer has structured her business as a C corporation for which she is sole shareholder. The corporation has gross earnings of $75,000 for the taxable year. Taxpayer earns no wages, but the corporation pays taxpayer a dividend of $25,000 for the taxable year. Taxpayer has earned income of $75,000 for the taxable year and is engaged in a substantial gainful business or occupation because earned income includes the $75,000 of gross income earned by her corporation. Entities such as corporations are disregarded for purposes of determining Taxpayer's earned income." [Eff 2/16/82; am 9/3/94; am and ren §18-235-1.14 8/28/98; am 04/20/2019] (Auth: HRS §231-3(9) (Imp: HRS §235-1)

2. Material to be repealed is bracketed and stricken. New material is underscored.

3. These amendments to chapter 18-235, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.
I certify that the foregoing are copies of the rules, drafted in Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on October 9, 1981, and filed with the Office of the Lieutenant Governor.

/s/Linda Chu Takayama/s/
Director
Department of Taxation

APPROVED AS TO FORM:

/s/Cynthia Johiro/s/
Deputy Attorney General