

DEPARTMENT OF TAXATION

Amendments to Chapter 18-235,
Hawaii Administrative Rules

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] (Auth: HRS §231-3(9) (Imp: HRS §235-1)

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 Material to be repealed is bracketed and stricken.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

3. The foregoing copy of the rules, drafted in the Ramseyer format, is provided for reference only.