DEPARTMENT OF TAXATION

Amendments to Chapter 18-235,
Hawaii Administrative Rules

Effective: April 20, 2019

SUMMARY

1. §18-235-1.14(d) is amended.
§18-235-1.14 "Substantial gainful business or occupation", defined.

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(d) For purposes of this section, earned income includes wages, salaries, tips, business interest income, other employment compensation, and 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.

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[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)
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Chapter 18-235, Hawaii Administrative Rules, on the Summary Page dated April 20, 2019, was adopted on April 10, 2019, following public hearing held on December 10, 2018 after public notice was given in the Honolulu Star Advertiser, the Garden Isle, the Maui News, West Hawaii Today, and the Hawaii Tribune-Herald on November 9, 2018.

These amendments to chapter 18-235 shall take effect ten days after filing with the Office of the Lieutenant Governor.

/s/Linda Chu Takayama/s/
LINDA CHU TAKAYAMA
Director of Taxation

APPROVED:

/s/David Y. Ige/s/
DAVID Y. IGE
Governor
State of Hawaii

Dated: April 10, 2019

APPROVED AS TO FORM:

/s/Cynthia Johiro/s/
Deputy Attorney General

April 19, 2019
Filed