

DEPARTMENT OF TAXATION

Amendments to Chapter 18-235,  
Hawaii Administrative Rules

\_\_\_\_\_, 2018

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