

TEMPORARY ADMINISTRATIVE RULES

THESE ADMINISTRATIVE RULES ARE TEMPORARY RULES ISSUED PURSUANT TO SECTION 231-10.7, HAWAII REVISED STATUTES.

AS TEMPORARY RULES, THESE ADMINISTRATIVE RULES BECOME EFFECTIVE SEVEN DAYS AFTER PUBLIC NOTICE IS ISSUED. THESE TEMPORARY ADMINISTRATIVE RULES TAKE EFFECT ON May 30, 2017.

TEMPORARY ADMINISTRATIVE RULES ARE EFFECTIVE FOR EIGHTEEN MONTHS. THESE TEMPORARY ADMINISTRATIVE RULES WILL EXPIRE ON November 30, 2018.

PERMANENT ADMINISTRATIVE RULES, SUBJECT TO THE PROCEDURAL REQUIREMENTS OF CHAPTER 91, HAWAII REVISED STATUTES (THE HAWAII ADMINISTRATIVE PROCEDURES ACT), ARE SIMULTANEOUSLY BEING PROPOSED FOR FORMAL ADOPTION.

DEPARTMENT OF TAXATION

Amendments to Chapter 18-235,
Hawaii Administrative Rules

SUMMARY

1. §18-235-1.14(d) is amended.

§18-235-1.14 "Substantial gainful business or occupation", defined. ***

(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. 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.

[Eff 2/16/82; am 9/3/94; am and ren §18-235-1.14
8/28/98; am 5/30/2017] (Auth: HRS §231-10.7) (Imp: HRS
§235-1)

DEPARTMENT OF TAXATION

These temporary rules relating to Chapter 18-235, Hawaii Administrative Rules, were submitted to the Governor for approval on December 21, 2016. As is required by section 231-10.7, Hawaii Revised Statutes, these temporary administrative rules are also being proposed for formal adoption pursuant to Chapter 91, Hawaii Revised Statutes.

Public notice was given statewide in the Honolulu Star Advertiser, the Garden Island, the Maui News, West Hawaii Today, and the Hawaii Tribune-Herald newspaper on May 23, 2017.

The temporary adoption of chapter 18-235, Hawaii Administrative Rules, as amended, shall take effect seven days after public notice is issued. Pursuant to section 231-10.7, Hawaii Revised Statutes, these rules shall be effective for eighteen months from their effective date.

/s/ Damien A. Elefante /s/
For MARIA E. ZIELINSKI
Director of Taxation

APPROVED:

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

Dated: 5/9/2017