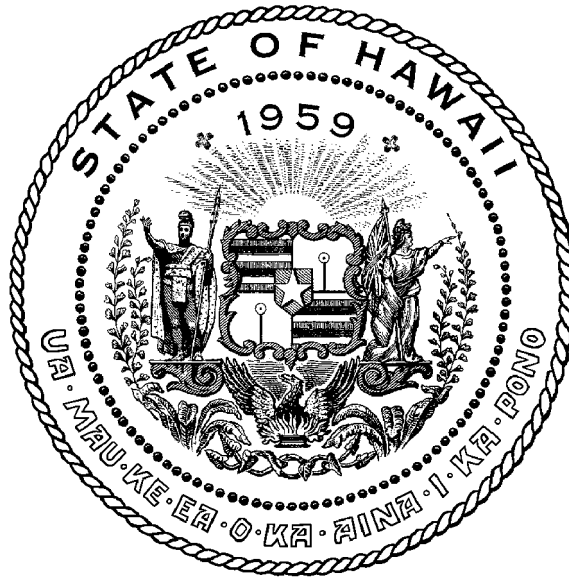


# DIGEST OF TAX MEASURES

Enacted by the State of Hawaii  
Twentieth Legislature  
1998 Regular Session



Prepared by the  
State of Hawaii  
Department of Taxation  
Issued September 21, 1998

(CAUTION: This Digest is issued solely as a guide and is not intended to be complete.)



Digest of Bills  
Enacted by the State of Hawaii  
Twentieth Legislature  
1998 Regular Session

*The following is a digest of bills passed by the 1998 Legislature. It includes only those measures which affect Hawaii's tax laws and is provided for your information. It is issued solely as a guide and is not intended to be either authoritative or complete.*

*Copies of the Senate and House bills passed by the Legislature may be obtained from the respective printshops.*

**KEY TO ABBREVIATIONS:**

S. B.	=	Senate Bill
S. D.	=	Senate draft
H. B.	=	House Bill
H. D.	=	House draft
C. D.	=	Conference draft
SSCR	=	Senate standing committee report
HSCR	=	House standing committee report
CCR	=	Conference committee report
SECT. AFF.	=	Section(s) of the Hawaii Revised Statutes affected by the bill's provisions
HRS	=	Hawaii Revised Statutes
SLH	=	Session Laws of Hawaii



**DIGEST OF TAX MEASURES**  
**Table of Contents**

**TAX MEASURES**

ACT 066  
    SB 2739, SD1  
    RELATING TO THE COLLECTION OF FINES. .... 1

ACT 103  
    HB 1649, HD2, SD1  
    RELATING TO PERJURY (TAX-11(97)) ..... 1

ACT 113  
    SB 3004, SD1, HD1, CD1  
    RELATING TO CONFORMITY OF THE HAWAII INCOME TAX LAW TO THE  
    INTERNAL REVENUE CODE. (TAX-01) ..... 1

ACT 120  
    HB 2426, HD1, SD1  
    RELATING TO TAXATION. .... 3

ACT 125  
    HB 2660, SD1  
    RELATING TO THE PUBLIC SERVICE COMPANY TAX. .... 3

ACT 143  
    HB 1647, HD1, SD1  
    RELATING TO THE LICENSING OF CERTAIN SELLERS. (TAX-09(97)) ..... 3

ACT 153  
    HB 3192, HD1, SD1, CD1  
    RELATING TO SUPPORT ENFORCEMENT. .... 4

ACT 154  
    SB 2821, HD1  
    RELATING TO CODE OF FINANCIAL INSTITUTIONS. .... 4

ACT 156  
    SB 2259, SD1, HD1, CD1  
    RELATING TO TAXATION. .... 4

ACT 157  
    HB 2749, HD1, SD1, CD1  
    RELATING TO TAXATION. .... 5

ACT 163  
    SB 2092, SD1, HD1, CD1  
    RELATING TO INCOME TAX LAW. .... 5

**TABLE OF CONTENTS**

*(Continued)*

ACT 169  
SB 3141, SD1, HD1  
RELATING TO TAXATION. . . . . 6

ACT 170  
SB 3220, SD1, HD2, CD1  
A BILL FOR AN ACT RELATING TO THE CONVEYANCE TAX. . . . . 6

ACT 208  
SB 3015, SD2, HD1  
RELATING TO THE GENERAL EXCISE TAX EXEMPTION FOR AIRCRAFT  
SERVICE AND MAINTENANCE FACILITIES. (TAX-12) . . . . . 6

ACT 214  
SB 3075, SD2  
RELATING TO GENERAL EXCISE TAX. . . . . 7

ACT 245  
SB 2026, SD1, HD1  
RELATING TO SMALL BUSINESS INNOVATION RESEARCH GRANTS. . . . . 7

ACT 247  
SB 2065, SD1  
RELATING TO THE GENERAL EXCISE TAX. . . . . 7

ACT 293  
HB 3027, HD2, SD1  
RELATING TO MEDICAID OVERPAYMENT RECOVERY. (HMS-7) . . . . . 8

**VETOED MEASURES**

VETO 7/7/98  
HB 3065, HD2, SD2, CD1  
RELATING TO TAXATION. . . . . 8

**RESOLUTIONS**

SCR 147  
REQUESTING THE DEPARTMENT OF TAXATION TO AMEND ITS RULES  
FOR EMPLOYERS PAYING STATE WITHHOLDING TAXES FOR  
NONRESIDENTS. . . . . 8

**TABLE SHOWING EFFECT OF ACTS . . . . . 9**

**DIGEST OF THE BALANCED BUDGET ACT OF 1997**  
**P. L. 105-33 . . . . . 13**

**TABLE OF CONTENTS**  
*(Continued)*

<b>DIGEST OF THE TAXPAYER BROWSING PROTECTION ACT OF 1997</b>	
<b>P. L. 105-35</b> .....	<b>14</b>
<b>DIGEST OF THE TAXPAYER RELIEF ACT OF 1997</b>	
<b>P. L. 105-34</b> .....	<b>15</b>
<b>DIGEST OF TAX MEASURES BY BILL NUMBER</b> .....	<b>79</b>





**DIGEST OF TAX MEASURES**  
**Twentieth State Legislature**  
**1998 Regular Session**

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**ACT 066**

**SB 2739, SD1**

**RELATING TO THE COLLECTION OF FINES.**

SSCR 2036; SSCR 2701; HSCR 891; HSCR 1242

SECT. AFF: 231-52

Amends HRS §231-52 to change the definition of "claimant agency" to include the judiciary for the purpose of collecting outstanding fines and debts.

*Effective: April 29, 1998.*

**ACT 103**

**HB 1649, HD2, SD1**

**RELATING TO PERJURY (TAX-11(97))**

HSCR 0293(97); HSCR 0719(97); SSCR 0974(97); SSCR 2423

SECT. AFF: 231-36

Amends HRS §231-36 to make wilful falsification of any return, statement, or other document required by the tax laws of Hawaii a class C felony punishable by a fine of up to \$100,000 or imprisonment of not more than three years, or both (\$500,000 for corporations); provided that misstatements relating to the use tax on returns, statements, or other documents shall be a misdemeanor, punishable by a fine of up to \$2,000 or imprisonment of not more than one year, or both.

*Effective: June 03, 1998.*

**ACT 113**

**SB 3004, SD1, HD1, CD1**

**RELATING TO CONFORMITY OF THE HAWAII INCOME TAX LAW TO THE INTERNAL REVENUE CODE. (TAX-01)**

SSCR 2534; HSCR 1059; CCR 168

SECT. AFF: 235-2.3, 235-2.4, 235-71.5, 235-97

Conforms to the Internal Revenue Code (Code) for taxable years beginning after December 31, 1997.

- \* Adopts Code section 1(h)(3) relating to the reduction of net capital gain for investment income taken into account;
- \* Adopts expanded IRAs for active pension plan participants;
- \* Adopts nondeductible Roth IRAs which allow the tax free accumulation and distribution of income;
- \* Adopts Code definition of activities for home offices;

## 1998 DIGEST OF TAX MEASURES

- \* Adopts the above the line deduction for interest expense on higher education loans up to \$1,000;
- \* Adopts augmented charitable contribution deduction for gifts of computers from C corporations to elementary and secondary schools; similar to charitable contributions of inventory for the care of the ill, the needy, and infants;
- \* Adopts new phase-in schedule for deduction of health care insurance expenses by the self-employed; 100% deduction by 2007;
- \* Adopts Code section 121 which allows the exclusion of \$250,000 (\$500,000 for marrieds) of gain upon the sale of a principal residence. Effective for sales and exchanges made after May 6, 1997. In addition, section 235-2.4(n), HRS, allowing roll-overs of gain by purchasing a replacement residence is repealed;
- \* Adopts Code section 685 which allows pre-need funeral trusts to file tax returns on behalf of the beneficiary and to pay the income tax on the income earned during the taxable year. Effective for tax years ending after August 5, 1997; and
- \* Requires Code sections 6240 to 6255 (relating to simplified audit procedures for electing large partnerships) to be operative.

The Act does not conform to certain tax law changes made by Congress in 1997. For example, the Act:

- \* Amends section 235-71, HRS, to clarify that the alternative tax for corporations in Hawaii remains the same and the Code amendments allowing the use of the lesser of net capital gain or taxable income do not apply; and
- \* Does not adopt the Code's new safe harbor provisions for the underpayment of estimated tax penalties for taxpayers with adjusted gross incomes over \$150,000. The federal Taxpayer Relief Act of 1997 amended the safe harbor percentages for the preceding year's tax liability to 105% for years 1998-2000; 112% for year 2001; and 110 for year 2002 and thereafter. The Act keeps constant, for Hawaii purposes, the safe harbor percentages of 90% of the current year's tax or 110% of the preceding year's tax for this AGI level.

The Act also:

- \* Adopts Code section 72 with regard to annuities, except that the 10% penalty on the early distribution from retirement plans is made inoperative in this state.
- \* Repeals Code sections 6241 to 6245, relating to treatment of subchapter S corporations and shareholders, for state purposes; these sections were repealed by Congress in 1996 by the Small Business Job Protection Act of 1996.
- \* Does not conform to the itemized deduction for long-term care insurance premiums and expenses (an item from the 1996 federal legislation).

*Effective: June 12, 1998, and applies to taxable years beginning after December 31, 1997, (except for provisions conforming to federal income tax effective dates ).*

## 1998 DIGEST OF TAX MEASURES

### **ACT 120**

#### **HB 2426, HD1, SD1**

#### **RELATING TO TAXATION.**

HSCR 0722; SSCR 2937; SSCR 3291

SECT. AFF: 235-5.5

Amends HRS §235-5.5(f) to allow individuals who established an individual housing account (IHA) before January 1, 1990 (when the income reporting requirements applicable to IHA distributions were changed) and who have not yet purchased a first residence to elect to be subject to the income reporting requirements that were effective when they originally invested in their IHAs; and to allow these individuals to add the penalty (equal to ten percent of the IHA distribution and imposed at the time of sale of the first residence) to their gross income, rather than tax liability.

*Effective: June 22, 1998, effective taxable years beginning after December 31, 1996.*

### **ACT 125**

#### **HB 2660, SD1**

#### **RELATING TO THE PUBLIC SERVICE COMPANY TAX.**

HSCR 0483; SSCR 2852; SSCR 3169

SECT. AFF: 239-2

- \* Provides that where the transportation of passengers or property are furnished through arrangements between motor carriers, and the gross income is divided between the carriers, any public service company tax shall apply to each carrier with respect to each carriers' respective portion of the proceeds.
- \* Establishes that "carrier" does not include a tour packager for public service company tax purposes. Changes motor carrier to include the transporting of persons or property for compensation.
- \* Allows accounts found to be worthless and actually charged off for income tax purposes to be deducted from gross income.

*Effective: June 22, 1998.*

### **ACT 143**

#### **HB 1647, HD1, SD1**

#### **RELATING TO THE LICENSING OF CERTAIN SELLERS. (TAX-09(97))**

HSCR 0306(97); SSCR 2299

SECT. AFF: 237-9

Allows the tax director to permit a person engaged in network marketing, multi level marketing, or other similar business to obtain a single general excise tax license to collect and report general excise and use taxes on behalf of its direct sellers with gross receipts derived from the marketing business in Hawaii.

*Effective: July 02, 1998.*

## 1998 DIGEST OF TAX MEASURES

### ACT 153

**HB 3192, HD1, SD1, CD1**

#### **RELATING TO SUPPORT ENFORCEMENT.**

HSCR 0680; SSCR 2872; SSCR 3284; CCR 097

SECT. AFF: 231-51, 231-52, 383-163.5, 576D-1, 576D-6, 576D-12, 576D-18, 576E-1, 584-12

Amends §§231-51 and -52, HRS, to permit the State to set off child, spousal, and medical support obligation amounts with state income tax refunds.

*Effective: July 07, 1998*

### ACT 154

**SB 2821, HD1**

#### **RELATING TO CODE OF FINANCIAL INSTITUTIONS.**

SSCR 2629; HSCR 1292

SECT. AFF:

Establishes a foreign capital depository task force within DBEDT. Members to include the director of DBEDT, commissioner of financial institutions, director of TAX, prosecuting attorney of the city and county of Honolulu, attorney general, chief of police of the city and county of Honolulu, a member of the banking community, and any other agency deemed appropriate by the director of DBEDT.

*Effective: July 07, 1998*

### ACT 156

**SB 2259, SD1, HD1, CD1**

#### **RELATING TO TAXATION.**

SSCR 2772; HSCR 1302; CCR 167

SECT. AFF: (13 SECTIONS) HAWAII TOURISM AUTHORITY, 201- (1 SECTION), 36-27, 36-30, 201-3, 201-13.8, ACT 96 1988, ACT 159 1992, ACT 241 1993, ACT 75 1994, 235-17, 237D-1, 237D-2, 237D-4, 237D-6, 237D-6.5, 237D-7, 237D-7.5, 237D-8, 237D-8.6, 237D-9, 237D-10, 237D-12, 237D-14, 237D-15, 514E-3

- \* Establishes Hawaii tourism authority;
- \* Extends sunset of convention center authority one year;
- \* Increases Transient Accommodations Tax (TAT) to 7.25%;
- \* Subjects time sharing to TAT (tax base = one-half of the gross daily maintenance fees paid by the owner; taxpayer may prove or director may determine other methods which more fairly represent the fair market rental value of the time share unit);
- \* Amends §235-17, HRS, to increase the amount of the motion picture income tax credit from 6% to 7.25% of TAT paid; and
- \* Changes TAT revenue distribution.

*Effective: July 09, 1998, takes effect January 1, 1999.*

## 1998 DIGEST OF TAX MEASURES

### **ACT 157**

#### **HB 2749, HD1, SD1, CD1**

#### **RELATING TO TAXATION.**

HSCR 0686; SSCR 3296; CCR 165

SECT. AFF: 235- (1 SECTION), 235-51, 235-55.8, 420- (1 SECTION), 420-1, 420-2, 420-3, 420-4, 420-5, 420-6, 420-7, 420-8, 420-9, 420-10, 420-11, 420-12, 420-13, 420-15, 420-16, 420-17, 420-18

- \* Expands the income tax brackets and reduces the tax rates for the taxable year beginning after December 31, 1998; reduces rates further for the taxable year beginning after December 31, 2000; and again for the taxable year beginning after December 31, 2001.
- \* Repeals the food income tax credit.
- \* Provides a low-income refundable tax credit for taxpayers with adjusted gross incomes up to \$20,000.

*Effective: July 10, 1998, applies to taxable years beginning after December 31, 1998.*

- \* Amends business development corporation (BDC) law by prohibiting the use of HRS chapter 420 to create a BDC after June 30, 1998. Allows those BDCs incorporated before July 1, 1998, which fulfill the purposes and requirements of this law to continue to operate. Repeals HRS chapter 420 on December 31, 2001.
- \* Phases out the tax benefits for business development corporations by 20% every year beginning January 1, 1998, until the law is repealed on December 31, 2001.

*Effective: June 30, 1998; phase out of tax benefits to apply to taxable years beginning after December 31, 1997.*

### **ACT 163**

#### **SB 2092, SD1, HD1, CD1**

#### **RELATING TO INCOME TAX LAW.**

SSCR 2011; SSCR 2474; HSCR 1013; HSCR 1338; CCR 158

SECT. AFF: 235-12

Extends the duration of energy conservation income tax credits for an additional 4.5 years. Provides that if similar federal tax credits are enacted after June 30, 1998, then state credits will be reduced by the amount of the federal credit. Creates a task force to explore the most cost-effective means of supporting increased energy efficiency and sustainability.

*Effective: July 1, 1998*

## **1998 DIGEST OF TAX MEASURES**

### **ACT 169**

**SB 3141, SD1, HD1**

#### **RELATING TO TAXATION.**

SSCR 2759; HSCR 1058

SECT. AFF: 237-13

Amends HRS §237-13(3)(B) (the general excise tax subcontract deduction) by requiring the prime contractor to report the general excise tax number of the subcontractor paying the tax on the amount deducted. Repeals the requirement that general excise taxes must be paid by the subcontractor on its portion of the proceeds in order for the prime contractor to claim the deduction.

*Effective: July 14, 1998*

### **ACT 170**

**SB 3220, SD1, HD2, CD1**

#### **A BILL FOR AN ACT RELATING TO THE CONVEYANCE TAX.**

SSCR 2385; SSCR 2690; HSCR 992; HSCR 1326; CCR 157

SECT. AFF: 247-7

Amends HRS §247-7 by changing the disposition of revenues generated by the conveyance tax. Amounts deposited into the rental housing trust fund will be reduced from 25% to 12½% for one year (FY 1999) and \$600,000 is appropriated out of the general fund for homeless assistance programs administered under HRS chapter 201G, part IV.

*Effective: July 1, 1998, provided that the new allocation under the Act sunsets on June 30, 1999 at which time the allocation of conveyance tax revenues reverts to the original law.*

### **ACT 208**

**SB 3015, SD2, HD1**

#### **RELATING TO THE GENERAL EXCISE TAX EXEMPTION FOR AIRCRAFT SERVICE AND MAINTENANCE FACILITIES. (TAX-12)**

SSCR 2147; SSCR 2758; HSCR 1057

SECT. AFF: 237-24.9

- \* Amends HRS §237-24.9 to clarify that the general excise tax exemption for amounts received from the servicing and maintenance of aircraft or from the construction of an aircraft service and maintenance facility must be performed within an "aircraft service and maintenance facility".
- \* Also defines "maintenance" to mean the upkeep of aircraft engines, hydraulic and electrical systems, and all other components which are an integral part of an aircraft, but does not include refueling, janitorial services or cleaning, restocking of aircraft and passenger supplies or loading or unloading of cargo or passenger baggage.
- \* Reduces the minimum size of the aircraft service and maintenance facility to not less than 30,000 square feet.

*Effective: July 17, 1998; and applies to taxable periods beginning after June 30, 1997.*

## 1998 DIGEST OF TAX MEASURES

**ACT 214**  
**SB 3075, SD2**  
**RELATING TO GENERAL EXCISE TAX.**  
SSCR 2326; SSCR 2518; HSCR 1521  
SECT. AFF: 237-24.7

Amends HRS §237-24.7 to add a new paragraph exempting from the general excise tax amounts received by management companies as reimbursements of employee payroll costs incurred in managing or operating related entities selling telecommunications services.

*Effective: July 1, 1998 applies to gross receipts received after June 30, 1998.*

**ACT 245**  
**SB 2026, SD1, HD1**  
**RELATING TO SMALL BUSINESS INNOVATION RESEARCH GRANTS.**  
SSCR 2322; SSCR 2473; HSCR 1277  
SECT. AFF: 237-24.7

Provides a general excise tax exemption for amounts received as grants under high technology research and development loan and grant provisions which are given to businesses that receive federal small business innovation research phase I awards or contracts.

*Effective: July 1, 1998.*

**ACT 247**  
**SB 2065, SD1**  
**RELATING TO THE GENERAL EXCISE TAX.**  
SSCR 2531; HSCR 1520  
SECT. AFF: 237- (1 SECTION)

Adds a new section to HRS chapter 237 to provide a general excise tax exemption for all the gross proceeds or gross income arising from the sale of tangible personal property imported to Hawaii from a foreign or domestic source to a licensed taxpayer for subsequent resale for the purpose of wholesale.

*Effective: July 1, 1998.*

## 1998 DIGEST OF TAX MEASURES

### **ACT 293**

#### **HB 3027, HD2, SD1**

#### **RELATING TO MEDICAID OVERPAYMENT RECOVERY. (HMS-7)**

HSCR 0120; HSCR 0373; HSCR 0607; SSCR 2831; SSCR 3005

SECT. AFF: 346- (1 SECTION), 346- (1 SECTION), 231-51, 231-52

Authorizes DHS to recover Medicaid overpayments by recoupment, tax offset, and circuit court judgment and further authorizes the director to enforce Medicaid overpayment decisions judicially.

*Effective: July 20, 1998*

## VETOED MEASURES

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### **VETO 7/7/98**

#### **HB 3065, HD2, SD2, CD1**

#### **RELATING TO TAXATION.**

HSCR 0362; HSCR 0592; SSCR 2956; SSCR 3272; CCR 096

Would have required the implementation of a tax stamp program for the cigarette tax and deferred the cigarette tax increase to January 1, 1999 from July 1, 1998. Also would have amended the motion picture income tax credit to clarify definitions of "benefits," "labor costs," and "production costs."

## RESOLUTIONS

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### **SCR 147**

#### **REQUESTING THE DEPARTMENT OF TAXATION TO AMEND ITS RULES FOR EMPLOYERS PAYING STATE WITHHOLDING TAXES FOR NONRESIDENTS.**

SSCR 3347; HSCR 1500

Requests that the Department of Taxation amend HAR §18-235-61-04 to require all employees' wages to be subject to withholding regardless of the duration of the employee's presence in Hawaii.



**TABLE SHOWING EFFECT OF ACTS**  
**Twentieth State Legislature**  
**1998 Regular Session**

**KEY**

Am = Amended

C = Chapter

N = New

R = Repealed

\_\_\_\_\_ = Section number to be assigned in HRS Supplement

<b>Section Number</b>	<b>Effect</b>	<b>Bill Number</b>	<b>Act Number</b>
<i>Not available at time of printing</i>	N	SB 2821	ACT 154
36-27	Am	SB 2259	ACT 156
36-30	Am	SB 2259	ACT 156
201- (1 section)	N	SB 2259	ACT 156
201-3	Am	SB 2259	ACT 156
201-13.8	Am	SB 2259	ACT 156
231-36	Am	HB 1649	ACT 103
231-51	Am	HB 3027	ACT 293
231-51	Am	HB 3192	ACT 153
231-52	Am	SB 2739	ACT 066
231-52	Am	HB 3192	ACT 153
231-52	Am	HB 3027	ACT 293
235- (1 section)	N	HB 2749	ACT 157
235-2.3	Am	SB 3004	ACT 113
235-2.4	Am	SB 3004	ACT 113
235-5.5	Am	HB 2426	ACT 120
235-12	Am	SB 2092	ACT 163
235-17	Am	SB 2259	ACT 156
235-51	Am	HB 2749	ACT 157
235-55.8	R	HB 2749	ACT 157
235-71.5	Am	SB 3004	ACT 113
235-97	Am	SB 3004	ACT 113
237- (1 section)	N	SB 2065	ACT 247

**TABLE SHOWING EFFECT OF ACTS***(Continued)*

<b>Section Number</b>	<b>Effect</b>	<b>Bill Number</b>	<b>Act Number</b>
237-9	Am	HB 1647	ACT 143
237-13	Am	SB 3141	ACT 169
237-24.7	Am	SB 3075	ACT 214
234-24.9	Am	SB 3015	ACT 208
237D-1	Am	SB 2259	ACT 156
237D-2	Am	SB 2259	ACT 156
237D-4	Am	SB 2259	ACT 156
237D-6	Am	SB 2259	ACT 156
237D-6.5	Am	SB 2259	ACT 156
237D-7	Am	SB 2259	ACT 156
237D-7.5	Am	SB 2259	ACT 156
237D-8	Am	SB 2259	ACT 156
237D-8.6	Am	SB 2259	ACT 156
237D-9	Am	SB 2259	ACT 156
237D-10	Am	SB 2259	ACT 156
237D-12	Am	SB 2259	ACT 156
237D-14	Am	SB 2259	ACT 156
237D-15	Am	SB 2259	ACT 156
239-2	Am	HB 2660	ACT 125
247-7	Am	SB 3220	ACT 170
346 (2 sections)	N	HB 3027	ACT 293
383-163.5	Am	HB 3192	ACT 153
420- (1 section)	N	HB 2749	ACT 157
420-1	Am	HB 2749	ACT 157
420-2	Am	HB 2749	ACT 157
420-3	Am	HB 2749	ACT 157
420-4	Am	HB 2749	ACT 157
420-5	Am	HB 2749	ACT 157
420-6	Am	HB 2749	ACT 157
420-7	Am	HB 2749	ACT 157

**TABLE SHOWING EFFECT OF ACTS**  
(Continued)

Section Number	Effect	Bill Number	Act Number
420-8	Am	HB 2749	ACT 157
420-9	Am	HB 2749	ACT 157
420-10	Am	HB 2749	ACT 157
420-11	Am	HB 2749	ACT 157
420-12	Am	HB 2749	ACT 157
420-13	Am	HB 2749	ACT 157
420-15	Am	HB 2749	ACT 157
420-16	Am	HB 2749	ACT 157
420-17	Am	HB 2749	ACT 157
420-18	Am	HB 2749	ACT 157
514E-3	Am	SB 2259	ACT 156
576D-1	Am	HB 3192	ACT 153
576D-6	Am	HB 3192	ACT 153
576D-12	Am	HB 3192	ACT 153
576D-18	Am	HB 3192	ACT 153
576E-1	Am	HB 3192	ACT 153
584-12	Am	HB 3192	ACT 153
ACT 96, 1988	Am	SB 2259	ACT 156
ACT 159, 1992	Am	SB 2259	ACT 156
ACT 241, 1993	Am	SB 2259	ACT 156
ACT 75, 1994	Am	SB 2259	ACT 156
HAWAII TOURISM AUTHORITY (13 sections)	N	SB 2259	ACT 156



## DIGEST OF THE BALANCED BUDGET ACT OF 1997

### P. L. 105-33

*(NOTE: Only amendments or additions to Internal Revenue Code Sections contained in subtitle A, Chapter 1, and certain 6000 sections of the Internal Revenue Code of 1986, as amended, are applicable for this Digest.)*

#### CODE SECTION

#### DESCRIPTION OF PROVISION

*The following sections are operative for Hawaii income tax purposes.*

- |             |  |
|-------------|--|
| 138         | New code section establishing a pilot MedicarePlus Choice medical savings account (MSA) program. Medicare eligible individuals are currently not entitled to have an MSA but may establish a MedicarePlus Choice MSA (Medicare MSA) account. Contributions to this account can only be made by the Secretary of Health and Human Services or a trustee to trustee transfer. The Medicare MSA must be in conjunction with a high deductible Medicare MSA health plan. The contributions made to and the earnings are excluded from the gross income of the account holder. The distributions from the Medicare MSA used to pay the qualified medical care expenses of the account holder are excluded from gross income of the account holder. Distributions used to pay non-qualifying medical expenses which exceed 60 percent of the deductible of the MSA Medicare plan are includible in the gross income of the account holder. In addition, a penalty of 50 percent of the amount of the unqualified distribution is added to the tax. Effective for tax years after December 31, 1998 and for the first 390,000 eligible individuals. |
| 139         | Redesignation of section 138 as section 139, relating to the cross references to other acts.   |
| 220(b)(7)   | Limiting the deduction relating to a medical savings account to zero for Medicare eligible individuals. Effective for tax years beginning after December 31, 1998.   |
| 501(o), (p) | A hospital or other section 501(c)(3) organization will not fail to be treated as organized and operated solely for a charitable purpose based solely on its participation in a provider-sponsored organization (PSO). A tax-exempt organization may participate in a joint venture with a for-profit organization if the following two prong test is satisfied: (1) the venture furthers a charitable purpose and (2) the sharing of profits and losses do not result in impermissible private inurement or a more than incidental benefit to any individual. The former subsection (o) is redesignated subsection (p). The effective date is August 5, 1997.   |

**DIGEST OF THE TAXPAYER BROWSING  
PROTECTION ACT OF 1997  
P. L. 105-35**

*(NOTE: Only amendments or additions to Internal Revenue Code Sections contained in subtitle A, chapter 1, and certain 6000 series sections of the Internal Revenue Code of 1986, as amended, are applicable for this Digest.)*

<b><u>CODE SECTION</u></b>	<b><u>DESCRIPTION OF PROVISION</u></b>
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*The following sections are not operative for Hawaii income tax purposes.*

7213(a)(2)	Technical amendment to penalty provision for unauthorized disclosure of tax return information relating to the disclosure of information for purposes of administering the District of Columbia Retirement Protection Act of 1997.
7213A	New code section establishing criminal penalty for the unauthorized inspection of tax returns or tax return information.
7431 7431(a)-(g)	Conforming amendments relating to civil damages in the unauthorized inspection of returns and return information; notification to taxpayer of unlawful inspection or disclosure.

**DIGEST OF THE TAXPAYER RELIEF ACT OF 1997**  
**P. L. 105-34**

*(NOTE: Only amendments or additions to Internal Revenue Code Sections contained in subtitle A, Chapter 1, of the Internal Revenue Code of 1986, as amended, and certain 6000 series sections are applicable for this Digest.)*

<b><u>CODE SECTION</u></b>	<b><u>DESCRIPTION OF PROVISION</u></b>
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*The following provisions are NOT operative for Hawaii income tax purposes*

Non-Code provision	No addition to tax (estimated tax penalties) for any period before January 1, 1998, for any payment the due date is before January 16, 1998, with respect to any underpayment attributable to such period the underpayment was created or increased by the Taxpayer Relief Act of 1997. Act section 1(d).
Non-Code provision	Amendment relating to the change in the capital gains tax rate from 28 percent to 20 percent for individuals on non-qualified withdrawals from merchant marine capital construction funds. Act section 311(c). See Digest notation for IRC section 7518(g)(6)(A).
Non-Code provision	Study of feasibility of moving collection points for distilled spirits excise tax. The Secretary of the Treasury or his delegate is to conduct a study of options for changing the event on which the excise tax is imposed. Act section 909.
Non-Code provision	Abatement of interest on underpayment of taxes by individual taxpayers which have been allowed additional time for filing returns and payment of taxes in a presidentially declared disaster area during 1997. Act section 915.

*The following provision is operative for Hawaii income tax purposes.*

Non-Code provision	Clarification of the standard to be used in determining the employment status of securities brokers. No weight given for instructions in compliance with federal or state investor protection standards. Act section 921.
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**CODE SECTION****DESCRIPTION OF PROVISION**

*The following provisions are NOT operative for Hawaii income tax purposes.*

Non-Code provision	Clarification of exemption from self-employment tax (FICA) for certain termination payments received by former insurance salesmen. Act section 922.
Non-Code provision	Waiver of penalty through June 30, 1998, for small businesses failing to make electronic fund transfers of taxes. Act section 931.
Non-Code provision	No temporary or final regulation with respect to the definition of a limited partner under IRC section 1402(a)(13) may be issued or made effective before July 1, 1998. Act section 935.
Non-Code provision	Additional advance refunding of certain Virgin Islands bonds. Act section 967.
Non-Code provision	Demonstration project for the combined employment tax reporting between the Internal Revenue Service and the State of Montana. Act sections 976(a), (b).
Non-Code provision	Elective carryback of existing net operating loss carryovers of the National Railroad Passenger Corporation. Act section 977.
Non-Code provision	Extension of duty-free treatment under generalized system of preferences under the Trade Act of 1974. Act section 981.
Non-Code provision	The regulations providing an exception under IRC section 6041 for the reporting of payments made to corporations shall not apply to attorneys' fees. Act section 1021.
Non-Code provision	Conforming amendment for confidentiality and disclosure of returns and return information to section 552(a)(8)(B) of title 5, United States Code. Act section 1026(b)(2).
Non-Code provision	Floor stock tax on kerosene. Diesel fuel excise tax rules are extended to kerosene. Act section 1032(a).



**CODE SECTION****DESCRIPTION OF PROVISION*****The following provisions are operative for Hawaii income tax purposes.***

Non-Code provision	Repealing the grandfather rule applicable to that portion of the business of the Teachers Insurance Annuity Association-College Retirement Equities Fund and Mutual of America which is attributable to the pension business. These companies are treated as life insurance companies for Federal tax purposes. Act section 1042.
Non-Code provision	Amendment to ERISA. The provision increases the limit on involuntary cash-outs of pension accrued benefits from \$3,500 to \$5,000. Act section 1071.
Non-Code provision	Repeal of the exception in the Tax Reform Act of 1986 section 811(c)(2) that permits the installment sale method of accounting for sales of property by a manufacturer to a dealer. Effective for taxable years beginning one year after August 5, 1997. Any resulting adjustment from a change in accounting will be includible ratably over the four taxable years beginning after August 5, 1997. Act section 1088.

***The following provisions are NOT operative for Hawaii income tax purposes.***

Non-Code provision	Expansion of coordinated enforcement efforts of the Internal Revenue Service (IRS) and the Department of Health and Human Services (HHS) Office of Child Support Enforcement. Act section 1090(a).
Non-Code provision	Expanded Social Security Act (SSA) records for enforcement efforts of the IRS and HHS and the required submission of social security numbers on application. Act section 1090(b)(1)(A),(B), and (C).
Non-Code provision	The Secretary of the Treasury is granted authority to allow foreign nongrantor trusts that have been treated as United States trusts under prior law to elect to continue to be treated as United States trusts. Act section 1161.

**CODE SECTION****DESCRIPTION OF PROVISION**

*The following provision is operative for Hawaii income tax purposes.*

Non-Code provision	Repeal of the Technical and Miscellaneous Revenue Act of 1988 act section 1008 relating to the U.S. Postal Service rural letter carrier vehicle expense special mileage rate that was 150 percent of the standard mileage rate. (Mileage rate is in IRS Rev. Proc. 96-63) Act section 1203(b).
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*The following provisions are NOT operative for Hawaii income tax purposes.*

Non-Code provision	Transitional rule under IRC section 2056A, relating to qualified domestic trusts. Any trust created under an instrument executed before the enactment of the Revenue Reconciliation Act of 1990 are treated as meeting the requirements of IRC section 2056A if all trustees are U.S. citizens or domestic corporations. Act section 1303.
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Non-Code provision	Clarification authority to withhold Puerto Rico income taxes from salaries of federal employees. Act section 1462.
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Non-Code provision	Amendment to ERISA. A participant's benefit in a qualified pension plan may be reduced to satisfy liabilities of the participant due to: (1) the participant being convicted of a crime involving the pension plan; (2) a civil judgement entered by a court in an action brought in connection with a violation of the fiduciary provisions of ERISA; or (3) a settlement agreement between the Secretary of Labor or the Pension Benefit Guaranty Corporation the participant in connection with a violation of the fiduciary provisions of ERISA. (Title 29 U.S.C.) Act section 1502.
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Non-Code provision	Amendment to ERISA. Elimination of paperwork burdens on pension plans. The requirement to file summary plan descriptions of employee benefit plans (S.D.) and summaries of material modifications (S.M.) to such plans with the Secretary of Labor is eliminated. Employers would be required these documents to the Secretary of Labor upon request. (Title 29 U.S.C.) Act section 1503.
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**CODE SECTION****DESCRIPTION OF PROVISION**

*The following provisions are NOT operative for Hawaii income tax purposes.*

Non-Code provision	The Secretary of the Treasury is to revise the regulations regarding the IRC section 403(b) exclusion allowance to conform with the limitations in IRC section 415 (relating to limitations on benefits and contributions under qualified plans) by providing that includible compensation includes elective deferrals (and similar pre-tax contributions) of the employee. (The Department of Taxation will follow regulations adopted by the Secretary of the Treasury). The revised regulations are to be effective for years beginning after December 31, 1999. Act section 1504(b).
Non-Code provision	Amendment to ERISA on certain rules relating to employee stock ownership plans of S corporations. Act section 1506.
Non-Code provision	Amendment to the Retirement Protection Act of 1994 modifying funding requirements for certain pension, profit sharing plans sponsored by a company engaged interurban or interstate bus service. Act section 1508.
Non-Code provision	The Secretary of the Treasury is to clarify the disqualification regulations for pension plans as related to the acceptance of rollover contributions. Act section 1509.
Non-Code provision	The Secretary of the Treasury is to issue guidance facilitating the use of new technology for retirement plans. Act section 1510.
Non-Code provision	Amendment to ERISA increasing the full funding limit (maximum limit on contributions) for defined benefit pension plans. (Title 29, U.S.C.) Act 1521.
Non-Code provision	Amendment to ERISA allowing diversification of investments by IRC section 401(k) plans. (Title 29, U.S. C.) Act section 1524.

**CODE SECTION****DESCRIPTION OF PROVISION**

*The following provisions are operative for Hawaii income tax purposes.*

Non-Code provision	Treatment of certain disability benefits (workmen's compensation) received by former police officers or firefighters on account of heart disease or hypertension received in 1989, 1990, 1991 excludable from gross income pursuant to a State law as amended on May 19, 1992. Act section 1529.
Non-Code provision	Clarification of the employment tax status of certain fishermen. Every person engaged in the trade or business of purchasing fish for resale is required to file an information return reporting purchases of \$600 or more during a calendar year. Effective for payments made after December 31, 1997. Act section 1601(a) amending sections 1116(b)(1) and (2)(C) of the Small Business Job Protection Act (SBJPA) of 1996.
Non-Code provision	Clarification that the expanded post-termination transition period provided to former S-corporations is effective for determinations made after December 31, 1996, rather than for determinations with respect to tax years beginning after December 31, 1996. The 120 day period beginning on the date of any determination under IRC section 1377(b)(1)(B) will not expire before the end of a period extending from 120 days from August 5, 1997. Effective for determinations made after December 31, 1996. Act section 1602(c)(2) amending section 1307 of the SBJPA of 1996.
Non-Code provision	Employees participating in IRC 403(b) annuities offered by Indian tribal governments may roll over amounts received from the 403(b) plan to a 401(k) plan sponsored by the Indian tribal government. The rollover is permitted whether or not the annuity contract is terminated. Effective August 20, 1996. Act section 1601(d)(4) amending section 1450(b) of the SBJPA of 1996.

**CODE SECTION****DESCRIPTION OF PROVISION*****The following provisions are NOT operative for Hawaii income tax purposes.***

Non-Code provision	Technical correction relating to the basis for applying the emergency medical services exemption from the aviation excise taxes. The exemption is to be applied on a flight by flight basis. Act section 1601(f)(4)(E) and (F) amending section 1609(h)(1) and (4) of the SBJPA of 1996.
Non-Code provision	Extension of period for claiming refunds for alcohol fuels. The expedited refund provision is available to persons who blend tax paid gasoline and ethanol. Act section 1601(g)(1).

***The following provisions are operative for Hawaii income tax purposes.***

Non-Code provision	Clarifies that a state tuition program will be treated as a qualified state tuition program with respect to any contributions (and earnings allocable) made pursuant to a contract entered into under the program before the date the program comes into compliance with the requirements of a qualified state tuition program under IRC section 529. Act section 1601(h)(1)(C).
Non-Code provision	Transition rule for pre-August 20, 1996 contracts. IRC section 529(c)(3)(C) to be applied for taxable years after August 20, 1996, without regard to the requirement that the distribution be transferred to a member of the family or a change in beneficiaries may be made only to a member of the family. Act section 211(f)(6).
Non-Code provision	Transitional rule for definition of trust residency to permit the election of continued U.S. treatment by a trust that was in existence on August 20, 1996 and was considered a U.S. person on August 20, 1996. Effective for tax years after December 31, 1996, or election by trustee to tax years ending after August 20, 1996. Act section 1601(i)(3) and (4).

**CODE SECTION****DESCRIPTION OF PROVISION*****The following provisions are operative for Hawaii income tax purposes.***

Non-Code provision	Technical correction on the applicable date of the cap applied to interest paid or accrued on pre-1986 company-owned life insurance contracts (COLI rule) under IRC section 264(d) is December 31, 1995. Effective with respect to interest paid or accrued after December 31, 1995. Act section 1602(f)(4) striking section 501(c)(3) of the Health Insurance Portability and Accountability Act of 1996.
Non-Code provision	Employers are not required to amend a pension plan or annuity contract to reflect changes implemented by Taxpayer Relief Act of 1997 before the first day of the plan year beginning on or after January 1, 1999. Governmental plans need not be amended until the first day of the first plan year beginning on or after January 1, 2001. Act section 1541.
Non-Code provision	Correction of GATT Uruguay Round Agreement interest and mortality rate provisions. Reference IRC section 415(b)(2)(E). Effective for plan and limitation years beginning after December 31, 1994. Act sections 1604(b)(2)(B) and (b)(3).

***The following provisions are NOT operative for Hawaii income tax purposes.***

Non-Code provision	Technical amendment to the Balanced Budget Act of 1997 providing that the increase in the tobacco excise tax in this Act may be credited against total payments pursuant to future Federal legislation implementing the proposed tobacco industry agreement of June 20, 1997. Act section 1604(f)(3).
Non-Code provision	Identification of limited tax benefits subject to line item veto. Act section 1701.
Non-Code provision	Extension and modification of airport and airway trust fund taxes and delayed deposits of airport trust fund tax revenues. Act section 1031(g).

**CODE SECTION****DESCRIPTION OF PROVISION**

*The following sections are NOT operative for Hawaii income tax purposes.*

1(h)	Federal capital gains tax rates for individuals not operative. References to the new federal holding periods are not included in the conformity bill. Unlike the federal income tax with different capital gain tax rates based on different holding periods, the State has one capital gains tax rate for individuals. The holding period for long-term capital gain treatment is “more than one year” as provided in IRC section 1222.
23(a)(2)	Technical amendment to the SBJPA of 1996 relating to the year the tax credit for child adoption expenses is allowed.
23(b)(2)(B)	Technical amendment to the SBJPA of 1996 relating to the income limitations for the tax credit for child adoption expenses.
24	New child tax credit.
25(c)(7)	Conforming amendment relating to the mortgage certificate tax credit program.
25A	Establishment of the Hope and Lifelong Learning tax credits.
26(b)(2)(E)-(Q) 26(b)(2)(N)-(P)	Technical amendments relating to the limitation based on tax liability and definition of tax liability.
30A	Technical amendments to the SBJPA of 1996 relating to the Puerto Rico Economic Activity tax credit.
32(c)(2)(B)	Amending definition of earned income for purposes of the earned income tax credit-workfare payments not included in income.
32(c)(4)	Relating to military personnel stationed outside the United States, definition of “extended active duty” for the earned income tax credit.
32(c)(5)(B)	Amending the definition of “modified adjusted gross income” for the earned income tax credit.

**CODE SECTION****DESCRIPTION OF PROVISION**

*The following sections are NOT operative for Hawaii income tax purposes.*

32(k)-(m)	Restrictions on availability of earned income tax credits for taxpayers who improperly claimed the credit in the prior year.
32(m)	Supplemental child tax credit.
39(a)(1), (2)	Modification of tax years to which unused business tax credits under IRC section 38 may be carried back or forward.
39(d)(8)	No carryback of District of Columbia zone credits before effective date.
41(c)(4)(B)	Research tax credit-election of alternative incremental credit.
41(h)(1)	Research tax credit termination after June 30, 1998.
45C(b)(1)	Credit for clinical testing expenses for certain drugs for rare diseases or conditions termination date June 30, 1998.
45C(e)	Repealing orphan drug tax credit.
51(a)	Work opportunity tax credit-percentage of wages allowed as credit.
51(c)(4)(B)	Work opportunity tax credit extended to June 30, 1998.
51(d)(1)(F)-(H)	Qualified supplemental security income recipients treated as members of targeted group for the work opportunity tax credit.
51(d)(2)(A)	Modification of eligibility requirement based on period on welfare for the work opportunity tax credit.
51(d)(3)(A)	Definition of “qualified veteran” for eligibility requirement for the work opportunity tax credit.
51(d)(9)-(12)	Amendments to definitions of targeted groups for the work opportunity tax credit.



**CODE SECTION****DESCRIPTION OF PROVISION**

*The following sections are NOT operative for Hawaii income tax purposes.*

51(i)(3)	Amendments to provision relating to certain individuals ineligible for the work opportunity tax credit.
51A	Establishing new welfare to work tax credit for employing long-term family assistance recipients.
52(c)	Tax-exempt organizations not allowed to take work opportunity tax credit.
55(b)(1)(A)	Alternative minimum tax on individuals relating to the maximum capital gains rate.
55(b)(3)	Alternative minimum tax on individuals relating to the maximum capital gains rate.
55(c)(1)	Technical amendment to the regular tax provision in the alternative minimum tax section.
55(e)	Repeal of the alternative minimum tax for small corporations.
56(a)(1)(A)	Repeal of separate depreciation lives for purposes of the alternative minimum tax.
56(a)(5)	Repeal of separate depreciation lives for pollution control facilities relating to the alternative minimum tax.
56(a)(6)-(8)	Alternative minimum tax not to apply to farmers' installment sales.
56(e)(1)(A) 56(e)(3)(B)	Conforming amendment relating to qualified housing interest for a sale of principal residence.
56(g)(4)(B)	Alternative minimum tax treatment of certain property and casualty insurance companies.
57(a)(7)	Relating to items of tax preference. Maximum capital gains rate for individuals-minimum tax.

**CODE SECTION****DESCRIPTION OF PROVISION*****The following sections are NOT operative for Hawaii income tax purposes.***

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| 59(a)(2)(C) | Repeal of exception to alternative minimum foreign tax credit limit.   |
| 59(a)(3)    | Election to use simplified IRC section 904 limitation of foreign tax credit for the alternative minimum tax. |
| 59(j)       | Minimum tax exemption amount for dependent minor children for the alternative minimum tax.                   |

***The following sections are operative for Hawaii income tax purposes.***

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| 62(a)(2)(C) | Deduction allowed in computing adjusted gross income for expenses paid in connection with services performed by an official as an employee of a state or political subdivision and provided the employee is compensated in whole or part on a fee basis. Effective for expenses paid or incurred in tax years after December 31, 1996. |
| 62(a)(17)   | Deduction allowed in computing adjusted gross income for interest paid on education loans. The deduction is allowed whether or not taxpayer itemizes other deductions. Effective for payments of interest due after December 31, 1996.   |

***The following sections are NOT operative for Hawaii income tax purposes.***

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| 63(c)(4), (5) | Amendment to the reference years used for computing standard deduction amount as an adjustment to inflation and increase in the standard deduction amounts for employed dependents. |
| 72(d)(1)(B)   | Basic recovery rules for annuities over more than one life. Refer to Hawaii Administrative Rule No. 1815 for treatment.   |

***The following section is operative for Hawaii income tax purposes.***

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| 72(t)(2)(E) | Penalty-free withdrawals from individual retirement accounts (IRA) for higher education expenses. The penalty in this section refers to the 10 percent additional tax on early distributions from IRA accounts. |
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**CODE SECTION****DESCRIPTION OF PROVISION**

*The following sections are operative for Hawaii income tax purposes.*

72(t)(2)(F)	Penalty-free withdrawals from IRA accounts for first home purchases.
72((t)(7)	Definitions for higher education expenses relating to section 72(t)(2)(E) withdrawals from IRA accounts.
72(t)(8)	Definitions for first home purchases relating to section 72(t)(2)(F) withdrawals from IRA accounts.
101(a)(2)	Expansion of denial of deduction in connection with interest paid on insurance policy loans. Effective for insurance contracts issued after December 31, 1997.
101(h)	Gross income does not include amounts paid as survivor benefits attributable to services by a public safety officer who is killed in the line of duty. Effective for amounts received after December 31, 1996, with respect to individuals dying after this date.
108(f)(2)(B)-(D) 108(f)(3)	Expands the exclusion from an individual's gross income on forgiveness of loans made by a tax-exempt charitable organization if the proceeds of the loan were used to pay costs of attendance at an educational institution or to refinance outstanding student loans and provided the student is not employed by the lender organization. The exclusion from gross income does not apply to discharges of indebtedness on account of services performed by the student for the lender organization. Effective for discharges of indebtedness after August 5, 1997.
110	New code section. A retail tenant (lessee) does not include in gross income amounts received as cash or rent reduction from the lessor of the retail space that is used for qualified construction or improvement to the retail space. The retail tenant must have a short term lease, defined as a lease that has a duration of 15 years or less. Application for Hawaii income tax purposes only.

**CODE SECTION****DESCRIPTION OF PROVISION**

*The following sections are operative for Hawaii income tax purposes.*

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| 121       | Individual taxpayers may exclude up to \$250,000 (\$500,000 married individuals filing jointly) of gain realized on the sale of a principal residence. Effective for sales on or after May 7, 1997. Old section 1034 treatment may be elected for certain sales straddling the effective date and date of enactment. |
| 127(d)    | Extension of the exclusion for employer provided educational assistance programs to May 31, 2000.  |
| 130(c)    | Exclusion for qualified personal injury liability assignments extended to amounts assigned for assuming a liability to pay compensation under any workers' compensation act. Effective for workers' compensation claims filed after August 5, 1997.  |
| 132(e)(2) | Clarification of the de minimis fringe benefit rule for no-charge employee meals. Effective for tax years beginning after December 31, 1997.   |
| 132(f)(4) | Election to receive taxable cash in lieu of nontaxable parking benefit as a fringe benefit. Effective for tax years beginning after December 31, 1997.   |

*The following sections are NOT operative for Hawaii income tax purposes.*

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| 135(c)(2)(C)  | Income from United States savings bonds used to pay higher education tuition and fees include contributions to a qualified state tuition program. |
| 135(d)(2)-(4) | Coordination of IRC section 135 with the Hope and Lifetime Learning tax credits.  |

*The following section is operative for Hawaii income tax purposes.*

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| 137(b)(1) | Conforming language limiting adoption assistance expenses to the aggregated amounts paid or expenses incurred. Effective for tax years beginning after December 31, 1996. |
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**CODE SECTION****DESCRIPTION OF PROVISION**

*The following sections are NOT operative for Hawaii income tax purposes.*

143(i)(1)(C) 143(m)(6)(A)	Conforming amendments of mortgage subsidy financing rules with the gain on the sale of a principal residence.
143(k)(11)	Mortgage subsidy financing special rules for residences located in disaster areas.
145(b)(5)	Repeal of \$100,000 limitation on unspent proceeds under one-year rebate exception for qualified IRC 501(c)(3) bonds other than hospital bonds.
148(c)(2)(B)-(E)	Repeal of the expired provisions relating to the arbitrage rebate requirements and pooled financing requirements for arbitrage bonds.
148(d)(3)	Repeal of debt service based limitation on investment in certain nonpurpose investments as related to arbitrage bonds.
148(f)(4)(B)	Repeal of \$100,000 limitation on unspent proceeds under the one year exception from rebate provision.
148(f)(4)(C)	Exception from rebate for earnings on bona fide debt service fund under construction bond rules.
148(f)(4)(D)	Increase in arbitrage rebate exception for governmental bonds issued to finance education facilities.
148(f)(4)(E)	Repeal of expired provisions relating to student loan bonds.
149(d)(3)(A)(i)(I)	Certain Virgin Islands bonds allowed one additional refinancing if first lien requirement is repealed.

*The following section is operative for Hawaii income tax purposes.*

162(a)	Traveling expenses of temporary or indefinitely employed federal employees engaged in criminal investigations deductible if all other requirements for deductibility under this section are met. Effective for amounts paid or incurred after August 5, 1997.
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**CODE SECTION****DESCRIPTION OF PROVISION**

*The following sections are operative for Hawaii income tax purposes.*

162(l)(1)(B)	Increase in the deduction for health insurance costs of self-employed individuals for years 2000 and 2001 from 45 percent to 50 percent and increasing the percentage 10 percent each year thereafter until the percentage is 100 percent in the year 2007, and thereafter. Effective for tax years beginning after December 31, 1996.
162(l)(2)(B)	Provision treats a self-employed individual's health insurance premiums separately from long-term care insurance plan premiums. Effective for tax years beginning after December 31, 1996.
162(o), (p)	Rural mail carriers who receive a qualified reimbursement of expenses incurred vehicle used in performing the delivery of mail on a rural route is allowed a deduction for an amount equal to the qualified reimbursement received. Effective for tax years beginning after December 31, 1997.
163(h)(2)(E)	Disallowance of deduction for interest paid on installment payments of federal estate taxes. Effective for estates of decedents dying after December 31, 1997.
163(h)(4)(A)	Conforming amendments relating to interest expense exemption on the sale of principal residence under IRC section 121. Effective for sales after May 6, 1997.
163(k)-(m)	Modification to the interest rate on the portion of estate taxes extended. Limitation on deduction for interest on certain indebtedness and certain debt instruments of corporations.
165(i)(4)	The Internal Revenue Service is not prohibited from issuing guidance or other rules allowing an appraisal to establish the amount of a disaster loss to secure a loan or loan guarantee from the federal government. Effective as of August 5, 1997.

**CODE SECTION****DESCRIPTION OF PROVISION**

*The following sections are operative for Hawaii income tax purposes.*

167(g)(6)	Limitation of the types of property for which the income forecast method of depreciation may be used. The income forecast method of depreciating trade or business assets is limited to film, video tape, sound recordings, copyrights, books, patents, and other property to be specified by regulations. Effective for property placed in service after August 5, 1997.
168(e)(3)(A) 168(g)(3)(B)	Limitation of property for which income forecast method may be used for depreciation period on rent-to-own property. Effective for property placed in service after August 5, 1997.
168(i)(8)	Cross reference to qualified lessee construction allowances for short-term leases. Effective for property placed in service after August 5, 1997.
168(i)(14)	Limitation of property for which income forecast method may be used for depreciation and definition of rent-to-own property. Effective for property placed in service after August 5, 1997.
168(j)(6)	Definition of Indian reservation for accelerated depreciation is clarified. Effective for property placed in service after December 31, 1993, generally.
170(e)(5)(D)	Extension of charitable contribution deduction for contributions of stock to private foundations to June 30, 1998. Effective for contributions made after May 31, 1997.
170(e)(6)	Augmented contribution deduction for C corporations of computers, computer software, computers, and peripheral equipment to be used within the U.S. for educational purposes in schools for grades K-12. The amount of the charitable contribution allowed is the taxpayer's basis in the property plus one-half of the amount of ordinary income that would have been realized if the property had been sold. Qualified contributions are limited to gifts made no later than two years after the taxpayer acquired the property. Effective for contributions made after December 31, 1997.

**CODE SECTION****DESCRIPTION OF PROVISION**

*The following provisions are operative for Hawaii income tax purposes.*

170(h)(5)(B)	Treatment of land subject to a qualified conservation easement-qualified conservation contribution where surface and mineral rights are separated. Effective for easements granted after December 31, 1997.
170(i)	Increase in the standard mileage rate expense deduction for charitable use of passenger automobile from 12 cents to 14 cents per mile. Effective for tax years after December 31, 1997.
172(b)(1)(A), (F)	Modification of tax years on net operating loss carryback to 2 years preceding the taxable year of the loss and carryover to each of the 20 taxable year following the taxable year of the loss. Retention of the 3 year carryback of net operating losses for individuals, small businesses and farms where the losses are attributable to Presidentially declared disasters. Effective for net operating losses for tax years beginning after August 5, 1997.
198	Election to currently deduct costs paid or incurred for the cleanup (remediation) of property contaminated by certain hazardous substances called "brownfields". If the taxpayer does not make the expense election, the costs are classified as capital costs. Effective for expenditures paid or incurred after August 5, 1997, in tax years ending after this date.
216(e)	Conforming amendment to exemption of gain on sale of principal residence for distributions received by tenant-shareholder of a cooperative housing corporation where the dwelling is the principal residence of the stockholder. Effective for sales after May 6, 1997.
219(c)(1)(B)	Establishment of nondeductible tax-free individual retirement accounts-deduction limitation for spousal IRA. Effective for tax years beginning after December 31, 1997.
219(g)(1)	Restoration of IRA deduction for certain taxpayers who are active participants in pension plans-limitations for active participation not based on spouse's participation. Effective for tax years beginning after December 31, 1997.



**CODE SECTION****DESCRIPTION OF PROVISION**

*The following sections are operative for Hawaii income tax purposes.*

219(g)(2)(A) 219(g)(3)(B) 219(g)(7)	Restoration of IRA deduction for certain taxpayers-increase in income limits applicable for active pension plan participants. Effective for tax years after December 31, 1997.
220(c)(3)(A)-(D)	An individual with Medicare supplemental insurance is ineligible to have a medical savings account (MSA). Medicare supplement policies are deleted from the list of permitted insurance for purposes of MSA eligibility rules. Effective for tax years after December 31, 1996.
220((d)(2)(C)	MSA account distributions are excludable from income only if the person for whom the MSA related expenses were incurred is covered under high deductible health plan and no other health plan (except for certain types of permitted coverage) during the month the expenses were incurred. Effective for tax years after December 31, 1996.
221	New code section. Individuals will be allowed to deduct the interest paid during the tax year on a qualified education loan. The maximum deductible amount of interest is \$1,000 in 1998, rising to \$2,500 in year 2001, and thereafter. Effective for a qualified loan on, before, or after August 5, 1997.
246(c)(1)(A) 246(c)(2) 246(c)(3)(A)-(C)	Modification of stock holding period (45 day holding period) applicable to the dividend deduction for corporations. This section is operative with reference to section 235-7(c), HRS.
263(a)(1)(F)-(H)	No deduction for capital expenditures allowed for amounts in which an election to expense certain depreciable business assets is taken under IRC section 179 or a deduction for clean-fuel vehicles and certain refueling property under IRC section 179A. Effective for property placed in service after June 30, 1993
264(a)(1)	Denial of deduction for premiums paid on life insurance policy, endowment, or annuity contract if the taxpayer is directly or indirectly a beneficiary under the policy or contract. Effective for contracts issued after June 8, 1997.

**CODE SECTION****DESCRIPTION OF PROVISION**

*The following sections are operative for Hawaii income tax purposes.*

264(a)(4) 264(a)(4)(A), (B)	Expansion of denial of deduction for interest paid on policy loans relating to any life insurance, endowment, or annuity contract on any individual. Effective for contracts issued after June 8, 1997.
264(b)-(c)	Exception to the denial of deduction for amounts paid in connection with insurance policy premiums paid on annuity contracts for certain qualified pension plans, retirement annuities, individual retirement accounts, and annuity contracts held by a person who is not a natural person. Effective for contracts issued after June 8, 1997.
264(d)(2)(B) 264(d)(4)(B)	Denial of interest deductions on company-owned life insurance policies does not apply to interest on debt with respect to contracts purchased before June 21, 1986. Exception to rule for interest on indebtedness relating to life insurance policies covering up to 20 key persons, as defined. Effective with respect to interest paid or accrued after October 13, 1995.
264(f)	Expansion of denial of deduction for amounts paid in connection with insurance policies-pro rata allocation of interest expense to policy cash values. Effective for contracts issued after June 8, 1997.
265(b)(4)(A)	Expansion of denial of deduction for interest expense of financial institutions relating to tax-exempt interest. Effective for contracts issued after June 8, 1997.
267(b)(11)-(13)	Executor of an estate and beneficiaries are treated as related persons for disallowance of losses, expenses, and interest with respect to transactions between related taxpayers. Effective for tax years beginning after August 5, 1997.
267(f)(4)	Any IRC provision that refers to a relationship that would result in a loss disallowance in IRC section 267 also refers to relationships where the loss is deferred as a loss between members of the same corporate group. Effective for transactions after December 31, 1983.

**CODE SECTION****DESCRIPTION OF PROVISION**

*The following sections are operative for Hawaii income tax purposes.*

274(n)(3)	Increase in the deduction percentage allowable for business meal expenses for employees subject to the federal Department of Transportation hours of service limitations. Effective for tax years beginning after December 31, 1997.
280A(c)(1)	Clarification of treatment of home office expense deduction provision. The definition of “principal place of business” is amended as the office used by the taxpayer to conduct administrative or management activities of the taxpayer’s trade or business and there is no other fixed location of the trade or business where the taxpayer conducts substantial administrative or management activities of the trade or business. Effective for tax years beginning after December 31, 1998.
280A(d)(4)(A)	Conforming amendment to the exemption from tax for gain on sale of principal residence. Effective for sales after May 6, 1997.
280F(a)(1)(C)	Exemption of the incremental cost of a clean fuel vehicle from the limits of depreciation for vehicles. Effective for property placed in service after August 5, 1997 and before January 1, 2005.
304(a)(1)	Tax treatment of certain corporate stock transfers treated as stock redemptions reformed. Sales proceeds received by a corporate transferor may be treated as a dividend under IRC section 301 to the extent of earnings and profits of the acquiring corporation and then to the extent of the earnings and profits of the issuing corporation. Effective for distributions and acquisitions after June 8, 1997, generally.
304(b)(5)	Tax treatment of redemptions involving related foreign corporations. Effective for distributions and acquisitions after June 8, 1997, generally.
312(k)(3)(B)	Treatment of amounts deductible under IRC sections 179 and 179A relating to the effect of depreciation on earnings and profits. Effective for property placed in service after June 30, 1993.

**CODE SECTION****DESCRIPTION OF PROVISION**

*The following sections are operative for Hawaii income tax purposes.*

318(b)(8)	Controlled foreign partnerships subject to information reporting comparable to information reporting for controlled foreign corporations. Effective for annual accounting periods of foreign partnerships after August 5, 1997.
351(c)	Application of IRC section 355, relating to distribution of stock and securities of a controlled corporation, to distributions in connection with acquisitions and to intragroup transactions-determination of control in certain divisive transactions. Effective for transfers after August 5, 1997.
351(e)(1)	Limitation on exception for transfer of property to an investment company under IRC section 351, relating to transfers to corporation controlled by transferor. Effective for transfers after June 8, 1997, generally.
351(g),(h)	Certain preferred stock treated as boot in an IRC section 351 transfer to a controlled corporation or a IRC section 355 distribution under an IRC section 368 reorganization. Effective for transactions after June 8, 1997, generally.
354(a)(2)(B) 354(a)(2)(C)	Certain preferred stock treated as boot in an IRC section 351 transfer to a corporation controlled by the transferor. Effective for transactions after June 8, 1997, generally.
354(a)(3)(A)	Conforming amendment to certain preferred stock treated as boot. Effective for transactions after June 8, 1997, generally.
355(a)(3)(C),(D)	Certain preferred stock treated as boot in a distribution of stock and securities of a controlled corporation. Effective for transactions after June 8, 1997, generally.
355(a)(4)(A)	Conforming amendment relating to the treatment of certain preferred stock as boot in a distribution of stock and securities of a controlled corporation. Effective for transfers after June 8, 1997, generally.

**CODE SECTION****DESCRIPTION OF PROVISION*****The following sections are operative for Hawaii income tax purposes.***

- 355(e) Application of IRC section 355 to distributions in connection with acquisitions and to intragroup transactions. Recognition of gain on certain distributions of stock or securities. Effective for distributions after April 16, 1997, generally.
- 355(f) Application of IRC section 355 to distributions in connection with acquisitions and to intragroup transactions-special rules for certain intragroup transactions. Effective for distributions after April 16, 1997.
- 356(e)-(g) Certain preferred stock treated as boot as related to the receipt of additional consideration and recognition of gain. Effective for transactions after June 8, 1997, generally.
- 358(g) Application of IRC section 355 to distributions in connection with acquisitions and to intragroup transactions-special rules for certain intragroup transactions. Effective for distributions after April 16, 1997.

***The following section is NOT operative for Hawaii income tax purposes.***

- 367(d)(2)(C) Anti-avoidance provisions replacing repealed excise tax on transfers to  
367(d)(3) foreign entities. Effective as of August 5, 1997.  
367(f)

***The following sections are operative for Hawaii income tax purposes.***

- 368(a)(2)(H) Application of IRC section 355 to distributions in connection with acquisitions and to intragroup transactions as related to corporate reorganizations. Effective for transfers after August 5, 1997.
- 401(a)(1) Conforming amendment permitting the gratuitous transfers of qualified employer securities by charitable remainder trusts to an employee stock ownership plan without adversely affecting the status of the charitable remainder trust. Effective for transfers made after August 5, 1997.

**CODE SECTION****DESCRIPTION OF PROVISION**

*The following sections are operative for Hawaii income tax purposes.*

- 401(a)(5)(G) Extension of moratorium on application of certain nondiscrimination and participation rules relating to state and local government plans. Effective for tax years beginning after August 5, 1997.
- 401(a)(13)(C), (D) Modification of prohibition of assignment or alienation of a participant's benefits due to the participant being convicted of committing a crime involving the plan, civil judgment entered by a court in violation of the fiduciary provisions of ERISA or a settlement agreement between the Secretary of Labor and the participant. Effective for judgments, orders, decrees issued, agreements entered into after August 5, 1997.
- 401(a)(26)(H) Extension of moratorium of certain nondiscrimination and participation rules relating to state and local government plans. Effective for tax years beginning after August 5, 1997.
- 401(k)(3)(G) Extension of moratorium of certain nondiscrimination and participation rules relating to state and local government qualified cash or deferred compensation plans. Effective for tax years beginning after August 5, 1997.
- 401(k)(7)(B) Mutual irrigation or ditch companies and districts organized under a state law as a municipal corporation for the purpose of irrigation, water conservation or drainage are permitted to maintain qualified cash or deferred compensation plans. Effective for years beginning after December 31, 1997.
- 401(k)(11)(B) Extending the employer notice and employee election requirements of SIMPLE IRAs to SIMPLE 401(k) arrangements. Technical amendment to the SBJPA of 1996. Effective for calendar years beginning after August 5, 1996.
- 401(k)(11)(D) Providing a top heavy exemption for a plan which permits only contributions required to satisfy the SIMPLE 401(k) requirements. Technical amendment to the SBJPA of 1996. Effective for plan years beginning after December 31, 1996.

**CODE SECTION****DESCRIPTION OF PROVISION**

*The following sections are operative for Hawaii income tax purposes.*

401(k)(11)(E)	The \$6,000 limit on elective deferrals for a SIMPLE 401(k) arrangement to be adjusted at the same time and manner as SIMPLE IRAs. Technical amendment to the SBJPA of 1996. Effective for plan years beginning after December 31, 1996.
401(m)(11)	Technical amendment to the provision for alternative method of satisfying tests for matching contributions a defined contribution plan. Amendment to the SBJPA of 1996. Effective for plan years beginning after December 31, 1998.
402(g)(9)	Matching contributions of self-employed individuals are not treated as elective employer contributions. Effective for plan years beginning after December 31, 1997.
403(b)(1)(A)	Technical amendment to the SBJPA of 1996 referencing ministers to IRC section 403(b) annuities. Effective for years beginning after December 31, 1996.
403(b)(3)	Amendment to the definition of “includible compensation” for employee annuities of public schools or exempt organizations. Effective for years beginning after December 31, 1996.
403(b)(12)(C)	Extension of moratorium on application of nondiscrimination and participation rules to plans of state and local governments. Effective for tax years beginning on or after August 5, 1997.
404(a)(3)(A)	Contributions by an employer to a SIMPLE 401(k) arrangement satisfies the contribution requirement for deduction by the employer. Effective for tax years beginning after December 31, 1996.
404(a)(9)(C)	Conforming amendment for the gratuitous transfers of qualified employer securities to an employee stock ownership plan. Effective for transfers after August 5, 1997.

**CODE SECTION****DESCRIPTION OF PROVISION**

*The following sections are operative for Hawaii income tax purposes.*

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| 408(i)       | Establishment of nondeductible tax-free individual retirement accounts (IRA)-authority by the Secretary of the Treasury to prescribe necessary reporting. Effective for tax years beginning after December 31, 1997.  |
| 408(i)       | Conforming reporting requirements of SIMPLE IRAs to that of IRAs. Report to the individual with a SIMPLE IRA would be provided within 31 days after each calendar year. Effective for tax years beginning after December 31, 1996.  |
| 408(k)(6)(H) | Clarifies that new employees hired after December 31, 1996 may participate in a salary reduction simplified employee pension (SARSEP) plan established before January 1, 1997. Technical amendment to the SBJPA of 1996. Effective for tax years beginning after December 31, 1996. |
| 408(l)(2)(B) | Issuers of annuities for SIMPLE IRAs have the same reporting requirements as SIMPLE IRA trustees. Technical amendment to the SBJPA of 1996. Effective for tax years beginning after December 31, 1996.  |
| 408(m)(3)    | Individual retirement account (IRA) assets may be invested in certain platinum coins, and certain gold, silver, platinum or palladium bullion. Effective for taxable years beginning after December 31, 1997.   |
| 408(p)(2)(D) | An employer who maintains a SIMPLE IRA plan for collectively bargained employees can have a SIMPLE IRA plan for noncollectively bargained employees. For tax years beginning after December 31, 1996.   |
| 408(p)(5)    | Technical amendment making reference to simple retirement accounts and to administrative requirements of IRA accounts. Technical amendment to the SBJPA of 1996. Effective for tax years beginning after December 31, 1996.   |



**CODE SECTION****DESCRIPTION OF PROVISION**

*The following sections are operative for Hawaii income tax purposes.*

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| 408(p)(8)    | Matching contributions of self-employed individuals not treated as elective employer contributions-conforming amendment for SIMPLE retirement accounts. Effective for years beginning after December 31, 1996.   |
| 408(p)(8)    | The \$2,000 maximum limitation for SIMPLE IRA accounts is increased to limitations in effect for contributions made to a qualified salary reduction arrangement. This includes employee elective contributions and required employer contributions. Effective for tax years beginning after December 31, 1996.   |
| 408A         | New code section establishing nondeductible tax-free IRA account (Roth IRA). Effective for tax years beginning after December 31, 1997.  |
| 409(h)(2)    | Employee stock ownership plans (ESOP) need not give participants the right to demand their distributions in the form of employer securities if they have a right to receive the distributions in cash. Also, the statutory exception does not fail because a transaction involves the sale of employer stock to a S corporation ESOP by a shareholder employee, family member of the shareholder employee, or a corporation controlled by a shareholder employee. Effective for tax years beginning after December 31, 1997. |
| 410(c)(2)    | Extension of moratorium on application of nondiscrimination and participation rules for state and local government retirement plans. Effective for tax years beginning on or after August 5, 1997.   |
| 411(a)(7)(B) | Conforming amendment to minimum vesting standards for pension accrued benefit distributable without consent increased to \$5,000. Effective for plan years beginning after August 5, 1997.   |

**CODE SECTION****DESCRIPTION OF PROVISION**

*The following sections are operative for Hawaii income tax purposes.*

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| 411(a)(11)(A)             | Pension accrued benefit distribution without consent if the present value of the accrued benefits does not exceed \$5,000. Effective for plan years beginning after August 5, 1997.  |
| 412(b)(2)(C)-(E)          | Increase in current liability funding limit-special amortization rule. Amounts that cannot be contributed to a retirement plan because of the current liability full funding limit are amortized over 20 years. The amendment provides that at the end of the 1998 plan year, the 20 year amortization period is reduced by the number of years since the amortization base was established. Effective for plan years beginning after December 31, 1998. |
| 412(c)(7)                 | Increase in current liability funding limit-amendment to 1986 code. Effective for plan years beginning after December 31, 1998.  |
| 412(c)(7)(D)              | Conforming amendment to increase in current liability funding limit. Effective for plan years beginning after December 31, 1998.   |
| 412(m)(5)(E)              | Technical amendment striking “clause I” and inserting “subclause I”. Effective as if included in section 415 of the GATT Uruguay Round Agreements Act to which it relates and for plan years beginning after December 31, 1994.  |
| 414(e)(5)(A),<br>(C), (E) | Technical amendments to definitions and special rules of church retirement plans. Amendment to the SBJPA of 1996. Effective for years beginning after December 31, 1996.   |
| 414(n)(3)(C)              | Technical amendment inserting reference to IRC section 137. Amendment to the SBJPA of 1996. Effective for tax years beginning after December 31, 1996.   |

**CODE SECTION****DESCRIPTION OF PROVISION**

*The following sections are operative for Hawaii income tax purposes.*

414(q)(7)(9)	Technical amendment renumbering paragraph (7) to (9). Two paragraph (7)s in the SBJPA of 1996. Effective for tax years beginning after December 31, 1996.
414(t)(2)	Technical amendment inserting reference to IRC section 137. Amendment to the SBJPA of 1996. Effective for tax years beginning after December 31, 1996.
415(b)(2)(G)	Removal of the dollar limitation on benefit payments from a defined benefit plan maintained for certain police and fire employees. Effective for tax years beginning after December 31, 1996.
415(c)(6)	Qualified gratuitous transfer of employer securities not taken into account in calculating the contribution limitation for defined contribution plans. Effective for transfers made to an ESOP plan after August 5, 1997.
415(e)(6), (7)	Qualified gratuitous transfer of employer securities not taken into amount in calculating the contribution limitation in case of a defined benefit plan and defined contribution plan for the same employee. Effective for transfers made to an ESOP plan after August 5, 1997.
415(k)(3)	In applying the defined benefit pension plan limit, the annual benefit under a state or local government plan includes the accrued benefit derived from contributions to purchase permissive service credit. Such contributions are not taken into account in determining annual additions. Effective for tax years beginning after December 31, 1997.
415(n)	Portability of permissive service credit under state and local government plans. Special rules relating to the purchase of permissive service credits. Effective for permissive service credit contributions made in years beginning after December 31, 1997.
417(e)(1),(2)	Conforming amendment relating to pension accrued benefit distributable without consent increased to \$5,000. Effective for plan years beginning after August 5, 1997.

**CODE SECTION****DESCRIPTION OF PROVISION**

*The following sections are operative for Hawaii income tax purposes.*

447(i)(3)-(6)	Termination of suspense accounts for family corporations engaged in farming required to use the accrual method of accounting. Effective for tax years ending after June 8, 1997.
451(e)	Election to defer recognition of income from the sale of livestock on account of drought as an involuntary conversion is extended to flood, or other weather related conditions. Effective for sales after December 31, 1996.
457(e)(9)	Conforming amendment on pension accrued benefit distributable without consent increased to \$5,000 for deferred compensation plans of state and local governments and tax-exempt organizations. Effective for plan years beginning after August 5, 1997.
460(b)(2)(C)	Modification of interest rate on look-back method for long-term contracts. Effective for property placed in service after September 13, 1995.
460(b)(6)	Election to have look-back method not to apply in de minimis cases. Effective for contracts completed in tax years ending after August 5, 1997.
460(b)(7)	Adjusted overpayment interest rate. Effective for property placed in service after September 13, 1995.
464(f)(3)(B)	Conforming amendment relating to exemption from tax for gain on sale of principal residence as it applies to the limitations on deductions for certain farming expenses. Effective for sales after May 6, 1997.
471(b),(c)	Use of estimates of shrinkage for inventory accounting allowable if the taxpayer does not make a physical count of inventories and makes adjustments to the estimating methods if the estimates are greater than or less than the actual shrinkage. Effective for tax years beginning after August 5, 1997.

**CODE SECTION****DESCRIPTION OF PROVISION**

*The following sections are operative for Hawaii income tax purposes.*

475(e)-(g)	Constructive sales treatment for appreciated financial positions-election to mark to market for dealers in commodities and for traders in securities or commodities. Effective for tax years ending after August 5, 1997.
501(c)(26)	The definition of "high risk" individuals eligible to receive care from nonprofit, state-sponsored medical care providers has been expanded to include the spouse and children of a current high-risk individual if certain requirements are met. Effective for tax years beginning after December 31, 1997.
501(c)(27)(B)	Tax-exempt status for organizations created by state law to exclusively provide workmen's compensation insurance which is required by state law. Effective for tax years beginning after December 31, 1997.
501(c)(27)(A)-(C)	Conforming amendment for certain state worker's compensation act companies. Effective for tax years beginning after December 31, 1997.
501(e)(1)(A)	The list of services that can be performed by a tax-exempt cooperative hospital service organization for its members is clarified. Billing and collection services provided by the organization includes the purchase of patron accounts receivables on a recourse basis. Effective for tax years beginning after December 31, 1996.
512(a)(3)(D)	Conforming amendment for gain on sale of principal residence as related to the nonrecognition of gain applicable to tax-exempt organizations. Effective for sales after May 6, 1997.
512(b)(13)	Expansion of look-thru rule for interest, annuities, royalties, and rents derived by subsidiaries of tax-exempt organizations. Effective for tax years beginning after August 5, 1997.
512(e)(1)	ESOP plans may be shareholders of S corporations in post-1997 tax years. Items of income or loss of the S corporation will not be treated as unrelated business taxable income (UBTI). Before, the income was UBTI. Effective for tax years beginning after December 31, 1997.

**CODE SECTION****DESCRIPTION OF PROVISION**

*The following sections are operative for Hawaii income tax purposes.*

512(e)(2)	Basis of stock purchased by an ESOP shall be reduced by the amount of dividends received with respect to the stock purchased. Effective for tax years beginning after December 31, 1997.
512(e)(3)	Repeal of the application of UBTI provision to ESOP plans. Effective for tax years beginning after December 31, 1997.
513(i)	Exclusion from UBTI provision for certain sponsorship payments solicited and received by a tax-exempt organization from a payor engaged in a trade or business that does not expect any substantial return benefit other than acknowledgment of the payor's name, logo or product lines in connection with the activities of the tax-exempt organization. Effective for payments solicited or received after December 31, 1997.
528(b)	Taxation of timeshare associations similar to condominium homeowners associations. Effective for tax years beginning after December 31, 1996.
528(c)(1) 528(c)(4),(5)	Adding references of residential real estate management association and timeshare association to condominium homeowners associations. Adding definition of timeshare association. Effective for tax years beginning after December 31, 1996.
528(d)(3)(A)-(C)	Homeowners association taxable income defined-exemption of amounts received by timeshare associations. Effective for tax years beginning after December 31, 1996.
529(b)(5)	A contributor to a qualified state tuition program may not directly or indirectly direct the investment on any contribution to the program. Effective January 1, 1998, generally.
529(c)(2)(5)	Modification of gift tax treatment of contributions to a state tuition program. Effective for transfers made after August 5, 1997.

**CODE SECTION****DESCRIPTION OF PROVISION**

*The following sections are operative for Hawaii income tax purposes.*

529(c)(3)(A)	Clarification of the exclusion from gross income of qualified distributions from a state tuition program. Effective January 1, 1998, generally.
529(c)(4)	Exclusion of interests in a qualified state tuition program from the gross estate of an individual for estate tax treatment. Effective for estates of decedents dying after June 8, 1997, generally.
529(d)	Technical amendment relating to the requirement for reports to the Secretary of the Treasury on contributions, distributions and other matters by each officer, employee or designee having control of the qualified State tuition program. Effective January 1, 1998, generally.
529(e)(1)(B),(C)	Technical amendment to the definition of designated beneficiary for a qualified state tuition program. Effective January 1, 1998.
529(e)(2)	Definition of “member of family” for purposes of allowing tax-free roll-overs of credits or transfers and redesignation of beneficiaries extended to sons, daughters, brothers, sisters, nephews, nieces, certain in laws, and spouse of such persons. Effective January 1, 1998, generally.
529(e)(3)	Qualified higher education expenses to include room and board as it relates to tax-free distributions. Effective for tax years ending after August 20, 1996.
529(e)(5)	Modification of the definition of eligible educational institutions. Effective for distributions made after December 31, 1997, with respect to expenses paid after this date for education furnished in academic periods beginning after this date.
530	New Code section. Establishment of education individual retirement accounts (IRA). Effective for tax years beginning after December 31, 1997.

**CODE SECTION****DESCRIPTION OF PROVISION*****The following sections are NOT operative for Hawaii income tax purposes.***

532(b)(4)	Conforming amendment of election of mark to market for marketable stock in a passive foreign investment company as related to corporations subject to the accumulated earnings tax.
542(c)(10)	Conforming amendment of election of mark to market for marketable stock in foreign investment company as related to a personal holding company.
551(f)	Conforming amendment of election of mark to market for marketable sock in foreign investment company as related to foreign personal holding company income taxed to United States shareholders.
593(e)(1)(A)	Rules for thrift financial institutions electing S corporation status pre-1988 bad debt reserves and former thrift financial institutions that elect S corporation status are clarified. Effective for tax years beginning after December 31, 1995.

***The following sections are operative for Hawaii income tax purposes.***

613A(c)(6)	Temporary suspension of taxable income limit on percentage depletion for marginal production oil and gas wells. Effective for tax years beginning after December 31, 1997.
641(b)	A foreign trust or foreign estate shall be treated as a nonresident alien individual who is not present in the United States at any time. Technical amendment to the SBJPA of 1996. Effective for tax years beginning after December 31, 1996.
644	Repeal of the throwback rules applicable to certain domestic trusts-repeal of tax on transfers to trusts at less than fair market value. Effective for sales after August 5, 1997.
645	Repeal of the throwback rules applicable to certain domestic trusts-repeal of tax on transfers to trusts at less than fair market value as related to the taxable year of trusts. Effective for sales after August 5, 1997.



**CODE SECTION****DESCRIPTION OF PROVISION**

*The following sections are operative for Hawaii income tax purposes.*

646	Certain revocable trusts may elect to be treated as part of an estate. Effective for decedents dying after August 5, 1997.
663(b)	Treatment of distributions during first 65 days of taxable year of an estate. A decedent's estate may elect to treat distributions made within 65 days after the close of the tax year as if they were made on the last day of the tax year. Effective for tax years beginning after August 5, 1997.
663(c)	Under a decedent's will and applicable state law, the creation of separate economic interest (shares) in one beneficiary or class of beneficiaries will be applied to the decedent's estate. Effective with respect to estates of decedents dying after August 5, 1997.
664(d)(1)(A)-(D)	Limitations on charitable remainder annuity trust noncharitable payout distributions. Effective for transfers in trust after July 28, 1997.
664(d)(1)(B), (C)	Conforming amendment for gratuitous transfers of employer securities to an ESOP plan for the benefit of employees. Effective for transfers made to or for an ESOP plan after August 5, 1997.
664(d)(2)(A)-(D)	Limitation on charitable remainder unitrust noncharitable payout distributions. Effective for transfers in trust after July 28, 1997.
664(d)(2)(B), (C)	Conforming amendment for gratuitous transfers of employer securities to an ESOP plan for the benefit of employees. Effective for transfers made to or for an ESOP plan after August 5, 1997.
664(d)(4)	Limitations on charitable remainder trust eligibility for certain trusts-severance of certain additional contributions. Effective for transfers in trust after July 28, 1997.
664(g)	Definition of qualified gratuitous transfer of employer securities. Effective for transfers made after August 5, 1997.

**CODE SECTION****DESCRIPTION OF PROVISION**

*The following sections are operative for Hawaii income tax purposes.*

665(b),(c)	Repeal of throwback rules applicable to accumulated distributions of certain domestic trusts. Effective for distributions in tax years beginning after August 5, 1997.
674(b)(4)	Conforming amendment for gratuitous transfers of employer securities to an ESOP plan for the benefit of employees. Effective for transfers made to or for and ESOP plan after August 5, 1997.
679(a)(3)(C)	The obligations of the trust owner and certain persons related to the trust are not taken into account in determining whether a transfer of property to a foreign grantor trust is for fair market value considerations. Technical amendment to the SBJPA of 1996. Effective for transfers of property after February 6, 1995.
684	Recognition of gain on transfers of property to certain foreign trusts or estates. Effective as of August 5, 1997.
685 as	New Code section. Election by a pre-need funeral trust not to be treated a grantor trust and to have the tax on the earnings of the trust paid by the trustee. The income tax rates applicable to estates and trusts are applied. Effective for tax years ending after August 5, 1997.
691(c)(1)(C)	Conforming amendment repealing excess distribution and excess retirement accumulation tax. Effective for estates of decedents dying after December 31 1996.
704(c)(1)(B)	The period for a partner to recognize precontribution gain from a distribution of appreciated (or depreciated) property contributed to the partnership is extended from five to seven years after the contribution. Effective for property contributed to a partnership after June 8, 1997.
706(b)(5)	Repeal of throwback rule applicable to certain domestic trusts-repeal of tax on transfers to trusts at less than fair market value. Effective for sales after August 5, 1997.

**CODE SECTION****DESCRIPTION OF PROVISION**

*The following sections are operative for Hawaii income tax purposes.*

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| 706(c)(2)(A) | Taxable year of partnership closes with respect to partner whose entire interest terminates by reason of death, liquidation, or otherwise. Effective for partnership tax years beginning after December 31, 1997.  |
| 721(c)       | The Secretary of the Treasury is empowered to issue regulations denying normal nonrecognition of gain on contributions to a foreign partnership by a U.S. partner in circumstances where gain is inherent in the property contributed will be recognized by a foreign person. Effective as of August 5, 1997.  |
| 721(d)       | Regulatory authority to apply the deemed royalty treatment in the case of a transfer of intangible property to a partnership. The transfer will be treated as a sale that generates deemed annual payments from the partnership to the transferor and considered to be ordinary income, not capital gain. Effective as of August 5, 1997.                                      |
| 724(d)(2)    | Conforming amendment repealing the requirement that inventory be substantially appreciated with respect to a sale or exchange of a partnership interest. The amount received in exchange for the partner's interest attributable to unrealized receivables or inventory is treated as ordinary income. Effective for sales, exchanges, and distributions after August 5, 1997. |
| 731(a)(2)(B) | Conforming amendment repealing the requirement that inventory be substantially appreciated with respect to a sale or exchange of a partnership interest and the recognition of gain or loss on distribution. Effective as of August 5, 1997, generally.  |
| 731(c)(6)    | Conforming amendment repealing the requirement that inventory be substantially appreciated with respect to a sale or exchange of a partnership interest as it relates to a marketable security which is an unrealized receivable or an inventory item. Effective for distributions after August 5, 1997.   |

**CODE SECTION****DESCRIPTION OF PROVISION**

*The following sections are operative for Hawaii income tax purposes.*

732(c)	Allocation of basis among property other than money distributed by a partnership. Effective for distributions after August 5, 1997.
732(c)(1)(A)	Conforming amendment repealing requirement that inventory be substantially appreciated with respect to sale or exchange of partnership interest as it relates to the allocation of basis of distributed property other than money by a partnership. Effective for sales, exchanges, and distributions after August 5, 1997.
735(a)(2) 735(c)(1)	Conforming amendment repealing requirement that inventory be substantially appreciated with respect to a sale or exchange of a partnership interest as it relates to the character of gain or loss on disposition of distributed property and special rules. Effective for sales, exchanges, and distributions after August 5, 1997.
737(b)(1)	Extension of time for a contributing partner to recognize precontribution gain from a distribution of contributed property from five to seven years after the contribution to the partnership. Effective for property contributed after June 8, 1997.
751(a)(2)	The amount of money or the fair market value of property received by a transferor partner in exchange for all or part of the partner's interest in the partnership attributable to inventory items of the partnership shall be considered an amount realized from the sale or exchange of property other than a capital asset. Effective for sales, exchanges, and distributions after August 5, 1997.
751(b)(1)(A),(B)	Conforming amendment for a distribution of partnership property which is unrealized receivables or inventory items which have appreciated substantially in value in exchange for all or part of the partner's interest in the partnership is to be treated as a sale or exchange. Effective for sales, exchanges, and distributions after August 5, 1997.

**CODE SECTION****DESCRIPTION OF PROVISION**

*The following sections are operative for Hawaii income tax purposes.*

751(b)(3)	Definition of substantial appreciation of the inventory items of the partnership. Effective for sales, exchanges, and distributions after August 5, 1997.
751(d)	Definition of inventory items of the partnership. Effective for sales, exchanges, and distributions after August 5, 1997.
771	Simplified flow-through reporting system for electing large partnerships. Qualifying large partnerships with 100 or more members may make an irrevocable election for simplified reporting of partners' income, gains, losses and other items. Election generally not available for service partnerships. Effective for partnership tax years beginning after December 31, 1997.
772	Simplified flow-through for electing large partnerships. Section provides for general rule, separate computations, treatment at partnership level, and operating rules. Effective for partnership tax years beginning after December 31, 1997.
773	Simplified flow-through for electing large partnerships. Rules for computations at partnership level, general rule, modifications to determine taxable income, and special rules for income from discharge of indebtedness. Effective for partnership tax years beginning after December 31, 1997.
774	Simplified flow-through for electing large partnerships. Rules for treatment of certain optional adjustments, credit recapture determinable at partnership level, partnership not terminated by reason of change of ownership, partnership entitled to certain credits, treatment of REMIC residuals, and special rules for applying certain installment sale rules. Effective for partnership tax years beginning after December 31, 1997.

**CODE SECTION****DESCRIPTION OF PROVISION*****The following sections are operative for Hawaii income tax purposes.***

775	Simplified flow-through for electing large partnerships. Definition of electing large partnership. Effective for partnership tax years beginning after December 31, 1997.
776	Simplified flow-through for electing large partnerships. Special rules for partnerships holding oil and gas properties. Effective for partnership tax years beginning after December 31, 1997.
777	Simplified flow-through for electing large partnerships. The Secretary of the Treasury shall prescribe regulations to carry out the purposes of these sections. Effective for partnership tax years beginning after December 31, 1997.

***The following sections are NOT operative for Hawaii income tax purposes.***

805(a)(4)(C),(D)	Expansion of denial of deduction for insurance companies on certain amounts paid in connection with insurance policies, annuity and endowment contracts.
805(a)(4)(F)	Expansion of denial of deduction for insurance companies on certain amounts paid in connection with the increase of insurance policy cash values.
807(a)(2)(B) 807(b)(1)(B)	Expansion of denial of deduction for insurance companies relating to tax-exempt interest and the increase in policy cash values.
812(d)(1)(B)-(D)	Expansion of denial of deduction for insurance companies relating to the definition of company's share and policyholders' share.
814(h)	Conforming amendment relating to recognition of gain on certain transfers to foreign trusts and estates for contiguous country branches of domestic life insurance companies.
817(h)(2)(A),(B)	Repeal of 30 percent gross income limitation relating to treatment of variable contracts of insurance companies.

**CODE SECTION****DESCRIPTION OF PROVISION**

*The following sections are NOT operative for Hawaii income tax purposes.*

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| 832(b)(5)(B) | Denial of deduction on certain amounts relating to the increase in policy cash values for purposes of insurance company taxable income.  |
| 833(b)(1)(A) | Clarifying the deduction by Blue Cross and Blue Shield Organizations for liabilities incurred during the tax year under cost-plus contracts are added to claims incurred. Expenses incurred in connection with cost-plus contracts are added to expenses incurred. Amendment to the SBJPA of 1996. |

*The following sections are operative for Hawaii income tax purposes.*

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| 851<br>851(b)(2)-(4) | Repeal of 30 percent gross income limitation relating to regulated investment companies. The 30 percent rule relates to a corporation not qualifying as a regulated investment company if 30 percent or more of the gross income was derived from the sale or disposition of stock, securities, foreign currencies, or options, futures, and similar positions that were held for less than three months. Effective for tax years beginning after August 5, 1997. |
| 852(b)(3)(D)         | Conforming amendment for credit on tax paid by a real estate investment trust (REIT) on retained capital gains. Effective for tax years beginning after August 5, 1997.   |
| 852(b)(10)           | Election of mark to market for marketable stock in passive foreign investment company under IRC section 4982 for regulated investment companies. Effective for tax years beginning after December 31, 1997 and tax years of foreign corporations ending with or within the tax years of U.S. persons.   |

*The following section is NOT operative for Hawaii income tax purposes.*

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| 853(c) | Holding period requirement for certain foreign taxes-notice of withholding taxes paid by the regulated investment company. |
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**CODE SECTION****DESCRIPTION OF PROVISION**

*The following sections are operative for Hawaii income tax purposes.*

856(a)(6)	Clarification of limitation on maximum number of shareholders for a real estate investment trust (REIT). Effective for tax years beginning after August 5, 1997.
856(c)(3)-(8) 856(c)(5)(G)	Repeal of the 30 percent gross income rule for REITs. The 30 percent gross income limitation rule is the similar to that for regulated investment companies. Effective for tax years beginning after August 5, 1997.
856(c)(5)(G)	Payments under hedging instruments included in the determination of the qualification as a REIT. Effective for tax years beginning after August 5, 1997.
856(d)(2)(C)	De minimis rule for tenant services income relating to real property rental income of REITs. Effective for tax years beginning after August 5, 1997.
856(d)(5)	Attribution rules applicable to stock ownership for REITs. Effective for tax years beginning after August 5, 1997.
856(d)(7)	De minimis rule for tenant services income-impermissible tenant service income for REITs. Effective for tax years beginning after August 5, 1997.
856(e)(2)	Special rules for grace period in the treatment of foreclosure real property of REITs. Effective for tax years beginning after August 5, 1997.
856(e)(3)	Granting of extension of grace period in the treatment of foreclosure real property of REITs. Effective for tax years beginning after August 5, 1997.
856(e)(4)	Treatment of foreclosure real property by REITs-certain activities not to disqualify property. Effective for tax years beginning after August 5, 1997.



**CODE SECTION****DESCRIPTION OF PROVISION**

*The following sections are operative for Hawaii income tax purposes.*

856(e)(5)	Treatment of foreclosure real property by REITs-revocation of election. Effective for tax years beginning after August 5, 1997.
856(i)(2)	Definition of wholly owned qualified REIT subsidiary company. Effective for tax years beginning after August 5, 1997.
856(j)(4),(5)	Treatment of shared appreciation mortgages held by REITs-bankruptcy safe harbor and clarification of definition of shared appreciation mortgage provision. Effective for tax years beginning after August 5, 1997.
856(k)	Clarification of the limitation on the maximum number of shareholders of a REIT-compliance with closely held prohibition. Effective for tax years beginning after August 5, 1997.
857(a)(2),(3)	Clarification of the limitation on the maximum number of shareholders of a REIT-rules relating to the determination of ownership. Effective for tax years beginning after August 5, 1997.
857(b)(3)(D),(E)	REIT election to retain, rather than distribute, its net long-term capital gains and pay the tax on the gains. REIT shareholders to include their proportionate share of the undistributed long-term capital gains in income and receive a credit for their share of the tax paid by the REIT. Effective for tax years beginning after August 5, 1997.
857(b)(5)	Conforming amendment to repeal of the 30 percent gross income rule for REITs. Effective for tax years beginning after August 5, 1997.
857(b)(6)(C)	Conforming amendment to repeal of the 30 percent gross income rule for REITs. Effective for tax years beginning after August 5, 1997.
857(b)(6)(C)	Prohibited transaction safe harbor for REITs. Excludes from prohibited sales rules property that was involuntarily converted. Effective for tax years beginning after August 5, 1997.

**CODE SECTION****DESCRIPTION OF PROVISION**

*The following sections are operative for Hawaii income tax purposes.*

857(b)(7)(A)	Conforming amendment on credit for taxes paid by REIT on retained capital gains. Effective for tax years beginning after August 5, 1997.
857(d)(3)	Modification of earnings and profits rules for determining whether REIT has earnings and profits from non-REIT year. Effective for tax years beginning after August 5, 1997.
857(e)(2)(B)-(D)	Expanding the class of excess noncash items that are not subject to the distribution requirement to include income from the cancellation of indebtedness and extends the treatment of original issue discount and coupon interest as excess noncash items to REITs using the accrual method of accounting. Effective for years beginning after August 5, 1997.
857(f), (g)	Clarification of limitation on maximum number of shareholders-rules relating to determination of ownership. Effective for tax years beginning after December 31, 1997.
860L(b)(1)(A)	Relating to financial securitization investment trusts (FASIT). The requirement of a regular interest must be met on or after the start-up date instead of after the start-up date. Effective September 1, 1997.
860L(d)(2)	Technical correction of cross reference in section 860L(d) from section 860L(c)(2) to section 860L(b)(2). Effective September 1, 1997.
860L(e)(2)(A), (B)	Clarification of exception from the excise tax for net income on prohibited transaction as related to the disposition of a permitted asset that is foreclosure property. The exception apply as if the FASIT was treated as a REMIC and permitted assets other than cash and cash equivalents were treated as qualified mortgages. Effective September 1, 1997.
860L(e)(3)(A)	Certain transactions exempted from FASIT prohibited transaction rules. Effective September 1, 1997.

**CODE SECTION****DESCRIPTION OF PROVISION**

860L(e)(3)(D) The exception from the excise tax is expanded to include income from the disposition of former hedge assets and a contract right to acquire a former hedge asset. Effective September 1, 1997.

*The following sections are NOT operative for Hawaii income tax purposes.*

861(a)(3) The gross income of a nonresident alien individual present in the United States as a member of the regular crew of a foreign vessel in connection with the international operation of a ship is not includible for purposes of the pension rules, group life insurance rules, and accident and health insurance rules. Effective for remuneration for services performed in tax years beginning after December 31, 1997.

863(c)(2)(B) The special rule regarding personal service income with respect to transportation that begins in the United States and ends at a United States possession (or vice versa) only applies to a U.S. citizen or resident. Effective for remuneration for services performed in tax years beginning after December 31, 1997.

864(b)(2)(A) Repeal of the requirement that a foreign entity whose principal business is in trading stock and securities that the principal office be located outside the United States to qualify for the safe harbor provision of not being connected with a U.S. trade or business.. Effective for tax years beginning after December 31, 1997.

877(d)(2)(B),(D) Technical correction clarifying the period the general rule requiring gain recognition on exchanges of property begins on the date of loss of U.S. citizenship or residency status. Also, gains on exchanges occurring during the five year period before the loss of U.S. citizenship or residency status are to be recognized immediately after the loss of citizenship or residency. Effective for individuals losing citizenship on or after February 6, 1995, and long-term U.S. residents ending residency or gaining foreign residency on or after February 6, 1995.

877(d)(3) Clarification of expatriation provision recognizing gains that are United States sourced or connected with a United States trade or business within a ten year period following the loss of citizenship or residency.

**CODE SECTION****DESCRIPTION OF PROVISION**

*The following sections are NOT operative for Hawaii income tax purposes.*

- 877(d)(4)(A) Technical correction clarifying the ten year period rule relating to certain contributions to foreign corporations begins on the date of loss of U.S. citizenship or residency status. The income from property prior to the contribution is from U.S. sources. Effective for individuals losing U.S. citizenship on or after February 5, 1995, and long-term U.S. residents ending or beginning foreign residency on or after February 5, 1995.
- 877(e)(1) Technical amendment striking reference to section 6039F and inserting 6039G, relating to information on individuals losing United States citizenship. Effective for individuals losing U.S. citizenship on or after February 5, 1995, and long-term U.S. residents ending or beginning foreign residency on or after February 5, 1995.
- 894(c) The availability of reduced U.S. withholding tax on U.S. source income of nonresident aliens and foreign corporations for payments to hybrid entities is limited. Effective as of August 5, 1997.
- 901(k),(l) A taxpayer is not entitled to a tax credit for foreign withholding taxes paid with respect to a dividend if a 16 day holding period for the dividend paying stock (46 day holding period for certain dividends on preferred stock) is not satisfied. Effective for dividends paid or accrued more than 30 days after August 5, 1997.
- 901(k)(4) Technical amendment relating to controlled foreign partnerships subject to information reporting comparable to information reporting for controlled foreign corporations. Effective for annual accounting periods of foreign partnerships beginning after August 5, 1997.
- 902(b) The indirect foreign tax credit allowed to a first tier corporation is extended to foreign income taxes paid by fourth, fifth, and sixth tier controlled foreign corporations. Effective for taxes of foreign corporations for tax years beginning after August 5, 1997, generally.
- 902(c)(2)(B) Clarification for attribution of deemed paid foreign taxes prior to distributions. Effective as of August 5, 1997.

**CODE SECTION****DESCRIPTION OF PROVISION**

*The following sections are NOT operative for Hawaii income tax purposes.*

902(c)(3) 902(c)(3)(B)	Special rules and requirements for post-1986 foreign income taxes paid relating to the indirect foreign tax credit. Effective for taxes of foreign corporations beginning after August 5, 1997, generally.
902(c)(4)(B)	Conforming amendment relating to the indirect foreign tax credit allowed to sixth tier foreign corporations.
904(b)(2)(C)	Conforming amendment for coordination of foreign tax credit with maximum capital gains tax rate for individuals. Effective for tax years ending after May 6, 1997.
904(d)(1)(E)	Foreign tax credit treatment of dividends from noncontrolled IRC section 902 corporations-separate basket only to apply to pre-2003 year earnings. Effective for tax years beginning after December 31, 2002.
904(d)(2)(C),(D)	Conforming amendment of foreign tax credit treatment of dividends received from noncontrolled corporations and clarification of foreign tax credit for financial services income to include passive income, as determined before the high-taxed income exception for passive income is applied. Effective for tax years beginning after December 31, 2002.
904(d)(2)(E)	Foreign tax credit treatment of dividends from noncontrolled section 902 corporations. Gain on certain stock sales by controlled foreign corporations treated as dividends.
904(d)(4)-(6)	Foreign tax credit treatment of dividends from noncontrolled IRC section 902 corporations-application of look-thru rules to dividends of noncontrolled corporations attributable to post-2002 earnings. Effective for tax years beginning after December 31, 2002.
904(j), (k)	Certain individuals exempt from foreign tax credit limitations.
905(c)	The average exchange rate for the year to be used in translating foreign taxes paid.

**CODE SECTION****DESCRIPTION OF PROVISION**

*The following sections are NOT operative for Hawaii income tax purposes*

911(b)(2)(A), (D)	Adjustment of exclusion amount of foreign earned income for citizens or residents of the United States living abroad.
927(a)(2)(B)	Treatment of computer software as foreign sales corporation (FSC) export property eligible for FSC provision benefits.
951(a)(2)	Gain from certain sales or exchanges of stock in certain foreign corporations taken into account in determining pro-rata share of income of United States shareholders.
952(b)	Clarification of treatment of branch tax exemption or reductions on United States income earned by a controlled foreign corporation.
954(c)(1)(B), (F), (G)	Definition of foreign personal holding company income.
954(c)(2)(C)	Definition of foreign personal holding company income-exception for regular dealers in property, forward contracts, option contracts and similar financial instruments.
954(e)(2)(A)-(C)	Exemption from foreign base company services income. Note: This provision was canceled by President Clinton on August 11, 1997, pursuant to the authority under the Line Item Veto Act (P.L. 104-130).
954(h)	Special rules for income derived by a foreign personal holding company in the active conduct of banking, financing or similar business. Note: This is the first of two provisions vetoed by President Clinton on August 11, 1997, pursuant to the authority under the Line Item Veto Act (P.L. 104-130).
956(b)(1)(A)	Technical amendment to the definition of “applicable earnings” of a controlled foreign corporation investing in United States property. Technical amendment to subtitle E of the SBJPA of 1996.

**CODE SECTION****DESCRIPTION OF PROVISION*****The following sections are NOT operative for Hawaii income tax purposes.***

956(c)(2)(H)-(J)	United States property of controlled foreign corporations not to include certain assets acquired by dealers in the ordinary course of trade or business.
960(a)(1)	Indirect foreign tax credit extended to foreign income taxes paid by fourth, fifth, and sixth tier foreign corporations.
961(c)	Gain on the disposition of stock of a lower tier controlled foreign corporation reduced by income inclusions of earnings that were not subsequently distributed by the lower tier controlled foreign corporation-basis adjustment.
964(e)	Gain on certain stock sales by a controlled foreign corporation treated as dividends.

***The following sections are operative for Hawaii income tax purposes.***

986(a)(3),(4)	Authority to use average exchange rates in translating foreign taxes. Effective for taxes paid or accrued in tax years beginning after December 31, 1997.
986(a)	Average exchange rate may be used for currency translation of accrued foreign taxes. Effective for taxes paid or accrued in tax years beginning after December 31, 1997.
988(e)	Nonrecognition of de minimis gain from foreign currency transactions for personal transactions of individuals. Effective for tax years beginning after December 31, 1997.
989(b) 989(c)(4)-(6)	Other definitions and rules relating to income from outside the United States. Authority to use average exchange rates in translating foreign taxes. Effective for taxes paid or accrued in tax years beginning after December 31, 1997.

**CODE SECTION****DESCRIPTION OF PROVISION**

*The following sections are operative for Hawaii income tax purposes.*

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| 1012(c)(4)(A), (B) | Termination of certain exemptions from rules relating to exempt organizations which provide commercial type insurance. Effective for tax years beginning after December 31, 1997.  |
| 1014(a)(1)-(4)     | Treatment of carryover basis of land subject to a conservation easement for property acquired from a decedent. Effective for decedents dying after December 31, 1997.  |
| 1016(a)(7)         | Conforming amendment relating to exemption for gain on sale of principal residence as it applies to the adjustment to basis for the former IRC section 1034. Effective for sales and exchanges after May 6, 1997.  |
| 1016(a)(23)        | Conforming amendment relating to the rollover of gain from the sale of qualified stock. Effective for sales after August 5, 1997.  |
| 1016(a)(25)-(27)   | Conforming amendment relating to adjustments to basis for tax incentives in the revitalization of the District of Columbia. Effective as of August 5, 1997.  |
| 1031(h)            | Special rules for foreign real and personal property as it applies to exchanges of property held for productive use or investment. Personal property used predominantly in the United States treated as not property of like kind with respect to property used predominantly outside the U.S. Effective for transfers after June 8, 1997, in tax years ending after such date, generally. |
| 1033(e)            | Qualifying treatment of livestock sold on account of flood or weather related conditions as an involuntary conversion transaction. Effective for sales and exchanges after December 31, 1996.  |
| 1033(h)(4)         | Conforming amendment relating to the exemption from tax for gain on sale of principal residence as it applies to special rules for property damaged by presidentially declared disasters. Effective for sales and exchanges after May 6, 1997, generally.  |



**CODE SECTION****DESCRIPTION OF PROVISION**

*The following sections are operative for Hawaii income tax purposes.*

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| 1033(i)     | Expansion of requirement that involuntarily converted property be replaced with property acquired from unrelated person. Applicable to involuntary conversions occurring after June 8, 1997.  |
| 1033(k)(3)  | Conforming amendment relating to exemption from tax for gain on sale of principal residence as it applies to an involuntary conversion of principal residence. Effective for sales and exchanges after May 6, 1997, generally.  |
| 1034        | Repeal of non-recognition of gain on rollover of principal residence. New IRC section 121 exempts gain on the sale of principal residence. Effective for sales and exchanges after May 6, 1997, generally. Section 235-2.4(n), HRS, the State provision for IRC section 1034, is repealed, but the qualified election for section 1034 treatment on certain sales straddling the effective date will follow federal income tax treatment. |
| 1035(c),(d) | Nonrecognition treatment of exchanges of life insurance policies, endowment contracts or annuities does not apply if the exchange has the effect of transferring property to a foreign person. Effective as of August 5, 1997.  |
| 1036(b),(c) | Nonrecognition of gain does not apply to nonqualified preferred stock received in exchange for common stock of the same corporation. Effective for transactions after June 8, 1997, generally.  |
| 1038(e)     | Conforming amendment relating to exemption from tax for gain on sale of principal residence as it applies to certain reacquisitions of real property. Effective for sales and exchanges after May 6, 1997, generally.   |

*The following section is NOT operative for Hawaii income tax purposes.*

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| 1042(g) | Nonrecognition of gain on sale of stock in agricultural refiners and processors to eligible farmers' cooperatives. Effective for sales after December 31, 1997. Note: This is the second of two provisions vetoed by President Clinton on August 11, 1997, pursuant to the authority under the Line Item Veto Act (P.L. 104-130). |
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**CODE SECTION****DESCRIPTION OF PROVISION**

*The following section is operative for Hawaii income tax purposes.*

1045 Election to rollover gain from sale of qualified small business stock held for more than six months if other small business stock is purchased by the individual during the 60 day period from the date of the sale. Effective for sales after August 5, 1997.

*The following section is NOT operative for Hawaii income tax purposes.*

1057 Repeal of election to treat transfer to foreign trusts and estates as a taxable exchange-technical and conforming amendment.

*The following sections are operative for Hawaii income tax purposes.*

1059(a)(2) Gain recognized by a corporate shareholder when extraordinary dividends received to the extent that the nontaxed portion exceeds the basis in the stock. Effective for distributions after May 3, 1995, generally.

1059(d)(1) Reduction in basis of stock is treated as occurring at the beginning of the ex-dividend date of the extraordinary dividend to which the basis reduction relates to. Effective for distributions after May 3, 1995, generally.

1059(d)(3) Technical amendment relating to holding period of stock as it applies to extraordinary dividends. Effective as of August 5, 1997.

1059(e)(1) Gain recognized when the untaxed portion exceeds the basis of the shares surrendered with respect to certain redemptions of stock. Effective for distributions after May 3, 1995.

1059(e)(1)(A) Tax treatment of redemptions involving related corporations-coordination with section 1059. Effective for distributions and acquisitions after June 8, 1997, generally.

1092(f)(2) Technical amendment relating to straddles-repeal of 30 percent gross income limitation for regulated investment companies. Effective for tax years beginning after August 5, 1997.

**CODE SECTION****DESCRIPTION OF PROVISION**

*The following section is NOT operative for Hawaii income tax purposes.*

1201(a)(2)            The amount of net capital gain taken into account in computing the alternative tax on capital gains for corporations is not to exceed the taxable income of the corporation. Effective for tax years beginning after December 31, 1997.

*The following sections are operative for Hawaii income tax purposes.*

1223(7)            Conforming amendment relating to exemption from tax on gain on sale of principal residence as it applies to the holding period of property. Effective for sales and exchanges after May 6, 1997.

1223(15), (16)    Conforming amendment relating to the rollover of gain from the sale of qualified stock as it applies to the holding period. Effective for sales after August 5, 1997.

1233(h)            Gains and losses from certain terminations with respect to property-recognition of gain on short sales of property which become substantially worthless. Effective for property which becomes substantially worthless after August 5, 1997.

1234A(1)           Gains and losses from certain terminations with respect to property-application of capital treatment to property other than personal property. Effective for terminations more than 30 days after August 5, 1997.

1239(b)(2),(3)    Executor of estate and beneficiaries are treated as related persons for disallowance of losses, etc.-ordinary income from gain on the sale of depreciable property. Effective for tax years beginning after August 5, 1997.

1245(a)(2)(C)  
1245(a)(3)(C)    Technical amendment inserting reference to IRC section 179A, relating to the deduction for clean-fuel vehicles and certain refueling property, as it applies to gain from dispositions of depreciable property. Effective for property placed in service after June 30, 1993.

**CODE SECTION****DESCRIPTION OF PROVISION**

*The following sections are operative for Hawaii income tax purposes.*

1250(d)(7)-(10)	Conforming amendment relating to exemption from tax for gain on sale of principal residence as it applies to repeal of the paragraphs referring to the rollover of the gain on the sale of principal residence. Effective for sales and exchanges after May 6, 1997.
1250(e)(3)	Conforming amendment striking reference to principal residence as it relates to the holding period. Effective for sales after May 6, 1997.
1259	Recognition of gain if there is a constructive sale of an appreciated financial position as if the position was sold, assigned, or otherwise terminated at its fair market value as of the date of the constructive sale and immediately repurchased. Appreciated financial position generally means any position with respect to any stock, debt instrument, or partnership interest where there would be gain if the position was sold, assigned, or otherwise terminated. Effective for constructive sales after June 8, 1997, generally.
1271(b)	Gains and losses from certain terminations with respect to property-application of capital treatment, etc. to obligations issued by natural persons. Effective for sales, exchanges, and retirements after August 5, 1997.
1272(a)(6)(C)	Determination of original issue discount where pooled debt obligations such as a pool of credit card receivables is subject to acceleration resulting in the accrual of interest income. Effective for tax years beginning after August 5, 1997, generally.
1274(e)(3)(B)	Conforming amendment relating to the exemption from tax on gain on sale of principal residence as it applies to the determination of issue price in the case of certain debt instruments issued for property. Effective for sales and exchanges after May 6, 1997.

**CODE SECTION****DESCRIPTION OF PROVISION**

*The following sections are NOT operative for Hawaii income tax purposes.*

1291(a)(3)(A)	Election of mark to market for marketable stock in passive foreign investment company-coordination with interest charge, etc. Relates to the treatment of distributions and stock dispositions and the interest on tax deferral.
1291(d)(1)	
1293(a)(1)	Conforming amendment of election of mark to market for marketable stock in a passive foreign investment company.
1293(d)	
1296	Election of mark to market for marketable stock in passive foreign investment company.
1296(e)	United States shareholders of controlled foreign corporations not subject to passive foreign investment company inclusion.
1297	Election of mark to market for marketable stock in a passive foreign investment company. Section 1297 redesignated section 1298.
1297(a)	Conforming amendment for valuation of assets for passive foreign investment company determination.
1297(b)(3)	Conforming amendment of election of mark to market for marketable stock in a passive foreign investment company.
1297(e)	Valuation of assets for passive foreign investment company determination.
1298	Election of mark to market for marketable stock in passive foreign investment company-clarification of gain recognition election.
1298(b)(1)	

*The following section is operative for Hawaii income tax purposes.*

1301	New code section allowing averaging of farm income over three years. Effective for tax years beginning after December 31, 1997 and before January 1, 2001.
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**CODE SECTION****DESCRIPTION OF PROVISION**

*The following sections are operative for Hawaii income tax purposes.*

1361(b)(1)(B)	Technical amendment to the SBJPA of 1996, relating to the definition of a S corporation, correcting reference to subsection (c)(6) in paragraph (B). Effective for tax years beginning after December 31, 1997.
1361(b)(3)(A)	Technical amendment to the SBJPA of 1996 relating to regulations issued by the Secretary. Effective for tax years beginning after December 31, 1996.
1361(c)(7)	Technical amendment to the SBJPA of 1996 redesignation paragraph (c)(7) as (c)(6). Effective for tax years beginning after December 31, 1997.
1361(e)(1)(B)	Technical amendment to the SBJPA of 1996 clarifying that charitable remainder annuity trusts and charitable remainder unitrusts may not be electing small business trusts. Effective for tax years beginning after December 31, 1996.
1374(d)(7)	Technical amendment to the SBJPA of 1996 clarifying the treatment of pre 1988 bad debt reserves for thrift and former thrift financial institutions that elect S corporation status. Effective for tax years beginning after December 31, 1995.
1377(b)(1)-(2) 1377(b)(1)(B)	Technical amendment to the SBJPA of 1996 clarifying that the expanded post-termination transition period provided to former subchapter S corporations is effective for determinations made after December 31, 1996, rather than for determinations with respect to tax years beginning after December 31, 1996.

*The following section is NOT operative for Hawaii income tax purposes.*

1391(b)(2)	The Secretary of Housing and Urban Development may designate two additional empowerment zones to provide economic revitalization to distressed urban and rural areas.
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**CODE SECTION****DESCRIPTION OF PROVISION**

*The following sections are NOT operative for Hawaii income tax purposes.*

1391(c)	Conforming amendment relating to the designation period for new empowerment zones.
1391(e),(f)	Conforming amendments relating to eligibility criteria for new empowerment zones.
1391(g)	Additional designations of empowerment zones permitted.
1392(d)	Modification to eligibility criteria for designation of future enterprise zones in Alaska and Hawaii. Hawaii provisions are in chapter 209E, HRS.
1394(b)(2)	Modifications to enterprise zone facility bond rules for all empowerment and enterprise zones as related to qualified zone property.
1394(b)(3)	Modifications to enterprise zone facility bond rules for all empowerment and enterprise zones as related to qualified zone businesses.
1394(f)	Volume cap not to apply to enterprise zone facility bonds with respect to new empowerment zones.
1396(b)	Special rules for the application of the employment tax credit for the additional empowerment zones.
1396(e)	Employment credit not to apply to periods provided for as applied to newly designated empowerment zones.
1397A(c)	Increased expensing not to apply to developable sites in the newly designated empowerment zones.
1397B(b),(c) 1397B(b)(2), 1397B(c)(1)	Modifications to enterprise zone business definition for all empowerment zones and enterprise communities.
1397B(d)(2)	Modifications to enterprise zone business definition for all empowerment zones and enterprise communities.

**CODE SECTION****DESCRIPTION OF PROVISION*****The following sections are NOT operative for Hawaii income tax purposes.***

1397B(d)(3)	Modifications to enterprise zone business definition for all empowerment zones and enterprise communities.
1397B(b)(4), 1397B(c)(3)	Modifications to enterprise zone business definition for all empowerment zones and enterprise communities.
1397B(f)	Modifications to enterprise zone business definition for all empowerment zones and enterprise communities.
1397E	New section providing for tax incentives on qualified zone academy bonds related to empowerment zones
1397F	Redesignation of current section 1397E as section 1397F.

***The following sections are operative for Hawaii income tax purposes.***

6221	Any penalties, additions to tax or additional amount attributable to an adjustment to a TEFRA partnership item can be determined by a partnership-level proceeding. Individual partners may assert any applicable partner-level defenses or challenges to the computational adjustment amount in a refund proceeding or tax appeal court proceeding. Effective for partnership tax years ending after August 5, 1997.
6225(b)	Tax appeal court jurisdiction to enjoin premature assessments of deficiencies (assessments made only after partnership level proceedings are completed) attributable to partnership items. Effective for partnership tax years ending after August 5, 1997.
6226(b)(5),(6)	Treatment of premature petitions filed by notice partners or 5 percent ownership groups. Effective for petitions filed after August 5, 1997.
6226(d)(1)	Tax appeal court jurisdiction to consider statute of limitations with respect to partners. Effective for partnership tax years ending after August 5, 1997.



**CODE SECTION****DESCRIPTION OF PROVISION**

*The following sections are operative for Hawaii income tax purposes.*

6226(f)	Conforming amendment relating to the determination of penalties at the partnership level. Effective for partnership tax years ending after August 5, 1997.
6227(b)-(d)	Extension of time for filing a request for administrative adjustment in IRC section 6229. Effective for partnership tax years beginning after December 31, 1995. (Act 187, SLH 1996)
6227(e)	Special rules for administrative adjustment requests relating to bad debts or worthless securities. Effective for partnership tax years beginning after December 31, 1995. (Act 187, SLH 1996)
6229(b)(2),(3)	Extension of statute of limitations (with due regard to section 235-111, HRS) for bankrupt tax matters partner. The IRS can rely on an extension agreement signed by a the tax matters partner when this partner was in bankruptcy at the time the partner signed the agreement, unless the IRS was notified of the bankruptcy proceeding according to regulations. Effective for agreements entered into after August 5, 1997.
6229(d)(1)	Provisions relating to statute of limitations-suspension of statute where untimely petitions filed. Effective for partnership tax years with respect to the period under IRC code section 6229 for assessing tax that has not expired on or before August 5, 1997.
6229(f)	Exclusion of partial settlement from one year limitation on assessment. Effective for settlements entered into after August 5, 1997.
6229(h)	Provisions relating to the statute of limitations (with regard to section 235-111, HRS) suspended during pendency of bankruptcy proceeding. Effective for partnership tax years with respect to which the period under IRC code section 6229 for assessing tax has not expired on or before August 5, 1997.

**CODE SECTION****DESCRIPTION OF PROVISION**

*The following sections are operative for Hawaii income tax purposes.*

6230(a)(1)	Technical amendment relating to the availability of innocent spouse relief (with regard to section 235-93.5, HRS) in the context of affected items which require partner level determinations. Effective for partnership tax years beginning after December 31, 1995.
6230(a)(2)(A)	Conforming amendment relating to determination of penalties at partnership level. Effective for partnership tax years ending after August 5, 1997.
6230(a)(3)	Special rule in case of assertion by partner's spouse of innocent spouse relief (with regard to section 235-93.5, HRS). Effective for partnership tax years beginning after December 31, 1995.
6230(a)(3)(A),(B)	Conforming amendment for determination of penalties at partnership level. Effective for partnership tax years ending after August 5, 1997.
6230(c)(1)(A)-(C)	Conforming amendment for determination of penalties at partnership level. Effective for partnership tax years ending after August 5, 1997.
6230(c)(2)(A)	Conforming amendment for determination of penalties at partnership level. Effective for partnership tax years ending after August 5, 1997.
6230(c)(4)	Conforming amendment for determination of penalties at partnership level. Effective for partnership tax years ending after August 5, 1997.
6230(c)(5)	Availability of innocent spouse relief (with regard to section 235-93.5, HRS) in the context of partnership proceedings-claims for refund. Effective for partnership tax years beginning after December 31, 1995.
6230(c)(5)(A),(D)	Conforming amendment for determination of penalties at partnership level. Effective for partnership tax years ending after August 5, 1997.
6230(d)(6)	Tax appeal court jurisdiction to determine overpayments attributable to affected partnership items. Effective for partnership tax years ending after August 5, 1997.

**CODE SECTION****DESCRIPTION OF PROVISION**

*The following sections are operative for Hawaii income tax purposes.*

6231(a)(1)(B)	Expansion of small partnership exception (partnership with 10 or fewer partners) allowing C corporations as partner without losing its exemption from TEFRA audit procedures. Effective for partnership tax years ending after August 5, 1997.
6231(f)	Clarification of application of tax return requirement for foreign partnerships-sanction for failure to comply with return filing requirement resulting in partners' disallowance of partnership deductions, losses, and credits. Effective for tax years beginning after August 5, 1997.
6231(g)	Partnership tax return to be determinative of audit procedures to be followed. Effective for partnership tax years ending after August 5, 1997.
6240	New code section providing for simplified audit procedures for an electing large partnership (partnership with 100 or more partners in the preceding year). Under prior law, electing large partnerships and their partners were subject to unified audit rules. Under the new law, partnership adjustments will flow through to the partners for the year in which the adjustments takes effect. The current year partners' share of partnership income, gains, losses, deductions or credits will be adjusted to reflect partnership adjustments taking effect in that year. Effective for partnership tax years ending on or after December 31, 1997.
6241	Simplified audit procedures for electing large partnerships-partner's tax return must be consistent with partnership tax return.
6242	Simplified audit procedures for electing large partnerships taking partnership adjustments into account. In addition, the partnership, rather than the partners individually, generally is liable for any interest and penalties that result from the partnership adjustments. Effective for partnership tax years ending on or after December 31, 1997.
6245	Simplified audit procedures for electing large partnerships-authority for the Secretary of the Treasury to make adjustments at the partnership level. Effective for partnership tax years ending on or after December 31, 1997.

**CODE SECTION****DESCRIPTION OF PROVISION**

*The following sections are operative for Hawaii income tax purposes.*

6246	Simplified audit procedures for electing large partnerships-restrictions on partnership adjustments. Effective for partnership tax years ending on or after December 31, 1997.
6247	Simplified audit procedures for electing large partnerships-judicial review of partnership adjustment within 90 days after a notice of partnership adjustment is mailed to the partnership. Effective for partnership tax years ending on or after December 31, 1997.
6248	Simplified audit procedures for electing large partnerships-period of limitation for making partnership adjustments-three years of the dated the partnership return was filed or the due date for filing the partnership return, whichever is later. Effective for partnership tax years ending on or after December 31, 1997.
6251	Simplified audit procedures for electing large partnerships-a partnership may file a request for an administrative adjustment of partnership items within the period of limitation.
6252	Simplified audit procedures for electing large partnerships-providing for judicial review allowed where an administrative adjustment request is not allowed in full. Effective for partnership tax years ending on or after December 31, 1997.
6255	Definitions and special rules relating to the simplified audit procedures for electing large partnerships. Effective for partnership tax years ending on or after December 31, 1997.

**CODE SECTION****DESCRIPTION OF PROVISION**

*The following section is operative with modifications for Hawaii income tax purposes.*

6654(d)(1)(C)      The safe harbor provision percentage (110 percent of the preceding year's tax) for individual taxpayers with adjusted gross income of more than \$150,000 to avoid the penalty for the underpayment of estimated taxes is changed to 105 percent of the preceding year's tax beginning in 1998-2000, 112 percent for the preceding year beginning in 2001, and 110 percent for preceding years beginning 2002, and thereafter. Effective for any installment payment for tax years beginning after December 31, 1997. The percentages of 110 percent of the preceding year's tax or 90 percent of the current year's tax will be retained for purposes of section 235-97, HRS.

*The following section is NOT operative for Hawaii income tax purposes.*

6654(e)(1)      Increase in the de minimis amount from \$500 to \$1,000 for individual underpayment of estimated tax penalty.

*The following section is operative for Hawaii income tax purposes.*

6655(g)(3)      Extension of due date for first quarter estimated tax payments by private foundations from April 15 (April 20 for State) to May 15 (May 20). For fiscal year foundations, the first quarter payment is due no later than the 20th day of the fifth month of the fiscal year. Effective for determining underpayment of estimated taxes for tax years beginning after August 5, 1997.

*The following capital gains tax rates are NOT operative for Hawaii income tax purposes.*

7518(g)(6)(A)      Conforming amendment to the maximum capital gains tax rate (20 percent, individuals, 34 percent for corporations) relating to the capital construction fund for commercial fishers. The State capital gains rate for individuals is provided under section 235-51(f), HRS.

END OF DIGEST.



**DIGEST OF TAX MEASURES  
BY BILL NUMBER**

<u>BILL NO. / ACT NO./TITLE</u>	<u>PAGE NO.</u>
SB 2026, SD1, HD1 ACT 245 RELATING TO SMALL BUSINESS INNOVATION RESEARCH GRANTS. ....	7
SB 2065, SD1 ACT 247 RELATING TO THE GENERAL EXCISE TAX. ....	7
SB 2092, SD1, HD1, CD1 ACT 163 RELATING TO INCOME TAX LAW. ....	5
SB 2259, SD1, HD1, CD1 ACT 156 RELATING TO TAXATION. ....	4
SB 2739, SD1 ACT 066 RELATING TO THE COLLECTION OF FINES. ....	1
SB 2821, HD1 ACT 154 RELATING TO CODE OF FINANCIAL INSTITUTIONS. ....	4
SB 3004, SD1, HD1, CD1 ACT 113 RELATING TO CONFORMITY OF THE HAWAII INCOME TAX LAW TO THE INTERNAL REVENUE CODE. (TAX-01) .....	1
SB 3015, SD2, HD1 ACT 208 RELATING TO THE GENERAL EXCISE TAX EXEMPTION FOR AIRCRAFT SERVICE AND MAINTENANCE FACILITIES. (TAX-12) .....	6
SB 3075, SD2 ACT 214 RELATING TO GENERAL EXCISE TAX. ....	7
SB 3141, SD1, HD1 ACT 169 RELATING TO TAXATION. ....	6

**DIGEST OF TAX MEASURES BY BILL NUMBER**

*(Continued)*

SB 3220, SD1, HD2, CD1  
ACT 170  
A BILL FOR AN ACT RELATING TO THE CONVEYANCE TAX. . . . . 6

HB 1647, HD1, SD1  
ACT 143  
RELATING TO THE LICENSING OF CERTAIN SELLERS. (TAX-09(97)) . . . . . 3

HB 1649, HD2, SD1  
ACT 103  
RELATING TO PERJURY (TAX-11(97)) . . . . . 1

HB 2426, HD1, SD1  
ACT 120  
RELATING TO TAXATION. . . . . 3

HB 2660, SD1  
ACT 125  
RELATING TO THE PUBLIC SERVICE COMPANY TAX. . . . . 3

HB 2749, HD1, SD1, CD1  
ACT 157  
RELATING TO TAXATION. . . . . 5

HB 3027, HD2, SD1  
ACT 293  
RELATING TO MEDICAID OVERPAYMENT RECOVERY. (HMS-7) . . . . . 8

HB 3192, HD1, SD1, CD1  
ACT 153  
RELATING TO SUPPORT ENFORCEMENT. . . . . 4





