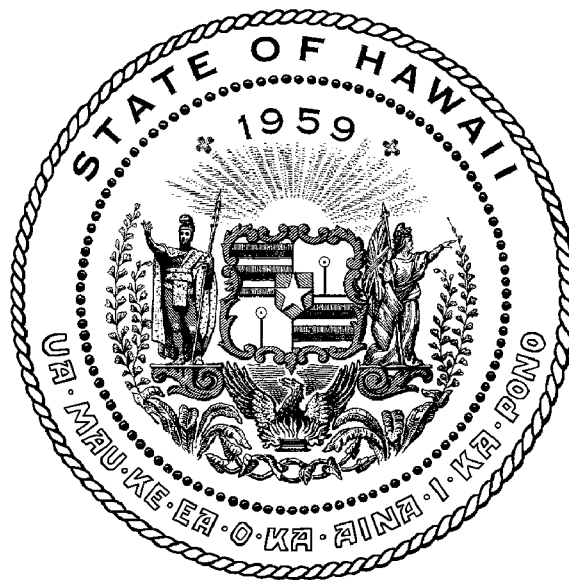


DIGEST OF TAX MEASURES

Enacted by the State of Hawaii
Nineteenth Legislature
1997 Regular Session



Prepared by the
State of Hawaii
Department of Taxation
Issued October 3, 1997

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

Digest of Tax Related Measures
Enacted by the State of Hawaii
Nineteenth Legislature
1997 Regular Session

The following is a digest of bills passed by the 1997 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

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**DIGEST OF TAX MEASURES
Nineteenth State Legislature
1997 Regular Session**

ACT 020

S. B. No. 0207, S.D. 1

Relating to Liquor Tax.

SSCR 0810; HSCR 1328

SECT. AFF.: 244D - (1 section); 244D-4

Exempts the sale of liquor shipped out of State from the liquor tax.

Effective date: July 1, 1997.

ACT 086

S. B. No. 1519, H. D. 1

Relating to Public Accountancy.

SSCR 0573; HSCR 1618

SECT. AFF.: 466-4; 466-5

Amends the licensure requirements for public accountancy practice.

Effective date: April 29, 1997

ACT 097

H. B. No. 1646, S. D. 1, C. D. 1

**Relating to an Emergency Appropriation for an Automated Tax Systems
Acquisition by the Department of Taxation.**

HSCR 0246; SSCR 1580; CCR 134

Requests an emergency appropriation of \$1.4 million for funds not carried over to FY96-97 due to technical error.

Effective date: May 2, 1997.

ACT 106

H. B. No. 0417, H. D. 3; S. D. 1; C. D. 1

Relating to the Statewide Trail and Access Program.

HSCR 0024; HSCR 0477; HSCR 0705; SSCR 1046; SSCR 1517; CCR 050

SECT. AFF.: 171-19; 198D-2; 248- (1 section)

Ensures funding for the Dept. of Land and Natural Resource's Trail and Access Program (Na Ala Hele) from a proportional share of fuel tax revenue, user fees, and private funding to be deposited into the Special Land and Development Fund. Funding through the fuel tax is limited to \$250,000 per fiscal year.

Effective Date: July 1, 1997.

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ACT 107

S. B. No. 1951, H. D. 2; C. D. 1

Relating to Taxation.

SSCR 0065; SSCR 0812; HSCR 1169; HSCR 1720; CCR 0130

SECT. AFF.: 235- (1 section); 235-9; 237- (1 section); 238-1; 237-24.5

Provides for a refundable income tax credit of up to 4% of costs incurred in the state, and a refundable income tax credit of up to 6% of transient accommodations tax paid for the production of motion picture or television films.

Effective Date: July 1, 1997, applies to taxable years beginning after 12/31/96.

Exempts from the general excise tax and use tax aircraft service and maintenance and construction of airline maintenance facilities.

Effective Date: July 1, 1997.

Repeals the sunset date for the general excise tax exemption for stock and commodities exchanges.

Effective Date: June 5, 1997

ACT 108

S. B. No. 0208, S. D. 1; H. D. 2; C. D. 1

Relating to Taxation.

SSCR 0432; HSCR 1176; HSCR 1560; CCR 099

SECT. AFF.: 235- (1 section)

Establishes a refundable income tax credit for hotel renovations. The amount of the credit is equal to 4% of renovation costs incurred during the taxable year for each qualified hotel facility located in Hawaii, not to exceed 10% of the transient accommodations tax paid by the taxpayer in the preceding taxable year. Available for taxable years 1997 and 1998.

Effective Date: June 5, 1997, and shall be repealed December 31, 1999.

ACT 140

H. B. No. 939, H. D. 1, S. D. 1, C. D. 1

Relating to Motor Vehicle Industry Taxes and Fees.

HSCR 0959; SSCR 1393; CCR 013

SECT. AFF.: 437D - (1 section); 437D-6

Allows auto rental companies to include an assessment in the rental agreement for pro-rated license and registration fees. Requires lessor to disclose as part of any quotation of price all payments a lessee must make to rent the vehicle, including charges assessed for general excise taxes and fees allowed under chapter 437D, HRS.

Effective Date: June 16, 1997

ACT 176

H. B. No. 1642

Relating to the Electronic Filing of Tax Returns.

HSCR 0245; SSCR 1611

SECT. AFF.: 231- (1 section)

Authorizes the Department of Taxation to allow taxpayers to file tax returns, applications, reports, or other tax documents through electronic, telephonic, or optical means.

Effective Date: June 16, 1997

ACT 177

H. B. No. 1643, H. D. 1

Relating to Payments to the State by Electronic Funds Transfer.

HSCR 0245; SSCR 1827

SECT. AFF.: 231- (1 section)

Enables the Department to enforce Act 121, SLH 1995. Establishes a \$15 service charge for electronic funds transfer payments that are dishonored. A penalty of 2% of the amount of tax due is imposed on those who fail to remit taxes using an electronic funds transfer method approved by the Department, unless it is shown that the failure is due to reasonable cause and not neglect. Requires report to Legislature.

Effective Date: June 16, 1997

ACT 178

H. B. No. 1645, H. D. 1, S. D. 2

Relating to Conforming Tax Provisions to the Uniform Limited Liability Company Act.

HSCR 0305; SSCR 1048; SSCR 1459

SECT. AFF.: 235-1; 235-68; 237-3; 237-23.5; 237-34; 237D-13; 239-2; 239-8; 243-1; 251-12

Amends certain chapters under title 14 administered by the department to reflect the passage of Act 92, SLH 1996, the Uniform Limited Liability Company Act. Makes necessary technical amendments to the tax provisions to adequately allow for reference to this new entity and its members in various contexts.

Effective Date: June 16, 1997

1997 DIGEST OF TAX MEASURES

ACT 179

H. B. No. 1648, S. D. 1

Relating to Remittances to the Department of Taxation.

HSCR 0247; SSCR 1581

SECT. AFF.: 231- (1 section)

Allows the Department of Taxation to accept remittances by credit or debit cards. Allows the Department to charge a service fee in accepting remittances using credit cards, but not debit cards.

Effective Date: July 1, 1997.

ACT 253

H. B. No. 1641, S. D. 1

Relating to the Collection of Taxes.

HSCR 0244; SSCR 1611

SECT. AFF.: 231-13; 231-26

Expands the type of delinquent taxpayer that may be pursued out-of-state. Authorizes the retention of bonded collection agencies, attorneys, accountants, and auditors for the purpose of assessment, enforcement, or collection of taxes. Also authorizes the use of contingent and other fee arrangements (except that contingent fee arrangements are not allowed for accountants and auditors). Provides that compensation shall be payable out of the taxes recovered.

Effective Date: June 20, 1997

ACT 262

S. B. No. 0037, S. D. 1, H. D. 2, C. D. 1

Relating to Enterprise Zones.

SSCR 0627; HSCR 1243; HSCR 1635; CCR 127

SECT. AFF.: 209E-2; 209E-4; 209E-9; 209E-11, ACT 286, 1996.

Amends the state enterprise zones law. Makes Waialua district on Oahu an enterprise zone under the state enterprise zone law on 07/01/97 until 6/30/2002. Exempts qualified businesses from the use tax in addition to existing general excise tax exemption. Exempts contractors from general excise tax on gross receipts of construction in an enterprise zone for a qualified business. Exempts agricultural producers located in counties with population of less than 100,000 from certain requirements.

Effective Date: Retroactive to December 31, 1996.

ACT 281

S. B. No. 0938, S. D. 1, H. D. 1

Relating to Nonresident Income Tax.

SSCR 0819; HSCR 1330

SECT. AFF.: 235- (1 section)

Requires nonresidents and part-year residents to determine their Hawaii net income liability by calculating taxes as if they are Hawaii residents, then multiplying that amount by the ratio of Hawaii adjusted gross income to total adjusted gross income from all sources.

Effective Date: June 21, 1997, applies to taxable years beginning after December 31, 1996.

ACT 297

S. B. No. 1316, S. D. 2, H. D. 1

Relating to Conformity to the Internal Revenue Code.

SSCR 0434; SSCR 0814; HSCR 1666

SECT. AFF.: 231-8; 235-2.3; 235-2.4; 235-93; 235-122

Conforms to the Internal Revenue Code. The following references specific items of interest with which the legislature chose to conform:

- Timely mailing treated as timely filing and paying--private delivery.
- Makes operative section 584 (with respect to common trust funds).
- Makes operative section 220, as it applies to medical savings accounts.
- Makes operative filing of joint return after the individual has filed a separate return without full payment of the amount shown as tax on the joint return.
- Expands spousal IRA contributions from \$250 to \$2000.
- Increases allowable deduction for health insurance for self-employed.

Departs from the Internal Revenue Code and:

- Makes inoperative certain parts of section 213 as it applies to long-term care insurance contract premiums, long-term care services, and long-term care premiums.

Effective Date: June 21, 1997; applies to taxable years beginning after December 31, 1996.

ACT 331

S. B. No. 0927, S. D. 1, H. D. 2, C. D. 1

Relating to Taxation.

SSCR 0801; HSCR 1207; HSCR 1584; CCR 100

SECT. AFF.: 245-3

Increases the cigarette tax from 3 cents to 4 cents per cigarette after 08/31/97; and 5 cents per cigarette after 06/30/98.

Effective Date: September 1, 1997.

1997 DIGEST OF TAX MEASURES

ACT 352

H. B. No. 1686, H. D. 1, S. D. 2, C. D. 1

Relating to Procurement.

HSCR 0941; SSCR 1194; SSCR 1605; CCR 040

SECT. AFF.: 103-53; 103D- (1 section)

Amends chapter 103D (Public Procurement Code) and section 103-53 (prerequisite of final settlement of public contracts) to allow Tax Director to waive the IRS tax clearance requirement in certain cases to expedite the procurement process.

Amends section 103-53, HRS, to provide for exemptions from the tax clearance requirements which include:

1. Any procurement of less than \$25,000. (Section 103D-305 is also amended to exempt contracts less than \$25,000).
2. Contracts entered pursuant to chapter 102.
3. Grants and subsidies made under chapter 42D.
4. Payments for recurring payments for utility services.
5. Payments for entitlement programs established by state or federal law.

Effective Date: July 1, 1997.

ACT 353

S. B. No. 0147, S. D. 1, H. D. 1

Relating to Taxation.

SSCR 0804; HSCR 1665

SECT. AFF.: 237- (1 section); 237-13

Alleviates the pyramiding of the general excise tax on lease transactions by providing a deduction from rental income for subleasing of real property with a seven year phase-in. When fully phased in, the deduction will amount to the equivalent of ½% general excise tax on sublease income to the extent it pyramids. The Department of Taxation will implement by rules.

Effective Date: October 1, 1998.

S.B. NO. 0209

Proposing an Amendment to Article VII, Section 3 of Constitution , to Provide for the Appointment of Tax Review Commission Every 10 Years.

SSCR 0497; SSCR 0747; HSCR 1293; HSCR 1700

Amends the Constitution to have the Tax Review Commission meet every 10 years instead of every 5 years, starting in the year 2005. The bill, however, did not receive the required 2/3 majority needed to be placed on the ballot. The bill must pass both houses by a simple majority next year to be placed on the ballot.

Effective: upon approval.

TABLE SHOWING EFFECT OF ACTS

Nineteenth State Legislature

1997 Regular Session

KEY:	Am = Amended	C = Chapter
	N = New	R = Repealed
	____ = Section number to be assigned in HRS Supplement	

Section Number	Effect	Bill Number	Act Number
103-53	Am	HB 1686	ACT 352
103D- ____ (1 section)	N	HB 1686	ACT 352
171-19	Am	HB 0417	ACT 106
198D-2	Am	HB 0417	ACT 106
201-82	Am	HB 1686	ACT 352
209E-2	Am	SB 0037	ACT 262
209E-4	Am	SB 0037	ACT 262
209E-11	Am	SB 0037	ACT 262
231-____ (1 section)	N	HB 1648	ACT 179
231-____ (1 section)	N	HB 1642	ACT 176
231-8	Am	SB 1316	ACT 297
231-13	Am	HB 1641	ACT 253
231-26	Am	HB 1641	ACT 253
235- ____ (1 section)	N	SB 1951	ACT 107
235-____ (1 section)	N	SB 0208	ACT 108
235-____ (1 section)	N	SB 0938	ACT 281
235-1	Am	HB 1643	ACT 177
235-2.3	Am	SB 1316	ACT 297
235-2.4	Am	SB 1316	ACT 297
235-9	Am	SB 1951	ACT 107
235-68	Am	HB 1645	ACT 178
235-93	Am	SB 1316	ACT 297
235-122	Am	SB 1316	ACT 297
237-____ (1 section)	N	SB 1951	ACT 107

TABLE SHOWING EFFECT OF ACTS*(Continued)*

Section Number	Effect	Bill Number	Act Number
237-____ (1 section)	N	SB 0147	ACT 353
237-3	Am	HB 1645	ACT 178
237-13	Am	SB 0147	ACT 353
237-23.5	Am	HB 1645	ACT 178
237-24.5	Am	SB 1951	ACT 107
237-34	Am	HB 1645	ACT 178
237D-13	Am	HB 1645	ACT 178
238-1	Am	SB 1951	ACT 107
239-2	Am	HB 1645	ACT 178
239-8	Am	HB 1645	ACT 178
243-1	Am	HB 1645	ACT 178
244D- ____ (1 section)	N	SB 0207	ACT 020
244D-4	Am	SB 0207	ACT 020
245-3	Am	SB 0927	ACT 331
247-3	Am	HB 0118	ACT 383
248 - ____ (1 section)	N	HB 0417	ACT 106
251-12	Am	HB 1645	ACT 178
437D - ____ (1 section)	N	HB 0939	ACT 140
437D-6	Am	HB 0939	ACT 140
466-4	Am	SB 1519	ACT 086
466-5	Am	SB 1519	ACT 086
ACT 286, SLH 1996	Am	SB 0037	ACT 262

**DIGEST OF REVENUE PROVISIONS OF THE
SMALL BUSINESS JOB PROTECTION ACT OF 1996
P. L. 104-188**

CODE SECTION	DESCRIPTION OF PROVISION
NOTE: The following IRC sections are not operative for Hawaii income tax purposes.	
1(g)(7)	The dollar amounts involved in the election to include a child's income on a parent's return are adjusted for inflation. Effective for taxable years beginning after December 31, 1995.
21(e)(10)	Denies the child and dependent care credit with respect to any qualifying individual unless that qualifying individual's TIN is included on the return claiming the credit. Effective for returns due 30 days or more after August 20, 1996 (i.e., returns due on or after September 19, 1996). For tax years beginning in 1996, a taxpayer is not required to provide a TIN for a child born after November 30, 1996.
23	Provides a nonrefundable income tax credit for qualified adoption expenses of up to \$5,000 per child (\$6,000 per child of special needs) paid or incurred by the taxpayer. Effective for taxable years beginning after December 31, 1996. The credit is not available, except in the case of special needs adoptions, with respect to expenses paid or incurred after December 31, 2001.
25(e)(1)(C)	Conforming amendment relating to Code section 23. The mortgage interest (MCC) credit can be carried over for 3 years to the extent the credit for the tax year exceeds the "applicable tax limit" for the year. Provides that the applicable tax limit is not reduced by the credit for adoption expenses. Effective for taxable years beginning after December 31, 1996.
26(b)(2)(M)-(O)	Adding the word "and" to subparagraphs (M) and (N). Adding subparagraph (O) for reference to section 860K, relating to treatment of transfers of high yield interests to disqualified holders.
28	The orphan drug tax credit as provided for under Code section 28 is redesignated as Code section 45C and recategorized as a business credit. Effective for amounts paid or incurred in tax years ending after June 30, 1996.
28(b)(1)(D)	Conforming amendment relating to Code section 41. The period for which Code section 41 is deemed to remain in effect for purposes of the orphan drug tax credit is extended. This amendment was made prior to Code section 28 being redesignated as Code section 45C. Effective for tax years ending after June 30, 1996.
29(b)(6)(A)	Conforming amendment relating to Code section 28. Deletes reference to Code section 28 with regard to the determination of how much credit under Code section 29 would be allowed. Effective for amounts paid or incurred in tax years ending after June 30, 1996, generally.
29(g)(1)(A)	Extends the tax credit for fuel produced from biomass or coal for facilities placed in service before July 1, 1998, pursuant to a binding contract entered into before January 1, 1997. Effective August 20, 1996.
30(b)(3)(A)	Conforming amendment relating to Code section 28. Deletes reference to Code section 28 with regard to the determination of how much credit under Code section 30 would be allowed. Effective for amounts paid or incurred in tax years ending after June 30, 1996, generally.
30(d)	Clarifies the basis reduction rule for the qualified electric vehicles credit and provides for an election not to take the credit. Effective August 20, 1996.
30A	Existing credit claimants will calculate their Puerto Rico economic activity tax credit attributable to active business income under this new code section, effective for tax years beginning after December 31, 1995 and before January 1, 2006, generally.
34(a)(3)	Repeals the advance refund provisions for diesel fuel tax credit provided to first purchasers of diesel-powered automobiles, vans, and light trucks. Effective for vehicles purchased after August 20, 1996.
38(b)(2)	Replaces reference to the "targeted jobs credit" with the "work opportunity credit". Effective for individuals beginning work for an employer after September 30, 1996.

**DIGEST OF REVENUE PROVISIONS OF THE
SMALL BUSINESS JOB PROTECTION ACT OF 1996 (P. L. 104-188)**

(Continued)

CODE SECTION	DESCRIPTION OF PROVISION
38(b)(10)-(12)	The orphan drug tax credit is recategorized as a business credit. Effective for amounts paid or incurred in tax years ending after June 30, 1996, generally.
38(c)(2)(C)	Clarifies that the limit on using the investment tax credit for purposes of the alternative minimum tax is determined without regard to the special energy deduction that was provided for in former Code section 56(h). Effective for tax years beginning after December 31, 1990, generally.
39(d)(7)	No portion of any unused orphan drug credit determined under Code section 45C may be carried back to a taxable year ending before July 1, 1996. Effective for amounts paid or incurred in tax years ending after June 30, 1996, generally.
40(e)(1)(B)	Amends which sales and uses the alcohol fuels credit will not apply. Effective October 1, 1993.
41(b)(2)(D)	Replaces reference to the "targeted jobs credit" with the "work opportunity credit". Effective for individuals beginning work for an employer after September 30, 1996.
41(b)(3)(C)	Increases the research tax credit for contract research expenses paid or incurred by the taxpayer to a qualified research consortium. Effective for tax years beginning after June 30, 1996.
41(c)(3)(B)	Expands the definition of a "start-up company" to include firms which have both gross receipts and qualified research expenses for the first time in a tax year that begins after 1983. Effective for tax years ending after June 30, 1996.
41(c)(4)-(6)	Allows a taxpayer to elect an alternative manner of computing the research credit that utilizes three tiers of reduced fixed-base percentages and credit rates. Effective for tax years beginning after June 30, 1996.
41(h)	Revives and extends the research credit from July 1, 1996, to May 31, 1997, which previously expired on June 30, 1995. Effective for tax years ending after June 30, 1996.
NOTE: The following IRC section is operative for Hawaii income tax purposes.	
42(c)(2)	Amendment striking "of 1988" after "Homeless Assistance Act" in the last sentence of this subsection.
NOTE: The following IRC sections are not operative for Hawaii income tax purposes.	
45A(b)(1)(B)	Replaces reference to the "targeted jobs credit" with the "work opportunity credit". Effective for individuals beginning work for an employer after September 30, 1996.
45B(b)(1)(A)	The business tax credit for FICA taxes paid on employee tips for providing food and beverages is available regardless of whether the employee reported the tips and regardless of when services were performed. Effective for FICA taxes paid after 31, 1993.
45B(b)(2)	The business tax credit for FICA taxes paid on employee tips for providing food and beverages is available regardless of whether food and beverages are provided for consumption on an establishment's premises. Effective with respect to FICA taxes paid on tips received with respect to services performed after December 31, 1996.
45C	The orphan drug tax credit as provided for under Code section 28 is redesignated as Code section 45C and recategorized as a business credit. Effective for amounts paid or incurred in tax years ending after June 30, 1996, generally.
45C(a)	Conforming amendment relating to Code section 38, General Business Credit. Includes reference to Code section 38 since the orphan drug tax credit has been recategorized as a business credit. Effective for amounts paid or incurred in tax years after June 30, 1996, generally.

**DIGEST OF REVENUE PROVISIONS OF THE SMALL BUSINESS
JOB PROTECTION ACT OF 1996 (P. L. 104-188)**
(Continued)

CODE SECTION	DESCRIPTION OF PROVISION
45C(d)(2)-(5)	Conforming amendment deletes the limitation on the amount of the orphan drug tax credit that can be claimed. The limitation is based on the amount of tax for the taxable year. Effective for amounts paid or incurred in tax years after June 30, 1996, generally.
45C(e)	Revives and extends the orphan drug tax credit from July 1, 1996, to May 31, 1997, which previously expired on December 31, 1994. Effective for amounts paid or incurred in tax years ending after June 30, 1996, generally.
50(a)(2)(C)	With regard to the recapture of the investment credit, reference to "subsection (c)(4)" is changed to "subsection (d)(5)". Effective August 20, 1996.
50(a)(2)(E)	With regard to the recapture of the investment credit, reference to "section 48(a)(5)(E)" is changed to "section 48(a)(5)". This is a nonsubstantive clerical amendment to conform the Code to the deadwood amendments made under the Revenue Reconciliation Act of 1990 (P.L. 101-508). Effective for property placed in service after December 31, 1990, generally.
50(d)	Repeal of bad debt reserve method for thrift savings associations.
51(a)	Replaces the targeted jobs tax credit with the work opportunity tax credit and amends the amount of the credit from 40% of the qualified first-year wages to 35%. Effective for individuals beginning work for an employer after September 30, 1996.
51(c)(1)	A technical amendment to the work opportunity tax credit. Deletes reference to Code section 51(d)(8)(D) with regard to the definition of the term "wages". Effective for individuals beginning work for an employer after September 30, 1996.
51(c)(4)	The work opportunity tax credit will be available only for one year starting October 1, 1996, and ending September 30, 1997. Effective for individuals beginning work for an employer after September 30, 1996.
51(d)	Amends and redefines the members of targeted groups eligible for the work opportunity tax credit. Effective for individuals beginning work for an employer after September 30, 1996.
51(g)	Replaces reference to the "targeted jobs credit" with the "work opportunity credit". Effective for individuals beginning work for an employer after September 30, 1996.
51(l)(3)	Amends the minimum employment period that an individual must work in order to be eligible for the work opportunity tax credit. Effective for individuals beginning work for an employer after September 30, 1996.
51(j)	Replaces reference to the "targeted jobs credit" with the "work opportunity credit". Effective for individuals beginning work for an employer after September 30, 1996.
52(e)(1)-(3)	Repeal of bad debt reserve method for thrift savings associations.
53(d)(1)(B)	Conforming amendment relating to Code section 28. Deletes reference to Code section 28 in the definition of adjusted net minimum tax with regard to the tax credit for prior year minimum tax liability. Effective for amounts paid or incurred in tax years ending after June 30, 1996, generally.
53(d)(1)(B)(iv)(II)	A corporation's credit for prior year minimum tax liability is increased by any disallowed qualified electric vehicles credit. Effective for tax years beginning after December 31, 1990.
55(c)(1)	Due to new IRC section 30A, for purposes of alternative minimum tax, definition of regular tax is amended to reflect reduction in tax due to Puerto Rico economic activity credit, effective for tax years beginning after December 31, 1995, generally.
55(c)(1)	This provision is an amendment to the definition of the alternative minimum tax required by the repeal of the 5-year income averaging for lump sum distributions from qualified plans.

**DIGEST OF REVENUE PROVISIONS OF THE
SMALL BUSINESS JOB PROTECTION ACT OF 1996 (P. L. 104-188)**
(Continued)

CODE SECTION	DESCRIPTION OF PROVISION
55(c)(2)	Conforming amendment relating to Code section 28. Deletes reference to Code section 28 with regard to which credits are not allowable against the alternative minimum tax. Effective for amounts paid or incurred in tax years ending after June 30, 1996, generally.
56(d)(1)(B)(ii)	Alternative tax net operating loss for intervening years is adjusted for the repealed special energy deduction. The interaction of the energy deduction with other alternative minimum tax rules is clarified. Effective for tax years beginning after December 31, 1990.
56(g)(4)(C)	Due to new IRC section 30A, for purposes of adjustments in computing alternative minimum tax, specifies that tax is after application of Puerto Rico economic activity credit, effective for tax years beginning after December 31, 1995, generally.
56(g)(4)(D)(iii)	The effective date for LIFO inventory adjustments for corporate alternative minimum tax purposes is clarified as starting with taxable years beginning after December 31, 1989. Effective for tax years beginning after December 31, 1989.
56(g)(4)(H)-(J)	With regard to adjustments in computing federal alternative minimum taxable income, subparagraphs (I) and (J) are redesignated as subparagraphs (H) and (I), respectively, since, originally, no subparagraph (H) had been enacted. Effective for tax years beginning on or after September 30, 1990, generally.
56(g)(6)	Amendment to section striking "or REMIC" and inserting "REMIC or FASIT".
57(a)(4)	Repeal of reserve method of accounting for bad debts as a tax preference item.
59(a)	Modifies the definition of the alternative foreign tax credit as a technical correction to the Revenue Reconciliation Act of 1993 to which such amendment applies, effective as if included in the original 1993 act.
59(b)	Modifies the definition of minimum tax to specify that alternative minimum tax income does not include any income with respect to which a credit is determined under IRC section 30A, effective for tax years beginning after December 31, 1995, generally.
59(j)(1)(B)	For purposes of the alternative minimum tax (AMT), if the "kiddie tax" applies, the child's AMT exemption is adjusted for inflation. Effective for taxable years beginning after December 31, 1995.
59(j)(3)(B)	Updates a reference to Code section 1(g)(3)(B). Effective for taxable years beginning after October 22, 1986.
NOTE: The following IRC sections are operative for Hawaii income tax purposes.	
62(a)(8)	This provision is a conforming provision to the definition of adjusted gross income required by the repeal of the 5-year income averaging on lump sum distributions from qualified plans.
72(b)(4)(A)	This provision deals with the definition of unrecovered investment in an annuity contract. An exclusion is added to the definition that the unrecovered investment shall be determined without regard to Section (c)(2) of Section 72. Section (c)(2) deals adjustment in the investment where there is a refund feature in the contract.
NOTE: The following IRC sections are not operative for Hawaii income tax purposes.	
72(d)	This section provides special rules for determining the taxability of annuity payments from qualified plan.
72(f)	The provision amends the rules with regard to determining the investment in an annuity contract as it relates to foreign missionaries.
72(m)(2)(A)(C)	This section provides a special rule in determining the investment in a contract for determining the tax treatment upon distribution from a qualified plan.

CODE SECTION	DESCRIPTION OF PROVISION
NOTE: The following IRC section is operative for Hawaii income tax purposes.	
72(p)(4)(A)	This section adds a special rule to the definition of qualified employer plan to include plans that was or were determined to be qualified plan or a government plan.
NOTE: The following sections are not operative for Hawaii income tax purposes.	
72(t)(6)	This provision includes a 25% penalty applicable to the amount of distribution from a simple retirement plan if the distribution is made during a 2-year period beginning with the date the individual first participated in the simple plan. This provision is an augmentation of the 10% penalty provision contained in the Internal Revenue Code with regard to early distributions from qualified plans.
86(b)(2)(A)	Amendment relating to Code section 137. For purposes of the tax on social security and tier 1 railroad retirement benefits, "modified adjusted gross income" is computed by determining AGI without regard to Code section 137 relating to the adoption assistance exclusion. Effective for taxable years beginning after December 31, 1996.
NOTE: The following IRC sections are operative for Hawaii income tax purposes.	
101(b)	Repeals the provision that amounts up to \$5,000 paid by, or on behalf of, an employer to the beneficiaries or estate of a deceased employee were excludible from the recipients' gross income if paid by reason of the death of the employee. Effective for decedents dying after August 20, 1996.
101(c)	Conforming amendment relating to Code section 101(b). Deleted the reference to Code section 101(b) since such section has been repealed. Effective for decedents dying after August 20, 1996.
104(a)(2)	The exclusion from gross income of damages received on account of personal injury or sickness applies only to damages received on account of a personal physical injury or physical sickness. If an action has its origin in a physical injury or physical sickness, then all damages (other than punitive damages) that flow from that injury or sickness are treated as payments received on account of physical injury or physical sickness, whether or not the recipient of the damages is the injured party. Generally effective for amounts received after August 20, 1996, in tax years ending after that date.
104(a)	Emotional distress is not considered a physical injury or physical sickness for purposes of the exclusion from income of damages received on account of physical injury or physical sickness. But the exclusion from gross income does apply to the amount of damages received that is not in excess of the amount paid for medical care attributable to emotional distress. Generally effective for amounts received after August 20, 1996, in tax years ending after that date.
104(c)-(d)	Provides that punitive damages are excludable from gross income if they are awarded (1) in a civil action which is a wrongful death action, and (2) under applicable state law (as in effect on September 13, 1995, and without regard to any later modification) which provides (or a court has construed it to provide) that only punitive damages may be awarded in the action. For any civil action filed on or after the first date on which applicable state law no longer provides (or is no longer construed to provide) that only punitive damages may be awarded, the exception allowing for the exclusion from income of punitive damages awarded in wrongful death actions doesn't apply. Generally effective for amounts received after August 20, 1996, in tax years ending after that date.
118(b)	Although a contribution in aid of construction is not considered a contribution to the capital of a corporation, an exception is made for contributions in aid of construction to a regulated public utility which provides water or sewerage disposal services. Effective for amounts received after June 12, 1996, generally.

**DIGEST OF REVENUE PROVISIONS OF THE
SMALL BUSINESS JOB PROTECTION ACT OF 1996 (P. L. 104-188)**
(Continued)

CODE SECTION	DESCRIPTION OF PROVISION
118(c)-(e)	A regulated public utility that provides water or sewerage disposal services is permitted to treat any amount of money or property received from any person as a tax-free contribution to its capital if the amount: 1) is a contribution in aid of construction, 2) is not included in the taxpayer's rate base for rate-making purposes, and 3) in the case of contributions of property other than water or sewerage disposal facilities, meets an expenditure rule. Effective for amounts received after June 12, 1996, generally.
119(d)(4)	Allows an "academic health center" and an entity organized under state law and composed of public educational institutions to be treated as an "educational institution" with respect to the exclusion for campus lodging furnished by certain educational institutions to its employees. Effective for taxable years beginning after December 31, 1995.
127(c)(1)	The exclusion for employer-provided education does not apply to graduate-level education for courses beginning after June 30, 1996. Effective for expenses relating to courses beginning after June 30, 1996.
127(d)	Retroactively restores the exclusion for employer-provided educational assistance for taxable years beginning after December 31, 1994, and extends the exclusion so that it applies to taxable years beginning before June 1, 1997. However, for taxable years beginning in 1997, only expenses paid with respect to courses beginning before July 1, 1997 are taken into account in determining the exclusion.
129(d)(8)(B)	Conforming amendment relating to Code section 414. Updates a reference to Code section 414(q)(4) with respect to the definition of "compensation" relating to highly compensated employees. Generally effective for taxable years beginning after December 31, 1996.
133	This section repeals the deductibility for interest on loans used to acquire employer's securities as part of an employee stock ownership plan.
NOTE: The following IRC sections are not operative for Hawaii income tax purposes.	
135(b)(2)(B)	Interest on a U.S. savings bond may be excluded from gross income if the proceeds are used for qualified higher education expenses. However, the exclusion is phased-out for taxpayers with AGI above certain amounts which are indexed for inflation. Makes 1989 (and not 1992) the base year for indexing the phase-out amounts. Effective for taxable years beginning after December 31, 1992.
135(c)(4)(A)	Conforming amendment relating to Code section 137. For purposes of the exclusion of income from U.S. savings bonds used to pay higher education costs, "modified adjusted gross income" is computed by determining AGI without regard to Code section 137 relating to the adoption assistance exclusion. Effective for taxable years beginning after December 31, 1996.
135(d)(1)(B)-(D)	Provides that the amount of qualified higher education expenses shall be reduced by a payment, waiver, or reimbursement of qualified higher education expenses under a qualified State tuition program (within the meaning of Code section 529(b)). Generally effective for taxable years ending after August 20, 1996.
NOTE: The following IRC sections are operative for Hawaii income tax purposes.	
136(a)	Repeals the partial exclusion for any subsidy provided by a utility for the purchase or installation of an energy conservation measure with respect to property that is not a dwelling unit. Generally effective for amounts received after December 31, 1996.
136(c)(1)	Deletes language relating to property that is not a dwelling unit. Generally effective for amounts received after December 31, 1996.
136(c)(2)(A)-(C)	Deletes language relating to property that is not a dwelling unit. Generally effective for amounts received after December 31, 1996.

**DIGEST OF REVENUE PROVISIONS OF THE SMALL BUSINESS
JOB PROTECTION ACT OF 1996 (P. L. 104-188)**
(Continued)

CODE SECTION	DESCRIPTION OF PROVISION
137	An employee gets an exclusion from gross income for amounts paid or expenses incurred by his (or her) employer for qualified adoption expenses connected with the adoption of a child by the employee, if the amounts are furnished under an adoption assistance program. The total amount excludable by the employee from gross income for all tax years with respect to an adoption of a child is limited to \$5,000 (\$6,000 with respect to a "child with special needs"). Effective for taxable years beginning after December 31, 1996. (Note: The exclusion is not available for amounts paid or expenses incurred after December 31, 2001.)
138	Existing Code section 137 redesignated as Code section 138. Effective for taxable years beginning after December 31, 1996.
NOTE: The following IRC sections are not operative for Hawaii income tax purposes.	
142(f)(3)-(4)	Tax-exempt bonds can no longer be issued in order to finance a facility for the local furnishing of electric energy or gas unless the facility will be used by a person who is engaged in the local furnishing of that energy source on January 1, 1997, or a successor-in-interest to such person, and the facility will be used to provide service within the area served by such person on January 1, 1997, or within a county or city, any portion of which is within such area. Also, a person that has received tax-exempt financing for facilities that currently qualify as used in the local furnishing of electricity or gas can now elect to expand the service areas by terminating the qualification for future tax-exempt financing, redeeming the existing tax-exempt bonds and meeting certain other conditions. Effective August 20, 1996.
143(m)(4)(C)(ii)	With regard to computing the mortgage interest credit recapture tax, the rule for determining the reduced holding period percentage where the federally subsidized indebtedness is fully repaid before the disposition of the residence is simplified by determining the reduction on the basis of years, rather than months. Effective for financing provided and mortgage certificates issued after 1990.
147(c)(2)(E)(I)	Modifies the tax-exempt bond rules for first-time farmers by increasing the percentage used in defining "substantial farmland" from 15% to 30%. Effective for bonds issued after August 20, 1996.
147(c)(2)(G)	Modifies the tax-exempt bond rules for first-time farmers to permit the use of bond proceeds to finance farm purchases from related parties. Effective for bonds issued after August 20, 1996.
149(g)(3)(B)(iii)	Expands hedge bonds temporary investment exception to apply to amounts held 30-days preceding bond redemption. Before this change, the exception applied solely to the 30-day period prior to reinvestment of the bond proceeds. Effective for bonds issued after September 14, 1989, generally.
150(d)(3)	A nonprofit student loan funding corporation may elect to terminate its status as a qualified scholarship funding corporation without jeopardizing the tax-exempt status of qualified student loan bonds that are outstanding at the time of the termination election or of bonds that are issued to refund an outstanding student loan bond. After making the election, the issuer is not authorized to issue any new bonds. Effective August 20, 1996.
151(d)(3)(C)	Amends the phrase "joint of a return" to "joint return". Effective for taxable years beginning after December 31, 1990.
151(e)	Disallows a personal exemption for any individual unless that individual's TIN is included on the return claiming the exemption. Effective for returns due 30 days or more after August 20, 1996 (i.e., returns due on or after September 19, 1996). For tax years beginning in 1996, a taxpayer is not required to provide a TIN for a child born after November 30, 1996.

**DIGEST OF REVENUE PROVISIONS OF THE
SMALL BUSINESS JOB PROTECTION ACT OF 1996 (P. L. 104-188)**
(Continued)

CODE SECTION	DESCRIPTION OF PROVISION
NOTE: The following IRC sections are operative for Hawaii income tax purposes.	
162(k)(1)	Expands the rule denying the deduction for stock redemption expenses to apply to any amount paid or incurred by a corporation in connection with the reacquisition of its stock or of the stock of any related person as defined in Code section 465(b)(3)(C). Effective for amounts paid or incurred after September 13, 1995, in tax years ending after September 13, 1995.
162(k)(2)(A)	Adds a new exception to make it clear that amounts properly allocable to indebtedness and amortized over the term of indebtedness are not subject to the rule denying a deduction for stock reacquisition expenses. Effective for amounts paid or incurred after February 28, 1986, in tax years ending after February 28, 1986.
163(j)(1)(B)	Technical correction to the Revenue Reconciliation Act of 1989, clarifying that debt equity threshold applies only in year interest paid or accrued, regarding the treatment of interest paid to related person for interest paid or accrued in tax years beginning after July 10, 1989, generally, effective as if included in 1989 act.
163(j)(7), (8)	Technical correction to Revenue Reconciliation Act of 1989, clarifying that the earnings stripping rule apply before passive activity loss rules, regarding the treatment of interest paid to related person for interest paid or accrued in tax years beginning after July 10, 1989, generally, effective as if included in 1989 act.
167(g)-(h)	Makes changes to the way depreciation is computed using the income forecast method. The income forecast method may be used to compute depreciation on property such as motion picture films and video tapes, television films, book manuscript rights, patents, master sound recordings, video game machines, and other property of similar character. Effective for property placed in service after September 13, 1995, generally.
168(b)(3)(F)	Requires water utility property to be depreciated using the straight line method. Effective for property placed in service after June 12, 1996, generally.
168(c)(1)	Requires water utility property to be depreciated using a 25-year recovery period. Effective for property placed in service after June 12, 1996, generally.
168(e)(3)(B)	Provides that nothing in any provision of law (or prior law) shall be construed to treat property as not being solar or wind property that qualifies as 5-year MACRS property by reason of being public utility property (as defined in Code section 48(a)(3)). This provision clarifies that solar or wind property owned by a public utility may qualify as 5-year MACRS property. Effective November 5, 1990.
168(e)(3)(B)(vi)	Restores the ocean thermal energy equipment to its status as 5-year recovery property. Effective for property placed in service after December 31, 1990.
168(e)(3)(E)	Classifies any Code section 1250 property which is a retail motor fuels outlet (whether or not food or other convenience items are sold at the outlet) as MACRS 15-year property. Effective for property placed in service on or after August 20, 1996, generally.
168(e)(3)(F)	With regard to the classification of certain property, the 20-year property classification, which includes any municipal sewers, is deleted. Effective for property placed after June 12, 1996, generally.
168(e)(5)	Defines "water utility property" as property that is an integral part of the gathering, treatment, or commercial distribution of water, and otherwise would have had a 20-year recovery period, and any municipal sewer. Effective for property placed in service after June 12, 1996, generally.
168(g)(2)(C)(iv)	For purposes of the alternative depreciation system, water utility property shall have a recovery period of 50 years. Effective for property placed in service after June 12, 1996, generally.

**DIGEST OF REVENUE PROVISIONS OF THE SMALL BUSINESS
JOB PROTECTION ACT OF 1996 (P. L. 104-188)**
(Continued)

CODE SECTION	DESCRIPTION OF PROVISION
168(g)(3)(B)	For purposes of the alternative depreciation system, Code section 1250 property which is a retail motor fuels outlet has a 20-year class life. Effective for property placed in service on or after August 20, 1996, generally.
168(g)(3)(F)	With regard to the class life assigned to certain property under the alternative depreciation system, the 50 year class life is deleted. Effective for property placed in service after June 12, 1996, generally.
168(g)(4)(K)	With regard to property used outside the United States and nonapplication of the alternative depreciation system, reference to "section 48(a)(3)(A)(iii)" is changed to "section 48(l)(3)(A)(ix) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)". Effective for property placed in service after December 31, 1990, generally.
168(i)(8)	Where a leasehold improvement is irrevocably disposed of or abandoned by the lessor at the termination of the lease by the lessee, and the improvement was made by the lessor for the lessee, the improvement is treated as disposed of by the lessor at the time of the disposition or abandonment, for purposes of determining gain or loss. Effective for leasehold improvements disposed of or abandoned after June 12, 1996.
170(e)(1)	Section 170(e)(1) reduces the amount deductible for a charitable contribution of property. The amount of appreciation that would not qualify for long-term capital gain treatment is not deductible. A provision was added that would treat a portion of the appreciation on contributed S corporation stock as not qualifying for long-term capital gain treatment. The partnership rules of section 751 are made applicable. If the S corporation has unrealized receivables, depreciation recapture, and other items listed in section 751, then the donor's proportionate share of these items would not be eligible for long-term capital gain treatment and would not be deductible.
170(e)(5)(D)	The exception allowing a full fair market value deduction for contributions of qualified appreciated stock to private foundations will apply to contributions made after June 30, 1996, and before June 1, 1997. The exception doesn't apply to contributions made after December 31, 1994, and before July 1, 1996, and won't apply to contributions made after May 31, 1997. Contributions of qualified appreciated stock made after June 30, 1996, and before June 1, 1997, which exceed the percentage of income limitations on the charitable contribution deduction, can be carried over at full fair market value to succeeding tax years. Effective for contributions made after June 30, 1996, and before June 1, 1997.
172(b)(1)(E)	Changes reference to "subsection (m)" to "subsection (h)". This is a nonsubstantive clerical amendment to conform the Code to the deadwood amendments made under the Revenue Reconciliation Act of 1990 (P.L. 101-508). Effective for net operating losses for tax years beginning after December 31, 1990.
172(h)(4)(C)	Changes reference to "subsection (b)(1)(M)" to "subsection (b)(1)(E)". This is a nonsubstantive clerical amendment to conform the Code to the deadwood amendments made under the Revenue Reconciliation Act of 1990 (P.L. 101-508). Effective for net operating losses for tax years beginning after December 31, 1990.
179(b)(1)	Increases the expense deduction (in lieu of depreciation) to \$25,000 over seven years starting with tax years beginning in 1997 as follows: 1997 - \$18,000; 1998 - \$18,500; 1999 - \$19,000; 2000 - \$20,000; 2001 or 2002 - \$24,000; 2003 or thereafter - \$25,000. Effective for tax years beginning after December 31, 1996.
179(d)(1)	Replaces reference to "in a trade or business" with "a trade or business". This is a nonsubstantive clerical amendment to conform the Code to the deadwood amendments made under the Revenue Reconciliation Act of 1990 (P.L. 101-508). Effective for property placed in service after December 31, 1990, generally.

**DIGEST OF REVENUE PROVISIONS OF THE
SMALL BUSINESS JOB PROTECTION ACT OF 1996 (P. L. 104-188)**
(Continued)

CODE SECTION	DESCRIPTION OF PROVISION
179(d)(1)	Specifically excludes air conditioning and heating units, property used outside the United States, property used for lodging, property used by certain tax-exempt organizations, and property used by governmental units or foreign persons or entities from the meaning of the term "section 179 property". Effective for property placed in service after December 31, 1990, generally.
179A(f),(g)	Redesignates Code section 179A(g) as Code section 179A(f). Originally, no subsection (f) was enacted. Effective August 20, 1996.
NOTE: The following IRC section is not operative for Hawaii income tax purposes.	
196(c)	Replaces reference to the "targeted jobs credit" with "work opportunity credit". Effective for individuals beginning work for an employer after September 30, 1996.
NOTE: The following IRC sections are operative for Hawaii income tax purposes.	
219(b)(4)	Section 219(b) of the Internal Revenue Code generally establishes the limitations on the amount that can be deducted by reason of contribution to an individual retirement account. The section is not applicable to any contributions made to a simple retirement plan established under Code § 408(p).
219(c)	This provision creates the spousal IRA for homemakers. Notwithstanding the fact that the spouse may not have any compensation includable in gross income, the spouse is allowed to make an individual retirement account contribution of \$2,000 or the amount of the spouse's compensation, whichever is less.
219(f)(2)	This provision makes it clear that the deduction of \$2,000 is determined separately for each spouse and is applied without regard to community property loss.
219(g)(1)	This provision limits the deductibility of amounts contributed to the individual retirement account by a non-working spouse if the other spouse or the homemaker spouse is a participant in another qualified plan.
219(g)(3)(A)	Amendment relating to Code section 137. In determining the limitation on the deduction for retirement savings that applies to active participants in certain pension plans, adjusted gross income is determined without regard to Code section 137 relating to the adoption assistance exclusion. Effective for taxable years beginning after December 31, 1996.
219(g)(5)(A)	Code Section 219(g) generally places limitations on the deductibility of contributions to individual retirement accounts if the participant or the participant's spouse is an active participant in another qualified plan. This amendment adds to the definition of active participant in a qualified plan to include participation in any simple retirement account described in Section 408(p) of the internal revenue code.
243(b)(2)	With respect to foreign dividends received by corporations, restores the requirement that existed prior to 1990 that specified for affiliated group of corporations, if any member elects the foreign tax credit, all members must be consistent and also elect the foreign tax credit in order for dividends paid by any member of the group to qualify for the 100-percent dividends received deduction, effective for tax years beginning after December 31, 1990.
243(b)(3)(A)	Inserts the word "of" after "In the case". This is a nonsubstantive clerical amendment to conform the Code to the deadwood amendments made under the Revenue Reconciliation Act of 1990 (P.L. 101-508). Effective for tax years beginning after December 31, 1990.
NOTE: The following IRC section is not operative for Hawaii income tax purposes.	
246(f)	Relating to the repeal of bad debt reserve method for thrift savings associations.

CODE SECTION	DESCRIPTION OF PROVISION
NOTE: The following IRC section is operative for Hawaii income tax purposes.	
280A(c)(2)	Clarifies that the home office deduction allowed for the business expenses of storing inventory also applies to the storage of product samples. Specifically, a deduction is permitted for the otherwise deductible expenses allocable to a space within a dwelling unit which is used on a regular basis as a storage unit for the inventory or product samples of the taxpayer's trade or business of selling products at retail or wholesale, but only if the dwelling unit is the sole fixed location of the trade or business. Effective for taxable years beginning after December 31, 1995.
NOTE: The following IRC section is not operative for Hawaii income tax purposes.	
280C(b)	Conforming amendments relating to Code sections 38 and 45C. The orphan drug tax credit as provided for under Code section 28 has been redesignated as Code section 45C and recategorized as a business credit. Effective for amounts paid or incurred in tax years ending after June 30, 1996, generally.
NOTE: The following IRC sections are operative for Hawaii income tax purposes.	
280F(a)	Deletes "INVESTMENT TAX CREDIT AND" from the heading for subsection (a). This is a nonsubstantive clerical amendment to conform the Code to the deadwood amendments made under the Revenue Reconciliation Act of 1990 (P.L. 101-508). Effective for property placed in service after December 31, 1990, generally.
280G(b)(6)(B)(D)	Code Section 280G generally applies to golden parachute payments. Subsection (b) defines excess parachute payments. The amendment includes a provision that amounts paid under a simple retirement account as described in Section 408(p) of the Internal Revenue Code are exempted from the definition of excess parachute payments.
NOTE: The following IRC section is not operative for Hawaii income tax purposes.	
291(e)(1)(B)	Repeal of exclusion for interest on loans used to acquired employer securities. Repeal of bad debt reserve method for thrift savings associations.
NOTE: The following IRC sections are operative for Hawaii income tax purposes.	
341(f)(3)	Changes reference to "section 332, 351, 361, 371(a), or 374(a)" to "section 332, 351, or 361". This is a nonsubstantive clerical amendment to conform the Code to the deadwood amendments made under the Revenue Reconciliation Act of 1990 (P.L. 101-508). Effective November 5, 1990, generally.
382(l)(4)(B)	Replacing the reference to "a REMIC" with "a REMIC to which part IV of subchapter M applies, or a FASIT to which part V of subchapter M applies".
401(a)(5)(d)	This is an amendment required by the repeal of the family aggregation rule.
401(a)(5)(F)	This provision adds a uniform age (the social security retirement age) in testing the provisions of the plan for discrimination.
401(a)(9)(C)	This provision allows employees, other than 5% owners, to defer taking distributions from qualified retirement plans until the later of age 70½ or the retirement of the employee. This provision does not apply to individual retirement accounts. 5% owners will still be required to start taking minimum distributions when they attain age 70½.
401(a)(17)(A)	This section repeals the family aggregation rule with regard to qualified plans. Prior to the repeal, compensation paid to an employee, the employee's spouse and employee's children under the age 19 was aggregated in determining the benefits that may be provided under a qualified plan. The repeal of the rule means that compensation paid to a husband and wife or child under the age of 19 working for the same employer will be separately considered in providing benefits under the retirement plans.

**DIGEST OF REVENUE PROVISIONS OF THE
SMALL BUSINESS JOB PROTECTION ACT OF 1996 (P. L. 104-188)**
(Continued)

CODE SECTION	DESCRIPTION OF PROVISION
401(a)(26)(A)	This provision limits the rule that all qualified plans must benefit the lesser of 50 employees or 40% of all employees of the employer to defined benefit pension plans. The rule had previously been applied to all qualified plans.
401(a)(26)(G)	This section allows the employer to elect with the consent of the Internal Revenue Service; to have the provisions of Code Section 401(a)(26) applied individually to each separate line of business rather than having them aggregated.
401(a)(28)(B)	This is an amendment to the rules coordinating distribution rules required by the repeal of the 5-year income averaging for lump sum distributions from qualified plans.
401(d)	This provision modifies the limit on contributions for owner-employees. Only the earned income derived by such owner-employee from the trade or business may be used in determining the benefits to be provided to the owner-employee under the qualified plan.
401(k)(3)(A)	In determining the amount of elective deferrals for the highly compensated employees the amount of the elective deferrals for the non-highly compensated employees must be first computed. The average deferral rate for the non-highly compensated employee restricts the average deferral percentage applicable to the highly compensated employees. This section allows the employer to elect to use the prior years' plan information to determine the average deferral percentage for the non-highly compensated employees rather than limiting the employer to using the current plan year's information.
401(k)(3)(F)	This provision allows the employer to elect to exclude employees who have not attained age 21 or provided 1 year of service who are not highly compensated employees in testing the plan for discrimination as to elective deferrals. It is the intent of this provision to allow employers to provide earlier participation to employees who have not met the age or service requirement without adversely impacting the average deferral percentage testing or the average contribution percentage testing. Typically, the employees with less than one year are under age 21, do not make substantial elective deferrals and therefore, if they are included in the testing process, would yield the result for the employer that would restrict highly compensated employees.
401(k)(4)(B)	This provision allows tax-exempt organizations, other than governments, to adopt 401(k) plans. The Tax Reform Act of 1986 implemented changes that prohibited tax-exempt entities from adopting qualified plans other than § 403(b) plans by a limited number of not-for-profit organizations. The change made by this section will allow all not-for-profit organizations, other than governments, to adopt 401(k) plans. This broadly extends the use of 401(k) plans to organizations such as the Red Cross, condominium associations, paternal organizations, etc.
401(k)(7)(B)	This provision modifies the definition of a rural cooperative to be an organization providing electrical service on a mutual or cooperative basis or an organization providing electrical service to the public in an area of service which is exempt from tax or which is a state or local governmental agency other than a municipality.
401(k)(7)(C)	This provision allows hardship distribution under plans maintained by rural cooperatives.
401(k)(8)(C)	If excessive elective deferrals have been made by highly compensated employees to a 401(k) plan, then the excessive amounts must be returned to the employee until the nondiscrimination testing has been satisfied. Under prior law highly compensated employees of the highest percentage were first reduced to satisfy the testing. This change provides that the highly compensated employee with the highest dollar amount of elective deferrals would have their elective deferrals reduced until the nondiscrimination testing has been met.
401(k)(10)(B)	This is an amendment dealing with lump sum distributions from qualified plans upon the termination of plan or disposition of assets or subsidiary required by the repeal of the 5-year income averaging for lump sum distribution from qualified plans.
401(k)(11)	This section extends to 401(k) plans, safe harbor provisions available to simple plans in order to satisfy the nondiscrimination test.

CODE SECTION	DESCRIPTION OF PROVISION
401(m)(2)(A)	This provision allows the employer to elect between the current plan year or the prior plan year in determining the average contribution percentage that will be used in testing discrimination 401(k) plan with regard to matching contributions made by the employer. Under the present law the employer must use current plan year information in determining the average deferral percentage. This provision, along with the revision to § 401(k)(3)(A) provision, allows simplification of the testing process for 401(k) plans with regard to both elective deferrals and employer matching.
401(m)(3)	A special rule is provided for the first year of 401(k) plan. The employer may elect to use the actual deferral percentage for non-highly compensated employees or 3% in determining contributions that may be made by highly compensated employees.
401(m)(5)	This provision adds the same early participation relief available to an employer with regard to matching contribution and the average contribution percentage test if the 401(k) plan is designed to allow participants to enter the plan at a time prior to obtaining age 21 or providing 1 year of service.
401(m)(6)(C)	Highly compensated employees with the highest dollar amount of matching contributions will have their matching contributions reduced and the amount returned to the employer until the average contribution test for the 401(k) plan is satisfied. This parallels the change in the prior provision with regards to return of excessive elected deferrals by a highly compensated employees until the average deferral percentage test is met.
401(m)(10) and (11)	This provision extends alternative methods of satisfying the nondiscrimination test to simple plans.
401(m)(11) and (12)	This provision adds an alternative method of satisfying the average contribution test with regard to matching contributions made by an employer to a 401(k) plan. If the safe harbor provision of this section is used by the employer, then the employer will have met the average contribution test and the plan will not be deemed discriminatory.
402(c)(10)	This is an amendment to disallow 5-year averaging for distributions received subsequent to a lump sum distribution which was eligible for the 5-year averaging. The repeal of this provision is required by the repeal of the 5-year income averaging for lump sum distributions from qualified plans.
402(d)	The revision repeals the special five year income averaging treatment available to lump sum distributions from qualified plans. The grandfather provisions of the 1986 Tax Code that allow certain individuals to use the special 10-year averaging on lump sum distributions and capital gains tax provisions with regard to pre-1974 contributions to qualified plans is not repealed.
402(e)(4)(D)	This is an amendment required by the repeal of the 5-year income averaging for lump sum distributions from qualified plans. The provision includes a new definition of lump sum distribution.
402(e)(5)	This is a conforming provision to repeal a special rule for a portion of the proceeds of a lump sum distribution where attributable to a rollover bond purchase under a qualified bond purchase plan. The conforming provision is required by the repeal of the 5-year income averaging for lump sum distributions from qualified plans.
402(g)(3)(B)-(D)	This provision adds to the definition of elective deferrals to include any elective employer contributions under Internal Revenue Code § 408(p)(2)(A)(i).
402(k)	This section extends the treatment of IRC Code §§ 402(h)(1) and (h)(3) to simple retirement plans. Section 1 excludes the amount of employer contributions and employee elective deferrals from income at the time that the amounts are contributed to the plan by either the employer or employee. Subsection 3 provides that distributions from a simple retirement account are includable in the gross income of the employee.
403(b)	This provision allows a taxpayer to participate in multiple salary reduction agreements.

**DIGEST OF REVENUE PROVISIONS OF THE
SMALL BUSINESS JOB PROTECTION ACT OF 1996 (P. L. 104-188)**
(Continued)

CODE SECTION	DESCRIPTION OF PROVISION
403(b)	The provisions relating to Indian tribal governments is modified.
403(b)(1)(B)	A provision has been added to exclude from gross income a contract purchased under a salary reduction agreement meeting the requirements of 401(a)(30) when the contract is purchased by an organization defined in IRC § 501(c)(3) or a public school.
403(b)(8)	This provision modifies the tax effect of transferring distributions from a § 403(b) plan to an individual retirement account. The section provides that such rollovers made in a timely fashion will be excluded from income.
404(a)(9)(C)	This provision allows a tax exempt trust used connection with employment stock ownership plan to own shares of stock in an S Corporation.
404(a)(10)	This provision allows ordained ministers who are self-employed or employed by organizations that are not tax exempt under IRC § 501(c)(3) to participate in a § 403(b) plan.
404(k)(1)	This provision restricts the deductibility of dividends paid by a corporation to an employee stock ownership corporation to C Corporations and denies the same deductibility to S Corporations.
404(l)	This section repeals the family aggregation rule in determining the benefits provided under qualified plan.
404(m)	This provision establishes a time limit for the deductibility of employer contributions made to a simple retirement plan. Contributions must be made either before the end of the year in which the contribution relates or made after the end of the year on or before the due date of the tax return for the employer as extensions.
406(c)	This is an amendment required by the repeal of the 5-year income averaging for lump sum distributions from qualified plans. The repealed section has to do with foreign employees who are deemed to be employees of American employers.
406(e)(2)(3)	This is an amendment resulting from the repeal of the \$5,000 exclusion of death benefits.
407(c)	This is an amendment required by the repeal of the 5-year income averaging for lump sum distributions from qualified plans. The repeal provision has to do with the termination of employees who are deemed to be employees for purposes of applying Section 402(d).
407(e)(2) and (3)	The sections of Internal Revenue Code are repealed as conforming amendments to repeal of the \$5,000 death benefit exclusion.
408(d)(3)(G)	This provision allows the rollover of distributions from simple retirement accounts to another simple retirement account or and individual retirement account or an individual retirement account unless the distribution is made within two years of the date that the employee first participated in the simple plan.
408(d)(5)	This is an amendment for individual retirement accounts being available to homemakers.
408(i)	This provision creates reporting requirements for the trustees of individual retirement accounts or issuers of endowment contracts and has been amended to include reporting requirements with regard to distributions in excess of \$10 or more in any calendar year.
408(i)	This provision modifies the reporting requirements with regard to amount of distributions from a individual retirement account to distributions aggregating more than \$10 in any calendar year.
408(k)(2)(C)	This is an amendment to the repeal of the family aggregation rule.
408(k)(6)(H)	This provisions repeals the Salary Reduction Simplified Employer Pension (SARSEPS).

**DIGEST OF REVENUE PROVISIONS OF THE SMALL BUSINESS
JOB PROTECTION ACT OF 1996 (P. L. 104-188)**
(Continued)

CODE SECTION	DESCRIPTION OF PROVISION
408(l)(2)	This section deals with the reports and information that must be provided to the employees in the simple retirement plan. No reports except as stated in the section are required of the employer. The trustee of the plan must provide a summary of the material provisions of the plan to the participants.
408(p)(q)	This provision sets forth the basic parameters of simple retirement accounts. Included within this section are the requirements for qualified salary reduction arrangement, definition of eligible employer, limitation on other plans that may be maintained by the employer, vesting requirements, participation requirements, administrative requirements and use of designated financial institutions as the party that will hold the investments on behalf of the participants.
411(a)(2)	This provision will eliminate special vesting provisions with regard to multi-employer plans.
414(b)	This section extends the control group definition of employers to employers maintaining simple retirement plans established under IRC § 408(p).
414(c)	This section, like the prior section, extends the definition of control groups for partnerships, proprietorships and other business entities to simple retirement plans established under IRC § 408(p).
414(e)(5)	This provision relates to the modification included in Code Section 404(e)(10) which allows ordained ministers who are self-employed or not employed by IRC § 501(c)(3) to participate in § 403(b) plans.
414(i)(1)(D)	This is an amendment to the definition of compensation for key employees required by the repeal of the family aggregation rule.
414(m)(4)(B)	This section extends the affiliated service groups provisions to employers adopting simple retirement plans under IRC § 408(p).
414(n)(3)(B)	This provision extends the employee leasing provision to employers who adopt simple retirement plans under IRC § 408(p).
414(q)(2) to (12)	This provision eliminates the family aggregation of spouses and children under the age of 19 in determining the definition of a highly compensated employee.
414(q)(5)	This provision is an amendment to exclude family aggregation in determining highly compensated employees.
414(q)(6)	This section repeals the aggregation of family members in determining the definition of highly compensated employee.
414(r)(2)(A)	This provision is an amendment with regard to separate lines of business required as a result of repeal of family aggregation rules.
414(n)(2)(C)	This provision simplifies the definition of leased employees.
414(q)(1)	This provision simplifies the definition of highly compensated employees. Under this provision a highly compensated employee is a 5% owner during the current year or the prior year or an employee who received compensation in excess of \$80,000. A special election is included to exclude an employee receiving \$80,000 in compensation under certain conditions.
414(q)(4)	This is a provision as a result of the change in definition of compensation for purposes of IRC § 415.
414(q)(7)	This section limits the definition of highly compensated employees for church plans for years prior to the effective date of ERISA.

**DIGEST OF REVENUE PROVISIONS OF THE
SMALL BUSINESS JOB PROTECTION ACT OF 1996 (P. L. 104-188)**
(Continued)

CODE SECTION	DESCRIPTION OF PROVISION
414(s)(2)	This allows the employer to elect not to have elective deferrals under various sections of the Internal Revenue Code treated as compensation for purposes of determining eligible compensation under a qualified plan.
414u	This provision grants unemployment rights and restores retirement plan benefits to veterans of the Gulf War and certain other veterans.
415(a)(1)	This provision repeals the limitations and contributions and benefits that can be provided by 1 employer through 2 plans being maintained at the same time.
415(b)(5)(B)	This provision repeals the limitation on defined benefit plans and defined contribution plans maintained by the same employer.
415(e)	This provision repeals the limitations imposed on an employer in providing benefits to an employee through a defined benefit pension plan and defined contribution plan.
415(f)(1)	This section deals with the repeal of the duo plan limits with regard to defined benefit pension plans and defined contribution plans by the same employer.
415(g)	This section also deals with the repeal of the dual plan limits.
415(k)(2)(A)	This section also deals with the repeal of the dual plan limits.
415(k)(2)(A)	This section also deals with the repeal of the dual plan limits.
415(b)(1)(C)	This provision revokes a grandfather election available to governmental plans under Code § 415.
415(b)(2)(1)	This section creates an exemption for survivor and disability benefits under governmental plans.
415(b)(10)(c)	This section revokes an election available to qualified plans with regard to the benefits that can be provided to the employees of the governmental unit.
415(b)(11)	This section imposes a restriction on governmental plans with regard to the compensation limit that may be counted in a determinant plan contributions.
415(c)(3)(c)	This section provides for continued benefits on behalf of disabled employees if the plan provides for continued contributions on behalf of such disabled employee.
415(c)(3)(D)	This provision generally redefines compensation for purposes of the § 415 of the IRC to include amounts of elective deferrals made by employees to cafeteria plans and other elective deferral plans.
415(m)	This section provides for the tax treatment of excess benefit arrangements provided by governmental units.
415(b)(2)(E)	This provision repeals and modifies assumptions used in determining benefits under defined benefit pension plans for early retirees that was included in law by the passage of the General Agreement on Tariffs and trade (GATT).
416(g)(4)(G)	This section excludes from the definition of a top-heavy plan a simple plan adopted under IRC § 408(p).
416(h)	This section also deals with the repeal of the dual plan limits.
416(i)(1)(A)	This is a conforming amendment required by the repeal of the family aggregation rule inasmuch as it relates to the definition of a key employee.
417(a)(7)	This section allows the waiver of a 30 day waiting period between the date that the notice with regard for joint survivor annuity was given to a surviving spouse of a deceased participant.

**DIGEST OF REVENUE PROVISIONS OF THE SMALL BUSINESS
JOB PROTECTION ACT OF 1996 (P. L. 104-188)**
(Continued)

CODE SECTION	DESCRIPTION OF PROVISION
424(c)(3)(B)	This section includes stock acquired through an exercise with incentive stock option or an option granted under an employee's stock purchase plan within the definition of a statutory stock option.
457(b)(6)	This section provides that the assets set aside for deferred compensation plans for state and local governments are to be held in a separate trust for the benefit of the participants in a plan.
457(c)(2)(B)	This section provides that amounts contributed to simple plans shall be excluded from gross income.
457(e)(9)	This section includes special rules for § 457 deferred compensation plans maintained by state and local governments. Special rules have been included with regard to distribution from such plans.
457(e)(15)	This section provides a cost of living adjustments for maximum deferral amounts for § 457 plans maintained by state and local governments.
457(e)(11)	This section excludes from a deferral compensation plan, plans for vacation pay, sick leave, length of service awards and other benefits but creates a special treatment for volunteers.
457(e)(14)	This section is a provision coordinating § 415 and § 457 with regard to excess benefits provided by governmental plans.
457(f)(2)(E)	This section coordinates the tax treatment of excess benefits under a governmental plan between Code § 415 and Code § 457.
457(g)	This section requires that deferred compensation plans under § 457 maintained by state and local governments must hold their assets for the benefit of participants in a separate trust.
460(e)(6)(B)	Changes reference to "section 167(k)" to "section 168(e)(2)(A)(ii)". This is a nonsubstantive clerical amendment to conform the Code to the deadwood amendments made under the Revenue Reconciliation Act of 1990 (P.L. 101-508). Effective for property placed in service after November 5, 1990.
469(c)(3)(B)	Clarifies that in any tax year in which a taxpayer's working interest in an oil and gas property is classified as a nonpassive activity, any credit attributable to the property is treated as arising from a nonpassive activity. This rule does not apply to the foreign tax credit. The credit may be claimed to the extent of the regular tax liability of the taxpayer which is allocable to the activity's net income. Any excess credit is generally subject to the rules that apply to passive credits. Effective for tax years beginning after December 31, 1986.
469(g)(1)(A)	Clarifies the rule relating to the computation of loss allowed upon the disposition of an entire interest in a passive activity. When a taxpayer disposes of a passive activity in a taxable transaction, any net passive loss from the activity must first be applied against income or gain from the taxpayer's other passive activities. Any remaining loss from the activity is then classified as nonpassive and may used to offset income from nonpassive activities. Effective for tax years beginning after December 31, 1986.
469(i)(3)(E)	Conforming amendment relating to Code section 137. In determining the phase-out of the \$25,000 exemption for rental real estate activities for purposes of passive activity loss limitations, adjusted gross income is determined without regard to amounts excluded as adoption assistance under adoption assistance programs. Effective for taxable years beginning after December 31, 1996.
501(c)(21)(D)(ii)(III)	Changes reference to "section 101(6) of the Federal Credit Union Act, 12 U.S.C. 1752(6)" to "section 101(7) of the Federal Credit Union Act, 12 U.S.C. 1752(7)". These amendments are related to revenue provisions of the Energy Policy Act of 1992. Effective August 20, 1996.

**DIGEST OF REVENUE PROVISIONS OF THE
SMALL BUSINESS JOB PROTECTION ACT OF 1996 (P. L. 104-188)**
(Continued)

CODE SECTION	DESCRIPTION OF PROVISION
501(n), (o)	Provides tax-exempt status to not-for-profit risk pools whose members are exclusively tax-exempt charitable organizations, and which obtain significant capital from nonmember charitable organizations. This provision is intended to help make liability insurance more affordable to charitable organizations. Also, the designation of this new provision as subsection (n) redesignates the prior subsection (n) as subsection (o). Effective for tax years beginning after August 20, 1996.
512(b)(17)	With respect to certain insurance income of a controlled foreign corporation, a new look-through rule applies in characterizing this type of income for UBIT (unrelated business income tax) so that insurance income will be treated as income from an unrelated trade or business to the extent that it would be characterized as if the tax-exempt organization had received the income directly, applicable to amounts included in gross income in any tax year beginning after December 31, 1995.
512(d)	Exempts from the unrelated business income tax annual dues not exceeding \$100 that are required in order to be recognized as a member in a tax-exempt agricultural or horticultural organization. After 1995, the \$100 amount is indexed for cost-of-living increases. Effective for tax years beginning after December 31, 1986, generally.
512(e)	All items of income, loss, credit or deduction and any gain or loss on the disposition of the stock in the S corporation are taken into account in computing the unrelated business taxable income (UBIT) of the tax-exempt organization shareholder. All items of income and loss, regardless of the source or nature of the income, will flow through to the tax-exempt shareholder.

NOTE: The following section is operative for Hawaii income tax purposes.

529	Provides that a qualified state tuition program is generally exempt from income tax, but is subject to the taxes imposed by Code section 511 (the unrelated business income tax). A contribution to a qualified state tuition program on behalf of a designated beneficiary is in no event treated as a taxable gift for gift tax purposes. Contributions made to a qualified state tuition program are treated as incomplete gifts for gift tax purposes. Thus, any gift tax consequences will be determined at the time that a distribution is made from an account under the program. No amount is includible in the gross income of (a) a designated beneficiary under a qualified state tuition program, or (b) a contributor to such a program on behalf of a designated beneficiary, with respect to any distribution or earnings under such a program, except that any distribution under a qualified state tuition program is generally includible in the gross income of the distributee in the same manner as provided under Code section 72, to the extent not excluded from gross income under any other income tax provision of the Code. Thus, (1) amounts distributed, or educational benefits provided, to a beneficiary (e.g., when the beneficiary attends college) will be included in the beneficiary's gross income (unless excludable under another Code section) to the extent the amount or the value of the educational benefits exceeds contributions made on behalf of the beneficiary, and (2) amounts distributed to a contributor (e.g., when a parent or other relative receives a refund) will be included in the contributor's gross income to the extent those amounts exceed contributions made by that person. Generally effective for taxable years ending after August 20, 1996.
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NOTE: The following IRC sections are not operative for Hawaii income tax purposes.

582(c)(1)	Replacing the reference to "REMIC" with "and any regular interest in a FASIT".
584(h), (i)	Nonrecognition treatment for certain transfers by common trust funds held by banks to regulated investment companies.

NOTE: The following sections are not operative for Hawaii income tax purposes.

585(a)(2)(A)	Repeal of bad debt reserve method for thrift savings associations.
593(e)(1)	Repeal of bad debt reserve method for thrift savings associations.
593(e)(1)(B)	Repeal of bad debt reserve method for thrift savings associations.

CODE SECTION	DESCRIPTION OF PROVISION
593(f)-(g)	Repeal of bad debt reserve method for thrift savings associations.
595	Repeal of bad debt reserve method for thrift savings associations.
596	Repeal of bad debt reserve method for thrift savings associations.
NOTE: The following section is operative for Hawaii income tax purposes.	
613A(c)(3)(A)(I)	Changes reference to “the tentative quantity determined under the table contained in subparagraph (B)” to “the tentative quantity determined under subparagraph (B)” since there is no table in subparagraph (B). This amendment relates to the Revenue Reconciliation Act of 1990-Subtitle E. Effective for tax years beginning after December 31, 1990.
NOTE: The following sections are operative for Hawaii income tax purposes.	
641(d)	<p><i>Treatment of items relating to S corporation stock.</i> The portion of the trust that consists of stock in one or more S corporations is treated as a separate trust for purposes of computing the income tax attributable to the S corporation stock held by the trust, and this portion of the trust's income is taxed at the highest rate imposed on estates and trusts (currently 39.6 percent on ordinary income and 28 percent on net capital gain). The taxable income attributable to this portion includes: (1) the items of income, loss or deduction allocated to the trust as an S corporation shareholder under the rules of subchapter S; (2) gain or loss from the sale of the S corporation stock; and (3) any state or local income taxes and administrative expenses of the trust properly allocable to the S corporation stock. Otherwise allowable capital losses are allowed only to the extent of capital gains.</p> <p>In computing the trust's income tax on this portion of the trust, no deduction is allowed for amounts distributed to beneficiaries and, except as described above, no additional deductions or credits are allowed. This income is not included in the distributable net income of the trust and, therefore, is not included in the beneficiaries' income. No item relating to the S corporation stock is apportioned to any beneficiary.</p> <p>On the termination of all or any portion of the trust, any unused loss carryovers or excess deductions are taken into account by the entire trust.</p> <p><i>Treatment of remainder items held by trust.</i> In determining the tax liability of the remaining portion of the trust, items taken into account by the S corporation portion of the trust are disregarded. Also, although distributions from the trust are deductible in computing the taxable income of this portion of the trust, the trust's distributable net income does not include any income attributable to the S corporation stock.</p>
643(a)(7)	The Secretary is authorized to issue anti-abuse regulations to prevent avoidance of the new rules dealing with foreign trusts that are not grantor trusts.
643(h)	Amounts paid to a U.S. person and derived directly or indirectly from a foreign trust of which the payor is not the grantor is treated as paid directly from the foreign trust to the U.S. person. This eliminates intermediaries and nominees. This results in the U.S. person having income.
643(i)	Loans of cash or marketable securities from foreign trust to the grantor or U.S. beneficiaries or related persons are treated as distributions (and thus income, even if paid out of income accumulated by the foreign trust in prior years).
665(c)	Repealed. Substance revised and added to section 665(d)(2), infra.
665(d)(2)	Where amended section 672(f) precludes a foreign grantor from being a grantor under the grantor trust rules, the definition of “taxes imposed on the trust” is amended includes foreign taxes imposed on the grantor.

**DIGEST OF REVENUE PROVISIONS OF THE
SMALL BUSINESS JOB PROTECTION ACT OF 1996 (P. L. 104-188)**
(Continued)

CODE SECTION	DESCRIPTION OF PROVISION
NOTE: The following IRC section is not operative for Hawaii income tax purposes.	
668(a)	In computing tax paid in prior years for purposes of the throwback rule for foreign trusts, interest is charged at the rate applicable for underpayments, effective January 1, 1996. The accumulation is allocated proportionately to prior years when earned, rather than to the earlier prior year.
NOTE: The following IRC sections are operative for Hawaii income tax purposes.	
672(c)	This is an amendment reflecting enactment of new section 672(g).
672(f)	This provides that the grantor trust rules apply to foreign trusts only to the extent (except as otherwise provided in regulations) its results directly or indirectly, in amounts being taken into account in computing the income of a U.S. citizen, resident or domestic corporation. For this purpose, a CFC is treated as a domestic corporation. There are recategorization rules designed to prevent avoidance. A U.S. person beneficiary is treated as a grantor if she has, directly or indirectly, transferred property (other than sales for full and adequate consideration) to the foreign grantor who would otherwise be treated as owner of the trust. Anti-abuse regulations are authorized. There are exceptions for cases where the grantor can revest the property without needing an adverse party's consent, where the only amounts that can be distributed during the grantor's lifetime are to the grantor or her spouse, or where the distributions are compensation for services (and then only to that extent).
679(a)(1)	Includes charitable trusts as exempt from rules regarding transfers by U.S. persons to foreign trusts.
679(a)(2), (3)	Excerpts from outbound foreign grantor trust rules transfers for fair market value ((a)(2)). In applying the exception, obligations issue or guaranteed by the trust, the grantor or related persons are ignored, except as may be provided in regulations, but principal payments actually made are taken into account after payment ((a)(3)).
679(a)(4), (5)	If a nonresident alien becomes a U.S. person within 5 years of a transfer of property, directly or indirectly, to a foreign trust, the nonresident alien is deemed to have made the transfer as of the residency starting date. This causes section 679(a) to apply to the deemed transfer.
679(c)(2)(A)	Clarifies that amounts are deemed paid to or for the benefit of a U.S. person if paid to or accumulated for a controlled foreign corporation.
679(c)(3)	Provides that a beneficiary of a foreign trust shall not be treated as a U.S. person with respect to transfer to that trust made more than 5 years before the beneficiary became a U.S. person.
679(d)	Authorizes regulations to carry out the purposes of amended section 679.
691(c)(5)	This is a conforming amendment resulting from the repeal of a five year income averaging for lump sum distributions.
NOTE: The following IRC sections are not operative for Hawaii income tax purposes.	
805(a)(4)(E)	Changes reference to "section 243(b)(5)" to "section 243(b)(2)". This is a nonsubstantive clerical amendment to conform the Code to the deadwood amendments made under the Revenue Reconciliation Act of 1990 (P.L. 101-508). Effective for tax years beginning after December 31, 1990.
812(g)	Repeals the 50% exclusion from gross income for interest paid to insurance companies on loans made to an employee stock ownership plan or to an employer corporation, the proceeds of which are used by the plan to acquire employer securities. This repeal, however, will not apply to loans made pursuant to written binding contracts in effect prior to June 30, 1996. Effective for loans made after August 20, 1996, generally.

**DIGEST OF REVENUE PROVISIONS OF THE SMALL BUSINESS
JOB PROTECTION ACT OF 1996 (P. L. 104-188)**
(Continued)

CODE SECTION	DESCRIPTION OF PROVISION
817(d)(2)(A)-(C)	With regard to life insurance company taxation, expands the definition of the term "variable contract" to include a contract that provides for the funding of group term life or group accident and health insurance on retired lives. Effective for tax years beginning after December 31, 1995.
817(d)(3)(A)-(C)	Establishes the condition that in the case of funds held by an insurance company under a variable contract described in Code section 817(d)(2)(C), the amounts paid in, or the amounts paid out, reflect the investment return and the market value of the segregated asset account. Effective for tax years beginning after December 31, 1995.
817A	This new Code section imposes the market-to-market regime on "modified guaranteed contracts" issued by life insurance companies. Effective for tax years beginning after December 31, 1995, generally.
832(b)(5)(C),(D)	Changes reference to "section 243(b)(5)" to "section 243(b)(2)". These are nonsubstantive clerical amendments to conform the Code to the deadwood amendments made under the Revenue Reconciliation Act of 1990 (P.L. 101-508). Effective for tax years beginning after December 31, 1990.
NOTE: The following IRC sections are operative for Hawaii income tax purposes.	
852(b)(5)(C)	Repeal of exclusion for interest on loans to acquire employer securities.
856(c)(6)(E)	Adding reference to FASIT.
860E(a)(1)-(6)	Repeal of bad debt reserve method for thrift savings associations.
NOTE: The following IRC section is not operative for Hawaii income tax purposes.	
860E(a)(6)	Provides three rules for determining the alternative minimum taxable income of a taxpayer that is not a thrift institution holding residual interests in a REMIC.
NOTE: The following IRC sections are operative for Hawaii income tax purposes.	
860G(a)(3)(B)-(D)	Adding reference to FASITs.
860H-860L	Adding new sections relating to the taxation and operation of Financial Asset Securitization Investment Trusts (FASIT). A new type of statutory entity called a FASIT may be used to securitize debt obligations such as credit card receivables, home equity loans, and automobile loans. A FASIT is a pass-through entity and equitably owned by a single C corporation. A FASIT issues asset backed securities that are treated as debt for income tax purposes. Activities of a FASIT are generally limited to holding a portfolio of qualified loans. A FASIT may not independently engage in lending activities. An entity must make an election to be treated as a FASIT. The FASIT's residual income, which is roughly equal to the difference between the income earned from its loan portfolio and the interest paid to investors, is passed through and taxed to the owner of the FASIT.
NOTE: The following IRC sections are not operative for Hawaii income tax purposes.	
865(b)(2)	Technical correction to Tax Reform Act of 1986, clarifying that Treasury retains the authority to provide rules for sourcing income with respect to inventory property, effective for tax years beginning after December 31, 1986, generally
871(b)(1)	With respect to tax on nonresident alien individuals, repeals five year income averaging for lump-sum distributions as a conforming amendment, effective for tax years beginning after December 31, 1999, generally.
871(f)(2)(B)	With respect to tax on nonresident alien individuals, conforming amendment regarding exclusion of income with respect to distributions for recipients of certain countries, effective for Articles entered on or after October 1, 1996.

**DIGEST OF REVENUE PROVISIONS OF THE
SMALL BUSINESS JOB PROTECTION ACT OF 1996 (P. L. 104-188)**
(Continued)

CODE SECTION	DESCRIPTION OF PROVISION
877(b)	With respect to expatriation to avoid tax, section is a conforming amendment regarding repeal of five year income averaging for lump-sum distributions, effective for tax beginning after December 31, 1999, generally.
884(f)	Technical correction, clarifying that branch-level withholding tax applies to interest that is not actually paid by the branch but is allocable to income which is effectively connected with the conduct of a trade or business in the United States, effective for tax years beginning after December 31, 1986.
897(f)	Technical correction to Tax Reform Act of 1986 with respect to repeal of General Utilities doctrine, conforming amendment to distribution of U.S. real property interest specifying that basis in U.S. real property interests distributed to a foreign person is its fair market value, effective as if included in the Revenue Reconciliation Act of 1990 for distributions in complete liquidation after July 31, 1986 or non-liquidating distributions made after December 31, 1986.
901(b)(5)	For the purpose of the foreign tax credit, this section provides that the term "taxes imposed on the trust" includes foreign (including possessions) taxes imposed on the foreign person on income required to be included in U.S. income by a settlor or other trust related person, effective on the day of enactment.
904(d)(3)(G)	For purposes of the limitation on the foreign tax credit and for earnings included by a U.S. shareholder as a result of IRC Section 956A, which are considered dividends, the income is characterized by reference to the underlying profits of the controlled foreign corporation, effective for tax years of foreign corporations beginning after September 30, 1993 and to the related tax years of U.S. shareholders.
936(j)	With respect to the Possessions Tax Credit for Puerto Rico that is being terminated, this new section provides transition rules for the possessions credit as it applies to active business income, effective for tax years beginning after December 31 1995.
951(a)(1)(A)	Since IRC Section 956A was repealed, this section was modified to be consistent with the repeal of the section on earnings invested in excessive passive assets, effective for tax years of foreign corporations beginning after December 31, 1996 and to the related tax years of U.S. shareholders.
956(b)(1)	Since IRC Section 956A was repealed, this section was modified to define "applicable earnings" by reference to IRC Section 316 and to delete the reference to IRC Section 956A, effective for tax years beginning after December 31, 1996 and to the related tax years of U.S. shareholders.
956(b)(3)	Since IRC Section 956A was repealed, this section was expanded to include the rules previously contained in IRC Section 956A(e), effective for tax years beginning after December 31, 1996 and to the related tax years of U.S. shareholders.
956A	This IRC Section deals with taxability of earnings invested in excess passive assets and has been repealed, effective for tax years beginning after December 31, 1996 and to the related tax years of U.S. shareholders.
958(b)	This IRC section deals with the rules for determining constructive stock ownership and is a technical correction to a reference, effective for tax years of foreign corporations beginning after September 30, 1993 and to the related years of U.S. shareholders.
959(a)	Since IRC Section 956A was repealed, and consequently IRC Section 951(a)(1) was also changed, the corresponding IRC Section 959(a) which relates to exclusion from gross income of previously tax earnings and profits was changed to conform, effective for tax years of foreign corporations beginning after December 31, 1996 and to the related tax years of U.S. shareholders.

**DIGEST OF REVENUE PROVISIONS OF THE SMALL BUSINESS
JOB PROTECTION ACT OF 1996 (P. L. 104-188)**
(Continued)

CODE SECTION	DESCRIPTION OF PROVISION
959(c)	Since IRC Section 951(a)(1)(c) was eliminated as part of the Small Business Job Protection Act, the reference to IRC Section 951(a)(1)(c) in this code section was referred to the previous IRC Section 951(a)(1)(c), effective for tax years of foreign corporations beginning after December 31, 1996, and to the related tax years of U.S. shareholders.
NOTE: The following IRC section is operative for Hawaii income tax purposes.	
989(b)	The reference to IRC Section 951(a)(1)(c) was eliminated to be consistent with the elimination of this section, effective to tax years of foreign corporations beginning after December 31, 1996, and to the related tax years of U.S. shareholders.
NOTE: The following IRC section is not operative for Hawaii income tax purposes.	
992(d)(3)	With respect to other definitions and special rules for income from foreign sources, the reference to financial institutions to which IRC Section 593 applies is eliminated since IRC Section 593 (with respect to reserves for losses on loans) has been changed, effective for tax years beginning after December 31, 1995.
NOTE: The following IRC sections are operative for Hawaii income tax purposes.	
1016(a)(24)-(26)	Provides that any increase in the basis of property attributable to an expenditure with respect to which the adoption credit is taken, is reduced by the amount of the credit taken with respect to the expenditure. The basis of the property must be adjusted to reflect this decrease. Similar rules with respect to the basis adjustment apply to the exclusion for qualified adoption expenses. Effective for taxable years beginning after December 31, 1996.
1033(b)	When a taxpayer acquires control of a corporation that owns property which is intended to replace the involuntarily converted property of the taxpayer, if the taxpayer must reduce the basis of the acquired corporation's stock, the corporation must also reduce the adjusted basis of its assets by the amount by which the taxpayer is required to reduce the basis of the stock. The taxpayer's basis in the corporation's stock is decreased by the amount of any gain realized from the involuntary conversion that is not recognized. Effective for involuntary conversions occurring after August 20, 1996.
1033(h)(2)-(4)	Liberalizes the involuntary conversion replacement property rules for a Presidentially declared disaster. Provides that if property held for productive use in a trade or business or for investment is compulsorily or involuntarily converted as a result of a Presidentially declared disaster, tangible property of a type held for productive use in a trade or business is treated as property similar or related in use to the property converted. Code section 1033(h)(2) and (3) are redesignated as Code section 1033(h)(3) and (4), and a new Code section 1033(h)(2) is added. Effective for disasters for which a presidential declaration is made after December 31, 1994, in tax years ending after such date.
1038(f)	Repeal of bad debt reserve method for thrift savings associations.
1042(c)(1)(A)	Section 1042 allows the deferral of the gain on sales of eligible securities to an employee stock ownership plan. Stock of S corporations are made ineligible for the deferral.
1042(c)(4)(A)	Replacing reference to section 1362(d)(3)(D) with section 1362(d)(3)(c).
1042(c)(4)(B)	Repeal of the bad debt reserve method for thrift savings associations.
1044(c)(2)	Corrects definition of "purchase" for purposes of tax-free rollover of gain by purchasing interests in specialized small business investment companies. A taxpayer is now considered to have purchased any property if, but for the basis adjustment rules with respect to purchases of a specialized small business investment company interest, the unadjusted basis of the property would be its cost within the meaning of Code section 1012. Effective for sales on and after August 10, 1993, in tax years ending on and after such date.

**DIGEST OF REVENUE PROVISIONS OF THE
SMALL BUSINESS JOB PROTECTION ACT OF 1996 (P. L. 104-188)**

(Continued)

CODE SECTION	DESCRIPTION OF PROVISION
1201(a)	Corrects the method for determining whether the top regular corporate rate for the year is higher than 35% for purposes of the alternative tax rate that applies to corporations with net capital gain. Provides that whether the tax rate for the year is higher than 35% is also determined without regard to the additional tax on taxable income over \$100,000 equal to the lesser of 5% or \$11,750 (phaseout of graduated rates that applies to corporations with incomes in excess of \$100,000). Effective for tax years beginning on or after January 1, 1993, generally.
1202(e)(4)(C)	Replace reference to "REMIC" with "REMIC or FASIT".
1237(a)	S corporations may qualify for the Code Sec. 1237 capital gain presumption (formerly available only to non-corporate taxpayers) that permits capital gain treatment for unimproved subdivided real property held for five years that would otherwise constitute ordinary income property.
1237(a)(2)(A)	Improvements made by an S corporation to land owned by a shareholder of the S corporation are deemed to be made by the shareholder for purposes of determining whether the land was held for sale by the land owner.
1245(a)(e)	In the definition of "section 1245 property", deletes reference to property which is or has been property of a character subject to the allowance of amortization. Effective for property acquired after August 10, 1993.
1248	Since the repeal of General Utilities doctrine as a result of the Tax Reform Act of 1986, conforming amendments have been enacted. The changes to IRC Section 1248 as a result of the Small Business Protection Act of 1995 are additional conforming amendments. IRC Section 1248 refers to the gain from certain sales or exchanges of stock of certain foreign corporations, effective for sales or exchanges after July 31, 1986.
1250(e)(4)	Deletes Codes section 1250(e)(4). This is a nonsubstantive clerical amendment to conform the Code to the deadwood amendments made under the Revenue Reconciliation Act of 1990 (P.L. 101-508). Effective November 5, 1990.
1277(c)	Repeal bad debt reserve method for thrift savings associations.
NOTE: The following IRC sections are not operative for Hawaii income tax purposes.	
1296(b)(2)(B)-(D)	This section provides exceptions to the definition of passive income and clarifies that foreign trade income foreign sales corporations (FSCs) and the export trade income of export trade corporations (ETCs) do not constitute passive income, effective for foreign corporations beginning after December 31, 1996.
1297(b)	This section provides special rules with respect to passive foreign investment companies and the changes to this section reflect the elimination of IRC Section 951(a)(1)(c), effective for tax years of foreign corporations beginning after December 31, 1996, and to the related tax years of U.S. shareholders.
1297(d)-(e)	This section also provides special rules with respect to passive foreign investment companies and the changes to this section reflect the repeal of IRC Section 956A (with respect to earnings invested in excess passive assets), effective for tax years of foreign corporations beginning after December 31, 1996, and to the related tax years of U.S. shareholders.
1297(d)-(e)	This section also provides special rules with respect to passive foreign investment companies and the changes to this section reflect technical corrections to the Revenue Reconciliation Act of 1993, effective for tax years of foreign corporations beginning after September 30, 1993, and to the related tax years of U.S. shareholders.
NOTE: The following IRC sections are operative for Hawaii income tax purposes.	
1361(b)(1)(A)	The maximum number of eligible shareholders of an S corporation is increased from 35 to 75.

CODE SECTION	DESCRIPTION OF PROVISION
1361(b)(1)(B)	An organization described in Code Sec. 401(a) (qualified retirement plan trusts or 501(c)(3) (charitable organizations) and exempt from taxation under Code Sec. 501(a) is an eligible S corporation shareholder.
1361(b)(2)(A)	An S corporation may now own 80 percent or more of the stock of a C corporation. The provision making members of an affiliated group ineligible to be an S corporation was eliminated.
1361(b)(2)(A)-(E)	Certain corporations are ineligible to elect S status. These include some insurance companies, possession corporations, a Domestic International Sales Corporation (DISC) or former DISC, and other financial institutions using a reserve method of accounting for bad debts. These ineligible companies are the same as the pre-'96 Act ineligible companies - only the sub-paragraphs were re-lettered.
1361(b)(2)(B)	This provision reduces the types of financial institutions using a reserve method of accounting for bad debts that are ineligible to elect S status. The following financial institutions are eligible to elect S status: (1) domestic building and loan associations, (2) any mutual savings bank, and (3) any cooperative bank without capital stock organized and operated for mutual purposes and without profit.
1361(b)(3)	An S corporation is also permitted to own a qualified subchapter S subsidiary (QSSS). The term "qualified subchapter S subsidiary" includes any domestic corporation that qualifies as an S corporation and is 100 percent owned by an S corporation parent, which elects to treat it as a QSSS. A QSSS is not treated as a separate corporation, and all of its assets, liabilities, and items of income, deduction and credit are treated as the assets, liabilities, and items of income, deduction and credit of the parent S corporation.
1361(c)(2)(A)	The post-death holding period of S corporation stock for a grantor trust is expanded to two years (from 60 days). The two-year holding period begins on the date of the grantor's death. Similarly, a trust that becomes an S corporation shareholder by virtue of a transfer pursuant to the terms of a will is also permitted to be an S corporation shareholder for two years, beginning on the date of the stock transfer into trust.
1361(c)(2)(A)	An electing small business trust may be a shareholder in an S corporation.
1361(c)(2)(B)	Each potential current beneficiary of the trust is counted as a shareholder for purposes of the 75-shareholder limitation.
1361(c)(5)(B)	For purposes of the safe harbor, where certain debt ("straight debt") is not treated as a disqualifying second class of stock, the definition of "straight debt" is expanded to include debt held by non-individual creditors that are actively and regularly engaged in the business of lending money.
1361(c)(6)	Repealed (Ownership of a subsidiary that had been inactive since incorporation was disregarded for purposes of determining whether a corporation was a member of an affiliated group and therefore, ineligible to be an S corporation. This provision was eliminated as unnecessary because S corporations may have subsidiaries under the new law.)
1361(c)(7)	An organization described in Code Sec. 401(a) (qualified retirement plan trusts or 501(c)(3) (charitable organizations) and exempt from taxation under Code Sec. 501(a) is an eligible S corporation shareholder.
1361(e)	Electing small business trusts. The election is to be made by the trustee. Definition: A potential current income beneficiary is any person, with respect to the applicable period, who is entitled to, or at the discretion of any person may receive, a distribution from the principal or income of the trust.

**DIGEST OF REVENUE PROVISIONS OF THE
SMALL BUSINESS JOB PROTECTION ACT OF 1996 (P. L. 104-188)**

(Continued)

CODE SECTION	DESCRIPTION OF PROVISION
1361(e)(1)(A)	Electing Small Business Trust - definition added. To qualify, all beneficiaries of the small business trust must be individuals or estates eligible to be S corporation shareholders, except that charitable organizations may hold contingent remainder interests. For a small business trust to be an eligible S corporation shareholder, no interest in the trust may be acquired by "purchase" (i.e., acquired with a cost basis). Interests in qualifying trusts must be acquired by reason of gift, bequest, or other non-purchase acquisition.
1362(b)(5)	The IRS may also treat late-filed subchapter S elections as timely if there is reasonable cause justifying the late filing.
1362(d)(3)	Re: Termination of S status for excess passive investment income In §1362(d)(3)(A)(i)(1), the reference to "subchapter C earnings and profits" was changed to "accumulated earnings and profits" to conform to the change in the earnings and profits rule of §1375(a)(1). The definition of subchapter C earnings and profits was eliminated to conform to the change in terminology.
1362(d)(3)(F)	Dividends received by an S corporation from a C corporation subsidiary are not treated as passive investment income to the extent the dividends are attributable to the earnings and profits of the C corporation derived from the active conduct of a trade of business.
1362(f)	The authority of the IRS to waive the effect of an inadvertent termination is extended to cover additional situations. The IRS may waive the effect of an invalid election caused by an entity's inadvertent failure to qualify as a small business corporation or to obtain required shareholder consents (including elections regarding qualified subchapter S trusts), or both.
1366(a)(1)	<i>Termination of trust and conforming amendment applicable to all trusts.</i> Where the trust is terminated before the end of the S corporation's tax year, the trust must take into account its pro rata share of S corporation items for its final year. This provision includes a conforming amendment clarifying that, under present law, all trusts and estates that terminate before the end of the S corporation's tax year are subject to this treatment.
1366(d)(1)(A)	Basis adjustments for distributions made by an S corporation during the tax year are taken into account <i>before</i> applying the loss limitation for the year. As a result, distributions reduce the adjusted basis for determining the allowable loss for the year, but that loss does not reduce the adjusted basis for purposes of determining the tax status of the distributions.
1366(d)(3)(D)	Losses of an S corporation that are suspended pursuant to the Code Sec. 465 at-risk rules may be carried forward to the S corporation's post-termination period.
1366(g)	The cross-reference to the repealed administrative provisions, §§6241 to 6245, was eliminated.
1367(a)(2)(E)	Reduction of basis for depletion - The reference to §613A(c) was changed from (13)(B) to (11)(B) in a correction of the reference.
1367(b)(4)	Any person who acquires stock in an S corporation by reason of a bequest, devise, or inheritance must treat as income in respect to a decedent (IRD) the pro rata share of any item of income of the corporation that would have been IRD if the income had been acquired directly from the decedent. A deduction under Code Sec. 691(c) is allowed for the estate tax attributable to an item of IRD. The stepped-up basis of the stock acquired from a decedent is reduced by the extent to which the value of the stock is attributable to items consisting of IRD.
1368(d)	The adjusted basis of stock is determined, for purposes of determining the tax treatment of distributions, taking into account only the items that increase basis during the year. Losses do not reduce the adjusted basis for purposes of determining the tax status of the distributions.

**DIGEST OF REVENUE PROVISIONS OF THE SMALL BUSINESS
JOB PROTECTION ACT OF 1996 (P. L. 104-188)**
(Continued)

CODE SECTION	DESCRIPTION OF PROVISION
1368(e)(1)(A)	Subparagraph (A) was modified to include a reference to new subparagraph (C). The provision to disregard the limitation on basis decreases for purposes of determining the accumulated adjustments account was changed from a reference to the provision dealing with items that reduce the basis of shareholder debt to the provision that deals with items that reduce the basis of stock.
1368(e)(1)(C)	In determining the tax treatment of distributions made by an S corporation which has accumulated earnings and profits, the amount in the accumulated adjustments account is computed without regard to any net negative adjustments for the year. Net negative adjustments (i.e., the excess of losses and deductions over income) are disregarded.
1371(a)	Treatment of S corporations as shareholders in C corporations.--To clarify that subchapter C rules (including the tax-free liquidation provisions of Code Secs. 332 and 337) generally govern the liquidation of a C corporation into an S corporation, the rule that treats an S corporation holding the stock of another corporation as an individual is repealed. Following a tax-free liquidation, the built-in gains of the liquidating corporation may later be subject to tax under Code Sec. 1374 upon a subsequent disposition. An S corporation is also eligible to make a Code Sec. 338 election (provided all other requirements are met), resulting in immediate recognition of all of the acquired C corporation's gains and losses and the resulting imposition of tax.
1375	The term "Subchapter C earnings and profits" was changed to "accumulated earnings and profits" to conform to the change in terminology.
1375(a)(1)	The accumulated earnings and profits of an S corporation during its first tax year beginning after December 31, 1995, is reduced by the earnings and profits accumulated in any tax year beginning before January 1, 1983, for which the corporation was an S corporation. This reduction ensures that an S corporation's accumulated earnings and profits are solely attributable to tax years for which its S election was not in effect.
1375(b)(3)	The cross-reference to the term "Subchapter C earnings and profits" was deleted to conform to the deletion of the term from §1362(d)(3).
1377(a)(2)	The election to close the books of an S corporation upon the termination of a shareholder's interest is made by the S corporation and all "affected shareholders," rather than by all shareholders. After the election is made, the closing of the books applies only to affected shareholders. "Affected shareholders" is defined as any shareholder whose interest is terminated and all shareholders to whom the terminating shareholder has transferred shares during the year. If the terminating shareholder transferred shares to the corporation, all persons who were shareholders during the year are affected shareholders.
1377(b)(1)(A)-(C)	A former S corporation's post-termination period includes the 120-day period that begins on the date of any audit determination (following the termination of an S corporation's election) that adjusts any subchapter S item of income, loss, or deduction claimed by the former S corporation.
1377(b)(2)(A)-(C)	The definition of "determination" is expanded to include a final disposition of a claim for refund by the Secretary of the Treasury and agreements between the Secretary and the corporation that the corporation failed to qualify as an S Corporation.
NOTE: The following IRC sections are not operative for Hawaii income tax purposes.	
1396(c)(3)	Replaces reference to the "targeted jobs credit" with the "work opportunity credit". Effective for individuals beginning work for an employer after September 30, 1996.

**DIGEST OF REVENUE PROVISIONS OF THE
SMALL BUSINESS JOB PROTECTION ACT OF 1996 (P. L. 104-188)**
(Continued)

CODE SECTION	DESCRIPTION OF PROVISION
1397B(d)(5)(B)	The \$500,000 asset test for determining whether a farm qualifies for additional Code section 179 expensing and expanded tax-exempt financing benefits is now applied at the close of the current tax year instead of at the close of the preceding tax year. Consequently, the \$500,000 asset test is now based on the current tax year for purposes of determining eligibility for all of the tax incentives available in enterprise zones. Effective August 10, 1993.
NOTE: The following IRC sections are operative for Hawaii income tax purposes.	
1504(c)(2)(B)(I)	Inserts "section" before the reference to "243(b)(2)". This is a nonsubstantive clerical amendment to conform the Code to the deadwood amendments made under the Revenue Reconciliation Act of 1990 (P.L. 101-508). Effective for tax years beginning after December 31, 1990.
6233(b)	Provisions related to S Corporations were eliminated: Under regulations, the administrative provisions related to S Corporations applied to entities that filed S Corporation returns but either were not S Corporations or no entity existed.
6241	Repealed. Formerly: Tax Treatment Determined at Corporate Level
6242	Repealed. Formerly: Shareholder's Return Must Be Consistent with Corporate Return or Secretary Notified of Inconsistency
6243	Repealed. Formerly: All Shareholders to be Notified of Proceedings and Given Opportunity to Participate
6344	Repealed. Formerly: Certain Partnership Provisions Made Applicable - provisions of subchapter C relating to assessing deficiencies and claims for refund with respect to partnership items and relating to judicial determination of partnership items and procedural/administrative provisions related to partnership items are applicable to subchapter S items.
6245	Repealed. Formerly: Subchapter S Item Defined - items more appropriately determined at the corporate level than at the shareholder level.
6655(g)(3)	Changes the method by which tax-exempt organizations and private foundations may annualize their income for estimated tax purposes. A tax-exempt organization or private foundation may now annualize its income based on the first 2 months of the tax year for the first installment, the first 3 or 4 months for the second installment, the first 6 or 7 months for the third installment, and the first 9 or 10 months for the fourth installment. Effective for tax years beginning after December 31, 1993.

ADDITIONAL DIGESTS OF REVENUE PROVISIONS

Digest of Revenue Provisions of an Act Relating to Members of the Armed Forces Performing Services for the Peacekeeping Efforts in Bosnia and Herzegovina, Croatia, and Macedonia.

P. L. 104-117 ATTACHMENT III

Digest of Revenue Provisions of the Omnibus Consolidated Rescissions and Appropriations Act of 1996.

P. L. 104-134 ATTACHMENT IV

Digest of Revenue Provisions of the Taxpayer Bill of Rights 2 Act of 1996.

P.L. 104-168 ATTACHMENT V

Digest of Revenue Provisions of the Health Insurance Portability and Accountability Act of 1996.

P.L. 104-191 ATTACHMENT VI

Digest of Revenue Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

P.L. 104-193 ATTACHMENT VII

Prepared by the
State of Hawaii, Department of Taxation
Issued October 3, 1997

**DIGEST OF REVENUE PROVISIONS OF AN ACT RELATING TO MEMBERS OF THE ARMED
FORCES PERFORMING SERVICES FOR THE PEACEKEEPING EFFORTS IN BOSNIA AND
HERZEGOVINA, CROATIA, AND MACEDONIA.
P. L. 104-117**

*(NOTE: Only amendments or additions to Internal Revenue Code Sections contained in subtitle A,
chapter 1 of the Internal Revenue Code are included in this Digest.)*

CODE §	DESCRIPTION OF PROVISION
<i>NOTE: The following section is not operative for Hawaii income tax purposes.</i>	
2(a)(3)	A qualified hazardous duty area shall be treated in the same manner as if it were a combat zone as it relates to the special rule where the deceased spouse was in missing status.
<i>NOTE: The following sections are operative for Hawaii income tax purposes.</i>	
112	This provision relates to the exclusion of certain combat pay of members of the Armed Forces. The combat pay exclusion is increased for officers from \$500 to the maximum enlisted amount.
692	This provision relates to the exclusion from income taxes for the taxable year for members of the Armed Forces on active duty who die while serving in a combat zone or a hazardous duty area treated in the same manner as a combat zone as a result of wounds, disease, or injury while so serving. This Act designates Bosnia and Herzegovina, Croatia, or Macedonia as a qualified hazardous duty area.

**DIGEST OF REVENUE PROVISIONS OF THE OMNIBUS CONSOLIDATED RESCISSIONS AND
APPROPRIATIONS ACT OF 1996
P. L. 104-134**

*(NOTE: Only amendments or additions to Internal Revenue Code Sections contained in subtitle A,
chapter 1 of the Internal Revenue Code are applicable in this Digest.)*

CODE §

DESCRIPTION OF PROVISION

NOTE: The following sections are not operative for Hawaii income tax purposes.

6050P	Returns relating to the cancellation of indebtedness by certain [financial] entities. Applicable entities defined to include: an executive, judicial, or legislative agency.
7801	Composition of national commission on restructuring the IRS

**DIGEST OF REVENUE PROVISIONS OF THE
TAXPAYER BILL OF RIGHTS 2 ACT OF 1996
P.L. 104-168**

(NOTE: Only amendments or additions to Internal Revenue Code Sections contained in subtitle A, chapter 1 of the Internal Revenue Code are included in this Digest.)

CODE §	DESCRIPTION OF PROVISION
<i>NOTE: The provisions of the following sections have been adopted for Hawaii income tax purposes by an amendment to the Hawaii Revised Statutes.</i>	
6013	Allowing the filing of a joint tax return without full payment of tax after separate tax returns filed. Adopted by amendment to section 235-93, HRS.
7502(f)	The "timely mailing as timely filing" rule is expanded to include documents delivered by a private delivery service as designated by the Internal Revenue Service. The State currently recognizes a United States Postal Service postmark date as the filing date of a State tax return. Adopted by amendment to section 231-8, HRS.
<i>NOTE: The following section is operative for Hawaii income tax purposes.</i>	
501(c)(4)	This provision extends the present-law section 501(c)(3) private inurement prohibition to nonprofit organizations described in section 501(c)(4). Effective on 9/14/95 generally.

**DIGEST OF REVENUE PROVISIONS OF THE HEALTH INSURANCE PORTABILITY
AND ACCOUNTABILITY ACT OF 1996**

P.L. 104-191

*(NOTE: Only amendments or additions to Code section contained in subtitle A, chapter 1
of the Internal Revenue Code are included in this Digest.)*

CODE §	DESCRIPTION OF PROVISION
NOTE: The following sections are not operative for Hawaii income tax purposes.	
62(a)(16)	Medical Savings Accounts deduction allowed whether or not individual itemizes other deductions.
72(t)(2)(B)	Distributions from retirement plans may be used without additional tax penalty to pay financially devastating medial expenses.
72(t)(2)(D)	Distributions from retirement plans may be used without additional tax penalty to pay financially devastating medical expenses - distributions from payment of health insurance premiums of certain unemployed individuals.
72(t)(3)(A)	Distributions from certain plans may be used without additional tax penalty to pay financially devastating medical expenses.
NOTE: The following sections are operative for Hawaii income tax purposes.	
101(g)	The bill provides an exclusion from gross income as an amount paid by reason of death of the insured for amounts received under a life insurance contract and for the sale or assignment of a life insurance contract to a qualified viatical settlement provider, provided that the insured under the life insurance contract is either terminally ill or chronically ill The bill does not apply in the case of an amount paid to any taxpayer other than the insured, if such taxpayer has an insurable interest by reason of the insured being a director, officer or employee of the taxpayer, or by reason of the insured being financially interested in any trade or business carried on by the taxpayer.
104 (a)(3)	Exclusion for amounts received under certain self-insured plans. Payments for personal injury or sickness through arrangements having the effect of accident or health insurance (and that are not merely reimbursement arrangements) are excludible from income. A self-employed individual who receives payments from a self-insured plan will be able to exclude the payment from income. Effective tax years beginning after 12/31/96.
106(b)	Medical Savings accounts exclusions (or employer contributions in medical savings accounts.
106(c)	Treatment of long-term care insurance -Long-term care insurance not permitted under flexible spending arrangements. Gross income of an employee shall include employer provided coverage for qualified long-term care services to the extent that such coverage is provided through a flexible spending or similar arrangement. Effective for contracts issued after 12/31/96.
125(f)	Medical savings account contributions are not available under cafeteria plans.
125(f)	Treatment of long-term care insurance not permitted under cafeteria plans. Gross income of an employee shall include employer provided coverage for qualified long-term care services to the extent that such coverage is provided through a cafeteria plan or similar arrangement. Effective for contracts issued after 12/31/96.
162(l)(1)	Increase in the percentage of health insurance costs deductible by self-employed individuals increased from 30% to 40% in '97, gradually up to 80% after 2005. Effective for tax years beginning after 12/31/96.
NOTE: The following sections are not operative for Hawaii income tax purposes.	
162(l)(2)(C)	Qualified long-term care insurance contract premiums as defined in IRC section 213(d)(10) made deductible as health insurance costs for self-employed individuals. Effective for tax years beginning after 12/31/96.
213(d)(1)(C), (D)	Deduction for long-term care insurance contract premiums. Effective for tax years after 12/31/96.

CODE §

DESCRIPTION OF PROVISION

NOTE: The following section is operative for Hawaii income tax purposes.

213(d)(6) Amounts payable under an insurance contract, for medical care defined, except for long-term care insurance premiums. Effective for tax years after 12/31/96.

NOTE: The following sections are not operative for Hawaii income tax purposes.

213(d)(7) Qualified long-term care premiums treated as medical care by a taxpayer before attaining the age of 65. Effective for tax years after 12/31/96.

213(d)(10) Amounts paid for eligible long-term care premiums are treated as medical expenses to the extent that the amounts do not exceed \$200 for age 40 or less, gradually increased to \$2500 for over age 70. Medical care cost will be adjusted by Consumer Price Index. Certain payments to relatives are not treated as medical care. Effective for tax year after 12/31/96.

NOTE: The following sections are operative for Hawaii income tax purposes.

213(d)(11) Certain payments to relatives are not treated as medical care expenses.

220 Medical savings accounts.

264(a)(4) Denial of deduction for interest on loans with respect to company-owned life insurance contracts.

264(a)(4) Denial of deduction for interest on loans with respect to company-owned life insurance-exception for contracts relating to key persons; permissible interest rates.

264(d) Denial of deduction for interest on loans with respect to company-owned life insurance-exception for contracts relating to key persons; permissible interest rates.

501(c)(26) State sponsored organizations providing health coverage for high-risk individuals on a not-for-profit basis through either insurance issued by the organization or a health maintenance organization (HMO) are exempt from income tax. Effective for tax years after 12/31/96.

501(c)(27) State-sponsored workmen's compensation organizations may be entitled to an exemption from income tax. Applicable for non-profit organizations which were established before 6/1/96, by a State, exclusively to reimburse its members for losses arising under workmen's compensation acts. Effective for tax years after ending after 8/21/96.

NOTE: The following sections are not operative for Hawaii income tax purposes.

807(d)(3)(A)(iii) The tax reserve method used to determine life insurance gross income excludes qualified long-term care insurance contracts from noncancellable accident and health insurance contracts. Effective for contracts issued after 12/31/97 generally.

818(g) 33 Qualified accelerated death benefit riders treated as life insurance except for any rider which is treated as a long-term care insurance contract. A "qualified accelerated death benefit rider" is any rider on a life insurance contract that provides only for payments of death benefits to terminally or chronically-ill insureds that are excludable from income under Code Sec. 101(g). The issuance of such a rider, or the conformance of such a rider to the requirements of this exclusion, is not considered a material change or modification for purposes of the defining rules for life insurance contracts, modified endowment contracts, or flexible premium contracts.

848(e)(1)(B) Medical savings accounts exception from capitalization of policy acquisition expenses.

864 (e)(5) Repeals a targeted rule of the Tax Reform Act of 1986 that treated a certain corporation as a financial institution for foreign tax credit purposes.

**DIGEST OF REVENUE PROVISIONS OF THE
PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY
RECONCILIATION ACT OF 1996
P.L. 104-193**

(NOTE: Only amendments or additions to Code sections contained in subtitle A, chapter 1 of the Internal Revenue Code are included in this Digest.)

CODE §	DESCRIPTION OF PROVISION
<i>NOTE: The following sections are not operative for Hawaii income tax purposes.</i>	
32(c) (1)(F)	Earned income credit denied to individuals not authorized to be employed in the US.
32(l)	Earned income credit denied to individuals not authorized to be employed in the US-identification numbers.
32(a) (2)(B)	Modification of adjusted gross income definition for earned income credit.
32(b)(2)	Rules relating to denial of earned income credit on basis of disqualified income-reduction in disqualified income threshold.
32(i)(1)	Rules relating to denial of earned income credit on basis of disqualified income-reduction in disqualified income threshold.
32(i)(2) (B)-(E)	Rules relating to denial of earned income credit on basis of disqualified-income-definition of disqualified income.
32(j)	Rules relating to denial of earned income credit on basis of disqualified-income-definition of disqualified income threshold.
32(c) (1)(C)	Modification of adjusted gross income definition for earned income credit.
32(c)(5)	Modification of adjusted gross income definition for earned income credit-modified adjusted gross income defined.
32(f)(2)(B)	Modification of adjusted gross income definition for the earned income credit.
51(d)(9)	Block grants for temporary assistance for needy families-conforming amendments to other laws.

**DIGEST OF TAX MEASURES
BY BILL NUMBER**

BILL NO. / ACT NO.	TITLE	PAGE NO.
SB 0037, SD1, HD2, CD1 ACT 262	Relating to Enterprise Zones.	4
SB 0147, SD1, HD1 ACT 353	Relating to Taxation.	6
SB 0207, SD1 ACT 020	Relating to Liquor Tax.	1
SB 0208, SD1, HD2, CD1 ACT 108	Relating to Taxation.	2
SB 0927, SD1, HD2, CD1 ACT 331	Relating to Taxation.	5
SB 0938, SD1, HD1 ACT 281	Relating to Nonresident Income Tax.	5
SB 1316, SD2, HD1 ACT 297	Relating to Conformity to the Internal Revenue Code.	5
SB 1519, HD1 ACT 086	Relating to Public Accountancy.	1
SB 1951, HD2, CD1 ACT 107	Relating to Taxation.	2
HB 0417, HD3, SD1, CD1 ACT 106	Relating to the Statewide Trail and Access Program.	1
HB 0939, HD1, SD1, CD1 ACT 140	Relating to Motor Vehicle Industry Taxes and Fees.	2
HB 1641, SD1 ACT 253	Relating to the Collection of Taxes.	4
HB 1642 ACT 176	Relating to the Electronic Filing of Tax Returns.	3
HB 1643, HD1 ACT 177	Relating to Payments to the State by Electronic Funds Transfer.	3
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