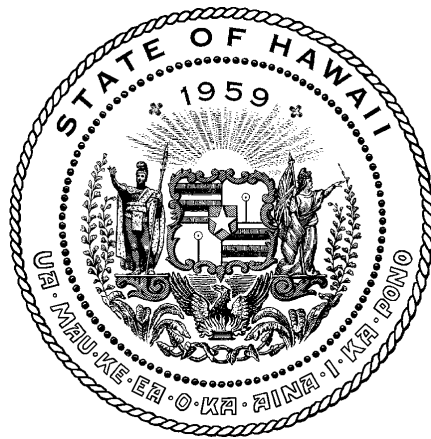


# DIGEST OF TAX MEASURES

Enacted by the State of Hawaii  
Twenty-Second Legislature  
Regular Session of 2003



Prepared by the  
State of Hawaii  
Department of Taxation

Issued: July 28, 2003



# Digest of Tax Measures

Enacted by the State of Hawaii

Twenty-Second Legislature - Regular Session of 2003

The following is a digest of bills passed by the 2003 Legislature and enacted into law. Two substantive tax measures were vetoed by the governor. The digest 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 bills passed by the Legislature may be obtained from the Senate and House printshops, respectively. Bills and Acts are also accessible via the Internet on the State capitol website at <http://www.capitol.hawaii.gov>, or on the Department of Taxation's website at <http://www.state.hi.us/tax>.

## KEY TO ABBREVIATIONS:

SB	=	Senate bill
SD	=	Senate draft
HB	=	House bill
HD	=	House draft
CD	=	Conference draft
SCR	=	Senate Concurrent Resolution
HCR	=	House Concurrent Resolution
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
HAR	=	Hawaii Administrative Rules
SLH	=	Session Laws of Hawaii



**DIGEST OF TAX MEASURES  
TABLE OF CONTENTS**

<b>ADMINISTRATIVE TAX MEASURES</b> .....	<b>1</b>
ACT 136	
SB 1400, SD1, HD1 <TAX-09> RELATING TO TAX ADMINISTRATION .....	1
ACT 173	
SB 1397, SD1, HD2 <TAX-06> RELATING TO SIMPLIFIED TAX ADMINISTRATION .....	1
ACT 179	
SB 1311, SD1, HD1 <BUF-21> RELATING TO SPECIAL FUNDS .....	2
<b>GENERAL EXCISE / USE / PSC TAX MEASURES</b> .....	<b>3</b>
ACT 135	
SB 1395, SD1, HD1, CD1 <TAX-04> RELATING TO THE AMENDMENT OR REPEAL OF OBSOLETE TAX LAWS ....	3
<b>INCOME TAX MEASURES</b> .....	<b>4</b>
ACT 14	
SB 1396 <TAX-05> RELATING TO THE ADMINISTRATION OF TAXES .....	4
ACT 172	
SB 1394, SD2, HD1 <TAX-01> RELATING TO CONFORMITY OF THE HAWAII INCOME TAX LAW TO THE INTERNAL REVENUE CODE .....	5
ACT 193	
HB 638, HD1, SD2, CD1 RELATING TO THE HAWAII STATE PUBLIC LIBRARY SYSTEM .....	6
ACT 207	
SB 855, SD1, HD3, CD1 RELATING TO ENERGY .....	7
<b>MISCELLANEOUS TAX MEASURES</b> .....	<b>8</b>
ACT 77	
SB 1267, HD2, CD1 <ATG-04> RELATING TO TOBACCO .....	8
ACT 100	
SB 377, SD1, HD2, CD1 <BED-20> RELATING TO TAXATION .....	8
ACT 113	
SB 1040, SD1, HD1, CD1 RELATING TO TRANSIENT ACCOMMODATIONS TAX .....	9
ACT 177	
SB 1279, SD2, HD2, CD1 <ATG-18> RELATING TO TOBACCO .....	9

TABLE OF CONTENTS

---

<b>TAX-RELATED RESOLUTIONS</b> .....	<b>10</b>
SCR 33	
URGING THE STATE TO PURSUE LITIGATION AGAINST CHEVRONTEXACO FOR NONPAYMENT OF TAXES .....	10
<b>VETOED MEASURES</b> .....	<b>11</b>
VETO (July 2, 2003)	
HB 1400, HD1, SD2, CD2	
RELATING TO HOTEL CONSTRUCTION AND REMODELING TAX CREDIT ...	11
VETO (July 2, 2003)	
SB 1088, SD2, HD2, CD1	
RELATING TO LONG-TERM CARE .....	11
<b>TABLE SHOWING EFFECT OF ACTS</b> .....	<b>12</b>
<b>DIGEST OF THE FOREIGN SALES CORPORATION TAX ACT (P. L. 106-519)</b> .....	<b>14</b>
<b>DIGEST OF THE FALLEN HERO SURVIVOR BENEFIT FAIRNESS ACT OF 2001 (P. L. 107-15)</b> .....	<b>15</b>
<b>DIGEST OF AN ACT TO AMEND THE INTERNAL REVENUE CODE OF 1986 TO RENAME THE EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS AS THE COVERDELL EDUCATION SAVINGS ACCOUNTS (P. L. 107-22)</b> .....	<b>16</b>
<b>DIGEST OF THE RAILROAD RETIREMENT AND SURVIVORS' IMPROVEMENT ACT OF 2001 (P. L. 107-90)</b> .....	<b>17</b>
<b>DIGEST OF AN ACT TO AMEND THE INTERNAL REVENUE CODE OF 1986 TO SIMPLIFY THE REPORTING REQUIREMENTS RELATING TO HIGHER EDUCATION TUITION AND RELATED EXPENSES (P. L. 107-131)</b> .....	<b>18</b>
<b>DIGEST OF THE VICTIMS OF TERRORISM TAX RELIEF ACT OF 2001 (P. L. 107-134)</b> .....	<b>19</b>
<b>DIGEST OF THE JOB CREATION AND WORKER ASSISTANCE ACT OF 2002 (JCWAA) (P. L. 107-147)</b> .....	<b>21</b>
<b>DIGEST OF THE CLERGY HOUSING ALLOWANCE CLARIFICATION ACT OF 2002 (P. L. 107-181)</b> .....	<b>29</b>
<b>DIGEST OF THE TRADE ADJUSTMENT ASSISTANCE REFORM ACT OF 2002 (P. L. 107-210)</b> .....	<b>30</b>
<b>DIGEST OF THE VETERANS IMPROVEMENT ACT OF 2002 (P. L. 107-330)</b> .....	<b>31</b>
<b>DIGEST OF THE HOLOCAUST RESTITUTION TAX FAIRNESS ACT OF 2002 (P. L. 107-358)</b> .....	<b>32</b>

**DIGEST OF TAX MEASURES - INDEX BY BILL NUMBERS ..... 33**

**DIGEST OF TAX MEASURES - INDEX BY ACT NUMBERS ..... 34**

**ADMINISTRATIVE TAX MEASURES**

**ACT 136**

**SB 1400, SD1, HD1 <TAX-09>**

**RELATING TO TAX ADMINISTRATION**

SSCR 0913; HSCR 1421-03

SECT AFF: 231-\_\_ (1 SECTION), 231-3

Allows tax director to accept (without the Governor's approval) offers in compromise when the tax liability, exclusive of penalties and interest, is \$50,000 or less. Requires DOTAX to post certain information regarding the terms of the offer in compromise on DOTAX's Internet website five (5) days before the tax director may accept the offer. Authorizes DOTAX to grant remissions of penalty and interest regardless of whether tax is delinquent for more than 90 days. Allows tax director to appoint tax criminal investigators.

*EFFECTIVE: June 04, 2003.*

**ACT 173**

**SB 1394, SD2, HD1 <TAX-06>**

**RELATING TO SIMPLIFIED TAX ADMINISTRATION**

SSCR 0831; HSCR 1021-03; HSCR 1435-03

SECT AFF: C \_\_ (9 SECTIONS)

Authorizes Hawaii to participate in multistate discussions relating to the Streamlined Sales Tax Project ("SSTP"). The SSTP is a multistate project that was devised by state governments.

The purpose of the project is to develop a new, simplified sales tax system that meets the needs of the existing and new economy. Issues, including simplification, uniformity, privacy, and incorporating technology into the tax collection process are the primary focus of the project. Provides that a certified service provider serving as an agent to a seller to collect and remit sales and use tax is liable for the sales and use taxes due each member state on all sales transactions it processes for the seller; provided that a seller is not responsible for the sales or use taxes imposed on transactions processed by the certified service provider, unless the seller misrepresented the types of items it sells or committed fraud.

*EFFECTIVE: July 01, 2003, except that the provision relating to seller and third party liability shall take effect when Hawaii becomes a member of the streamlined sales and use tax agreement.*



**ADMINISTRATIVE TAX MEASURES**

**ACT 179**

**SB 1311, SD1, HD1 <BUF-21>**

**RELATING TO SPECIAL FUNDS**

SSCR 0912; HSCR 1422-03

SECT AFF: 36-27, 36-30

As it relates to tax administration, repeals the exemption from administrative fees charged by the budget and finance director to administer the cigarette tax stamp enforcement special fund; the cigarette tax stamp administrative special fund; and the tobacco enforcement special fund. Makes an appropriation to DOTAX for fees relating to the cigarette stamp administrative special fund.

*EFFECTIVE: July 01, 2003.*

**GENERAL EXCISE / USE / PSC TAX MEASURES**

**ACT 135**

**SB 1395, SD1, HD1, CD1 <TAX-04>**

**RELATING TO THE AMENDMENT OR REPEAL OF OBSOLETE TAX LAWS**

SSCR 0829; HSCR 1377-03; CCR 63

SECT AFF: 231-23, 235-16, 237-1, 237-8.5, 237-13, 237-18, 237-24.3, 237-28.2, 238-2.3, 238-2.5, 238-6, 248-2.5

Amends or repeals obsolete statutory tax provisions. Repeals references to “retailing” activity throughout chapter 237, HRS, and replaces them with a single definition of “retailing.” Repeals the GET exemption for locally produced agricultural, meat, and fish products, which was found to violate the Commerce Clause of the United States Constitution by the Hawaii Supreme Court. *In the Matter of the Tax Appeal of Hawaiian Flour Mills, Inc.*, 76 Hawai'i 1, 868 P.2d 419 (1994). Repeals the GET exemption for producers of motion picture or television films (§ 237-28.2, HRS), which sunset on July 1, 1976. Repeals all references to the county general excise and use tax surcharge, which none of the counties chose to enact. The deadline for enactment of such a surcharge was December 31, 2002.

*EFFECTIVE: June 04, 2003.*

**INCOME TAX MEASURES****ACT 14****SB 1396 <TAX-05>****RELATING TO THE ADMINISTRATION OF TAXES**

SSCR 0830; HSCR 1327-03

SECT AFF: 235-97; 235-98

Corrects an inadvertent regressive effect created by Act 190, Session Laws of Hawaii 2002, which reduced the percentages used to determine the required estimated tax annual payments for individuals with adjusted gross incomes of more than \$50,000. Ensures that all taxpayers are treated equally by applying the same percentages for determining the required estimated tax annual payments to all taxpayers, regardless of adjusted gross income. For taxable years beginning after December 31, 2002, an individual taxpayer may avoid the estimated tax underpayment penalty by paying the lesser of: (1) 60% of the current year's liability; or (2) 100% of the preceding year's liability. Allows DOTAX to grant extensions of time to file tax returns for a period of more than 6 months, in exceptional circumstances.

*EFFECTIVE: April 16, 2003; applies to taxable years beginning after December 31, 2002.*

## INCOME TAX MEASURES

### ACT 172

#### SB 1394, SD2, HD1 <TAX-01>

#### RELATING TO CONFORMITY OF THE HAWAII INCOME TAX LAW TO THE INTERNAL REVENUE CODE

SSCR 0577; SSCR 0834; HSCR 1376

SECT AFF: 235-2.3, 235-2.4, 235-7

Amends HRS § 235-2.3 (a) to conform the Hawaii Income Tax Law to the operative IRC sections of subtitle A, chapter 1, amended as of December 31, 2002. Generally, subtitle A, chapter 1, refers to IRC §§ 1 through 1400. For conformity purposes, the federal effective dates for amendments to operative IRC sections are adopted. Conforms Hawaii's income tax law to the following changes in the IRC:

- Expansion of the exclusion from income for qualified foster care payments;
- Provisions to close a loophole used by shareholders of bankrupt S corporations (sanctioned by the Supreme Court);
- Limitation on the use of non-accrual experience method of accounting;
- Extension of the Archer MSA program through December 31, 2003;
- Clarification that the limit for catch-up contributions applies to all qualified retirement plans, tax-sheltered annuity plans, SEPs and SIMPLE plans maintained by the same employer on an aggregated basis, as if all plans were a single plan; and
- Above-the-line deduction for expenses incurred by elementary and secondary schoolteachers for materials used by a teacher in the classroom under IRC §62(a)(2)(D).

Does not conform to:

- §IRC 168(k), concerning the "bonus" depreciation deduction. The bonus depreciation deduction is equal to 30% of the basis of a qualified asset. The "bonus" depreciation deduction includes an increased limit (from \$3,060 to \$7,660) for the luxury car depreciation deduction. This deduction is allowed for certain property acquired after September 10, 2001, and before September 11, 2004; and
- The expansion of the net operating loss ("NOL") carry back period from two to five years for NOLs in the 2001 or 2002 tax years. A Hawaii taxpayer with a NOL in a tax year ending 2001 or 2002, therefore, may carry back the NOL only two years for Hawaii tax purposes.

*EFFECTIVE: June 16, 2003; applies to taxable years beginning after December 31, 2002.*

**INCOME TAX MEASURES**

**ACT 193**

**HB 638, HD1, SD2, CD1**

**RELATING TO THE HAWAII STATE PUBLIC LIBRARY SYSTEM**

HSCR 0350-03; HSCR 0664-03; SSCR 1161; SSCR 1343; CCR 136

SECT AFF: 235-102.5, 312-3.6

Allows an individual whose State income tax refund for any taxable year is \$2 or more to designate on the State income tax return that \$2 of such refund be deposited into the State Library Special Fund (\$4 in the case of a joint return of a husband and wife). Allows the state librarian to receive privately donated monies and use such monies in any of the library system's accounts or funds to support the operations of the library system, including the payment of staff salaries and expenses related to operations of library facilities; provided that the donor is advised that the donated monies may be used for these purposes.

*EFFECTIVE: June 18, 2003; applies to taxable years beginning after December 31, 2003.*

## INCOME TAX MEASURES

### **ACT 207**

### **SB 855, SD1, HD3, CD1**

### **RELATING TO ENERGY**

SSCR 0088; SSCR 0922; HSCR 0916-03; HSCR 1151-03; HSCR 1498-03; CCR 105  
SECT AFF: 196-\_\_(1 SECTION), 235-\_\_(1 SECTION)

Establishes a nonrefundable, renewable energy technology system income tax credit for systems installed after 6/30/03. Defines "renewable energy technology system" as a system that captures and converts source energy such as wind, heat (solar thermal), or light (photovoltaic) from the sun into a usable source of thermal or mechanical energy, electricity, or fuel.

Does not provide a tax credit for heat pumps or ice storage systems (a tax credit under § 235-12 HRS, was previously available, however, this credit sunset on June 30, 2003).

For solar thermal energy and photovoltaic systems, the credit is equal to:

- Single family residences: the lesser of 35% of the actual cost of the system or \$1,750;
- Multi-family residences: the lesser of 35% or \$350 per unit; and
- Commercial property: the lesser of 35% or \$250,000.

For wind powered energy systems, the credit is equal to:

- Single family residences: the lesser of 20% of the actual cost of the system or \$1,500;
- Multi-family residences: the lesser of 20% or \$200 per unit; and
- Commercial property: the lesser of 20% or \$250,000.

Establishes procedures for energy efficiency policy review and evaluation. Requires the energy resource coordinator to ensure that a review and evaluation of the income tax credit be completed. Requires DOTAX to assist in the energy efficiency policy review and evaluation.

*EFFECTIVE: July 01, 2003, and shall be repealed on January 1, 2008.*

**MISCELLANEOUS TAX MEASURES****ACT 77****SB 1267, HD2, CD1 <ATG-04>****RELATING TO TOBACCO**

SSCR 0355; HSCR 1002-02; HSCR 1427-02; CCR 55

SECT AFF: 245-\_\_(1 SECTION), 245-51, 245-52, 245-54, 245-55, 486P-\_\_(4 SECTIONS), 486P-1, 486P-3

Enhances Attorney General's ability to monitor, enforce, and administer the Master Settlement Agreement and cigarette tax stamp program, gray market, and tobacco reporting requirements under state law. Requires each tobacco product manufacturer whose cigarettes are sold in Hawaii to certify to the Attorney General that it is either a "participating manufacturer" with respect to the Tobacco Master Settlement Agreement or in full compliance with the Agreement. Requires the Attorney General to maintain a directory of all certified manufacturers.

*EFFECTIVE: May 20, 2003.*

**ACT 100****SB 377, SD1, HD2, CD1 <BED-20>****RELATING TO TAXATION**

SSCR 0002; SSCR 0957; HSCR 1059-03; HSCR 1492-03; CCR 118

SECT AFF: 235-\_\_(1 SECTION), 235-2.45

Establishes a nonrefundable, carryforward tax credit for "qualified costs" incurred for the development of attractions and educational facilities at the Ko Olina Resort and Marina or the development of a training and educational facility at the Makaha Resort (excludes costs for land acquisition). Provides a tax credit equal to 100% of qualified costs incurred from June 1, 2003, through May 31, 2009 (a six-year period). Allows credit to be claimed for tax years beginning after December 31, 2004. During the six-year period, a maximum tax credit of \$75,000,000 in the aggregate may be earned by all "qualified taxpayers" (as defined by the Act). Allows no more than \$7,500,000 in the aggregate of credits to be claimed by all qualified taxpayers each year.

All qualified taxpayers must submit a written report by March 31st of each year (following the year in which the costs were incurred) to the Department of Business, Economic Development, and Tourism, which will verify and certify claims. The credit may be used to offset net income, general excise, transient accommodations, use, public service company, franchise, or insurance premium taxes for tax years beginning after December 31, 2004.

*EFFECTIVE: May 29, 2003; applies to costs incurred after May 31, 2003.*

**MISCELLANEOUS TAX MEASURES**

**ACT 113**

**SB 1040, SD1, HD1, CD1**

**RELATING TO TRANSIENT ACCOMMODATIONS TAX**

SSCR 0774; SSCR 0921; HSCR 1026-03; HSCR 1475-03; CCR 81

SECT AFF: 171-19, 237D-6.5

Provides that Transient Accommodations Tax revenues for the Hawaii Statewide Trail and Access Program be deposited into the Special Land and Development Fund established by section 171-19, HRS, from which expenditures for the trails and access program can be made.

*EFFECTIVE: May 30, 2003.*

**ACT 177**

**SB 1279, SD2, HD2, CD1 <ATG-18>**

**RELATING TO TOBACCO**

SSCR 0240; SSCR 0817; HSCR 1137-03; HSCR 1268-03; CCR 112

SECT AFF: 28-14, 28-15, 36-27, 36-30, 245-26, 245-41, 328L-2, 675-3

Consolidates the tax stamp fees collected for the enforcement of the cigarette tax and tobacco laws with the monies received for enforcement of the tobacco Master Settlement Agreement, and further refines the laws relating to the Agreement.

*EFFECTIVE: June 30, 2003.*



**TAX-RELATED RESOLUTIONS**

**SCR 33**

**URGING THE STATE TO PURSUE LITIGATION AGAINST CHEVRONTEXACO FOR  
NONPAYMENT OF TAXES**

SSCR 1216; HSCR 1676-03

Urges the state Attorney General to investigate and pursue litigation, if appropriate, against ChevronTexaco for its participation in an alleged tax fraud scheme that allowed it to evade millions of dollars in state and federal taxes for more than 20 years, and that at the same time involved the sale of overpriced Indonesian oil to Hawaii's consumers. Finds that there is compelling evidence based on the report by professors Jeffrey Gramlich and James Wheeler, and the related 1994 settlement between Chevron and the IRS, to support the Attorney General's ongoing investigation.

**VETOED MEASURES**

**VETO (July 2, 2003)**

**HB 1400, HD1, SD2, CD2**

**RELATING TO HOTEL CONSTRUCTION AND REMODELING TAX CREDIT**

HSCR 0128-03; HSCR 0855-03; SSCR 1154; SSCR 1405; CCR 141; FL. AM. 14  
SECT AFF: 235-110.4, ACT 10 (3rd Sp. SLH 2001)

Extends the life of the hotel construction and remodeling tax credit by five years. Decreases the nonrefundable credit from 10% to 8% for qualified costs incurred from the effective date of the bill to June 30, 2006. Decreases the credit from 8% to 4% for qualified costs incurred from July 1, 2006, to June 30, 2010, at which time the credit becomes refundable. Expands the definition of "qualified hotel facility" to include commercial buildings located in a "qualified resort area" (an area zoned by city ordinance for hotel or resort usage). Repeals the credit on July 1, 2010.

*EFFECTIVE: Upon approval.*

**VETO (July 2, 2003)**

**SB 1088, SD2, HD2, CD1**

**RELATING TO LONG-TERM CARE**

SSCR 0536; SSCR 0813; HSCR 1142-03; HSCR 1494-03; CCR 111  
SECT AFF: 36-27, c. 235 (1 PART; 10 SECTIONS), 235-\_\_ (2 SECTIONS), 235-61, 346C-\_\_ (1 SECTION), 346C-2, 346C-4, 346C-5, 346C-6, 346C-7, ACT 245 (SLH 2002)

Establishes a long-term care income tax imposed on each employee and self-employed individual beginning in 2005. Uses the new tax to fund the Hawaii long-term care benefits fund, which distributes benefits of \$70 per day commencing July 1, 2007, for qualified individuals. Excludes long-term care benefits from taxation and provides an income tax credit of \$10 per month, up to \$120 per year, for individual taxpayers who have paid the long-term care income tax and have paid, during the taxable year, long-term care insurance premiums for a policy that is subject to chapter 431:10H, HRS, and that covers either the taxpayer or other individuals with specific relationships to the taxpayer.

*EFFECTIVE: Upon approval shall take effect on July 1, 2003, and shall apply to taxable years beginning after December 31, 2004; provided that the amendment made to section 36-27, Hawaii Revised Statutes, by this Act shall not be repealed when that section is reenacted on July 31, 2003, pursuant to section 9 of Act 142, Session Laws of Hawaii 1998.*

**TABLE SHOWING EFFECT OF ACTS**  
**Twenty-Second State Legislature - 2003 Regular Session**

KEY:	Am = Amended	R = Repealed
	N = New	___ = Chapter or section number to be assigned in HRS Supplement

SECTIONS OF HRS AFFECTED			
SECTION NO.	EFFECT	ACT NO.	BILL NO.
28-14	R	ACT 177	SB 1279, SD2, HD2, CD1
28-15	Am	ACT 177	SB 1279, SD2, HD2, CD1
36-27	Am	ACT 177	SB 1279, SD2, HD2, CD1
36-30	Am	ACT 177	SB 1279, SD2, HD2, CD1
171-19	Am	ACT 113	SB 1040, SD1, HD1, CD1
231-___ (1 sec)	N	ACT 136	SB 1400, SD1, HD1
231-3	Am	ACT 136	SB 1400, SD1, HD1
231-23	Am	ACT 135	SB 1395, SD1, HD1, CD1
235-__ (1 sec)	N	ACT 100	SB 377, SD1, HD2, CD1
235-2.3	Am	ACT 172	SB 1394, SD2, HD1
235-2.4	Am	ACT 172	SB 1394, SD2, HD1
235-2.45	Am	ACT 100	SB 377, SD1, HD2, CD1
235-7	Am	ACT 172	SB 1394, SD2, HD1
235-16	R	ACT 135	SB 1395, SD1, HD1, CD1
235-97	Am	ACT 014	SB 1396
235-98	Am	ACT 014	SB 1396
237-1 (1 definition)	N	ACT 135	SB 1395, SD1, HD1, CD1
237-8.5	R	ACT 135	SB 1395, SD1, HD1, CD1
237-13	Am	ACT 135	SB 1395, SD1, HD1, CD1
237-18	Am	ACT 135	SB 1395, SD1, HD1, CD1
237-24.3	Am	ACT 135	SB 1395, SD1, HD1, CD1
237-28.2	R	ACT 135	SB 1395, SD1, HD1, CD1
237D-6.5	Am	ACT 113	SB 1040, SD1, HD1, CD1
238-2.3	Am	ACT 135	SB 1395, SD1, HD1, CD1
238-2.5	R	ACT 135	SB 1395, SD1, HD1, CD1
238-6	Am	ACT 135	SB 1395, SD1, HD1, CD1

TABLE SHOWING EFFECT OF ACTS

<b>SECTIONS OF HRS AFFECTED</b>			
<b>SECTION NO.</b>	<b>EFFECT</b>	<b>ACT NO.</b>	<b>BILL NO.</b>
245-__(1 sec)	N	ACT 077	SB 1267, HD2, CD1
245-26	Am	ACT 177	SB 1279, SD2, HD2, CD1
245-41	Am	ACT 077	SB 1267, HD2, CD1
245-41	Am	ACT 177	SB 1279, SD2, HD2, CD1
245-51	Am	ACT 077	SB 1267, HD2, CD1
245-52	Am	ACT 077	SB 1267, HD2, CD1
245-54	Am	ACT 077	SB 1267, HD2, CD1
245-55	Am	ACT 077	SB 1267, HD2, CD1
248-2.5	R	ACT 135	SB 1395, SD1, HD1, CD1
286P-__ (4 secs)	N	ACT 077	SB 1267, HD2, CD1
328L-2	Am	ACT 177	SB 1279, SD2, HD2, CD1
486P-1 (6 definitions)	N	ACT 077	SB 1267, HD2, CD1
486P-3	Am	ACT 077	SB 1267, HD2, CD1
675-3	Am	ACT 177	SB 1279, SD2, HD2, CD1
<b>NEW CHAPTERS</b>			
<b>CHAPTER SUBJECT</b>	<b>EFFECT</b>	<b>ACT NO.</b>	<b>BILL NO.</b>
C __ (9 secs) HAWAII SIMPLIFIED SALES AND USE TAX ADMINISTRATION ACT	N	ACT 173	SB 1397, SD1, HD2

# DIGEST OF THE FOREIGN SALES CORPORATION TAX ACT

## P. L. 106-519

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

### CODE SECTION

### DESCRIPTION OF PROVISION

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

IRC §114

Amends the Internal Revenue Code of 1986 to repeal the provisions relating to foreign sales corporations (FSCs) and to exclude extraterritorial income from gross income.

# DIGEST OF THE FALLEN HERO SURVIVOR BENEFIT FAIRNESS ACT OF 2001

## P. L. 107-15

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

### CODE SECTION

### DESCRIPTION OF PROVISION

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

Non Code Provision

Amend the Taxpayer Relief Act of 1997 to provide for consistent treatment of survivor benefits for public safety officers killed in the line of duty with respect to individuals dying on or before December 31, 1996. Effective with respect to payments received after December 31, 2001

**DIGEST OF AN ACT TO AMEND THE INTERNAL REVENUE CODE OF 1986 TO  
RENAME THE EDUCATIONAL INDIVIDUAL RETIREMENT ACCOUNTS AS THE  
COVERDELL EDUCATION SAVINGS ACCOUNT  
P. L. 107-22**

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

CODE SECTION

DESCRIPTION OF PROVISION

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

IRC §530

Renames education individual retirements accounts as Coverdell education savings accounts.

**DIGEST OF THE RAILROAD RETIREMENT  
AND SURVIVORS' IMPROVEMENT ACT OF 2001  
P. L. 107-90**

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

CODE SECTION

DESCRIPTION OF PROVISION

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

IRC §501(c)(28)

Provides an exemption from income taxation for National Rail Road Retirement Trusts.  
Effective for calendar years beginning after December 31, 2001. Act 202.



**DIGEST OF AN ACT TO AMEND THE INTERNAL REVENUE CODE OF 1986 TO  
SIMPLIFY THE REPORTING REQUIREMENTS RELATING TO HIGHER EDUCATION  
TUITION AND RELATED EXPENSES  
P. L. 107-131**

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

CODE SECTION

DESCRIPTION OF PROVISION

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

IRC §6050S

Simplification of reporting requirements related to higher education tuition and related expenses. Addresses provisions of the Taxpayer Relief Act of 1997 that require colleges and universities to report annually to the IRS on Form 1098- T information on their students, including name, address, social security number, attendance status, program level, a campus contact, and the amount of qualified tuition and student aid. Repeals the rule requiring the reporting of the social security number of a person claiming a credit on behalf of a student. It also allows schools to report either aggregate amounts of qualified tuition and expenses paid by or on behalf of the student or amounts billed to the student. Also, the bill clarifies that schools are to report adjustments to amounts reported in prior years, rather than all refunds and reimbursements to students. Applies to expenses paid or assessed after December 31, 2002 (in taxable years ending after such date), for education furnished in academic periods beginning after such date.

# DIGEST OF THE VICTIMS OF TERRORISM TAX RELIEF ACT OF 2001

## P. L. 107-134

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

### CODE SECTION

### DESCRIPTION OF PROVISION

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

Non Code Provision	Exclusion for certain cancellation of indebtedness. Provides that gross income does not include any amount realized from the discharge (in whole or in part) of indebtedness if the indebtedness is discharged by reason of the death of an individual incurred as a result of the September 11, 2001, attacks, or as a result of a terrorist attack involving anthrax occurring on or after September 11, 2001, and before January 1, 2002. Applies to discharges made on or after September 11, 2001, and before January 1, 2002. Act §105.
IRC §101	Exclusion for certain death benefits. Provides an exclusion from gross income for amounts received if such amounts are paid by an employer by reason of the death of an employee who dies as a result of wounds or injury which were incurred as a result of the terrorist attacks that occurred on September 11, 2001, or April 19, 1995, or as a result of illness incurred due to an attack involving anthrax that occurs on or after September 11, 2001, and before January 1, 2002. Subject to rules prescribed by the Secretary, the exclusion does not apply to amounts that would have been payable if the individual had died for a reason other than the attack. Effective for taxable years ending before, on, or after September 11, 2001. A special rule extends the period of limitations to permit the filing of a claim for refund resulting from this provision until one year after the date of enactment, if that period would otherwise have expired before that date. Act §102.
IRC §104	Application of certain provisions to terroristic or military actions. Expands the present-law exclusion from gross income for disability income of U.S. civilian employees attributable to a terrorist attack outside the United States to apply to disability income received by any individual attributable to a terroristic or military action. Extends the income tax relief provided under present law to U.S. military and civilian personnel who die as a result of terroristic activity or military action outside the United States to such personnel regardless of where the terroristic activity or military action occurred. Effective for taxable years ending on or after September 11, 2001. Act §113.
IRC §139	Exclusion of disaster payments. Clarifies that any amount received as payment under section 406 of the Air Transportation Safety and System Stabilization Act is excludable from gross income. Provides a specific exclusion from income for qualified disaster relief payments. No inference is intended as to the taxability of such payments under present law. In addition, the provision is not intended to preclude the exclusion of other types of payments under the general welfare exception or other Code provisions. Applies to taxable years ending on or after September 11, 2001. Act §111.
IRC §501	Payments by charitable organizations treated as exempt payments. Organizations described in section 501(c)(3) that make payments by reason of the death, injury, wounding, or illness of an individual incurred as a result of the September 11, 2001, attacks, or as a result of an attack involving anthrax occurring on or after September 11, 2001, and before January 1, 2002, are not required to make a specific assessment of need for the payments to be related to the purpose or function constituting the basis for the organization's exemption. Applies to payments made on or after September 11, 2001. Act §104.

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

IRC §642

Personal exemption deduction for certain disability trusts. Provides that certain disability trusts may claim a personal exemption in an amount that is based upon the personal exemption provided for individuals under section 151(d), rather than the \$300 or \$100 personal exemption provided under present law. Applies to taxable disability trusts described in 42 U.S.C. sec. 1396p(c)(2)(B)(iv) (relating to the treatment, for purposes of determining eligibility for medical assistance under the Social Security Act, of assets transferred to a trust established solely for the benefit of a disabled individual under 65 years of age). Applies to taxable years of disability trusts ending on or after September 11, 2001. Act §116.

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

IRC §692

Income tax relief for individuals who die as a result of terrorist activity. Extends relief similar to the present-law treatment of military or civilian employees of the United States who die as a result of terrorist or military activity outside the United States to individuals who die as a result of wounds or injury which were incurred as a result of the terrorist attacks that occurred on September 11, 2001, or April 19, 1995, and individuals who die as a result of illness incurred due to an attack involving anthrax that occurs on or after September 11, 2001, and before January 1, 2002. Act §101.

Taxation of disability income related to terrorist activity. Expands the present-law exclusion from gross income for disability income of U.S. civilian employees attributable to a terrorist attack outside the United States to apply to disability income received by any individual attributable to a terroristic or military action. Act §113.

NOTE EFFECTIVE DATE SHOULD BE CHANGED FOR YEARS BEGINNING AFTER 12/31/01.

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

IRC §5891

Treatment of purchase of structured settlements. Generally imposes an excise tax on any person who acquires certain payment rights under a structured settlement arrangement from a structured settlement recipient for consideration. Effective for acquisition transactions entered into on or after 30 days following enactment. Act §115.

IRC §6103

Disclosure of Tax Information in Terrorism and National Security Investigations. Expands the availability of returns and return information for purposes of investigating terrorist incidents, threats, or activities, and for analyzing intelligence concerning terrorist incidents, threats, or activities. Effective for disclosures made on or after the date of enactment. Act §201.

IRC §7508A

Authority to postpone certain deadlines and required actions. Redrafts section 7508A to expand its scope and to clarify its application. Permits the Secretary to suspend the period of time under this provision for up to one year (increased from up to 120 days). Clarifies that interest on underpayments may be waived or abated pursuant to section 7508A with respect to either a declared disaster or a terroristic or military action.

Expands and clarifies the scope of the deadlines and required actions that may be postponed pursuant to section 7508A. Provides that the Secretary of the Treasury may prescribe a period of up to one year which may be disregarded in determining the date by which any action by a pension or other employee benefit plan, or by a plan sponsor, administrator, participant, beneficiary or other person would be required or permitted to be completed. Act §102

Applies to disasters and terroristic or military actions occurring on or after September 11, 2001, with respect to any action of the Secretary of the Treasury. Act §102.

# DIGEST OF THE JOB CREATION AND WORKER ASSISTANCE ACT OF 2002

## P. L. 107-147

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

### CODE SECTION

### DESCRIPTION OF PROVISION

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

Non Code Provision      Allows Forms 1099 to be furnished electronically to taxpayers who have consented to receive electronic copies. Effective on March 9, 2002. Act §401.

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

Non Code Provision      Election to recognize gain on assets held on January 1, 2001; treatment of gain on sale of principal residence. Clarifies that the gain to which the mark-to-market election applies is included in gross income. Thus, the exclusion of gain on the sale of a principal residence under §121 would not apply with respect to an asset for which the mark to market election is made. Act §414.

IRC §21(d)(2)              Dependent care credit. Conforms the dollar limit on deemed earned income of a taxpayer's spouse who is either (1) a full-time student, or (2) physically or mentally incapable of caring for himself, to the dollar limit on employment-related expenses applicable in determining the maximum dependent care credit. Effective as if included in the provision of the Economic Growth and Tax Reform Reconciliation Act of 2001 (EGTRRA) to which it relates. Act §418.

IRC §23(a)                 Dollar amount of credit for special needs adoptions. Clarifies that, for special needs adoptions that become final in taxable years beginning after 2002, the adoption expenses taken into account shall be increased by the excess (if any) of \$10,000 over the aggregate adoption expenses for the taxable year the adoption becomes final and all prior taxable years. Act §411.

IRC §23(a)(1)             Transition rule for adoption tax credit. Clarifies that the amount of expenses paid or incurred during taxable years beginning before January 1, 2002, which are taken into account in determining a credit allowed in a taxable year beginning after December 31, 2001, are subject to the \$5,000 (or \$6,000) dollar cap in effect immediately prior to the enactment of the Job Creation and Workers Assistance Act (JCWAA). Act §411.

IRC §23(h)                 Adoption credit and employer-provided adoption assistance exclusion rounding rules. Provides uniform rounding rules (to the nearest multiple of \$10) for the inflation-adjusted dollar limits and income limitations in the adoption credit and the employer-provided adoption assistance exclusion. Effective as if included in the provision of the EGTRRA to which it relates. Act §418.

IRC §24(d)(1)             Child tax credit. For taxable years beginning in 2001, the portion of the child credit that is refundable is determined by referring in §24(d)(1)(B) to "the aggregate amount of credits allowed by this subpart." This would retain prior law that was inadvertently changed by the JCWAA. Act §411.

IRC §25B                  Nonrefundable credit for certain individuals for elective deferrals and IRA contributions. Clarifies that the amount of contributions taken into account in determining the credit for elective deferrals and IRA contributions is reduced by the amount of a distribution from a qualified retirement plan, an eligible deferred compensation plan, or a traditional IRA that is includible in income or that consists of after-tax contributions. Also, the rule that distributions that are rolled over to another retirement plan do not affect the credit. Act §411.

IRC §26(a)(1)             Extend Alternative Minimum Tax Relief for Individuals. Allows an individual to offset the entire regular tax liability and alternative minimum tax liability by the personal nonrefundable credits in 2002 and 2003. Effective for taxable years beginning in 2002 and 2003. Act § 601.

- IRC §26(b)(2) Medicare+Choice MSA (Medical Savings Account). Conforms the treatment of the additional tax on Medicare+Choice MSAs distributions not used for qualified medical expenses if a minimum balance is not maintained to the treatment of the additional tax on Archer MSA distributions not used for qualified medical expenses, for purposes of determining whether certain taxes are included within regular tax liability under §26(b). Act §415.
- IRC §30(b)(2) Extend Credit for Purchase of Electric Vehicles. Defers the phase down of the credit by two years. Taxpayers could claim the full amount of the credit for qualified purchases made in 2002 and 2003. The phase down of the credit value would commence in 2004 and the credit would be unavailable for purchases after 2006. A conforming modification would be made to §280F. Effective for property placed in service after December 31, 2001. Act §602.
- IRC §32(g)(2) Advance payments of earned income credit. Corrects a reference in §32(g)(2) to refer to credits allowable under this part (i.e., all tax credits) rather than under this subpart (i.e., the refundable credits). Effective as if included in §474 of the Tax Reform Act of 1984. Act §416.
- IRC §45(c)(3)(A), (B), & (C) Extend §45 Credit for Production of Electricity from Wind, Closed Loop Biomass and Poultry Litter. Extends the placed in service date for qualified facilities by two years to include those facilities placed in service prior to January 1, 2004. Effective for facilities placed in service after December 31, 2001. Act §603.
- IRC §45A Extension of Tax Incentives for Investment on Indian Reservations. Extends for one year (through 2004) the Indian employment credit and the accelerated depreciation rules for property on Indian reservations. Effective on the date of enactment. Act §613.
- IRC § 45E Small business tax credit for new retirement plan expenses. Clarifies that the small business tax credit for new retirement plan expenses applies in the case of a plan first effective after December 31, 2001, even if adopted on or before that date. Act §411.
- IRC §45F(d)(4)(B) Credit for employer expenses for child care assistance. Clarifies that recapture tax with respect to the adoption credit is treated like recapture taxes with respect to other credits under chapter 1 of the Code. Thus, it would not be treated as a tax for purposes of determining the amounts of other credits or determining the amount of alternative minimum tax. Act § 411.
- IRC §51(c)(4)(B) Extend the Work Opportunity Tax Credit. Extends the work opportunity credit for two years (through 2003). Effective for wages paid or incurred to a qualified individual who begins work for an employer on or after January 1, 2002, and before January 1, 2004. Act §604.
- IRC §63(c)(2) & (4) Elimination of marriage penalty in standard deduction. Provides rules that were inadvertently omitted providing for separate returns and rounding rules for the standard deduction for the transition period years. Act §411.

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

- IRC §108(d)(7) Discharge of Indebtedness of an S Corporation. Reverses the decision in *Gitlitz v. Comr.*, 531 U.S. 206 (2001), by providing that income from the discharge of indebtedness of an S corporation that is excluded from the S corporation's income is not taken into account as an item of income by any shareholder and thus does not increase the basis of any shareholder's stock in the corporation. Effective for discharges of indebtedness after October 11, 2001, but does not apply to any discharge of indebtedness before March 1, 2002, pursuant to a plan of reorganization filed with a bankruptcy court on or before October 11, 2001. Act §402.
- IRC §131 Expansion of the exclusion from income for qualified foster care payments. Expands the definition of qualified foster care payments to include payments by any placement agency that is licensed or certified by a state or local government, or an entity designated by a state or local government to make payments to providers of foster care. Also expands the definition of a qualified foster care individual by including foster care individuals placed by a qualified foster care placement agency (regardless of the individual's age at the time of placement). Effective for taxable years beginning after December 31, 2001. Act §404.

IRC §137(a) Employer-provided adoption assistance exclusion with respect to special needs adoptions. Clarifies that, for taxable years beginning after 2002, the amount of adoption expenses taken into account in determining the exclusion for employer-provided adoption assistance in the case of a special needs adoption is increased by the excess (if any) of \$10,000 over the aggregate qualified adoption expenses with respect to the adoption for the taxable year the adoption becomes final and all prior taxable years. Act §411.

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

IRC §151(c)(6)(C) Treatment of missing children. Clarifies that, if a taxpayer met the household maintenance requirement of the surviving spouse filing status or the head of household filing status, respectively, with respect to his or her dependent child immediately before he or she were kidnapped, then the taxpayer would be deemed to continue to meet that requirement for purposes of the filing status rule of §2 until the child would have reached age 18 or is determined to be dead. Act §412.

IRC §168(j) Extension of tax incentives for investment on Indian Reservations. Extends for one year (through 2004) the Indian employment credit and the accelerated depreciation rules for property on Indian reservations. Effective on the date of enactment. Act §613.

IRC §168(k) Special depreciation allowance for certain property. Allows an additional first-year depreciation deduction equal to 30% of the adjusted basis of certain qualified property that is placed in service before 2005, with a one-year extension for certain property with a recovery period of 10 years or longer. The additional depreciation deduction would be allowed for both regular tax and alternative minimum tax purposes for the taxable year in which the property is placed in service. The basis of the property and the depreciation allowances in the year of purchase and later years would be appropriately adjusted to reflect the additional first-year depreciation deduction. Act §101.

IRC §172 Five-year carryback of net operating losses. Temporary extension of the net operating loss (NOL) carryback period to five years (from two years) for NOLs arising in taxable years ending in 2001 and 2002. Act §102.

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

IRC §179A Extension of the deduction for clean-fuel vehicle property and qualified clean-fuel refueling property. Defers the phase down of the deduction for clean-fuel vehicle property by two years. Taxpayers could claim the full amount of the deduction for qualified vehicles placed in service in 2002 and 2003. The phase down of the deduction for clean-fuel vehicles would commence in 2004 and the deduction would be unavailable for purchases after 2006. Act §606.

IRC §220(l) & (j) One-year Extension of Availability of Medical Savings Accounts. Extends the Archer MSA program for another year, through December 31, 2003. The provision is effective on January 1, 2002. Act §612.

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

IRC §280F Special depreciation allowance for certain property. Allowance of an additional first-year depreciation deduction equal to 30% of the adjusted basis of certain qualified property that is placed in service before 2005, with a one-year extension for certain property with a recovery period of 10 years or longer. Act §101.

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

- IRC §358(h) Basis of property in an exchange by a corporation involving assumption of liabilities. Clarifies that the basis reduction rule of §358(h) gives rise to a basis reduction in the amount of any liability that is assumed by another party as part of the exchange in which the property (whose basis exceeds its fair market value) is received, so long as the other requirements under §358(h) apply. Act §412.
- IRC §401 Additional salary reduction catch-up contributions. Clarifies that, for the catch-up contributions, the limit applies to all qualified retirement plans, tax-sheltered annuity plans, Simplified Employee Pensions (SEPs) and SIMPLE plans maintained by the same employer on an aggregated basis, as if all plans were a single plan. The limit applies also to all eligible deferred compensation plans of a government employer on an aggregated basis. Also provides that the total amount that an individual may exclude from income as catch-up contributions for a year cannot exceed the catch-up contribution limit for that year (and for that type of plan), without regard to whether the individual made catch-up contributions under plans maintained by the more than one employer. Clarifies that an individual who will attain age 50 by the end of the taxable year is an eligible participant as of the beginning of the taxable year rather than only at the attainment of age 50. Act §411.
- IRC §402 Rollovers of retirement plan and IRA distributions. Provides that a qualified retirement plan must provide for the direct rollover of after-tax contributions only to a qualified defined contribution plan or a traditional IRA. Clarifies that if a distribution includes both pretax and after-tax amounts, the portion of the distribution that is rolled over is treated as consisting first of pretax amounts. Act §411.
- Additional salary reduction catch-up contributions. Clarifies that, for the catch-up contributions, the limit applies to all qualified retirement plans, tax-sheltered annuity plans, SEPs and SIMPLE plans maintained by the same employer on an aggregated basis, as if all plans were a single plan. The limit applies also to all eligible deferred compensation plans of a government employer on an aggregated basis. Also provides that the total amount that an individual may exclude from income as catch-up contributions for a year cannot exceed the catch-up contribution limit for that year (and for that type of plan), without regard to whether the individual made catch-up contributions under plans maintained by the more than one employer. Clarifies that an individual who will attain age 50 by the end of the taxable year is an eligible participant as of the beginning of the taxable year rather than only at the attainment of age 50. Act §411.
- IRC §402(a)(7)(C) Elective deferrals not taken into account for deduction limits. Clarifies that elective deferrals to a SEP are not subject to the deduction limits and are not taken into account in applying the limits to other SEP contributions and that the combined deduction limit of 25% of compensation for qualified defined benefit and defined contribution plans does not apply if the only amounts contributed to the defined contribution plan are elective deferrals. Act §411.
- IRC §402(h)(2)(A) Deduction limits. Provides that contributions to a SEP are included in an employee's income to the extent they exceed the lesser of 25% of compensation or \$40,000 (for 2002), subject to a reduction in some cases. Act §411.
- IRC §403 Equitable treatment for contributions of employees to defined contribution plans. Provides that the limits apply to contributions to a tax-sheltered annuity plan in the year the contributions are made without regard to when the contributions become vested. Clarifies that contributions may be made for an employee for up to five years after retirement, based on includible compensation for the last year of service before retirement. Restores special rules for ministers and lay employees of churches and for foreign missionaries that were inadvertently eliminated. Act §411.
- IRC §404 Deduction limits. Provides that contributions to a SEP are included in an employee's income to the extent they exceed the lesser of 25% of compensation or \$40,000 (for 2002), subject to a reduction in some cases. Act §411.

- IRC §404(k) ESOP dividends may be reinvested without loss of dividend deduction. Provides that the deduction for dividends that are reinvested in qualifying employer securities at the election of participants is allowable for the taxable year in which the later of the reinvestment or the election occurs. Clarifies that a dividend that is reinvested in qualifying employer securities at the participant's election must be nonforfeitable. Act §411.
- IRC §408(k)(3) Plan benefit and contribution limits increased after 2001. Years beginning after 2001. Act §411.
- IRC §408(q)(3) Individual Retirement Arrangements (IRAs). Clarifies that, for purposes of deemed IRAs, the term "qualified employer plan" includes the following types of plans maintained by a governmental employer: a qualified retirement plan under §401(a), a qualified annuity plan under §403(a), a tax-sheltered annuity plan under §403(b), and an eligible deferred compensation plan under §457(b). Clarifies that ERISA is intended to apply to a deemed IRA in a manner similar to a SEP. Act §411.
- IRC §412 Interest Rate Used in Determining Additional Required Contributions to Defined Benefit Plans and PBGC Variable Rate Premiums. Expands the permissible range of the statutory interest rate used in calculating a plan's current liability for purposes of applying the additional contribution requirements for plan years beginning after December 31, 2001, and before January 1, 2004. Act §405.
- IRC §412 Modification of Timing of Plan Valuations. Under EGTRRA, a change in funding method to use a valuation date in the prior year generally may not be made unless, as of such date, plan assets are not less than 125% of the plan's current liability. Conforms the statutory language to Congressional intent as reflected in the Statement of Managers. Act §411.
- IRC §414 Additional salary reduction catch-up contributions. Clarifies that, for the catch-up contributions, the limit applies to all qualified retirement plans, tax-sheltered annuity plans, SEPs and SIMPLE plans maintained by the same employer on an aggregated basis, as if all plans were a single plan. The limit applies also to all eligible deferred compensation plans of a government employer on an aggregated basis. Also provides that the total amount that an individual may exclude from income as catch-up contributions for a year cannot exceed the catch-up contribution limit for that year (and for that type of plan), without regard to whether the individual made catch-up contributions under plans maintained by the more than one employer. Clarifies that an individual who will attain age 50 by the end of the taxable year is an eligible participant as of the beginning of the taxable year rather than only at the attainment of age 50. Act §411.
- IRC §415 Increase in Benefit and Contribution Limits. Permits an employer to amend a plan that incorporates the benefit limits by reference and that use a plan year other than the calendar year by June 30, 2002, to reduce benefits to the level that applied before enactment of the Act without violating the anti-cutback rules that generally apply to plan amendments. Act §411.
- Equitable treatment for contributions of employees to defined contribution plans. Provides that the limits apply to contributions to a tax-sheltered annuity plan in the year the contributions are made without regard to when the contributions become vested. Clarifies that contributions may be made for an employee for up to five years after retirement, based on includible compensation for the last year of service before retirement. Restores special rules for ministers and lay employees of churches and for foreign missionaries that were inadvertently eliminated. Act §411.
- IRC §416 Modification of Top-Heavy Rules. Clarifies that distributions made after severance from employment (rather than separation from service) are taken into account for only one year in determining top-heavy status. Act §411.
- IRC §417 Employers May Disregard Rollovers for Purposes of Cash-Out Amounts. Clarifies that rollover amounts may be disregarded also in determining whether a spouse must consent to the cash-out of the benefit. Act §411.



- IRC §448                   Limitation on use of non-accrual experience method of accounting. Limits the availability of the non-accrual experience method of accounting. The non-accrual experience method of accounting would be available only for amounts to be received for the performance of qualified services and for services provided by certain small businesses. Amounts to be received for all other services would be subject to the general rule regarding inclusions in income. Qualified services are services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts or consulting. The non-accrual experience method of accounting would continue to be available for the performance of other services if the average annual gross receipts of the taxpayer (or any predecessor) do not exceed \$5 million. The Treasury is to prescribe regulations that would permit a taxpayer to use alternative computations or formulas to more clearly reflect the taxpayer's experience. Effective for taxable years ending after the date of enactment. Act §403.
- IRC §469                   Phaseout of \$25,000 amount for certain rental real estate under passive loss rules. Clarifies the operation of the ordering rules of the rehabilitation credit, the low-income housing credit, and the commercial revitalization deduction to reflect the exceptions and separate phaseout rules for these items. Act § 412.
- IRC §469                   Election to recognize gain on assets held on January 1, 2001; treatment of disposition of interest in passive activity.--Clarifies that the election to mark to market an interest in a passive activity does not result in the deduction of suspended losses by reason of section 469(g)(1)(A). Any gain taken into account by reason of an election with respect to any interest in a passive activity is taken into account in determining the passive activity loss for the taxable year (as defined in section 469(d)(1)). Section 469(g)(1)(A) may apply to a subsequent disposition of the interest in the activity by the taxpayer. Act §414.

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

- IRC §530(d)(4)(B)(iv)   Coverdell education savings accounts; non-application of 10% additional tax with respect to amounts for which HOPE credit is claimed. Prevents the 10% additional tax from applying to a distribution from a Coverdell education savings account (or qualified tuition program) that is used to pay qualified higher education expenses, but the taxpayer elects to claim a HOPE or Lifetime Learning credit in lieu of the exclusion under §530 or §529. Thus, the income distributed from the Coverdell education savings account (or qualified tuition program) would be subject to income tax, but not to the 10% additional tax. Act §411.

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

- IRC §613A                Taxable income limit on percentage depletion for marginal production. Extends the suspension of the 100%-of-net-income limit on percentage depletion for oil and natural gas produced from marginal wells to taxable years beginning in 2002 and 2003. Effective for taxable years beginning after 2001, and before 2004. Act §607.
- IRC §809                 Suspension of Reduction of Deductions for Mutual Life Insurance Companies. Provides a zero rate for both the differential earnings rate and the recomputed differential earnings rate for a life insurance company's taxable years beginning in 2001, 2002, or 2003. Effective for taxable years beginning after December 31, 2000. Act §611.
- IRC §857                 Taxable REIT subsidiaries - 100% tax on improperly allocated amounts. Clarifies that redetermined rents, to which the excise tax applies, are the excess of the amount treated by the REIT as rents from real property under §856(d) over the amount that would be so treated after reduction under §482 to clearly reflect income as a result of services furnished or rendered by a taxable REIT subsidiary of the REIT to a tenant of the REIT. Act §413.

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

IRC §953 & §954      Extension and Modification of Exceptions under Subpart F for Active Financing Income. Extends for five years the exceptions from Subpart F for exempt insurance income of a qualifying insurance company under §953(e) and for qualified banking or financing income of an eligible controlled foreign corporation under §954(h) and, for purposes of the exception from Subpart F under §954(l) for qualified insurance income of a qualifying insurance company. Modifies the definition of a reserve for a life insurance or annuity contract to include the foreign statement reserve for the contract (less any catastrophe, deficiency, equalization, or similar reserves) if, pursuant to a taxpayer's request, the IRS rules that the factors taken into account in determining such reserve provide an appropriate means of measuring income. Effective for foreign corporations' taxable years beginning after December 31, 2001, and before January 1, 2007, and for taxable years of U.S. shareholders with or within which such taxable years of such foreign corporations end. Act §614.

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

IRC §1234A      Tax treatment of securities futures contracts. Clarifies that the termination of a securities contract is treated in a manner similar to a sale or exchange of a securities futures contract for purposes of determining the character of any gain or loss from a termination of a securities futures contract. Also clarifies that losses from the sale, exchange, or termination of a securities futures contract (other than a dealer securities futures contract) to sell generally are treated in the same manner as losses from the closing of a short sale for purposes of applying the wash sale rules. Clarifies that a securities futures contract to sell generally is treated in a manner similar to a short sale for purposes of the special holding period rules in §1233. Act §412.

IRC §1256      Coordination of wash sale rules and §1256 contracts. Clarifies that the wash sale rules do not apply to any loss arising from a §1256 contract. Effective as if included in §5075 of TAMRA. Act §416.

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

IRC §1397E      Extension of authority to issue qualified zone academy bonds.

IRC §1400L(a)      Expansion of work opportunity tax credit for targeted categories to include certain employees in New York City. Act §301.

IRC §1400L(b) & (c)      Special Depreciation Allowance for Certain Property. Allows an additional first-year depreciation deduction equal to 30% of the adjusted basis of qualified New York Liberty Zone ("Liberty Zone"). Act §301.

IRC §1400L(d)      Authorizes issuance of Tax-Exempt Private Activity Bonds for rebuilding the portion of New York City damaged in the September 11, 2001, terrorist attack. Act §301.

IRC §1400L(e)      Permits certain bonds for facilities located in New York City to be advance refunded one additional time. These bonds include only bonds for which all present-law advance refunding authority was exhausted before September 12, 2001, and with respect to which the advance refunding bonds authorized under present law were outstanding on September 11, 2001. Additional requirements must be met to be eligible bonds. Effective on the date of enactment and before January 1, 2005. Act §301.

IRC §1400L(f)      Increases the amount a taxpayer can deduct under §179 for qualifying property used in the New York Liberty Zone by the lesser of (1) \$35,000 or (2) the cost of qualifying property placed in service during the taxable year. This amount is in addition to the amount otherwise deductible under §179. Effective for taxable years beginning on December 31, 2001 and before January 1, 2007.

- IRC §1400L(g)      Extension of Replacement Period for Certain Property Involuntarily Converted in the New York Liberty Zone. Extends the replacement period to five years for a taxpayer to purchase property to replace property that was involuntarily converted within the New York Liberty Zone as a result of the terrorist attacks that occurred on September 11, 2001. Effective for involuntary conversions in the New York Liberty Zone occurring on or after September 11, 2001, as a consequence of the terrorist attacks on such date. Act §301.
- IRC §6214      Treatment of settlements under partnership audit rules. Provides that the partnership audit procedures that apply to settlement agreements entered into by the Secretary also apply to settlement agreements entered into by the Attorney General. Effective for settlement agreements entered into after the date of enactment. Act §416.

# DIGEST OF THE CLERGY HOUSING ALLOWANCE CLARIFICATION ACT OF 2002 P. L. 107-181

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

## CODE SECTION

## DESCRIPTION OF PROVISION

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

IRC §107

Specifies that the parsonage exclusion from gross income cannot exceed the fair rental value of the home, and related items such as furnishings, garage and the cost of utilities. Applies to tax years beginning after January 1, 2002.

# DIGEST OF THE TRADE ADJUSTMENT ASSISTANCE ACT OF 2002

## P. L. 107-210

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

### CODE SECTION

### DESCRIPTION OF PROVISION

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

IRC §35	Credit for health insurance costs of eligible individuals. Provides for a tax credit for 65 percent of the premium cost of health insurance for certain workers indirectly displaced by trade, including farmers and fishers. Allows displaced workers to apply the credits to continue COBRA coverage or purchase insurance through state-based group coverage options, including high-risk pools, private coverage offered to state employees, and other coverage through a state arrangement. Extends eligibility for the health care tax credits to uninsured retirees between the ages of 55 and 64 who receive benefits from the Pension Benefit Guaranty Corporation. The credits apply to qualifying family members such as a taxpayer's spouse or a dependent as defined under section 151(c). Act §201.
IRC §6050T	Returns relating to credit for health insurance costs of eligible individuals. Requires information return for advance payments of the credit claimed under IRC §7527 Act §202.
IRC §7727	Advance payment of credit for health insurance costs for eligible individual. Establishes a program for making payments on behalf of eligible individuals to providers of health insurance for such individuals for whom a qualified health insurance credit eligibility certificate is in effect. Act §202.

# DIGEST OF THE VETERANS IMPROVEMENT ACT OF 2002

## P. L. 107-330

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

### CODE SECTION

### DESCRIPTION OF PROVISION

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

Non Code Provision

Extends the authority of the Commissioner of Social Security and the Internal Revenue Service to disclose certain tax return information to the Department of Veterans Affairs for purposes of administering several programs that provide benefits for veterans.

# DIGEST OF THE HOLOCAUST RESTITUTION TAX FAIRNESS ACT OF 2002

## P. L. 107-358

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

### CODE SECTION

### DESCRIPTION OF PROVISION

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

Non Code Provision

Repeals the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the exclusion from Federal income tax for restitution received by victims of the Nazi Regime. Act §901.

**DIGEST OF TAX MEASURES - INDEX BY BILL NUMBERS**

BILL NO.	ACT NO.	BILL TITLE / TAX TYPE	PAGE NO.
HB 638, HD1, SD2, CD1	ACT 193 (06.18.2003)	Relating to the Hawaii Public Library System . . . . . INCOME TAX MEASURES	6
HB 1400, HD1, SD2, CD2	VETO (07.02.2003)	Relating to Hotel Construction and Remodeling Tax Credit . . . . . VETOED MEASURES	11
SB 377, SD1, HD2, CD1	ACT 100 (05.29.2003)	Relating to Taxation . . . . . MISCELLANEOUS TAX MEASURES	8
SB 855, SD1, HD3, CD1	ACT 207 (06.26.2003)	Relating to Energy . . . . . INCOME TAX MEASURES	7
SB 1040, SD1, HD1, CD1	ACT 113 (05.30.2003)	Relating to Transient Accommodations Tax . . . . . GENERAL EXCISE / USE / PSC TAX MEASURES	9
SB 1088, SD2, HD2, CD1	VETO (07.02.2003)	Relating to Long-Term Care . . . . . VETOED MEASURES	11
SB 1267, HD2, CD1	ACT 077 (05.20.03)	Relating to Tobacco . . . . . MISCELLANEOUS TAX MEASURES	8
SB 1279, SD2, HD2, CD1	ACT 177 (06.16.2003)	Relating to Tobacco . . . . . MISCELLANEOUS TAX MEASURES	9
SB 1311, SD1, HD1	ACT 179 (06.16.2003)	Relating to Special Funds . . . . . ADMINISTRATIVE TAX MEASURES	2
SB 1394, SD2, HD1	ACT 172 (06.16.2003)	Relating to Conformity of the Hawaii Income Tax Law to the Internal Revenue Code INCOME TAX MEASURES	5
SB 1395, SD1, HD1, CD1	ACT 135 (06.04.2003)	Relating to the Amendment or Repeal of Obsolete Tax Laws . . . . . GENERAL EXCISE / USE / PSC TAX MEASURES	3
SB 1396	ACT 014 (04.16.2003)	Relating to the Administration of Taxes . . . . . INCOME TAX MEASURES	4
SB 1397, SD1, HD2	ACT 173 (06.16.2003)	Relating to Simplified Tax Administration . . . . . GENERAL EXCISE / USE / PSC TAX MEASURES	1
SB 1400, SD1, HD1	ACT 136 (06.04.2003)	Relating to Tax Administration . . . . . ADMINISTRATIVE TAX MEASURES	1



**DIGEST OF TAX MEASURES - INDEX BY ACT NUMBERS**

ACT NO.	BILL NO.	BILL TITLE / TAX TYPE	PAGE NO.
ACT 014 (04.16.2003)	SB 1396	Relating to the Administration of Taxes INCOME TAX MEASURES	4
ACT 077 (05.20.03)	SB 1267, HD2, CD1	Relating to Tobacco MISCELLANEOUS TAX MEASURES	8
ACT 100 (05.29.2003)	SB 377, SD1, HD2, CD1	Relating to Taxation MISCELLANEOUS TAX MEASURES	8
ACT 113 (05.30.2003)	SB 1040, SD1, HD1, CD1	Relating to Transient Accommodations Tax GENERAL EXCISE / USE / PSC TAX MEASURES	9
ACT 135 (06.04.2003)	SB 1395, SD1, HD1, CD1	Relating to the Amendment or Repeal of Obsolete Tax Laws GENERAL EXCISE / USE / PSC TAX MEASURES	3
ACT 136 (06.04.2003)	SB 1400, SD1, HD1	Relating to Tax Administration ADMINISTRATIVE TAX MEASURES	1
ACT 172 (06.16.2003)	SB 1394, SD2, HD1	Relating to Conformity of the Hawaii Income Tax Law to the Internal Revenue Code INCOME TAX MEASURES	5
ACT 173 (06.16.2003)	SB 1397, SD1, HD2	Relating to Simplified Tax Administration GENERAL EXCISE / USE / PSC TAX MEASURES	1
ACT 177 (06.16.2003)	SB 1279, SD2, HD2, CD1	Relating to Tobacco MISCELLANEOUS TAX MEASURES	9
ACT 179 (06.16.2003)	SB 1311, SD1, HD1	Relating to Special Funds ADMINISTRATIVE TAX MEASURES	2
ACT 193 (06.18.2003)	HB 638, HD1, SD2, CD1	Relating to the Hawaii State Public Library System INCOME TAX MEASURES	6
ACT 207 (06.26.2003)	SB 855, SD1, HD3, CD1	Relating to Energy INCOME TAX MEASURES	7
VETO (07.02.2003)	HB 1400, HD1, SD2, CD2	Relating to Hotel Construction and Remodeling Tax Credit VETOED MEASURES	11
VETO (07.02.2003)	SB 1088, SD2, HD2, CD1	Relating to Long-Term Care VETOED MEASURES	11