ENACTED BY THE STATE OF HAWAII

Digest of Tax Measures

TWENTY-EIGHTH LEGISLATURE—REGULAR SESSION OF 2015

Prepared by the State of Hawaii
Department of Taxation
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NOTE: This Digest is issued solely as a guide and is not intended to be complete.

Introduction

This digest summarizes the Hawaii tax laws enacted during the 2015 Regular Session and the federal tax laws enacted during calendar year 2014. It is issued solely as a guide and is not intended to be either authoritative or complete. Hawaii bills and acts can be viewed on the State Capitol website at http://www.capitol.hawaii.gov.

Key to Abbreviations

S.B.	=	Senate Bill
S.D.	=	Senate Draft
H.B.	=	House Bill
H.D.	=	House Draft
C.D.	=	Conference Draft
SCR	=	Senate Concurrent Resolution
HCR	=	House Concurrent Resolution
HRS	=	Hawaii Revised Statutes

Table of Contents

HAWAII TAX LAWS

ACT 18
H.B. 966, H.D. 1
Relating to section 237-23, Hawaii Revised Statutes

Act 18 adds back the words "as such" to section 237-23(b)(3), HRS, which were inadvertently repealed by Act 184, SLH 2012. Section 237-23, HRS, relates to the General Excise Tax ("GET") exemption for nonprofit organizations.

EFFECTIVE: Retroactive to January 1, 2012.

ACT 22
S.B. 1212, S.D. 1
Relating to Amending or Repealing Various Provisions of Hawaii Tax Laws for the Purpose of Deleting Obsolete or Unnecessary Provisions

Act 22 repeals various provisions in the GET and public service company ("PSC") tax laws, chapters 237 and 239, HRS, respectively, used to phase in the current wholesale tax rate and sublease deduction rate. Specifically, Act 22 repeals part of section 237-16.5, HRS, repeals section 237-13.3, HRS, in its entirety and all references thereto, and repeals part of section 239-6, HRS.

EFFECTIVE: July 1, 2015.

ACT 23
S.B. 1134
Relating to the Estate and Generation-Skipping Transfer Taxes

Act 23 conforms the State's estate and generation-skipping transfer tax law under chapter 236E, HRS, to the Internal Revenue Code ("IRC"), as amended as of December 31, 2014, as it applies to the estate and generation-skipping transfer tax.

EFFECTIVE: May 1, 2015, applies to decedents dying or taxable transfers occurring after December 31, 2014.

ACT 52

S.B. 1133, S.D. 1, H.D. 1

Relating to Conformity of the Hawaii Income Tax Law to the Internal Revenue Code

Act 52 updates section 235-2.3(a), HRS, to conform to the operative IRC sections of subtitle A, chapter 1, as amended as of December 31, 2014, and updates section 235-2.4, HRS, as explained below.

During 2014, Congress enacted several new tax measures. One of these new tax measures, the "Stephen Beck, Jr., Achieving a Better Life Experience Act of 2014," P.L. 113-295, enacted December 19, 2014, creates new IRC section 529A allowing states to create tax preferred savings plans for the benefit of disabled individuals ("ABLE Plans"). Hawaii created its ABLE Plan program this year in Act 206, SLH 2015.

Act 52 amends section 235-2.4, HRS, to provide that section 529A, IRC, is operative for Hawaii income tax purposes, but the ten percent penalty on distributions from ABLE Plans not used for qualified expenses is not operative for Hawaii income tax purposes.

EFFECTIVE: May 20, 2015, for tax years beginning after December 31, 2014; provided that retroactive and prospective effective dates contained in congressional acts relating to the IRC and enacted between January 1, 2014 and December 31, 2014 shall be operative.

ACT 53

S.B. 1136, H.D. 1

Relating to Section 235-55.91, Hawaii Revised Statutes

Act 53 updates the income tax credit for employment of vocational rehabilitation referrals under section 235-55.91, HRS, by amending references to the IRC that have changed. These amendments are technical and non-substantive.

EFFECTIVE: May 20, 2015.

ACT 93

H.B. 169, H.D. 1, S.D. 1, C.D. 1

Relating to Taxation

Act 93 makes two changes to the Transient Accommodations Tax ("TAT") law:

1. It gradually increases the TAT rate owed on timeshare units occupied by owners under section 237D-2(c), HRS, to match the 9.25% rate owed on units furnished to renters under section 237D-2(a), HRS.

TAT Rate for Timeshare Occupancy	
January 1, 2016 to December 31, 2016	8.25%
January 1, 2017 and later	9.25%

2. It makes clarifying, nonsubstantive amendments to the definition of "fair market rental value" under section 237D-1, HRS.

EFFECTIVE: January 1, 2016.

ACT 94
S.B. 92, S.D. 2, H.D. 1, C.D. 1
Relating to Taxation

Act 94 requires the Department to publish a report on GET exemptions that (1) are tax expenditures at the wholesale rate; (2) are tax expenditures at the retail rate; and (3) may be foregone opportunities to export taxes. Act 94 also requires the Department to report to the Legislature on the status of upgrading its forms and reporting capabilities per the implementation of the Department's Tax System Modernization on or before December 31, 2015. Lastly, Act 94 renames the report required under section 231-3.4(a)(2), HRS, from "Hawaii income patterns – corporations, proprietorships, and partnerships" to "Hawaii income patterns – business," and requires the Department to publish all reports set forth in section 231-3.4(a), HRS, no later than 20 days prior to the convening of each regular session, except for the reports on Hawaii income patterns – business, and the new report on the GET exemptions, for which the reporting deadline is no later than 20 days prior to the convening of the 2017 regular session and each session thereafter.

EFFECTIVE: July 1, 2015.

ACT 95
S.B. 971, S.D. 1, H.D. 1, C.D. 1
Relating to Taxation

Act 95 adds a new requirement for obtaining certification from the Hawaii Housing Finance and Development Corporation ("HHFDC") as affordable housing projects. HHFDC certification is a prerequisite for a taxpayer to claim a GET exemption under section 201H-36, HRS. The new requirement is that the housing project must be affordable for a minimum number of years as noted in the table below.

Type of Project	Term
Moderate Rehabilitation	5 years from date specified in regulatory agreement
Substantial Rehabilitation	10 years from date specified in regulatory agreement
Newly Constructed	30 years from date of issuance of certificate of occupancy

EFFECTIVE: July 1, 2015, applies to projects with an initial certification date after June 30, 2015.

ACT 120

H.B. 1140, H.D. 1, S.D. 2, C.D. 1

Relating to Cesspools

Act 120 creates a temporary, nonrefundable income tax credit for the costs incurred in converting a qualified cesspool to a septic system or to an aerobic treatment unit system, or for the cost of connecting a cesspool to a sewer system. In order to be entitled to the credit, the Department of Health must certify that the cesspool is located within 200 feet of a shoreline, perennial stream, or wetland, is located within a source water assessment program area, or is a residential large capacity cesspool, provided that no more than two residential large capacity cesspools may be certified in any tax year. The Department of Health must certify all credit claims, and the credit amount is 100% of qualified costs up to a maximum of $10,000 per taxpayer. The amount of tax credits certified in any given tax year cannot exceed $5 million.

EFFECTIVE: July 1, 2015, applies to taxable years ending after December 31, 2015, and is repealed on December 31, 2020.

ACT 128

H.B. 1153, S.D. 2, C.D. 1

Relating to Veterans

Act 128 exempts resident disabled veterans from payment of annual vehicle registration fees required by section 249-31, HRS, for one vehicle per year, and applies to motor vehicle registrations issued or renewed after January 1, 2016. The exemption does not apply to vehicles used for commercial purposes.

EFFECTIVE: June 19, 2015.

ACT 185

S.B. 359, S.D. 1, H.D. 1, C.D. 1

Relating to the Environmental Response, Energy, and Food Security Tax

Act 185 makes several amendments to the Environmental Response, Energy, and Food Security Tax.

Act 185 amends the definition of "distributor" in section 243-1, HRS, to include persons who deal in fossil fuels. Act 185 also amends section 243-3.5, HRS, by adding a new definition for "fossil fuel." Act 185 applies the Environmental Response, Energy, and Food Security Tax to fossil fuel sold by a distributor at the rate of 19 cents per one million British thermal units of fossil fuel sold by a distributor.

Act 185 contains additional amendments to section 243-3.5, HRS, which exempt from the Environmental Response, Energy, and Food Security Tax coal used to fulfill a power purchase agreement between an independent power producer and an electric utility that is in effect as of June 30, 2015, as well as permit independent power producers to pass the cost of the tax on to an electric utility. An electric utility is allowed to recover the cost of the tax through an appropriate surcharge to the end user. A gas utility is allowed to recover the cost of the tax as part of its fuel cost in its fuel adjustment charge.

EFFECTIVE: July 1, 2015.

ACT 201

S.B. 1096, S.D. 1, H.D. 2, C.D. 1

Relating to On-bill Programs

Act 201 exempts from state and county taxes the amounts collected by electric utilities for the repayment of on-bill obligations, including the GET under chapter 237, HRS, the PSC tax under chapter 239, HRS, the public utility fee under section 269-30, HRS, and the public utility franchise tax under chapter 240, HRS. For the on-bill financing program, electric utilities serve as billing and collection agents in a “pass-through” capacity. Act 201 exempts amounts collected under the on-bill financing program only; it does not impact other fees or taxes imposed on other amounts received in the normal course of operations by the electric utilities.

EFFECTIVE: July 2, 2015.

ACT 204

S.B. 519, S.D. 2, H.D. 3, C.D. 1

Relating to Taxation

Act 204 requires TAT registration numbers and local contact information to be displayed in all transient accommodation units and in all advertisements of those units. Operators or plan managers that do not have the TAT registration number or local contact information properly displayed both in the unit and in the advertisement of the unit may be cited and fined. Additionally, transient accommodation brokers such as website operators, online travel agencies, or online booking agencies that do not provide a unit's TAT registration number and local contact information in all advertisements for the unit may be cited and fined.

EFFECTIVE: January 1, 2016.

ACT 205

H.B. 1010, H.D. 1, S.D. 2, C.D. 1

Relating to the Commuter Benefits Program

Act 205 authorizes counties to adopt an ordinance establishing a commuter benefits program consisting of one or more of the following:

1. A program allowing employees an income tax exclusion for costs paid for transit passes, vanpool charges or bicycle commuting under section 132(f), IRC;
2. A program where employees are offered a subsidy to offset the costs of transit passes, vanpool charges or bicycle commuting; or
3. Employer-provided transportation similar to a bus or vanpool furnished to employees at low or no cost.

EFFECTIVE: July 1, 2015.

ACT 223

S.B. 555, S.D. 1, H.D. 1, C.D. 1

Relating to Tax Credits

Act 223 amends the Refundable Food/Excise Tax Credit described in section 235-55.85, HRS, in several ways. First, Act 223 removes the requirement that the individual claiming the credit must have resided in the State for nine months during the taxable year and replaces it with a requirement that the individual must have been physically present in the state for nine months during the taxable year. Second, Act 223 adjusts the maximum adjusted gross income an unmarried individual taxpayer may have in order to be eligible to claim the credit. Third, Act 223 adjusts the amount of credit per qualified exemption available to eligible taxpayers.

The adjusted gross income of taxpayers and the credit per exemption available to them under Act 223 is illustrated in the tables below:

Adjusted gross income for taxpayers filing a single return	**Credit per exemption**
Under $5,000	$110
$5,000 to under $10,000	$100
$10,000 to under $15,000	$85
$15,000 to under $20,000	$70
$20,000 to under $30,000	$55
$30,000 and over	$0

Adjusted gross income for heads of household, married individuals filing separate returns, and married couples filing joint returns	**Credit per exemption**
Under $5000	$110
$5,000 to under $10,000	$100
$10,000 to under $15,000	$85
$15,000 to under $20,000	$70
$20,000 to under $30,000	$55
$30,000to under $40,000	$45
$40,000 to under $50,000	$35
$50,000 and over	$0

EFFECTIVE: July 9, 2015, applies to taxable years beginning after December 31, 2015 Act 223 is repealed December 31, 2017 and the law as it read prior to this Act's amendments will be reenacted.

ACT 240
H.B. 134, H.D. 1, S.D. 2, C.D. 1
Relating to Taxation

Act 240 authorizes the extension of the City and County of Honolulu surcharge on state general excise and use taxes ("county surcharge") at the 0.5% rate, authorizes other counties to adopt ordinances establishing a county surcharge at a rate of no more than 0.5%, and limits the use of the county surcharge revenues for the City and County of Honolulu to capital costs.

Act 240 amends section 46-16.8(b), HRS, by giving authority to the City and County of Honolulu to elect to extend the sunset of its county surcharge from January 1, 2023 to December 31, 2027 at the 0.5% rate. The election to extend the county surcharge must be done by ordinance adopted prior to January 1, 2016, but no earlier than July 1, 2015. The City and County of Honolulu must hold a public hearing on the ordinance before it is adopted. Act 240 requires the Department to continue to collect and administer any extended county surcharge.

Act 240 amends section 46-16.8(c), HRS, by giving authority to the other counties to establish a county surcharge at a rate of no more than 0.5%. An election to establish a county surcharge must be done by ordinance adopted prior to January 1, 2016, but no earlier than July 1, 2015. The county must hold a public hearing on the proposed adoption of the ordinance before it is adopted. Act 240 requires the Department to collect and administer a county surcharge adopted by any of the other counties.

Act 240 limits how the counties can spend their county surcharge revenues. The City and County of Honolulu is limited to using its county surcharge revenue for capital costs of the Honolulu Rail Transit project and expenses in complying with the Americans with Disabilities Act of 1990 with respect to that project. The City and County of Honolulu cannot use the surcharge to build or repair public roads, highways, or bicycle paths, or to support public transportation systems already in existence prior to July 13, 2005.

The other counties must use their county surcharge revenues for the operation or capital costs of public transportation systems within their county. In contrast to the City and County of Honolulu, the other counties may use their county surcharge revenue to pay for costs including public roadways or highways, public buses, trains, ferries, pedestrian paths or sidewalks, or bicycle paths, as well as expenses in complying with the Americans with Disabilities Act of 1990 with respect to those public transportation systems.

EFFECTIVE: July 1, 2015.

TABLE: CHANGES TO HAWAII REVISED STATUTES

This table lists the sections of Hawaii Revised Statutes affected by tax laws passed during the 2015 Regular Session.

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

SECTIONS AFFECTED	EFFECT	ACT NO.	BILL NO.
46-___	N	ACT 205	H.B. 1010, H.D. 1, S.D. 2, C.D. 1
46-16.8	Am	ACT 240	H.B. 134, H.D. 1, S.D. 2, C.D. 1
128D-2	Am	ACT 185	S.B. 359, S.D. 1, H.D. 1, C.D. 1
128D-2.5	Am	ACT 185	S.B. 359, S.D. 1, H.D. 1, C.D. 1
128D-2.6	Am	ACT 185	S.B. 359, S.D. 1, H.D. 1, C.D. 1
171-2	Am	ACT 240	H.B. 134, H.D. 1, S.D. 2, C.D. 1
201H-36	Am	ACT 95	S.B. 971, S.D. 1, H.D. 1, C.D. 1
231-3.4	Am	ACT 94	S.B. 92, S.D. 2, H.D. 1, C.D. 1
235-___	N	ACT 120	H.B. 1140, H.D. 1, S.D. 2, C.D. 1
235-2.3	Am	ACT 52	S.B. 1133, S.D. 1, H.D. 1
235-2.4	Am	ACT 52	S.B. 1133, S.D. 1, H.D. 1
235-20.5	Am	ACT 204	S.B. 519, S.D. 2, H.D 3, C.D. 1
235-55.85	Am	ACT 223	S.B. 555, S.D. 1, H.D. 1, C.D. 1
235-55.91	Am	ACT 53	S.B. 1136, H.D. 1
236E-3	Am	ACT 23	S.B. 1134
236E-4	Am	ACT 23	S.B. 1134
237-4	Am	ACT 22	S.B. 1212, S.D. 1
237-8.6	Am	ACT 240	H.B. 134, H.D. 1, S.D. 2, C.D. 1
237-13	Am	ACT 22	S.B. 1212, S.D. 1
237-13.3	R	ACT 22	S.B. 1212, S.D. 1
237-16.5	Am	ACT 22	S.B. 1212, S.D. 1
237-23	Am	ACT 18	H.B. 966, H.D. 1
237D-1	Am	ACT 93	H.B. 169, H.D. 1, S.D. 1, C.D. 1
237D-1	Am	ACT 204	S.B. 519, S.D. 2, H.D 3, C.D. 1
237D-2	Am	ACT 93	H.B. 169, H.D. 1, S.D. 1, C.D. 1
237D-4	Am	ACT 204	S.B. 519, S.D. 2, H.D 3, C.D. 1
238-2.3	Am	ACT 22	S.B. 1212, S.D. 1
238-2.6	Am	ACT 240	H.B. 134, H.D. 1, S.D. 2, C.D. 1
239-5	Am	ACT 22	S.B. 1212, S.D. 1
239-6	Am	ACT 22	S.B. 1212, S.D. 1
243-1	Am	ACT 185	S.B. 359, S.D. 1, H.D. 1, C.D. 1
243-3.5	Am	ACT 185	S.B. 359, S.D. 1, H.D. 1, C.D. 1
249-___	N	ACT 128	H.B. 1153, S.D.2, C.D.1

SECTIONS AFFECTED	EFFECT	ACT NO.	BILL NO.
249-31	Am	ACT 128	H.B. 1153, S.D.2, C.D.1
269-125	Am	ACT 201	S.B. 1096, S.D. 1, H.D. 2, C.D. 1
ACT 73, §10, SLH 2010	R	ACT 185	S.B. 359, S.D. 1, H.D. 1, C.D. 1
ACT 73, §14, SLH 2010	Am	ACT 185	S.B. 359, S.D. 1, H.D. 1, C.D. 1
ACT 247, §9, SLH 2005	Am	ACT 240	H.B. 134, H.D. 1, S.D. 2, C.D. 1

DIGEST OF FEDERAL LAWS

This section summarizes the changes made to the Internal Revenue Code during 2014. This section includes changes to subtitle A, chapter 1; subtitle B; and certain 6000 series sections of the Internal Revenue Code. Unless otherwise noted, all references are to the Internal Revenue Code of 1986, as amended.

Philippines Charitable Giving Assistance Act

(P.L. No. 113-92; March 25, 2014)

CODE SECTION	DESCRIPTION OF PROVISION
	The following provision is operative for Hawaii income tax purposes.
§170; Non-code section	**Definition of taxable vaccines** The Act allows charitable contributions made to the relief of victims of Typhoon Haiyan after March 25, 2014 and before April 15, 2014 to be treated as made on December 31, 2013. Effective March 25, 2014.

Cooperative and Small Employer Charity Pension Flexibility Act

(P.L. No. 113-97; April 7, 2014)

CODE SECTION	DESCRIPTION OF PROVISION
	The following provision is operative for Hawaii income tax purposes.
§§412(c), 414(y), 433(a)-(j), and 4971	**Separate minimum standards for CSECs** The Act defines cooperative and small employer charity (CSEC) pension plans and exempts CSECs from the funding standards created by the 2006 Pension Protection Act. The Act subjects CSECs to the special minimum funding standards of newly created §433. CSECs plan sponsors are subject to $100 per day penalty for failing to adopt funding restoration plans. Effective for plan years beginning after December 31, 2013.

Highway and Transportation Funding Act of 2014

(P.L. No. 113-159; August 8, 2014)

CODE SECTION	DESCRIPTION OF PROVISION

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

§430	**First segment rate used during 5-year period beginning on valuation date** For determining a plan's funding target three interest rates are used to calculate the present value of the plan's liabilities. The three different rates are for short-term, medium-term, and long-term liabilities. Previously, the short-term rate was used for liabilities reasonably determined to be payable during the 5-year period beginning on the first day of the plan year. The Act states that the short-term rate is used for liabilities reasonably determined to be payable during the 5-year period beginning on the valuation date. Effective for plan years beginning after December 31, 2012.
§§430(h)(2)(C)(iv), 436; Non-code section	**25-year pension smoothing for plan funding purposes extended** The interest rates used to determine a multiemployer plan's funding targets and target normal cost are based on corporate bond yields. As corporate bond yields fell, plan funding was affected by the lower interest rates used. For plan years beginning on or after January 1, 2012 plans were required to use a minimum and a maximum percentage "interest rate corridors" to determine the interest rate for the 25-year period. The Act extends the interest rate corridors applicable in the 25-year pension smoothing provision for five years. If the plan sponsor is in bankruptcy 25-year pension smoothing cannot be used for purposes of an actuary's certification of the plan's AFTAP. Effective for plan years beginning after December 31, 2012.

Tribal General Welfare Exclusion Act of 2014

(P.L. No. 113-168; September 26, 2014)

CODE SECTION	DESCRIPTION OF PROVISION

The following provision is operative for Hawaii income tax purposes.

§139E	**Indian general welfare benefits are excluded from gross income** The Act adds §139E to provide that the value of any qualified Indian general welfare benefit is excluded from a recipient's gross income. Generally qualified Indian general welfare benefit is any payment or services to or on behalf of a member of an Indian tribe made pursuant to an Indian tribal government program.

Effective September 26, 2014; the exclusion applies to all tax years for which the period of limitation on refund or credit under §6511 has not expired.

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

§6501 and Non-code section

Suspension of audits regarding qualified Indian general welfare benefits

The Act suspends all audits regarding qualified Indian general welfare benefits until the required training of IRS field agents is completed.

Effective September 26, 2014.

Multiemployer Pension Reform Act
(P.L. No. 113-235; December 16, 2014)

CODE SECTION — DESCRIPTION OF PROVISION

The following provision is operative for Hawaii income tax purposes.

§§418, 418A, 418B, 418C, 418D, 418E, 431(a)

Repeal of reorganization rules for multiemployer plans

The Act repeals the reorganization rules for multiemployer plans. This includes a repeal of §§418, 418A, 418B, 418C, and 418D. The Act modifies §418E by removing all references to "reorganization" and replacing them with "critical status, as described in §432(b)(2)."

The Act also adds definitions of person in pay status, base plan year, relevant collective bargaining agreement, and relevant effective date to §418E.

Effective for plan years beginning after December 31, 2014.

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

§431(d)(1); Non-code section

Automatic extension of amortization periods for multiemployer plans' unfunded liabilities made permanent

§431 allows taxpayers to automatically extend the use of pre-2008 amortization periods under §412(b) for any period that starts with a plan year beginning before 2008 rather than the updated amortization periods of §431(b)(2)(B). The automatic extension was set to expire for any applications received after December 31, 2014.

The Act makes the automatic extension permanent.

Effective December 16, 2014.

The following provisions are operative for Hawaii income tax purposes.

§432(a)(3) and (b)(3)(A)(i) and (b)(3)(B)(iv), (b)(6), (e)(9),

Relaxation of anti-cutback rule

Under the anti-cutback rule, accrued benefits cannot be reduced by plan amendment, with certain exceptions. There was no exception for financially

(g)(1); Non-code section

troubled multiemployer pension plans.

The Act allows reduction of benefits if a plan is in critical and declining status. The §432(a)(2) rehabilitation rules must be applied and then the plan sponsor may suspend benefits without violating the anti-cutback rule, subject to specific guidelines.

Effective December 16, 2014.

The following provisions are operative for Hawaii income tax purposes.

§432(b)(1), (b)(3)(A)(i), (b)(3)(D)(iii), (b)(3)(D)(iv), (b)(3)(D)(v), (b)(5),

Multiemployer plans meeting funding improvement plan guideposts not considered endangered

Generally, a plan is in endangered status if it has a funded percentage of less than 80% for the plan year or if the plan had an accumulated funding deficiency for the plan year or is projected to have one in any of the six succeeding plan years. A plan in endangered status must adopt and follow a funding improvement plan.

The Act provides that if an endangered plan is following its funding improvement plan and satisfies §432(b)(5), requiring actuarial certification that the plan will be out of endangered status within ten plan years, then the plan is no longer considered to be in endangered status.

Effective for plan years beginning after December 31, 2014.

§432(b)(3)(A), (b)(3)(D), (b)(4),

Multiemployer plans may elect into critical status in anticipation of actual critical status within five plan years

Generally, a multiemployer plan is in critical status if it is less than 65% funded, and the sum of the present value of plan assets and contributions for the current and next six years is less than the present value of nonforfeitable benefits payable over this period.

A multiemployer plan in critical status must adopt and follow a rehabilitation plan. In addition, mandatory extra contributions and benefit reductions may apply, and other minimum funding rules may be relaxed.

The Act allows plans projected to be in critical status within five plan years to preemptively elect into critical status. This allows the plan to adopt a rehabilitation plan, increase mandatory contributions, and reduce benefits in anticipation of actual critical status.

Effective for plan years beginning after December 31, 2014.

§432(c)(3)(A)

Time period for determining funding percentage for funding improvement plan changed to time of certification

If a multiemployer plan is in endangered status, the sponsor must adopt and follow a funding improvement plan within 240 days of the date the actuary certifies the plan's endangered status.

The funding improvement plan must be designed to improve the funded percentage to the sum of the funded percentage at the beginning of the funding improvement plan plus 33% of the difference between fully funded and the actual funded percentage at the beginning of the funding improvement period.

The Act amends the requirements of the funding improvement plan by requiring the targets to be based on the funded percentages at time of certification rather than the time the funding improvement plan begins.

Effective for plan years beginning after December 31, 2014.

The following provisions are operative for Hawaii income tax purposes.

§432(c)(7), (e)(3)(C) — **Corrective schedules clarified**

In general, when a multiemployer plan is in endangered or critical status, a collective bargaining agreement (CBA) was in place but has expired, and the parties cannot agree on a contribution schedule, then a default schedule was imposed as of 180 days after the CBA expired.

The Act changes the rules for the corrective schedules to be used in these circumstances. If the CBA expires before a funding improvement plan is adopted, and a funding improvement plan cannot be agreed upon then the funding plan as described in §432(c)(1)(B)(i)(I) must be used. If the CBA expires after a funding improvement plan has been adopted and an updated plan cannot be adopted, then the plan used under the expired CBA must be used.

Effective for plan years beginning after December 31, 2014.

§432(e)(4)(B) — **Emergence rules revised for plans in critical status**

Once a multiemployer plan is in critical status, it remains in critical status until its yearly actuarial certification projects no funding deficiency for the current and next nine plan years. This certification is made without regard to the shortfall funding method but can take into account any amortization period extensions.

The Act adds requirements for emerging from critical status. In addition to the actuarial certification requirement, plans must not be in critical status under any paragraph of §432(b)(2) and must not be projected to become insolvent under §418E for any succeeding plan years.

Effective for plan years beginning after December 31, 2014.

§432(f)(3) and (g) — **Certain contribution increases to underfunded multiemployer plans may be disregarded for purposes of determining withdrawal liability**

If a multiemployer plan is under a rehabilitation plan, any reduction in benefits is disregarded in determining the plan's unfunded vested benefits, which is used to determine the employer's withdrawal liability.

The Act further requires that increases to contributions made pursuant to the funding improvement or rehabilitation plan must be disregarded in determining the plan's unfunded vested benefits and in determining the highest contribution rate, except for determining unfunded vested benefits attributable to an employer. Similar treatment applies to surcharges under §432(e)(7).

Effective for benefit reductions and contribution increases going into effect during plans years beginning after December 31, 2014, and to surcharges accruing on or after December 31, 2014.

Act to amend the FAA Modernization and Reform Act of 2012

(P.L. No. 113-243; December 18, 2014)

CODE SECTION	DESCRIPTION OF PROVISION

The following provision is operative for Hawaii income tax purposes.

Non-code section **Modifies rules regarding rolling bankrupt airline payments into IRAs**

The Act extends the period for filing a claim for refund for overpayment resulting from receipt of airline payments. The period is extended to April 15, 2015 or the expiration of the limitation period for filing refund claims. The Act modifies the definition of "airline payment amount" to include payments pursuant to an airline bankruptcy filed between September 12, 2001 and January 1, 2007 and on November 29, 2011. Finally, the Act amends the definition of "qualified airline employee" to include an employee who participated in an airline's defined benefit plan that was frozen effective November 1, 2012.

Effective December 18, 2014.

Tax Increase Prevention Act of 2014

(P.L. No. 113-295; December 19, 2014)

Note: Many provisions digested below are retroactive extensions of previously expired provisions. Retroactively extended provisions that are also operative for Hawaii income tax purposes become applicable to Hawaii income tax purposes as of the adoption of Hawaii's income tax conformity bill. Many provisions extended by this Act were extended for only one tax year, meaning those provisions have once again expired. For a list of tax provisions that have expired for tax year 2015, see appendix.

CODE SECTION	DESCRIPTION OF PROVISION

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

§24(d)(4) **Refundable portion of child tax credit clarified**

The child tax credit is refundable only to the extent of 15% of the taxpayer's earned income in excess of $10,000. This threshold was reduced to $3,000 for tax years beginning before January 1, 2018. The Act clarifies that $3,000 is the amount used to determine the refundable portion of the child tax credit.

Effective for tax years beginning after December 31, 2008.

§25A(i)(3) **Lifetime Learning credit limited to tuition and fees**

Individuals may claim the Hope credit (renamed the American Opportunity Tax Credit through 2018) and the Lifetime Learning credit. Both credits are measured by qualified tuition and related (QT&R) expenses. §25A(i)(3) expands the definition of QT&R expenses to include course materials.

The Act clarifies that the expanded definition of QT&R expenses only applies to the

Hope credit. This clarifies that the Lifetime Learning credit is calculated using the original definition of QT&R expenses, which is limited to tuition and fees.

Effective for tax years beginning after December 31, 2008.

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

§25C(g)(2) Nonbusiness energy property credit retroactively extended through 2014

§25C allows an individual to claim an income tax credit for 10% of amounts paid for qualified energy efficiency improvements installed during the taxable year and for the amounts paid for residential energy property expenditures.

Generally, residential energy property expenditures include energy-efficient buildings, qualified natural-gas, propane, or oil furnaces or water heaters, and advanced main air circulating fans. The Act extends the credit for one year.

The credit applies to property placed in service before January 1, 2015.

§§30 and 30D Credit for certain 2- or 3-wheeled electric vehicles repealed

The Act repeals §30 containing the credit for 2- or 3-wheeled electric vehicles. The Act also amends the basis reduction rule to require that any income tax deduction or other credit allowable for which this credit was claimed be reduced by the amount of the credit without regard to §30(c).

Effective December 19, 2014. Basis reduction adjustments are effective for all vehicles purchased after December 31, 2009 and before January 1, 2012.

§§30A and 936 American Samoa economic development credit extended

Prior to 2006 §936 allowed a qualifying domestic corporation operating within, and having extensive amounts of gross income sourced from within, a possession of the United States to claim a tax credit estimating its taxable income in that possession. The Tax Relief and Health Care Act of 2006 (2006 TRA) extended the credit for American Samoa only.

To qualify after January 1, 2006 the corporation had to be an existing credit claimant, meaning that the corporation qualified for the credit and had elected to use it as of October 13, 1995, and also had to have elected to use §936 for its last tax year beginning before January 1, 2006. The amount of the credit allowed was amended to equal 60% of qualified wages and fringe benefit expenses and various percentages of short-, medium-, and long-term depreciable tangible property.

The requirement of being an existing claimant was eliminated for tax years beginning after December 31, 2011, but corporations must now meet certain domestic production requirements. The credit was previously available for tax years beginning before January 1, 2014.

The Act extends the credit for one year.

The credit is now available for tax years beginning before January 1, 2015.

§30B(h)(5)(B) **Reductions to deductions and credits due to alternative motor vehicle credit determined without regard to coordination rules**

The alternative motor vehicle credit (AMVC) is available to new alternative motor vehicles that are purchased or leased for either personal or business use. The amount of any other deductions or credits allowed for these vehicles must be reduced by a specified amount.

§30B(g) contains coordination rules for coordinating the AMVC and other credits. These rules result in some portions of the AMVC credit being treated as a general business credit and some portions as a personal credit, which affects the reduction of other credits and deductions.

The Act provides that the amount of the reduction is determined without regard to the §30B(g) coordination rules.

Effective for property placed in service after December 31, 2005.

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

§30C(e)(1) **Basis reduction due to the credit for qualified alternative fuel vehicle refueling property determined without regard to coordination rules**

The qualified alternative fuel vehicle refueling (QAFVR) property credit equals 30% of the cost of such property. The basis of any property is reduced by the cost used to generate the QAFVR credit.

§30C(d) contains coordination rules for coordinating the QAFVR and other credits. These rules result in some portions of the QAFVR credit being treated as a general business credit and some portions as a personal credit, which affects the basis reduction.

The Act provides that the amount of the basis reduction is determined without regard to the §30C(d) coordination rules.

Effective for property placed in service after December 31, 2005.

§30C(g) **Credit for qualified alternative fuel vehicle refueling property extended**

§30C allows an income tax credit for 30% of the cost of any qualified alternative fuel vehicle refueling property placed in service during the taxable year. The credit was capped at $30,000 per year for depreciable property, and $1,000 per year for other property. The Act extends the credit for one year.

Effective for property placed in service before January 1, 2015.

§32(b)(3)(B)(ii) **Inflation adjustment of $5,000 increase to EIC phaseout threshold to apply annually**

The earned income credit (EIC) is phased out above certain thresholds. For taxpayers filing jointly this threshold was previously increased to $5,000 through 2018. The Act applies the inflation adjustment to the increased threshold amount.

Effective for tax years beginning after December 31, 2010.

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

§40(b)(6)(J)(i) **Second generation biofuel producer credit**

§40(b)(6) allows an income tax credit of $1.01 per gallon of qualified second generation biofuel produced. The credit is offset in the case of fuel eligible for the alcohol credit or the ethanol credit. In general, second generation biofuel is liquid fuel that is derived from qualified feedstocks. The Act extends the credit for one year.

The credit is available for qualified second generation biofuel produced before January 1, 2015.

§40A(g) **Biodiesel and renewable diesel used as fuel**

§40A allows a series of income tax credits, claimed under §38 as part of the general business credit, for production of biodiesel mixtures, sale or use of biodiesel, and the production of agri-biodiesel.

The biodiesel mixtures credit is equal to $1.00 per gallon of diesel used in production of biodiesel mixtures. The credit for the sale or use of biodiesel is equal to $1.00 per gallon of biodiesel, not in a mixture, used or sold by the taxpayer.

The small agri-biodiesel producer credit is equal to 10 cents for each gallon of qualified agri-biodiesel production. Agri-biodiesel is biodiesel derived solely from virgin oils, including those derived from corn, soybeans, sunflower seeds, cottonseeds, and canola among other sources.

The Act extends the credit for one year.

The above credits are available for any sale or use before January 1, 2015.

The following provisions are operative for Hawaii income tax purposes.

§41(h)(1) **Tax credit for research and experimentation expenses**

§41 allows a credit equal to 20% of the amount by which qualified research expenses (QREs) exceed a base amount or the alternative simplified credit. The research credit is composed of two separately computed credits. These are the university basic research credit and the energy research consortium credit. The Act extends the credit for one year.

The research credit is not available for amounts paid or incurred before January 1, 2015.

§42(b)(2) **Minimum low-income housing credit rate of 9% for non-subsidized buildings**

§42 allows a low-income housing credit equal to the applicable percentage multiplied by the qualified basis of the low-income property. §42(b)(2) allowed a minimum applicable percentage of 9% for the low-income housing credit.

The low-income housing credit allows investors in low-income buildings to claim the low-income housing credit over the ten years following the year the housing is placed in service. The credit is calculated by applying the applicable percentage to the basis of the building. The applicable percentage is meant to produce a credit equal to 70% of the present value of the basis of newly constructed or substantially rehabilitated housing that is not federally subsidized. For such property that is federally subsidized, the credit is meant to equal 30% of the present value of the basis of the building.

The Act extends the minimum applicable percentage of 9% for one year.

The minimum applicable percentage of 9% is applicable to housing credit amount allocations made before January 1, 2015.

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

§§42(g)(4) and 142(d)(2)(ii); Non-code section — **Treatment of military basic pay housing allowances under low-income housing credit**

§42 allows a low-income housing credit. §42(g)(4) makes certain rules contained in §142 applicable for the low-income housing credit. §142(d)(2)(ii) contains a special rule excluding military basic pay housing allowances from the income calculation relevant to the low-income housing credit.

The Housing Assistance Tax Act of 2008 added the special rule, which was extended by the American Taxpayer Relief Act of 2012. The Act extends the special rule again for one year.

The exclusion is applicable to income determinations made before January 1, 2015.

§45(d) and 48(a)(5) — **Start date of construction rule for renewable power facilities extended**

§45 defines the credit for production of renewable energy; §48 defines the energy credit component of the investment credit. §45(d) allows eligibility for the production credit based on the start date of construction rather than the more typical placed in service rule. §45(d) allows most facilities on which construction began before January 1, 2014 to be eligible for the credit.

§48(a)(5) allows facilities eligible for the start date of construction rule under §45(d) to claim the energy credit component of the investment credit based on the same start date of construction rule.

The Act extends the applicability of the start date of construction rule for one year.

For the production credit and the energy credit, the start of construction date can be used for eligibility of any facilities on which construction began before January 1, 2015.

§45(e)(10)(A) — **Credit for production of coal by Indian coal production facilities**

§45(d)(10) defines qualified facility to include an Indian coal production facility for purposes of the production credit. §45(e)(10)(A) defines the amount of the credit for production of Indian coal. The credit is equal to an applicable dollar amount per ton of coal produced and sold during the 8-year period beginning January 1, 2006. The Act extends the credit for one year.

The credit for production of Indian coal is available for coal produced before January 1, 2015.

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

§45A(b)(1)(B) and (f) | **Indian employment tax credit extended**

§45A allowed an income tax credit to an employer for the qualified wages and expenses associated with employing an enrolled member of an Indian tribe, or a spouse of such person, within an Indian reservation. The Act extends the credit for one year.

The Act also clarifies the coordination rule for the Indian employment tax credit and the Work Opportunity Tax Credit for credits taken for wages paid to long-term family assistance recipients.

The Indian employment tax credit applies to taxable years beginning before January 1, 2015. The clarification of the coordination rules applies to individuals who begin work after December 31, 2006.

§45D(f)(1) and (3) | **New markets tax credit**

§45D allowed an income tax credit for investments in qualified community development entities (CDEs). In general a community development entity is an entity for which the primary mission is serving or providing investment capital for low-income communities or low-income persons.

The credit is equal to either 5% or 6% of the taxpayer's investment in a community development entity. However, for the investment itself to qualify, it must be acquired directly by the taxpayer at original issue for cash and be used to make qualified low-income community investments. The new markets tax credit is allocated an annual aggregate cap by §45D(f)(1). There was no allocated amount for calendar years after 2013.

The Act establishes an amount of $3.5 billion for calendar year 2014, thus extending the credit for one year.

§45G(f) | **Railroad track maintenance credit**

§45G allows an income tax credit for 50% of qualified railroad track maintenance expenditures paid or incurred during a taxable year. The credit is limited to $3,500 multiplied by the number of miles of track owned or assigned to the taxpayer. The Act extends the credit for one year.

The railroad track maintenance credit is available for expenditures made in tax years beginning before January 1, 2015.

§45K(g)(2)(E) | **Electricity production credit and nonconventional fuel production credit mutually exclusive for coke or coke gas produced using steel industry fuel**

§45K allows a credit for producing fuel from a nonconventional source if the fuel is sold to an unrelated person. Under prior law, the nonconventional fuel production credit was not allowed for any qualified fuel that was steel industry fuel if the electricity production credit under §45 was allowed to the same taxpayer for the fuel.

The Act amends the law to provide that the nonconventional fuel production credit is not allowed for any fuel that was steel industry fuel if the electricity production credit was allowed to any taxpayer for the fuel.

Effective for fuel produced and sold after September 30, 2008.

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

§45L(g) **New energy efficient home credit**

§45L allows an income tax credit for the construction of new energy efficient homes sold as residences. The credit is claimed under §38 by the taxpayer who constructed or manufactured the home.

The credit is equal to $2,000 for homes that consume 50% less energy for heating and cooling than a comparable unit; the credit is equal to $1,000 for homes that consume 35% less energy for heating and cooling than a comparable unit. The credit was available for homes acquired before January 1, 2014. The Act extends the credit for one year.

The new energy efficient home credit is available for homes acquired before January 1, 2015.

§45N **Mine rescue team training credit**

§45N allowed an income tax credit for amounts paid or incurred to train mine rescue teams. The credit equaled the lesser of $10,000 or 20% of the training program costs paid or incurred for training mine rescue employees. The Act extends the credit for one year.

The mine rescue team training credit is available for taxable years beginning before January 1, 2015.

§45P **Employer wage credit for employees who are active duty members of the uniformed services**

When an employee is called to active duty in the U.S. military and its employer voluntarily pays the difference between what the employer would have paid the employee and what the military pays the employee, §45P allowed eligible small businesses to claim a credit equal to 20% of the differential wage payments made. The credit applied to amounts paid before January 1, 2014.

The Act extends the credit for one year.

The differential wage credit is not available for amounts paid before January 1, 2015.

§48(a)(5)(C)(ii) **Election to claim energy credit in lieu of the electricity production credit extended**

For qualified property that is part of a qualified investment credit facility, taxpayers can make an irrevocable election to take a 30% energy credit under §48 rather than the electricity production credit under §45. This option was available for facilities under construction as of December 31, 2013. The Act extends the option for one year.

The election applies to qualified facilities the construction of which began before January 1, 2015.

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

§48(d)(3)(A) **Grant in lieu of §45 or 48 credit excluded from alternative minimum taxable income**

The IRS can provide a grant to people placing specified energy property in service to reimburse them for a portion of the expense. The grant program only applies to property placed in service during 2009, 2010, 2011, or after 2011 if before the credit termination date of the property but only if construction began during 2009, 2010, or 2011.

The Act states that these grants are excluded from alternative minimum taxable income.

Effective February 17, 2009.

§48C(b)(3) **Limitation on qualified investment for purposes of the qualifying energy project credit clarified**

For purposes of the §46 investment credit the qualifying advanced energy project credit for any tax year is an amount equal to 30% of the qualified investment for that tax year with respect to any qualifying advanced energy project of the taxpayer.

The Act clarifies that the amount treated as the qualified investment for all tax years for any qualifying advanced energy project cannot exceed the amount eligible for the §48C credit.

Effective February 17, 2009.

§50(a)(2)(e) **§50 QPE recapture rules apply to investment credit**

The Act provides that rules similar to the §50 qualified progress expenditures recapture rules apply to the advanced coal project credit, the gasification project credit, the qualifying energy project credit, and the therapeutic discovery project credit. This codifies the rules the IRS had previously applied.

Effective December 19, 2014.

§51(c)(4) **Work opportunity tax credit**

§51 allows employers to claim an income tax credit equal to 40% of qualified first-year wages paid to employees of a targeted group. Generally, targeted groups are veterans, ex-felons, rehabilitation referrals, summer youth employees, recipients of supplemental nutrition assistance or long-term family assistance, and recipients of social security. The Act extends the credit for one year.

The work opportunity tax credit is available for individuals who begin work before January 1, 2015.

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

§54E(c)(1) **Qualified zone academy bonds**

§54E allowed the sale and use of qualified zone academy bonds (QZABs). The bondholder receives a tax credit in lieu of interest payments, thus reducing the cost of borrowing to the issuer. To qualify a school must be a public school with standard curricula and must be in an empowerment zone or enterprise community. Specific requirements for QZABs provided in §54E. QZABs have historically been subject to an annual aggregate cap. The cap for calendar years beginning after December 31, 2013 was zero.

The Act authorizes a cap of $400 million for calendar year 2014. The Act also bars direct pay QZABs for years after 2010.

Effective for obligations issued after December 31, 2013.

§55(d)(4)(B) and (C) **Inflation adjustment to AMT exemption amount clarified**

Under the alternative minimum tax regime an inflation adjustment is applied to the exemption amount, the exemption amount phase-out thresholds, and the amount used to compute the tentative minimum tax.

The Act provides that the inflation adjustment does not apply to married individuals filing separately. The Act also provides that rounding to multiples of $100 applies to any increased amount, rather than to any increase, determined under the inflation adjustment.

Effective for tax years beginning after December 31, 2011.

The following provisions are operative for Hawaii income tax purposes.

62(a)(2)(D) **Above-the-line deduction for teachers' expenses**

§62(a)(2)(D) allows an above-the-line deduction of up to $250 for out-of-pocket expenses paid by kindergarten through 12th grade teachers for classroom-related expenses, including for books, computer equipment, and supplementary materials. The Act extends the deduction for one year.

Effective for tax years beginning before January 1, 2015.

§108(a)(1)(E) **Exclusion for discharge of indebtedness income on principal residence**

§108(a)(1)(E) allows taxpayers to exclude from income any discharge-of-indebtedness income resulting from discharge of qualified principal residence indebtedness. The Act extends the exclusion for one year.

Applies to indebtedness discharged before January1, 2015.

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

§§114 and 199 **Extraterritorial income exclusion transition rules**

As part of the repeal of §114 in 2004 the §101(d) transition rules were made applicable to transactions occurring in 2005 and 2006. This generated exclusions of approximately 80% of what would have been excluded under §114. §199 allows a deduction equal to 9% of the taxpayer's qualified production activities income for the tax year.

The Act amends the transition rule under §101(d) to provide that the transition rule is applied without regard to any §199 deduction allowed.

Effective for transactions occurring during 2005 and 2006.

The following provisions are operative for Hawaii income tax purposes.

§121(d)(12)(B) **Peace corps employees' election to suspend 5-year ownership and use period for exclusion of gain on sale of principal residence clarified**

A taxpayer can generally exclude a certain amount of the gain realized on the sale of a principal residence. Eligibility is based on owning and using the home as a principal residence for two of the past five years. Volunteers in the Peace Corps may elect to suspend the 5-year ownership and use period. The Act clarifies that the rules for Peace Corps volunteers are similar to the rules under §121(d)(9)(B) and (D).

Effective for tax years beginning after December 31, 2007.

§125(b)(2) **Key employee concentration test based on qualified benefits rather than statutory nontaxable benefits**

A cafeteria plan must pass the key employee concentration test to qualify for income exclusion. Previously, the test ensured that statutory nontaxable benefits to key employees did not exceed 25% of those benefits to all employees. Statutory nontaxable benefits are a subset of qualified benefits. The Act amends the test to ensure that qualified benefits to key employees do not exceed 25% of those benefits to all employees.

Effective December 19, 2014.

§125(h)(1) **Accident or health plans can provide for qualified reservist distributions**

Under the cafeteria plan rules, a special rule applies to unused benefits in health flexible spending arrangements (FSAs) of individuals called to active duty. The rule provides that a plan providing for qualified reservist distributions does not disqualify a plan from being treated as a cafeteria plan of health FSA.

The Act expands this rule to apply to the qualification rules for accident or health plans also.

Effective for distributions made after June 17, 2008.

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

§132(f)(2) **Parity between exclusion for employer-provided mass transit and parking benefits**

§132(f) allows the exclusion of certain employer-provided transportation related fringe benefits, including benefits for parking benefits and mass transit passes. Under the general rule, the maximum exclusion for parking benefits is $175 per month while the maximum exclusion for mass transit passes is $100. §132(f)(2) allows a temporary parity between the exclusion amount for mass transit benefits and the exclusion amount for parking benefits. The Act extends the parity treatment for one year.

The parity provision is applicable to months beginning before January 1, 2015.

The following provision is operative for Hawaii income tax purposes.

§163(h)(3)(E) **Premiums for mortgage insurance treated as qualified residence interest**

§163(h)(3)(E) allows mortgage insurance premiums paid in connection with acquisition indebtedness to be deducted as qualified residence interest, subject to a phase-out as adjusted gross income exceeds $100,000. The Act extends the deductibility of mortgage insurance premiums for one tax year.

The deduction is available for premiums paid or accrued before January 1, 2015.

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

§164(a)(6) and (b)(6) **Rules relating to the deduction for qualified motor vehicle taxes removed**

The Act removes the rules under §164 relating to the expired deduction for qualified motor vehicle taxes.

Effective December 19, 2014.

The following provisions are operative for Hawaii income tax purposes.

§164(b)(5) **Deduction for state and local general sales taxes**

§164(b)(5) allows an itemized deduction for state and local general sales taxes paid in lieu of an itemized deduction for state and local income taxes paid. The Act extends the availability of the deduction for one year.

Effective for taxable years beginning before January 1, 2015.

§168(e)(3)(A) **3-year depreciation for race horses two years or younger**

§168(e)(3)(A) allowed a 3-year cost recovery period for any race horse two years old or younger placed in service before January 1, 2014. For race horses placed in service after December 31, 2013 the section allows a 3-year cost recovery period for race horses that are more than two years old when placed in service. The Act extends the treatment for one year.

Effective for any race horse two years old or younger placed in service before January 1, 2015.

§168(e)(3)(E)(iv), (e)(3)(E)(v), and (e)(3)(E)(ix) **15-year depreciation for qualified leasehold, restaurant, and retail improvements**

§168(e)(3)(E) allows 15-year cost recovery periods for qualified leasehold improvement property, qualified retail improvement property, and qualified restaurant property. Generally, nonresidential real property is depreciated using a 39-year cost recovery period. The Act extends the applicability of the 15-year recovery periods.

Effective for property placed in service before January 1, 2015.

The following provisions are operative for Hawaii income tax purposes.

§168(e)(7)(B) and (e)(8)(D)	**Qualified restaurant property and qualified retail improvement property qualify for bonus depreciation and AMT depreciation relief at federal level**
	In general, "qualified property" is entitled to bonus depreciation and is exempt from the alternative minimum tax (AMT) depreciation adjustment under §168(k). The IRC specifically provides that qualified restaurant property and qualified retail improvement property are not qualified property for this purpose.
	The Act states that qualified restaurant property or qualified retail improvement property that is also not qualified leasehold improvement property is not qualified property for purposes of bonus depreciation and AMT depreciation relief. The Act thus means that qualified restaurant or retail improvement property that is also qualified leasehold improvement property is eligible for bonus depreciation and AMT depreciation relief.
	Although §168(e) is operative for Hawaii income tax purposes, bonus depreciation under §168(k) is not available for Hawaii income tax purposes.
	Effective for property placed in service after December 31, 2008.
§168(i)(15) and 168(e)(3)(C)	**7-year recovery period for motorsports entertainment complexes**
	§168(e)(3)(C) allows a 7-year cost recovery period for motorsports complexes as defined at §168(i)(15). The Act extends the 7-year recovery period for motorsports compexes.
	The 7-year cost recovery period is available for complexes placed in service before January 1, 2015.
§168(i)(18)(A)(ii)	**Class life for 10-year qualified smart electric meters and grid systems changed from 10 to 16 years**
	Qualified smart electric meters and qualified smart electric grid systems are specifically assigned a 10-year MACRS recovery period. However, a requirement for this recovery period is that the class life of the property not be less than 10 years, determined without regard to §168(e). The Act changes this requirement to require a class life of not less than 16 years without regard to §168(e).
	Applies to property placed in service after October 3, 2008.

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

§168(j)(8)	**Accelerated depreciation for business property on Indian reservations extended**
	§168(j) allows shortened recovery periods for property on qualified Indian reservations. The Act extends the shortened periods for property on qualified Indian reservations for one year.
	The shortened cost recovery periods are applicable to property placed in service before January 1, 2015.

§168(k)(2)(A)(iii), (k)(2)(A)(iv), (k)(2)(B)(ii), and (k)(2)(E)(i)

Bonus depreciation and alternative minimum tax relief extended

Taxpayers owning qualified property under §168(k) are generally allowed 50% bonus depreciation in the year the property is placed in service. Qualified property is also exempt from the alternative minimum tax depreciation adjustment. Qualified property is also allowed an $8,000 increase in the dollar limit on first year depreciation for passenger cars.

The requirements for qualified property are:

(1) The property must be of a qualifying type;
(2) The property must not be property required to be depreciated under the alternative depreciation system;
(3) The property must not be the subject of certain disqualifying transactions;
(4) The property's original use generally must begin with the taxpayer after December 31, 2007;
(5) The property must meet a timely placed in service requirement; and
(6) The property must meet a timely acquisition requirement.

The Act amends the timely placed in service and timely acquisition requirements to allow the above discussed rules to apply to property acquired and placed in service prior to January 1, 2015 (January 1, 2016 for aircraft and certain long production period property).

Effective for property placed in service before January 1, 2015 generally and for aircraft and certain long production period property placed in service before January 1, 2016.

§168(k)(2)(A)(iv)

Increased first year depreciation cap for cars that are qualified property extended

§280F(a) limits depreciation deductions allowable for passenger automobiles. However, §168(k)(2)(F) increases the limit by $8,000 for cars that are qualified property under §168 and are not subject to an election to decline the bonus depreciation and alternative minimum tax depreciation relief otherwise available for qualified property. The above rule was limited to property placed in service prior to January 1. 2014.

The Act amends the timely placed in service requirement to include property placed in service prior to January 1, 2015.

Effective for property placed in service before January 1, 2015.

§168(k)(2)(A)(iv), (k)(4)(D)(iii)(II), and (k)(4)(J)

Additional round of trading bonus depreciation and accelerated depreciation for deferred credits provided

A corporation can elect under §168(k)(4) to forego bonus and accelerated depreciation for eligible qualified property in exchange for the present allowance, as refundable credits, of otherwise deferred pre-2006 alternative minimum tax (AMT) and research credits.

The Act amends the placed in service date to allow an additional round of §168(k)(4) elections for property placed in service before January 1, 2015 and before January 1, 2016 for aircraft and certain long production period property. The Act defines property captured by this extension as round 3 extension property.

The Act provides special rules applicable to round 4 extension property. The Act excludes the research credit for round 3 extension property. Thus, only the applicable AMT credits are available for the additional round of elections. The Act requires that separate computations be made for round 4 extension property. The Act provides an election to opt out of §168(k)(4) treatment for round 4 extension property. Finally, the Act provides that if a taxpayer has not made a §168(k)(4) election prior to the Act, then a subsequent election can only apply to round 4 extension property.

Effective for property placed in service after December 31, 2013 and before January 1, 2015 and for aircraft and certain long production period property placed in service after December 31, 2014 and before January 1, 2015.

§168(k)(4)(E)(iv) **Definition of AMT credit increase amount clarified**

The AMT credit increase amount is relevant to calculating the amount of credits that can be traded for in exchange for foregoing bonus or accelerated depreciation.

The Act changes the definition of AMT credit increase amount to refer to adjusted net minimum tax rather than adjusted minimum tax. The change to the definition is only a clarification and conforms §168(k)(4)(E)(iv) to §53(b).

Effective for tax years beginning after March 31, 2008.

The following provision is operative for Hawaii income tax purposes.

§168(l) **Bonus depreciation allowance and alternative minimum tax depreciation relief for certain biofuel plant property**

§168(l) allows 50% bonus depreciation and the exemption from the alternative minimum tax (AMT) depreciation adjustment for second-generation biofuel plant property. The Act extends the 50% bonus depreciation for one year and AMT adjustment exemption.

The allowance is available for property placed in service before January 1, 2015.

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

§168(m)(2)(b)(i) **Double bonus depreciation benefit for qualified reuse and recycle property clarified**

Qualified reuse and recycle property is eligible for bonus depreciation and exemption from AMT depreciation adjustment. Previously, if §168(k) applied to reuse and recycle property it did not qualify for bonus depreciation or for the exemption from the AMT depreciation adjustment.

The Act amends §168(m) to provide that for making this determination §168(k) is applied without reference §168(k)(4). Thus property to which §168(k) applies is not qualified reuse and recycle property even if the taxpayer elects out under §168(k)(4).

Effective for property placed in service after August 31, 2008.

The following provisions are operative for Hawaii income tax purposes.

§170(b)(1)(E)(vi) **Special rules for qualified conservation easements contributed by individuals**

§170(b)(1)(E) allows a deduction for a qualified conservation contribution of up to 50% of the contribution base. In the case of a qualified farmer or rancher the limit is 100% of the contribution base. In general a qualified conservation contribution is of qualified real property to a qualified organization for conservation purposes. The contribution base is generally the adjusted gross income without any deduction for net operating loss carryback. The Act extended the special rule for one year.

The special rule is available for contributions made before January 1, 2015.

§170(b)(2)(B)(iii) **Special rules for qualified conservation easements contributed by corporate farmers and ranchers**

§170(b)(2)(B) allows corporate farmers and ranchers to take deductions for qualified conservation contributions up to 100% of their taxable income. To qualify a farmer must not be a publicly traded company and must derive more than 50% of its gross income from farming. The Act extends the special rule for one year.

The special rule is available for contributions made before January 1, 2015.

§170(e)(3)(C) **Above basis deduction for charitable contributions of food inventory**

§170(e)(3)(C) allows a business, whether or not a C corporation, a deduction for contribution of food inventory in excess of the basis of the property contributed. For businesses other than C corporations, such deductions cannot exceed 10% of the business's aggregate net income for that taxable year. The Act extends the special allowance for one year.

The special allowance is available for contributions made before January 1, 2015.

§179(b)(1), (2), (c)(2), (f) **Increased §179 limits extended**

§179 allows a taxpayer to treat the cost of qualified property that would otherwise be capitalized as an expense and thus deductible in full in the year placed in service. The allowable amount is capped and subject to phase-out as the cost of qualifying property exceeds a threshold. For previous taxable years the expensing limit was enhanced to $500,000 and the phase-out threshold to $2,000,000. The default expensing limit is $25,000 and the default phase-out threshold is $200,000.

§179(c)(2) allows a taxpayer to revoke the §179 election without the consent of the Secretary of the Treasury and any such revocation is irrevocable.

The Act extends the increased expensing limits and phase-out thresholds for one year. The Act also extends the taxpayer's power to unilaterally revoke a §179 election.

The enhanced expensing limit and phase-out threshold are available for taxable years beginning before January 1, 2015. The unilateral revocation of a §179 election is allowed for tax years beginning before January 1, 2015.

§179(d)(1)(A)(ii) **Eligibility of software for §179 election**

§179(d)(1)(A)(ii) defines §179 property to include computer software. The Act extends the inclusion of computer software as §179 property.

Effective for computer software placed in service in taxable years beginning before January 1, 2015.

The following provision is operative for Hawaii income tax purposes.

§179D(h) **Energy efficient commercial buildings deduction**

§179D allows a deduction for an amount equal to the cost of energy efficient commercial buildings. Generally, to qualify property must be depreciable property installed as part of interior lighting, heating, cooling, ventilation, or hot water systems or as part of the building envelope and as part of a plan to reduce energy and power costs. The Act extends the availability of the deduction for one year.

The deduction is available for property placed in service before January 1, 2015.

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

§179E(a) **Election to expense advanced mine safety equipment**

§179E allows a taxpayer to elect to deduct 50% of the cost of advanced mine safety equipment in the first year the property is placed in service. The Act extends the accelerated expensing of mine safety equipment for one year.

The election is available for property placed in service before January 1, 2015.

§181(f) **Expensing rules for certain film and television productions**

§181 allows a taxpayer to deduct the entire cost of qualified film or television productions. Costs eligible to be deducted are limited to $15,000,000 per film or television production. The limit is $20,000,000 for costs incurred in a low-income community or a distressed area. The Act extends the expensing allowance for one year.

The expensing allowance is available for costs of film or television productions commenced before January 1, 2015.

§199(b)(3) and (d)(8) **Allowance of §199 deduction for Puerto Rico activities retroactively restored and extended**

Taxpayers can take the domestic production activities deduction for various trade or business activities conducted in the United States. Under the "50% of W-2 wages limitation, the deduction cannot exceed 50% of the taxpayer's W-2 wages for the year. This is measured by including only wages paid during the calendar year ending during the taxpayer's tax year.

Generally, the Commonwealth of Puerto Rico is not treated as part of the United States. However, special rules treat Puerto Rico as part of the United States for purposes of this deduction.

The Act retroactively extends the treatment of Puerto Rico as part of the United States for purposes of the deduction to apply to tax years beginning before

January 1, 2015. The Act also requires the IRS to provide guidance on the application of the 50% of W-2 wages limitation for short tax years.

The deduction is available for taxpayers in Puerto Rico for tax years beginning before January 1, 2015. The new rulemaking authority granted to the IRS is effective for tax years beginning after December 31, 2004.

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

§222(e) **Deduction for qualified tuition and related expenses**

Individual taxpayers can deduct qualified tuition and related expenses paid for higher education by the taxpayer. Eligible expenses include tuition and fees for the taxpayer, the taxpayer's spouse, or any dependent of the taxpayer, at an eligible institution of higher education. The deduction is subject to caps based on the type of filer and must be reduced by tax free education assistance and exclusions from income under the rules for savings bond interest, Coverdell accounts, and qualified tuition programs. The deduction applied in tax years beginning before January 1, 2014.

The Act retroactively extends the qualified tuition deduction to apply to tax years beginning before January 1, 2015.

Effective for tax years beginning before January 1, 2015.

§280F(d)(8) and (10) **Application of definition and special rule in §280F depreciation limitation for luxury automobiles clarified**

§280F provides limitations on depreciation deductions for luxury automobiles. The section contains a definition of unrecovered basis and special rules for property acquired in a nonrecognition transaction. These provisions have been applied to the coordination rules under subsection (a)(2).

The Act amends §280F to apply the definition of unrecovered basis and the special rules for property acquired in a nonrecognition transaction directly to the determination of the limitation under subsection (a)(1) rather than only to the coordination rules under subsection (a)(2).

Effective December 19, 2014.

The following provision is operative for Hawaii income tax purposes.

§402A(c)(4)(E) **Distribution restrictions for "in-plan Roth rollovers" amended**

Generally, a taxpayer may contribute rollover distributions to certain retirement plans such as a 401(k) or 403(b) without including the rollover distributions in gross income. However, if the distributions are made to a Roth IRA account, the individual must include the distribution in gross income.

The Small Business Jobs Act of 2010 allowed "in-plan Roth rollovers". An in-plan Roth rollover is a taxable distribution from an individual's non-Roth account that is rolled over to his Roth account in the same plan. To be eligible, the distribution had to be an eligible rollover contribution otherwise allowed under the plan. In-plan Roth rollovers are not tax free; a distribution that would otherwise be included in gross income must still be included in gross income.

The American Taxpayer Relief Act of 2012 amended the restrictions to allow any amount not otherwise distributable under the plan to be transferred to a Roth account maintained for the individual's benefit and receive treatment as an in-plan Roth rollover. The American Taxpayer Relief Act of 2012 provided that a plan will not be treated as violating §§401(k)(2)(B)(i), 403(b)(7)(A)(i), 403(b)(11), 457(d)(1)(A), or 5 USC §8433 solely due to such a transfer.

The Act amends the section by removing reference to §403(b)(7)(A)(i) and inserting reference to §403(b)(7)(A)(ii). Thus, "in-plan Roth rollovers" may violate the §403(b)(7)(A)(i) restriction requiring that amounts held in a §403(b) custodial accounts be invested in stock of a regulated investment company while stating that such rollovers will not violate the §403(b)(7)(A)(ii) requirement that amounts held in §403(b) custodial accounts not be paid or made available to the participant until severance, death, disability, or age 59½.

Effective for transfers to designated Roth accounts made after December 19, 2014.

The following provisions are operative for Hawaii income tax purposes.

§408(d)(8)(F) **Deductibility of distributions from individual retirement accounts for charitable purposes**

§408(d)(8) allows taxpayers to deduct distributions received from Individual Retirement Accounts if the distributions are made directly to charity. The deduction is capped at $100,000 per taxable year. Deductible distributions are taken into account for purposes of the required minimum distribution rules as if they did not receive special treatment. The Act extends the deductibility for one year.

The exclusion applies to distributions made during taxable years beginning before January 1, 2015.

§412 **Deemed approval of shortfall funding method extended**

Multiemployer defined benefit plans are subject to various funding requirements. Plans must have a funding method which determines the amounts allocated to the plan for the year. Certain taxpayers can elect to use the "shortfall funding method" to determine the amounts. Under this method current amounts are generally lower but the difference, the shortfall, must be amortized over later plan years.

Generally, funding method changes must receive IRS approval. However, special rules deemed a plan's use of the shortfall method approved by the IRS if certain criteria are met. The Act extends the special rules for deemed approval to apply to plan years beginning after December 31, 2014.

Effective for all plan years beginning after December 31, 2014.

§431(d)(1)(C) **Automatic extension of amortization periods for multiemployer plans' unfunded liabilities extended**

A multiemployer plan can receive an automatic five-year extension of the amortization periods for unfunded liabilities if the sponsor applies with the IRS and includes a qualified certification by the plan's actuary. The Act extends the applicability of the automatic extension to applications submitted before January 1, 2016.

Effective for applications made before January 1, 2016.

§432 **Additional funding rules for plans in endangered or critical status extended**

Under the additional funding rules, multiemployer defined benefit plans must certify whether the plan is in endangered or critical status. If a plan is in such status, additional contributions are required. In addition, for plans in endangered status, an excise tax is imposed on the plan.

The Act extends the applicability of the additional funding rules and the excise tax on endangered plans to apply to plan years beginning before January 1, 2016.

Effective for plans years beginning before January 1, 2016.

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

§451(i)(3) **Election to defer gain on qualifying electric transmission transactions**

§451(i) allows qualified electric utilities to defer gain from qualifying electric transmission transactions to the extent the amount realized was used to purchase exempt utility property within four years of the sale. The deferral requires recognition over an 8-taxable year period beginning with the year of the sale. The Act extended the deferral election for one year.

The deferral is available for any transactions made before January 1, 2015.

The following provisions are operative for Hawaii income tax purposes.

§460(c)(6)(B)(ii) **Disregard of certain bonus depreciation in applying the percentage of completion method extended**

In general, under the percentage of completion method of accounting (PCM) used for long-term contracts, depreciation and other cost recovery allowances are taken into account as costs under the contract. Thus, increased depreciation leads to increased income for the tax year.

Certain modified accelerated cost recovery system (MACRS) property with a recovery period of 7 years or less is excluded from the calculation under the PCM rules. The Act extends the exclusion for one year to apply to property placed in service before January 1, 2015, and before January 1, 2016 for certain long production period property.

Note that while §460 is generally operative for Hawaii income tax purposes, §460(c)(6) refers to §168(k), which is not operative for Hawaii income tax purposes. Therefore, under section 235-2.5(a), HRS, §460(c)(6) is not operative for Hawaii income tax purposes.

Effective for property placed in service before January 1, 2015 and before January 1, 2016 for certain long production period property.

§512(b)(13)(E) **Exclusion from tax-exempt parent's unrelated business income of specified payments from controlled entity extended**

§512(b)(13) requires a tax-exempt parent to include specified payments from a 50% controlled subsidiary, either taxable or tax-exempt, in unrelated business taxable income (UBTI) to the extent the payments reduce the net unrelated income, or increase the net unrelated costs, of the controlled subsidiary.

§512(b)(13)(E) provides that only those amounts exceeding the payments that would have been made had the contract been at arm's length be included in the parent's UBTI. The section also imposes a penalty equal to 20% of the excess payment. The Act extends the special rules for one year.

The special rule at §512(b)(13)(3) is available for payments received or accrued before January 1, 2015.

§529(b)(4) **Twice-yearly investment changes may be made to 529 plans for tax years beginning after 2014**

§529 provides for qualified tuition plans which allow tax-favored prepayment of higher education expenses. Among various restrictions is one that prohibits any contributor or beneficiary from directing the investment of the contributions. Previous IRS guidance allowed once yearly changes to the investment plan without violating this restriction.

The Act amends the restriction to state that no contributor or beneficiary may direct the investment of the plan more than twice per calendar year.

Effective for tax years beginning after December 31, 2014.

§§529A, 26(b)(2)(Y), 877A, and 4965(c)(8), 4973(a)(6) and (h) **Achieving a Better Life Experience accounts established**

The Act provides for a new type of tax favored savings plan called ABLE accounts to assist in saving money for care of disabled individuals. The ABLE program must be established and maintained by a state. The money and growth within the account is tax exempt and withdrawals are tax exempt if used for qualified expenses. If not used for qualified expenses income tax applies as well as a 10% penalty.

Qualified ABLE programs were also added to the definition of "specified tax deferred account" under §877A for purposes of the expatriate mark-to-market rules.

§529A is operative for Hawaii income tax purposes, however, §§26, 4965, and 4973 are not operative for Hawaii income tax purposes.

Effective for tax years beginning after December 31, 2014.

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

§543(a)(1) **Dividends from controlled foreign corporations are not personal holding company income**

Distributions from controlled foreign corporations to domestic corporate shareholders were previously treated as personal holding company income to the extent the distributions were from earnings and profits that were not subpart F income. The Act provides that these distributions are not treated as personal holding company income for determining if the shareholder is a personal holding company.

Effective for tax years ending on or after December 19, 2014.

The following provision is operative for Hawaii income tax purposes.

§852(b)(8) and (c)(2), 4982(e)

Deferral of certain losses for RIC income and excise tax purposes amended

The 2010 RIC Modernization Act allowed regulated investment companies (RICs) to treat any qualified late-year loss as a loss arising on the first day of the next tax year for income tax purposes. A qualified late-year capital loss includes any post-October capital loss and any late-year ordinary loss. Late-year generally refers to the period after October 31. The treatment of certain gains and losses under the RIC excise tax were similarly amended in 2010.

The Act amends the definitions of post-October capital loss and late-year ordinary loss. Post-October capital loss means any net capital loss attributable to the portion of the tax year after October 31 or if there is none then any net long-term capital loss after October 31 or any net short-term capital loss after October 31. Late-year ordinary loss is amended to mean the sum of any post-October specified loss and any post-December ordinary loss.

Effective for deferral of late-year losses for income tax purposes in tax years beginning after December 22, 2010. The amendments to the RIC Modernization Act deferral rules to not apply to any elections made before December 19, 2014.

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

§853A

Pass-through of tax credit bond credits by RICs and REITs modified

Real estate investment trusts (REITs) and regulated investment companies (RICs) are able to pass their income to shareholders without an entity level tax and are also able to pass through the character of certain income items to their shareholders. A regulated investment company is allowed to pass through tax credits received from tax credit bonds to its shareholders. The IRS was required to provide similar rules for REITs.

The Act amends the rules that apply when tax credits from tax credit bonds are passed through to shareholders. Now, if the election is made, the RIC is treated as making one or more cash distributions to its shareholders. Previously the distributions were treated as interest. The RIC must include in its gross income the amount that would have been included in gross income if the election had not been made. Finally, the RIC must increase its earnings and profits, rather than its dividends paid deduction, by the amount of income included in gross income.

Effective for tax years ending after February 17, 2009.

The following provision is operative for Hawaii income tax purposes.

§855(a)(1)

RIC spillover dividend deadline amended

A regulated investment company (RIC) can elect to treat certain dividends paid after a tax year treated as paid during the tax year for purposes of the RIC's distribution requirements and taxable income. The dividends are taxed to shareholders in the year actually received. Previous law provided that the dividend had to be declared before the 15th day of the 9th month following the close of the tax year or the due date for filing if time for filing was extended.

The Act amends the timing to provide that the dividend must be declared on or before the 15th day of the 9th month following the close of the tax year or the due date for filing if time for filing was extended.

Effective for distributions made in tax years beginning after December 22, 2010.

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

§871(k)(1)(C) and (k)(2)(C) **Withholding-tax exemption for regulated investment company interest-related and short-term capital gains dividends paid to foreign persons retroactively extended**

The American Jobs Creation Act of 2004 allowed a regulated investment company (RIC) to pay interest-related dividends out of interest that generally would not be taxable if received by a foreign person and short-term capital gains dividends out of short-term capital gains. Such dividends were generally not taxable and not subject to withholding. The above treatment was extended multiple times to apply to dividends paid before January 1, 2013.

The Act retroactively extends the withholding tax exemption on certain interest-related and capital gains related dividends to apply to dividends paid before January 1, 2015.

Effective for tax years beginning before January 1, 2015.

§897(h)(4)(A)(ii) **Inclusion of regulated investment companies in definition of qualified investment entity extended for certain Foreign Investment in Real Property Tax Act purposes retroactively restored and extended**

A qualified investment entity (QIE) must generally withhold tax on a distribution to a foreign person or to another QIE to the extent the distribution is attributable to Foreign Investment Real Property Tax Act (FIRPTA) gain. FIRPTA gain is generally gain on United States Real Property Interests (USRPIs), and includes stock in United States real property holding corporations (USRPHCs). However, under the regularly traded exception, stock that is regularly traded is not a USRPI, and thus cannot generate FIRPTA gain, unless a foreign person holds more than 5% of that class of stock during the 5 year period before the disposition or the taxpayer's shorter holding period. Additionally, under the domestically controlled exception the stock of a domestically controlled QIE is not a USRPI.

§897(h)(4)(A)(i)(II) allows regulated investment companies (RICs) to qualify as QIEs if the RIC is a USRPHC or would be if the regularly traded exception and the domestically controlled exception did not apply. Thus, in general, gain on the sale of RIC stock is not FIRPTA gain and is not subject to tax or withholding. The inclusion of RICs in the definition of QIEs expired December 31, 2013.

The Act retroactively extends the inclusion of RICs in the definition of QIEs through December 31, 2014. The Act also amends the effective date for the expiration date provided in the 2008 Extenders Act by providing that inclusion of RICs as QIEs does not apply to §1445 withholding obligations on payments before October 4, 2008 and that even if a RIC withheld on amounts before October 4, 2008, the distributee cannot recover from the RIC any amounts withheld and paid to the IRS.

Effective January 1, 2014 through December 31, 2014. The modification to the expiration date in the 2008 Extenders Act is effective January 1, 2008.

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

§907(f)(4)(A) **Transition rules for pre-2009 foreign oil and gas extraction income credit carryovers amended**

For purposes of the foreign tax credit, foreign oil and gas extraction income (FOGEI) is subject to a special limitation. The limitation was the FOGEI multiplied by the tax rate for corporations or the precredit U.S. tax multiplied by the precredit tax over the entire taxable income. Amounts exceeding this limit were carried back one year or forward ten years and credited to the extent of an excess of FOGEI in that year.

These rules were expanded in 2008 to cover all foreign oil and gas taxes that could be taken into account for the foreign tax credit. A transition rule applied the 2008 Energy Act carryover rules to unused credits originating before that Act went into effect.

The Act amends the transition rules applying to pre-2009 credit years to provide that the pre-2008 Energy Act carryover rules apply to these carryovers.

Effective for tax years beginning after December 31, 2008.

§911(f)(1) **Foreign earned income exclusion amount reduced by disallowed deductions**

When a taxpayer claims a foreign earned income or foreign housing cost exclusion, the exclusion amount is reduced by any deductions or exclusions disallowed under §911(d)(6). This provision was known as the netting provision and was inadvertently deleted by the 2007 Technical Corrections Act.

The Act adds the netting provision back to §911(f)(1) by stating that the amount excluded by §911(a) is reduced by the amount of deductions or exclusions allowed under §911(d)(6) as to that excluded liability.

Effective for tax years beginning after December 31, 2006.

§911(f)(2)(B)(ii) **Correction to AMT when foreign earned income or housing exclusion is claimed**

The alternative minimum tax computation is modified when a taxpayer uses the exclusion for foreign earned income or foreign housing costs. The tax on nonexcluded income is increased by using the rate that would be used if both the excluded and nonexcluded income were taken into account.

The Act modifies the AMT calculation when a foreign earned income or foreign housing costs exclusion is taken by including the amount of taxable income that would otherwise be taxed at a rate below 39.6% over the sum of the amounts that are taxed at ordinary income rates or at the 0% capital gains rate.

Effective for tax years beginning after December 31, 2012.

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

§§953(e)(10) and 954(h)(9) — **Subpart F exception for active financing income retroactively restored and extended**

Subpart F of the Internal Revenue Code requires United States taxpayers who are 10% shareholders of a controlled foreign corporation (CFC) to include in income a pro rata share of the CFC's insurance income and adjusted net foreign base company income. §§953(e) and 954(h) allow multiple exemptions from the general inclusion of Subpart F. The exemptions applied to tax years of foreign corporations beginning before January 1, 2014 and for tax years of United States shareholders within which any such tax year of a foreign corporation ends.

The Act retroactively extends the exemptions to apply to tax years beginning before January 1, 2015 and for tax years of United States shareholders within which any such tax year of a foreign corporation ends.

Effective for tax years of foreign corporations beginning before January 1, 2015 and for tax years of United States shareholders within which any such tax year of a foreign corporation ends.

§954(c)(6)(C) — **Look-through treatment for payments between related controlled foreign corporations under foreign personal holding company income rules retroactively restored and extended**

Subpart F of the Internal Revenue Code requires United States taxpayers who are 10% shareholders of a controlled foreign corporation (CFC) to include in income a pro rata share of the CFC's subpart F income. For this purpose subpart F income does not include dividends and interest received from a related corporation from the same country or rents and royalties from a related corporation on property within the country the CFC is organized in.

Look-through treatment applied to dividends, interest, rents, and royalties received by one CFC from a related CFC and the payments were not subpart F income to the extent attributable to non-subpart F income or income that was not effectively connected with the conduct of a United States trade or business of the payor. The look-through treatment applied for tax years beginning before January 1, 2012.

The Act retroactively extends the look-through treatment for dividends, interest, rents, and royalties paid between related CFCs to apply to tax years beginning before January 1, 2015 and for tax years of United States shareholders within which any such tax year of a foreign corporation ends.

Effective for tax years of foreign corporations beginning before January 1, 2015 and for tax years of United States shareholders within which any such tax year of a foreign corporation ends.

The following provisions are operative for Hawaii income tax purposes.

§1012(c)(2)(B) — **RICs can elect to treat all stock held as covered securities without regard to acquisition date**

§1012(c)(2)(A) required any stock for which the average basis method was permissible and that was acquired before January 1, 2012 to be treated as a separate account from any stock acquired after January 1, 2012. The rule could be avoided if a fund made the single account election.

The Act provides that a regulated investment company (RIC) can make the single account election. If the election is made then stock acquired before and after January 1, 2012 will not be treated as separate accounts and all stock held by the RIC will be treated as covered securities without regard to the date it was acquired.

Effective for stock acquired before January 1, 2012.

§1012(d)(1) and (d)(3)(B)	**Basis rules for dividend reinvestment plans clarified** Basis in stock acquired in connection with a dividend reinvestment plan (DRP) after December 31, 2010 was determined using open-end fund rules. The Act modifies the rule for stock acquired in connection with a DRP after December 31, 2011. Basis in this stock is determined using the regulated investment company rules. Effective for stock acquired after December 31, 2011.
§1016(a)(37)	**Basis adjustment rule for certain electric motor vehicle credits corrected** §1016(a)(37) contains a list of adjustments to basis due to other code provisions, such as the electric motor vehicle credit. §1016(a)(37) refers to §30D(e)(4) for the basis reduction due to that credit. That credit's basis adjustment provision was renumbered to §30D(f)(1) by the 2009 Recovery Act. The Act updates the reference in §1016(a)(37) to refer to §30D(f)(1) rather than §30D(e)(4). Effective for vehicles acquired after December 31, 2009.

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

§1202(a)(4)	**100% gain exclusion for qualified small business stock retroactively extended** In general, noncorporate taxpayers can exclude 50% of gain realized on the sale of qualifying small business stock (QSBS) held for more than five years. Under special rules, noncorporate taxpayers can exclude 100% of gain realized on the sale of qualifying small business stock (QSBS) acquired before January 1, 2014. The Act retroactively restores the 100% exclusion of gain on QSBS of C corporations to apply to QSBS acquired before January 1, 2015. Note that §1202 is generally operative for Hawaii income tax purposes. However, §1202(a)(3) containing the temporary 75% exclusion of QSBS is not operative for Hawaii income tax purposes. Effective for stock acquired before January 1, 2015 for the 100% exclusion of QSBS gain.
§1367(a)(2)	**Rule that S corporation's charitable contribution reduces shareholder's basis only by contributed property's basis retroactively restored** Under a special rule, when an S corporation makes a charitable contribution the corresponding reduction in the shareholders' basis is limited to the basis of the property contributed and applied on a proportionate basis to each shareholder. The limitation applies to tax years beginning before January 1, 2014. The Act retroactively extends the limitation discussed above to apply to tax years

beginning before January 1, 2015.

Effective for contributions made in tax years beginning before January 1, 2015.

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

§1374(d)(7) **Application of S corporation built-in gains clarified and holding period extended**

In general, S corporations are taxed at the highest rate on gains attributable to built-in gain realized during the recognition period, first 10 years after a conversion from a C corporation. Under special rules, the recognition period was temporarily shortened to 7 years and then to 5 years.

The Act retroactively extends the shortened 5-year recognition period to apply to tax years beginning before January 1, 2015.

Note that §1374 is generally applicable for Hawaii income tax purposes. However, §1374(d)(7)(B) and (d)(7)(C), which allow the shortened recognition periods, are specifically deemed not operative for Hawaii income tax purposes.

Effective for tax years beginning after January 1, 2015.

§1391(d)(1)(A)(i) and (d)(1)(B) **Round 1 empowerment zone designation period retroactively restored and extended**

Certain distressed urban and rural areas can be designated as empowerment zones by state or local governments. Empowerment zones are eligible for a range of special tax incentives. The basic empowerment zone is a "Round 1" zone. Round 1 zones remained in effect until December 31, 2013 or a designated termination date, whichever is earlier, or until revoked.

The Act retroactively extends the effectiveness of Round 1 empowerment zones until December 31, 2014. Correspondingly the Act allows a Round 1 zone assigned a termination date contemporaneous with the statutory expiration date to amend the termination date.

Effective for periods before January 1, 2015.

§1397B(b)(1)(A)(iv) **Election to defer gain from sale of qualified empowerment zone assets clarified**

If a qualified empowerment zone (QEZ) asset held for more than one year is sold or exchanged and other QEZ assets are purchased within 60 days of the sale, the gain on the sale can be deferred. A QEZ asset is limited to qualified community stock, partnership interests, or qualified community tangible property acquired before January 1, 2010.

The Act amends acquisition date for a QEZ asset to require QEZ assets to be acquired before January 1, 2015.

Effective for periods after December 31, 2009.

APPENDIX: Expired Federal Tax Laws

This appendix lists the federal tax laws that expired during 2014. Expired tax laws are often extended retroactively. If extended retroactively they will be applicable to 2015 taxes. Also note that many of these expired tax laws were retroactively extended to apply to 2014 taxes, only to expire again later in 2014; for a discussion of these provisions, see the digest of the Tax Increase Prevention Act of 2014 above.

Code Section	Description
25C	Credit for certain nonbusiness energy property (energy efficient existing homes)
30A and 936	American Samoa economic development credit
30C(g)(2)	Alternative fuel vehicle refueling property (non-hydrogen refueling property)
40(b)(6)(H)	Second generation biofuel producer credit (formerly cellulosic biofuel producer credit)
40A; 6426; 6427	Incentives for biodiesel and renewable diesel
41	Tax credit for research and experimentation expenses
42(b)(2)	Low-income housing credit rate for credit allocations for non subsidized buildings
45(d) and 48(a)(5)	Beginning-of-construction date for renewable power facilities eligible to claim the electricity production credit or investment credit in lieu of the production credit
45(e)(10)(A)	Credit for production of Indian coal
45A(f)	Indian employment tax credit
45D(f)(1)	New markets tax credit
45G(f)	Credit for expenditures for maintaining railroad tracks
45L(g)	Credit for construction of new energy efficient homes
45N	Mine rescue team training credit
45P	Employer wage credit for activated military reservists
48(a)(5)(C)(ii)	Election to claim energy credit in lieu of the electricity production credit
51(c)(4)	Work opportunity tax credit
54E(c)(1)	Qualified zone academy bonds: allocation of bond limitation
62(a)(2)(D)	Deduction for certain expenses of elementary and secondary school teachers
108(a)(1)(E)	Discharge of indebtedness on principal residence excluded from gross income of individuals
132(f)	Parity for exclusion from income for employer-provided mass transit and parking benefits
142(d)	Treatment of military basic housing allowances under low-income housing credit
163(h)(3)	Premiums for mortgage insurance deductible as interest that is qualified residence interest
164(b)(5)	Deduction for State and local general sales taxes
168(e)(3)(A)	Three-year depreciation for race horses two years old or younger
168(e)(3)(E) and (e)(7)(A)	15-year straight-line cost recovery for qualified leasehold, restaurant, and retail improvements
168(i)(15) and 168(e)(3)(C)	Seven-year recovery period for motorsports entertainment complexes
168(j)(8)	Accelerated depreciation for business property on an Indian reservation
168(k) and 460(c)(6)(B)	Bonus depreciation and election to accelerate AMT credits in lieu of bonus depreciation
168(l)	Special depreciation allowance for second generation biofuel plant property

170(b)(1)(E) and (2)(B)	Special rules for contributions of capital gain real property made for conservation purposes
170(e)(3)(C)	Enhanced charitable deduction for contributions of food inventory
179(b)(1), (2), (d), and (f)	Increase in expensing to $500,000/$2,000,000 and inclusion of software as §179 property
179D(h)	Energy efficient commercial buildings deduction
179E(a)	Election to expense 50% of advanced mine safety equipment
181(f)	Special expensing rules for certain film and television productions
199(d)(8)	Deduction with respect to income attributable to domestic production activities in Puerto Rico
222(e)	Deduction for qualified tuition and related expenses
408(d)(8)	Tax-free distributions from individual retirement plans for charitable purposes
451(i)	Special rule for sales or dispositions to implement Federal or State electric restructuring policy
460(c)(6)(B)(ii)	Disregard of certain bonus depreciation in applying the percentage of completion method
512(b)(13)(E)	Modification of tax treatment of certain payments to controlling exempt organizations
871 and 881	Treatment of certain dividends of regulated investment companies ("RICs")
897(h)(4)	RIC qualified investment entity treatment under the FIRPTA
953 and 954	Exceptions under subpart F for active financing income
954(c)(6)	Look-through treatment applied to CFCs under the foreign personal holding company rules
1202(a)(4)	Special rules for qualified small business stock
1367(a)(2)	Basis adjustment to stock of S corporations making charitable contributions of property
1374(d)(7)	Reduction in S corporation recognition period for built-in gains tax
1391; 1394; 1396; 1397A; and 1397B	Empowerment zone tax incentives
6426 and 6427	Incentives for alternative fuel and alternative fuel mixtures (other than liquefied hydrogen)
7652(f)	Temporary increase in limit on cover over of rum excise tax revenues to Puerto Rico and the Virgin Islands