Digest of Tax Measures

Prepared by the State of Hawaii
Department of Taxation
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This digest summarizes the federal tax laws enacted during calendar year 2017 and through February 9, 2018. It 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.

This digest is issued solely as a guide and is not intended to be either authoritative or complete. Coverage of Hawaii tax laws enacted during the 2018 regular session may be found at the Department of Taxation website at http://tax.hawaii.gov. Hawaii bills and acts can be viewed on the State Capitol website at http://capitol.hawaii.gov.

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Disaster Tax Relief and Airport and Airway Extension Act of 2017

(P.L. No. 115-63; September 29, 2017)

CODE SECTION	DESCRIPTION OF PROVISION
	The following provisions are NOT operative for Hawaii income tax purposes.
§38; non-code section	**Disaster-Related Employment Relief** The Act creates a credit for businesses that could not operate due to Hurricanes Harvey, Irma, and Maria but that retained their employees. The credit is equal to 40% of the wages paid during the time the business was inoperable. The credit is part of the general business credit under section 38. Effective for wages paid after September 16, 2017 and before January 1, 2018.
§72(t); non-code section	**Suspension of 10% early withdrawal penalty** The Act permits individuals whose principal home was in a hurricane disaster area to access retirement funds without incurring the 10% tax on early withdrawals. The Act further allows recontribution, without penalty, of first-time homebuyer distributions if a hurricane prevented the purchase or construction of the home. Hawaii does not conform to the 10% penalty. Effective for withdrawals made on or after August 23, 2017 and before January 1, 2019.
§170; non-code section	**Suspension of Charitable Donation Limitations** The Act suspends the limitations on deductibility of charitable contributions if the contributions are for relief efforts in the hurricane disaster area. The taxpayer must elect the special treatment and the recipient charitable organization must provide written confirmation that the contributions are for relief efforts. Private foundations, supporting organizations, and donor-advised funds are excluded as eligible recipients. Effective for contributions made after August 22, 2017 and before January 1, 2018.
§§170 and 68	**Exception to overall limitation on itemized deductions** The Act provides that any contributions that are for relief efforts in the hurricane disaster area are not treated as itemized deductions and thus are not subject to the overall limit on itemized deductions under section 68. Effective for contributions made after August 22, 2017 and before January 1, 2018.

Non-code section	**Recontributions of withdrawals** The Act allows for the recontribution of hardship withdrawals or qualified first-time home buyer distributions taken for purchase of a home that was not completed because of one of the hurricanes. Effective for distributions received after February 28, 2017 and before September 21, 2017.
Non-code section	**Loans from qualified plans** The Act increases the amount qualified plans may loan to qualified individuals from $50,000 to $100,000. The Act also allows for repayment of these loans over a 6-year period rather than the usual 5-year period. Effective for loans made on or after September 29, 2017 and before January 1, 2019.
Non-code section	**Casualty losses** The Act waives the requirement that casualty losses exceed 10% of adjusted gross income to be deductible. Such losses still must exceed $500. The Act also increases the taxpayer's standard deduction by the net disaster loss. Effective for losses arising on or after the date of the hurricane and attributable to the hurricane.
Non-code section	**Special rule for determining earned income** The Act provides a special rule for calculating earned income for purposes of the earned income tax credit and refundable portion of the child tax credit. The Act allows a qualified individual to use the previous year's earned income if the current year's earned income is lower than the previous year's. Effective for the individual's tax year which includes the date of the hurricane.

To Provide the Reconciliation Pursuant to Titles II and V of the Concurrent Resolution on the Budget for Fiscal Year 2018 (Tax Cuts and Jobs Act)

(P.L. No. 115-97; December 22, 2017)

CODE SECTION	DESCRIPTION OF PROVISION
The following provisions are NOT operative for Hawaii income tax purposes.	
§1	**Individual income tax brackets** The Act amended the tax rates and bracket structure. The Act also amended the capital gains rates and bracket structure.

The Act applies the rates applicable to trusts and estates to the unearned income of a child and applies the rates applicable to an unmarried individual to the earned income of a child.

The Act indexed all income thresholds to the Chained Consumer Price Index for All Urban Consumers instead of to the Consumer Price Index.

The tax rates and brackets amendments are effective for tax years beginning after December 31, 2017 and before January 1, 2026. The change to the inflation adjustment applies to all tax years beginning after December 31, 2017.

§1 Surrogate foreign corporations not eligible for reduced rate on dividends

The Act disallows long-term capital gain treatment of dividends received from a corporation that first becomes a surrogate foreign corporation after December 22, 2017.

Effective for dividends received after December 22, 2017.

§§11 and 1561 Reduction in corporate tax rate

The Act lowers the corporate tax rate to 21% for all levels of income. The Act repeals the maximum corporate tax rate on net capital gain. The Act also provides for the treatment of excess tax reserves.

The Act also reduces the dividends received deduction to reflect the lower corporate tax rate. The general rate is now 50% and the rate for dividends received from a 20% owned corporation is now 65%.

Effective for taxable years beginning after December 31, 2017.

§24 Child tax credit

The Act increases the credit from $1,000 to $2,000 per qualifying child. The Act allows a nonrefundable credit of $500 per additional dependent that is not a qualifying child. Social security numbers must be provided to claim the credit for a qualifying child but not for the $500 credit for a dependent.

The Act decreases the earned income threshold for refundability from $3,000 to $2,500 and caps the refundable amount at $1,400 (indexed for inflation). The credit is phased out beginning at $400,000 of adjusted gross income for joint filers and $200,000 for other filers.

Effective for taxable years beginning after December 31, 2017 and before January 1, 2026.

§§45C, 280C Orphan drug credit

The Act lowers the rate of the orphan drug credit from 50% to 25% of qualified clinical testing expenses.

Effective for amounts paid or incurred in taxable years beginning after December 31, 2017.

§45S **Credit for paid family and medical leave**

The Act creates a new credit as part of the general business credit. The credit is for employers and is equal to 12.5% of wages paid to employees on paid family or medical leave. To be eligible for the credit, the employer must allow at least two weeks annual paid family and medical leave and the wage paid must be at least 50% of the normal wage paid. The 12.5% credit is increased by 0.25 percentage points for each percentage point that the wage paid exceeds 50%, to a maximum credit of 25%.

Effective for wages paid in taxable years beginning after December 31, 2017. The credit sunsets after 2019.

§47 **Rehabilitation credit**

The Act limits the rehabilitation credit by limiting the properties that qualify. The credit is 20% of the certified rehabilitation expenditures for certified historic buildings. Additionally, the credit must be taken over a 5-year period. The Act repeals the 10% credit on pre-1936 buildings.

Effective for amounts paid or incurred after December 31, 2017.

§§53, 55, 56, 57, 58, and 59 **Corporate Alternative Minimum Tax**

The Act repeals the corporate alternative minimum tax and allows existing alternative tax credit carryforwards to be used against regular tax liability or to be claimed as refunds at 50% beginning in 2018.

The corporate alternative minimum tax in this form is not operative for Hawaii income tax purposes. Please see section 235-71.5, Hawaii Revised Statutes (HRS), for Hawaii's alternative tax for corporations.

Effective for tax years beginning after December 31, 2017.

§§54, 54A, 54B, 54C, 54D, 55E, 54F, 54AA, 6431 **Tax credit bonds**

Tax credit bonds pay tax credits rather than interest payments. The Act repeals the rules allowing tax credit bonds. Existing bonds will be honored, but no new tax credit bonds will be issued.

Effective for bonds issued after December 31, 2017.

§55 **Individual Alternative Minimum Tax**

The Act increases the alternative minimum tax exemption to $109,400 for joint filers and $70,300 for all other individual taxpayers. The Act also increases the phaseout threshold to $1,000,000 for joint filers and $500,000 for other individual filers.

Effective for taxable years beginning after December 31, 2017 and before January 1, 2026.

§59A **Tax on base erosion payments**

The Act imposes a tax called the base erosion minimum tax amount. The tax applies to certain corporations that have 3-year average annual gross receipts of at least $500,000,000 that also have a base erosion percentage of 3% or higher.

The tax is equal to 10% of the modified taxable income less the taxpayer's regular tax liability. For this purpose, the taxpayer's regular tax liability is reduced by the amount that credits claimed exceed the research credit claimed plus 80% of the other credits claimed under section 38, or the base erosion minimum tax amount, whichever is lesser.

Modified taxable income is the taxable income calculated without regard to base erosion payments, which is defined as certain payments to related foreign parties.

Effective for amounts paid or accrued after December 31, 2018.

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

§63 **Standard deduction**

The Act increases the standard deduction to $24,000 for those filing jointly, $18,000 for those filing as head of household, and $12,000 for all other filers. The thresholds are indexed to the Chained Consumer Price Index for All Urban Consumers instead of to the Consumer Price Index.

The increased standard deductions are effective for tax years beginning after December 31, 2017 and before January 1, 2026. The change to the inflation adjustment applies to all tax years beginning after December 31, 2017.

The following provisions are operative for Hawaii income tax purposes.

§67 **Miscellaneous itemized deductions**

The Act suspends all miscellaneous itemized deductions that are subject to the 2% floor. For Hawaii income tax purposes, the miscellaneous itemized deductions subject to the 2% floor are not suspended.

Effective for taxable years beginning after December 31, 2017 and before January 1, 2026.

§68 **Overall limitation on itemized deductions**

The Act suspends the overall limit on itemized deductions. Under prior law the total amount of itemized deductions was limited by 3% of the amount that adjusted gross income exceeded certain thresholds. For Hawaii income tax purposes, the overall limit on itemized deductions is not suspended.

Effective for tax years beginning after December 31, 2017 and before January 1, 2026

§§72(t) and 165 **Disaster relief for 2016 disaster areas**

The Act waives the 10% penalty for early withdrawals from a retirement plan if the withdrawal was made between January 1, 2016 and January 1, 2018 and was for mitigation of loss from a disaster declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act during 2016.

The Act also waives the 10% adjusted gross income floor for deduction of disaster losses that exceed $500. Applies to taxable years beginning after December 31, 2015 and before January 1, 2018.

Effective December 22, 2017.

§83 **Qualified equity grants**

The Act makes various changes to the current rules for employee stock options. The Act provides an election to defer tax on stock options received until the earlier of 5 years of receipt or the time the stock becomes tradable on a securities market. If such an election is made, the option is treated as a nonqualified stock option for FICA purposes. At least 80% of the employees must be receiving stock options in order for the company's stock options to be eligible. In addition, the Act provides that section 83(b) elections cannot be made on restricted stock units.

Effective for options exercised or restricted stock units settled after December 31, 2017.

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

§§103 and 149 **Advance refunding bonds**

The Act repeals the exclusion from gross income for interest on a bond issued to refund another bond.

Effective for advance refunding bonds issued after December 31, 2017.

The following provisions are operative for Hawaii income tax purposes.

§108(f) **Discharge of student loan indebtedness**

The Act excludes income from discharge of student loan debts from taxable income if the discharge is due to the death or total and permanent disability of the student.

Effective for taxable years beginning after December 31, 2017 and before January 1, 2026.

§112 **Combat pay for those serving in the Sinai Peninsula**

The Act extends combat zone tax benefits to those stationed in the Sinai Peninsula.

Effective beginning June 9, 2015, except that the withholding exemption applies to remuneration paid after December 22, 2017. The changes are not effective for taxable years beginning after December 31, 2026.

§118 **Contributions to capital**

In general, gross income does not include a contribution to capital. The Act provides that any contribution in aid of construction or any other contribution as a customer or individual or potential customer and any contribution by any governmental entity or civic group are not contributions to capital and thus are includable in gross income.

Effective for contributions made after December 22, 2017, except for governmental contributions pursuant to a master development plan approved before December 22, 2017.

§132 **Qualified bicycle reimbursements**

The Act suspends the exclusion from gross income for qualified bicycle commuting reimbursements. For Hawaii income tax purposes, the exclusion of qualified bicycle commuting reimbursements is not suspended.

Effective for tax years beginning after December 31, 2017 and before January 1, 2026.

§132 **Qualified moving expense reimbursement**

The Act suspends the exclusion from gross income for moving expense reimbursements except for those on active duty who move pursuant to military orders. For Hawaii income tax purposes, the exclusion of moving expense reimbursements is not suspended.

Effective for tax years beginning after December 31, 2017 and before January 1, 2026.

§§134 and 217 **Moving expense deduction**

The Act suspends the deduction for moving expenses. For Hawaii income tax purposes, the moving expense deduction is not suspended.

Effective for tax years beginning after December 31, 2017 and before January 1, 2026.

§§139G and 247 **Alaska native corporations and settlement trusts**

The Act allows an Alaska Native Corporation to exclude from its gross income certain payments from the Alaska Native Claims Settlement Act that are assigned to an Alaska Native Settlement Trust.

The Act also allows an Alaska Native Corporation to deduct its contributions to a Native Settlement Trust, up to its income.

The income exclusion provision is effective for taxable years beginning after December 31, 2016. The deductibility of contributions is effective for tax years for which the refund statute of limitations is open. In addition, there is a 1-year waiver of the refund statute of limitations applicable if the period expires earlier than 1 year after December 22, 2017.

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

§§151, 152, 153, 3402 **Personal exemptions**

The Act suspends the deduction for personal exemptions by making the exemption amount equal to $0.

Effective for tax years beginning after December 31, 2017 and before January 1, 2026.

The following provisions are operative for Hawaii income tax purposes.

§162 **Deduction for living expenses of members of Congress**

Members of Congress are deemed to live in the district or state they represent and under prior law could deduct up to $3,000 of their living expenses while away from home. The Act suspends the deduction for living expenses of members of Congress.

Effective for taxable years beginning after December 22, 2017.

§162 **Deduction for FDIC premiums**

The Act limits the full deduction for FDIC premiums to institutions with consolidated assets of $10 billion or less. The Act eliminates any such deduction for institutions with consolidated assets of $50 billion or more. Institutions with consolidated assets between $10 and $50 billion can deduct premiums but only as reduced by the applicable percentage. The applicable percentage is the ratio that the institution’s consolidated assets in excess of $10 billion bear to $40 billion.

Effective for taxable years beginning after December 31, 2017.

§162 **Local lobbying expense deduction**

The Act repeals the exception from the blanket denial of deduction for lobbying expenses that allowed the deduction of local lobbying expenses. Lobbying expenses for lobbying local governments or Indian tribal governments are no longer deductible.

Effective for amounts paid or incurred after December 22, 2017.

§162 **Denial of deductions for confidential sexual harassment or sexual assault settlements**

The Act denies deductions for any settlement amount related to a sexual harassment or abuse settlement if the payment is subject to a nondisclosure agreement.

Effective for amounts paid or incurred after December 22, 2017.

§162 **Deduction for fines and penalties**

The Act provides exceptions to the blanket denial of deductions for fines and penalties for amounts paid as taxes due, amounts paid as restitution, and amounts paid to come into compliance with any law. For Hawaii income tax purposes, the exceptions to the blanket denial of deductions for fines and penalties are not operative.

Effective for amounts paid or incurred after December 22, 2017, unless pursuant to an agreement entered into before that date.

§162(m) **Excessive employee remuneration**

There are exceptions to the limits on deductibility of excess compensation for commissions and performance-based compensation. The Act repeals those exceptions. The Act expands the list of covered employees to include the CEO, CFO, and three highest paid employees. The Act deems an individual who is a covered employee to forever be a covered employee of that company.

Effective for taxable years beginning after December 31, 2017, with an exception for written binding contracts effective on November 2, 2017 and not materially altered after that date.

§163 **Interest**

The Act limits the deductibility of business interest to the sum of the business interest income, the floor plan financing interest, and 30% of the adjusted taxable income of the taxpayer. Any interest deduction disallowed can be carried forward.

The Act exempts businesses with average annual gross receipts of $25,000,000 or less from the disallowance of the 30% adjusted taxable income limit on the deduction for business interest.

Effective for taxable years beginning after December 31, 2017.

§163(h)(3) **Home mortgage interest**

The Act limits the home mortgage interest deduction to only allow interest on mortgages up to $750,000. The Act suspends the deduction for home equity indebtedness. For Hawaii income tax purposes, the home mortgage interest deduction will remain available, but the limitations imposed by the Act will not apply.

Effective for tax years beginning after December 31, 2017 and before January 1, 2026. The Act exempts mortgages or binding written contracts entered into before December 15, 2017 from the new limit and allows interest on refinanced debt to qualify as long as the resulting debt does not exceed the refinanced debt.

§164 **State and local taxes**

The Act limits the state and local tax deduction to $10,000 per year. This limit applies to property taxes not related to a trade or business and to income, war profits, and excess profits taxes. The Act also disallows the deduction of sales taxes unless related to a trade or business.

For Hawaii income tax purposes, the limit on the deductibility of state and local taxes is not operative.

Effective for tax years beginning after December 31, 2017 and before January 1, 2026. For purposes of the limits, taxes will be treated as paid on the last day of the taxable year for which the tax is imposed.

§165 Personal casualty losses

The Act disallows deductions for personal casualty losses except in the case of a disaster declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act. For Hawaii income tax purposes, the requirement that the losses be due to a presidentially declared disaster is not operative.

Effective for tax years beginning after December 31, 2017 and before January 1, 2026.

§165(d) Limitation on wagering losses

The Act includes all otherwise deductible expenses connected to an individual's gambling activity in the definition of "losses from wagering transactions" and thus limits the deduction of those expenses by gambling winnings.

Effective for tax years beginning after December 31, 2017.

§168(e) Recovery period for real property and use of ADS for electing farm businesses

The Act consolidates qualified leasehold improvements, restaurant improvements, and retail improvements into one category of qualified improvement property, which is simply any improvement to an interior portion of a building which is nonresidential real property.

The Act also requires a real property trade or business electing out of the limit on interest deductions to use the alternative depreciation system (ADS) for its nonresidential real property, residential rental property, and qualified improvement property. The Act shortens the ADS period from 40 years to 30 years.

The Act requires electing farming businesses to use ADS for property with a recovery period of 10 years or more.

Effective for property placed in service after December 31, 2017, and to taxable years beginning after December 31, 2017.

§168(e)(3) and (b)(2) Depreciation of certain farm property

The Act shortens the recovery period for machinery used in a farming business from 7 years to 5 years. The Act repeals the requirement that the 150% declining balance method be used for 3, 5, 7, and 10 year property.

Effective for property placed in service after December 31, 2017.

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

§168(k) Bonus depreciation

The Act increases the amount allowed as bonus depreciation deductions to 100% of the cost of property. For property placed in service after December 31, 2022 the allowed bonus depreciation deduction is reduced, eventually to 20% for property placed in service after December 31, 2025.

Effective for property placed in service after September 27, 2017.

The following provisions are operative for Hawaii income tax purposes.

§170 Charitable contributions

The Act increases the limitation on deducible charitable contributions from 50% of adjusted gross income to 60%. Effective for tax years beginning after December 31, 2017 and before January 1, 2026.

The Act disallows the deduction for contributions made to gain rights to purchase college athletic tickets. Effective for tax years beginning after December 31, 2017.

The Act also repeals the written acknowledgement requirement for contributions of $250 or more if the recipient must file and report the donation. Effective for tax years beginning after December 31, 2016.

§172 Net operating loss deduction

The Act limits the net operating loss (NOL) deduction to 80% of taxable income. The Act allows indefinite carryovers of NOL deductions but repeals the 2-year carryback allowance, except for certain farming losses and property and casualty insurance companies.

The change allowing indefinite carryovers applies to losses arising in taxable years ending after December 31, 2017. The limit to the NOL deduction applies to losses arising in taxable years beginning after December 31, 2017.

§174 Research and experimental expenditures

The Act requires taxpayers to amortize domestic research and experimental expenditures over a 5-year period (15-year period for foreign expenditures). The Act thus disallows the choice between deducting expenses currently or amortizing them over a 5-year period.

Effective for amounts paid or incurred in taxable years beginning after December 21, 2021.

§179 Section 179 expensing

Section 179 allows full expensing of certain property, subject to a maximum annual amount and a phase-out above a total capital investment threshold. The Act increases the total amount allowed to be expensed annually to $1,000,000 and increases the phase-out threshold to $2,500,000. The Act also makes minor changes to the definitions of qualifying property.

Note that section 179 is operative for Hawaii income tax purposes but the maximum annual amount and threshold amount are fixed at $25,000 and $250,000, respectively.

Effective for taxable years beginning after December 31, 2017.

§199 **Domestic production activities deduction**

The Act repeals the domestic production activities deduction. The prior deduction was worth 9% of the taxpayer's qualified domestic production activities income or taxable income, whichever is lower.

Effective for taxable years beginning after December 31, 2017.

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

§§199A, 1, 701, 1366, and 1402 **Pass-through income of individuals**

The Act allows individual taxpayers to deduct 20% of "qualified business income" received from partnerships, S corporations, or sole proprietorships. The Act also allows a 20% deduction for certain dividends received. The deduction is subject to phase-out based on W-2 wages.

Effective for taxable years beginning after December 31, 2017.

The following provision is operative for Hawaii income tax purposes.

§§213 and 105 **Medical expense deduction**

The Act allows the medical expense deduction to all taxpayers if the expenses exceed 7.5% of adjusted gross income.

Effective for taxable years beginning after December 31, 2016.

§§215, 61, and 71 **Treatment of alimony payments**

The Act reverses the treatment of alimony payments. Alimony payments are no longer deductible by the payor. Alimony received is no longer included in the income of the payee.

Effective for divorces and separation agreements executed after December 31, 2018 or modified after that date if the agreement makes these rules effective.

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

§§245A, 246(c), 902, 904(b)(5), 961, 964, 1248, 367, and 91 **Deduction for foreign-source portion of dividends and participation exemption system**

The Act provides a 100% deduction for foreign-source dividends received by a 10% owned foreign corporation. The Act requires the domestic corporation to hold the 10% interest in the foreign corporation for at least 1 year to receive the dividends received deduction.

The Act disallows the foreign tax credit or deduction for foreign taxes paid for any taxes paid or accrued on a dividend that qualifies for the 100% deduction. The

Act repeals the section 902 indirect foreign tax credit for U.S. corporations owning 10% or more of a foreign corporation.

The Act makes various conforming amendments related to the 100% deduction of dividends received from 10% owned foreign corporations.

Effective for distributions and deductions made after December 31, 2017.

§250 **Deduction for foreign-derived intangible income and global intangible low-taxed income**

The Act allows a deduction equal to 37.5% of foreign-derived intangible income (FDII) plus 50% of the global intangible low-taxed income (GILTI) that is included under section 951A or that is treated as a dividend under section 78 and attributable to GILTI. The deduction, together with the 21% corporate tax rate, is designed to yield a rate of 12.125% on FDII and 10.5% on GILTI.

Effective for taxable years beginning after December 31, 2017 and before January 1, 2026.

The following provisions are operative for Hawaii income tax purposes.

§263A(d)(2) **Expensing of costs of replanting of citrus trees**

The Act expands the parties, other than the taxpayer, allowed to deduct replanting costs for lost or damaged citrus plants. The provision allows any interest holder to deduct costs if the taxpayer holds an equity interest of at least 50%. The Act also allows a different party to deduct costs if the other party acquires all the taxpayer's equity interest in the land.

Effective for costs paid or incurred after December 22, 2017 and before December 22, 2027.

§263A(f) **Exempt aging period from UNICAP rules related to interest**

Taxpayers are required to capitalize interest paid or incurred during a product's production period. For products that are typically aged, the production period includes the aging period.

The Act excludes the aging periods of beer, wine, and distilled spirits from the determination of the production period for purposes of capitalizing interest expenses.

Effective for interest costs paid or accrued in calendar years beginning after December 31, 2017 and before January 1, 2020.

§263A(i) **Uniform capitalization of certain expenses**

The Act adds an exemption from the uniform capitalization rules for businesses whose average annual gross receipts over the prior 3-year period is $25,000,000 or less.

Effective for taxable years beginning after December 31, 2017.

§267A **Hybrid transactions and hybrid entities**

The Act denies a deduction for any disqualified related party amount paid or accrued pursuant to a hybrid transaction or to a hybrid entity. Related party is determined under section 954(d)(3). Related party amounts are amounts paid to related parties which are either not included in income in the related party's home jurisdiction or for which there is a deduction in the related party's home jurisdiction.

Effective for taxable years beginning after December 31, 2017.

§§274 and 74 **Employee achievement awards**

In general, an employer can deduct the cost of an employee achievement award and the value of the award is not included in the employee's income.

The Act disallows the exclusion and deduction if the award consists of cash, gift certificates, vacations, meals, lodging, tickets to theatre or sporting events, stocks, bonds, securities, or other similar items.

Effective for amounts paid after December 31, 2017.

§274 **Entertainment expenses**

The Act repeals the 50% deduction for entertainment expenses but retains the 50% deduction for food and beverage expense that is related to a taxpayer's trade or business. The Act also expands the applicability of the 50% limitation to expenses of providing food and beverages to employees through an eating facility that qualifies as a de minimus fringe.

The Act also disallows the deduction for providing qualified transportation fringe benefits and for providing transportation for commuting.

The Act disallows the deduction for expenses of providing meals for the convenience of the employer on the employer's premises or nearby through an employer-operated facility, effective for taxable years beginning after December 31, 2025.

Section 274 is generally operative for Hawaii income tax purposes, however, the suspension of the deduction for entertainment expenses is not operative for Hawaii income tax purposes. Entertainment expenses remain deductible for Hawaii income tax purposes.

Effective for amounts paid or incurred after December 31, 2017.

§280F **Depreciation deductions for automobiles**

The Act increases the depreciation limits applicable to passenger automobiles. The new limits are $10,000 for the year the vehicle is placed in service, $16,000 for the second year, $9,600 for the third year, and $5,760 for subsequent years, indexed for inflation.

The Act also removes computer or peripheral equipment from the definition of listed property.

Effective for property placed in service after December 31, 2017.

§402 **Deadline for rollover of qualified plan loan offsets**

The Act extends the time during which a taxpayer may treat a qualified plan loan offset as a rollover contribution to another account. The deadline is now the due date of the income tax return for the year in which the offset occurs.

Effective for plan loan offsets treated as distributed in taxable years beginning after December 31, 2017.

§408A(d) **Recharacterization of Roth and traditional IRAs**

The Act provides that recharacterization cannot be applied to a conversion contribution to a Roth IRA. This means that recharacterization cannot be used to undo a conversion to a Roth IRA.

Effective for plan years beginning after December 31, 2017.

§§447, 448, and 471 **Use of gross receipts method by small businesses**

The Act increases the amount of gross receipts that corporations and partnerships with corporate partners can have and still use the cash method of accounting from $5,000,000 to $25,000,000. The Act also extends the cash method of accounting to general farming entities, subject to the $25,000,000 gross receipts test that family farms are subject to.

The Act extends use of the $25,000,000 gross receipts test to determining the exemption from certain inventory rules. Taxpayers with average annual gross receipts of $25,000,000 or less will be allowed to treat inventories as materials and supplies that are not incidental or to conform to their financial accounting treatment.

Effective for taxable years beginning after December 31, 2017.

§§451 and 481 **Taxable year of inclusion**

The Act amends the all events test for recognition of income to require recognition of income no later than the tax year the income is considered as revenue in an applicable financial statement. The Act also allows taxpayers to defer recognition of income if the income is deferred for financial statement purposes. Various exceptions apply.

Effective for taxable years beginning after December 31, 2017; in the case of a debt instrument having an original issue discount, effective for taxable years beginning after December 31, 2018.

§457 **Length of service awards for public safety volunteers**

Plans that pay only length of service awards to volunteers in public safety are exempt from certain deferred compensation rules. The exemption only applies if the awards are $3,000 or lower. The Act increases the limit for the exemption from $3,000 to $6,000.

Effective for taxable years beginning after December 31, 2017.

§460 **Exemption to percentage of completion method for construction contracts**

The Act increases the maximum average annual gross receipts for exemption from the percentage of completion method from $10,000,000 to $25,000,000. Taxpayers that meet this test may use the completed-contract method.

Effective for contracts entered into after December 31, 2017.

§461 **Limitation on losses for taxpayers other than corporations**

The Act extends the excess farm loss rules to all businesses other than C corporations. A disallowed loss is treated as a net operating loss carryover. The disallowed loss is any amount in excess of the trade or business gross income or gain plus the threshold amount of $500,000 for joint filers and $250,000 for other filers.

Effective for taxable years beginning after December 31, 2017 and before January 1, 2026.

§512 **Unrelated business taxable income increased by the amount of certain fringe benefits**

The Act requires tax-exempt entities to pay tax on fringe benefits paid to employees by requiring the value of those fringe benefits to be included in unrelated business taxable income. This does not apply to fringe benefits directly connected to a regularly carried on unrelated trade or business.

The Act requires tax-exempt organizations to calculate unrelated business taxable income separately for each line of unrelated business.

Effective for amounts paid or incurred after and for taxable years beginning after December 31, 2017.

§§529 and 529A **Rollovers between qualified tuition programs and qualified ABLE programs**

The Act permits owners of section 529 tuition plans to roll over amounts from those plans to section 529A ABLE accounts without penalty if the beneficiary of the 529 plan owns the ABLE account.

Effective for distributions/contributions after December 22, 2017 and before January 1, 2026.

§§529 and 530 **Qualified tuition accounts**

The Act defines qualifying distributions to included distributions of up to $10,000 per year for elementary or secondary school expenses.

Sections 529 and 530 are generally operative for Hawaii income tax purposes, however, the allowance of distributions for elementary and secondary school expenses as qualified distributions is not operative for Hawaii income tax purposes.

Effective for tax years beginning after December 31, 2017.

§§529A and 25B **Increased contributions to ABLE accounts and saver's credit**

The Act increases the total amount that can be contributed to an ABLE account under section 529A. The Act permits designated beneficiaries of ABLE accounts to contribute to an account themselves, but only up to the poverty line or the person's compensation, whichever is less.

The Act also deems a beneficiary's contribution to their ABLE account eligible for the saver's credit under section 25B.

Effective December 22, 2017 for contributions made before January 1, 2026.

§§641, 642, and 170 **Charitable contributions of electing small business trusts**

The Act applies the individual charitable contribution rules and limitations to electing small business trusts. Under prior law, the rules applicable to trusts applied to electing small business trusts.

Effective for taxable years beginning after December 31, 2017.

§704(d) **Partner's share of loss**

The Act amends the limitation on distribution of partnership losses to provide that the limitation is decreased to account for foreign taxes paid and partnership charitable contributions.

Effective for taxable years beginning after December 31, 2017.

§§708(b)(1)(B), 743(e), and 68(i)(7)(B) **Technical termination of partnerships**

The Act repeals the technical termination rule, which held that a sale or exchange of 50% or more of the total capital and profits in a partnership within 12 months caused a technical termination of the partnership.

Effective for tax years beginning after December 31, 2017.

§743(d) **Substantial built-in loss on transfer of partnership interest**

The Act expands the definition of substantial built-in loss to include a situation in which the transferee would be allocated a net loss of more than $250,000 if all the partnership's assets were sold for fair market value.

Effective for transfers of partnership interests after December 31, 2017.

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

§§805, 810, 844, and 172 **Net operating losses of insurance companies**

The Act repeals the special rules for net operating losses (NOLs) for insurance companies and provides that the general NOL rules will apply to insurance companies.

Effective for losses arising in taxable years beginning after December 31, 2017.

§806 **Special deduction for small life insurance companies**

The Act repeals the deduction for small life insurance companies. Under prior law, insurance companies could deduct up to 60% of their first $3,000,000 of insurance-related income. The deduction was phased-out as a company's income exceeded $3,000,000.

Effective for taxable years beginning after December 31, 2017.

§807 **Adjustment for change in computing reserves**

The Act repeals the special rule allowing insurance companies 10 years to account for adjustments to their method of computing reserves and provides that the general rules for accounting for adjustments to accounting methods will apply.

The Act required insurance companies to discount obligations using the highest rate of interest allowed by the National Association of Insurance Commissioners.

Effective for taxable years beginning after December 31, 2017.

§812 **Life insurance proration to determine the dividends received deduction**

Insurance companies are required to reduce, or prorate, their deductions to the extent they are related to exempt income. The Act provides that for purposes of proration of deductions, "company's share" means 70% and "policy holder's share" means 30%.

Effective for taxable years beginning after December 31, 2017.

§815 **Distributions from pre-1984 surplus account**

The Act repeals the tax-deferred treatment of pre-1984 amounts in the policyholder's surplus accounts of life insurance companies. This means that any amounts held in those accounts will be subjected to tax after December 31, 2017. The Act provides that life insurance companies can account for the tax over the 8-year period beginning after December 31, 2017.

Effective for taxable years beginning after December 31, 2017.

§832 **Proration rules for losses of property and casualty insurance companies**

Property and casualty insurance companies must reduce their losses by 15% of their tax-exempt interest, deductible dividends received, and the increase in the value of their life insurance, endowment, and annuity contracts.

The Act changes the deduction to 25% and defines the reduction as 5.25% divided by the top corporate rate. Thus, the reduction will be adjusted automatically with any change in the top corporate tax rate.

Effective for taxable years beginning after December 31, 2017.

§846 **Property and casualty insurance companies discounting rules**

Property and casualty insurance companies can deduct unpaid losses if they discount those losses. The Act requires insurance companies to use the corporate bond yield curve to discount unpaid losses. The Act disallows the use of taxpayer's own historical loss payment patterns in discounting unpaid losses.

Effective for taxable years beginning after December 31, 2017.

§847 Special estimated tax payments

Under prior law, insurance companies could deduct the difference between discounted and undiscounted reserves. The Act disallows the deduction of the difference.

Effective for taxable years beginning after December 31, 2017.

§848 Policy acquisition expenses

The Act extends the amortization period for expenses associated with certain insurance activities to 15 years. The Act also adjusts the specified percentages used to calculate the expenses to 2.09% for annuity contracts, 2.45% for group life insurance contracts, and 9.2% for all other specified insurance contracts.

Effective for taxable years beginning after December 31, 2017.

§863 Source of inventory sales income

The Act provides that income from the sale of inventory is sourced to the place of production and not to the place of production and sale.

Effective for taxable years beginning after December 31, 2017.

§864 Repeal of fair market value of interest expense apportionment

The Act requires members of a U.S. affiliated group to allocate interest expense based on the adjusted basis of assets rather than their fair market value.

Effective for taxable years beginning after December 31, 2017.

§§864 and 1446 Look-through basis for sale of partnership interest

The Act ties the determination of whether gain from the sale or exchange of a partnership interest is effectively connected with a U.S. trade or business to the determination of whether income would be effectively connected if the partnership sold all of its assets.

The Act requires taxpayers to withhold 10% of the amount realized on the sale, exchange, or other disposition of a partnership interest. If the taxpayer fails to withhold, the partner is required to withhold from the transferee's distributions.

Effective November 27, 2017. The withholding provisions apply to sales or exchanges after December 31, 2017.

§904 Separate foreign tax credit limitation basket for foreign branch income

The Act requires that income from a foreign branch be treated separately when applying the limits to the foreign tax credit.

Effective for taxable years beginning after December 31, 2017.

§904 **Election to increase percentage of domestic taxable income offset by overall domestic loss treated as foreign source.**

If an overall domestic loss (ODL) is used to offset foreign-source income, then some income in a later year is recharacterized as foreign-source income for purposes of the foreign tax credit. The Act allows taxpayers to elect to use up to 100% of their pre-2018 ODL for this purpose.

Effective for taxable years beginning after December 31, 2017.

§§936, 367, and 482 **Limitations on income shifting through intangible property transfers**

The Act changes the definition of intangible property for purposes of sections 367(b) and 482 to include workforce in place, goodwill, and going concern value. This is important because the transfer of intangible property, as defined, to foreign affiliates is not entitled to nonrecognition treatment.

Effective for transfers in taxable years beginning after December 31, 2017.

§951(a)(1) **Immediate CFC status**

The Act removes the requirement that a foreign corporation be a controlled foreign corporation for 30 days before it is treated as a controlled foreign corporation for tax purposes.

Effective for taxable years of foreign corporations beginning after December 31, 2017 and for taxable years of U.S. shareholders during which such taxable years of foreign corporations end.

§951(b) **Expansion of definition of U.S. shareholder**

The Act expands the definition of U.S. shareholder to include a U.S. person who directly, indirectly, or constructively owns at least 10% of the total value or voting power of shares. Under prior law, the shareholder had to own at least 10% of the total voting power.

Effective for taxable years of foreign corporations beginning after December 31, 2017, and for taxable years of U.S. shareholders during which such taxable years of foreign corporations end.

§951A **Global intangible low-taxed income**

The Act creates a new category of income called global intangible low-taxed income (GILTI) that is required to be included in gross income. The Act creates many new categories and defined terms to describe the amount included in gross income. The amount included is 50% of the controlled foreign corporation's foreign high return amount (FHRA). The definition of FHRA is defined in the Act.

Effective for taxable years of controlled foreign corporations beginning after December 31, 2017, and for taxable years of U.S. shareholders during which such taxable years of foreign corporations end.

§954(a) and (c)(6) **Foreign base company income**

The Act repeals the inclusion of foreign oil-related income as part of foreign base company income. This means that foreign oil-related income is not included in U.S. shareholders income unless distributed.

Effective for taxable years of foreign corporations beginning after December 31, 2017 and for taxable years of U.S. shareholders during which such taxable years of foreign corporations end.

§§958(b)(4) and 6038 **Attribution from foreign shareholders**

The Act provides for the attribution of stock ownership from foreign persons to U.S. persons.

Effective for taxable years of foreign corporations beginning before January 1, 2018 and for taxable years of U.S. shareholders during which such taxable years of foreign corporations end.

§§960 and 78 **Deemed paid foreign tax credit**

The Act repeals the deemed paid foreign tax credit.

Effective for taxable years beginning after December 31, 2017.

§§965 and 7874 **Deferred foreign income**

The Act amends the treatment of dividends received from controlled foreign corporations (CFCs). The Act requires foreign corporations to include post-1986 deferred foreign income in their subpart F income. Furthermore, the Act requires U.S. shareholders to include a pro rata share of this increased subpart F income.

The Act allows taxpayers to pay over an 8-year period. The Act provides for two different tax rates for this income: one rate of 15.5% for cash assets, and another of 8% for non-cash assets.

Effective for taxable years beginning after December 31, 2017.

The following provisions are operative for Hawaii income tax purposes.

§1031 **Like-kind exchanges**

The Act limits like-kind exchange tax deferral to real property not held primarily for sale. The Act treats an interest in a partnership making a section 761(a) election as an interest in each asset of the partnership. The Act deems foreign real property as not of a like-kind to domestic real property.

Effective for exchanges completed after December 31, 2017, unless the exchanged property is disposed of or received on or before December 31, 2017.

§§1044 and 1016(a)(23) **Rollover of publicly traded securities gain into specialized small business investment companies**

The Act disallows the rollover of gain on publicly traded securities into specialized small business investment companies.

Effective for sales after December 31, 2017.

§§1061 and 83 **Carried interest**

The Act creates a 3-year holding period for long-term capital gains from certain service-based partnership interests. The Act specifically disallows the "carried interest" rule.

A carried interest is the receipt of a profits interest in a partnership in exchange for services. The owner of the profits interest is entitled to the same tax treatment as the owner of the partnership, and thus could qualify for long-term capital gains treatment for profits interests held for a short time.

Effective for taxable years beginning after December 31, 2017.

§1221(a)(3) **Self-created property not a capital asset**

The Act deems self-created patents, inventions, models or designs, formulas, and processes as non-capital assets. The choice to treat music as a capital asset is preserved.

Effective for dispositions after December 31, 2017.

§1297 **Restriction of insurance exception to passive foreign investment company rules**

In general, passive foreign investment companies (PFICs) are taxed on their income. Among other exceptions, there is an exception for certain income of insurance companies.

The Act limits the applicability of the insurance company exception to the PFIC rules. The Act limits the exception to qualifying insurance corporations (QICs), which are those that would be taxed as insurance companies if they were U.S. companies and whose applicable insurance liabilities exceed 25% of total assets.

Under certain circumstances, the 25% threshold can be waived.

Effective for taxable years beginning after December 31, 2017.

§1361 **Small business trusts**

The Act expands the eligible beneficiaries of electing small business trusts (ESBTs) to include nonresident alien individuals.

Effective January 1, 2018.

§§1371 and 481 **S corporation to C corporation conversions**

The Act extends the period during which distributions from a terminated S corporation are treated as paid from the accumulated adjustment account and from earnings and profits if there are accounting method changes attributable to the conversion.

Effective for S corporations revoking their S corporation elections during the 2-year period beginning on December 22, 2017; provided the corporation has the same owners on December 22, 2017 and on the revocation date.

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

§§1400Z-1 and Z-2	**Qualified opportunity zones** The Act provides for the creation of qualified opportunity zones. The Act provides deferral of capital gains tax on gains that are reinvested in qualified opportunity funds, which are funds that hold at least 90% opportunity zone property. The Act also provides for permanent exclusion of capital gains tax on investments in opportunity funds if the interest is held at least 10 years. The Act contains special basis rules for property subject to the capital gains deferral. Effective on December 22, 2017, not effective for any sales or exchanges or investments made after December 31, 2026.

The following provision is operative for Hawaii income tax purposes.

§§ 2001 et. seq., 2601 et. seq., 2502, 2505, 2801, and 1014	**Estate, gift, and generation-skipping transfer tax exemption amount** The Act increases the estate and gift tax unified credit basic exclusion amount to $10,000,000, subject to inflation adjustments. The Act also increases the generation-skipping transfer tax exemption amount to $10,000,000. The rules governing estate and gift tax are generally operative for Hawaii income tax purposes, however, the increase in the exemption amounts is not operative for Hawaii income tax purposes. The exemption amounts for Hawaii estate and generation-skipping transfer tax purposes has been fixed at the 2017 amount. Effective for decedents dying and gifts made after December 31, 2017 and before January 1, 2026.

Bipartisan Budget Act of 2018
(P.L. No. 115-123; February 9, 2018)

CODE SECTION	DESCRIPTION OF PROVISION

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

§25C	**Nonbusiness energy property credit** The Act extends the nonbusiness energy property credit to property placed in service in 2017. Effective for property placed in service after December 31, 2016.

§25D **Residential energy property credit**

The Act extends the residential energy property credit to apply to property placed in service through December 31, 2021. The Act applies further limits to the credit. The Act phases down the applicable percentages of qualified solar electric property expenditures and qualified solar water heating property expenditures allowed for purposes of the credit.

Effective for property placed in service after December 31, 2016.

§30A **American Samoa production activities credit**

The Act extends the credit for domestic corporations engaged in production activities in American Samoa to apply through January 1, 2018.

Effective for taxable years beginning after December 31, 2016.

§30B **Qualified fuel cell motor vehicle credit**

The Act extends the credit to new qualified fuel cell vehicles purchased in 2017.

Effective for property purchased after December 31, 2016.

§30C **Alternative fuel vehicle refueling property credit**

The Act extends the credit to property placed in service in 2017.

Effective for property placed in service after December 31, 2016.

§30D **2-wheeled plug-in electric vehicle credit**

The Act extends the 2-wheeled plug-in electric vehicle credit to vehicles purchased in 2017.

Effective for vehicles purchased after December 31, 2016.

§32 **Earned income tax credit**

The Act allows for the determination of the earned income tax credit and child tax credit for any year that includes any date from October 8, 2017 through December 31, 2017, using the earned income from the previous tax year.

To be eligible the taxpayer and the taxpayer's spouse must be qualified individuals. A qualified individual is one who was displaced from residence which was in the California wildfire disaster zone or California wildfire disaster area.

§38 **California wildfire employee retention credit**

The Act adds the California wildfire employee retention credit to the general business credit. The credit is equal to up to 40% of qualified wages paid from October 8, 2017 through December 31, 2017.

To qualify, the business had to be operable on October 8, 2017 and inoperable due to the wildfire damage any day from October 9, 2017 until December 31, 2017.

Effective for wages paid or incurred from October 9, 2017 through December 31, 2017.

§40 **Second generation biofuel producer credit**

The Act extends the second generation biofuel producer credit to qualified second generation biofuel produced in 2017.

Effective for production after December 31, 2016.

§40A **Biodiesel and renewable diesel used as fuel**

The Act extends the credit for biodiesel and renewable diesel used as fuel to apply to fuels sold or used on or before December 31, 2017.

Effective for fuels sold or used after December 31, 2016.

§45(e)(10) **Indian coal facilities credit**

The Act extends the Indian coal facilities credit to coal produced during 2017.

Effective for coal produced after December 31, 2016.

§§45 and 48 **Renewable electricity credit available to various facilities**

The Act extends the renewable electricity credit for closed- and open-loop biomass facilities, geothermal facilities, landfill gas facilities, trash facilities, qualified hydropower facilities, and marine and hydrokinetic renewable energy facilities to apply to electricity produced before January 1, 2018.

Effective January 1, 2017.

§45A **Indian employment tax credit**

The Act extends the Indian employment tax credit, making it available for taxable years beginning after December 31, 2016.

Effective for taxable years beginning after December 31, 2016.

§45G **Railroad track maintenance credit**

The Act extends the railroad track maintenance credit for expenditures paid or incurred in taxable years beginning after December 31, 2016.

Effective for expenditures paid or incurred taxable years beginning after December 31, 2016.

§45J **Credit for production from advanced nuclear power facilities**

The Act requires the Secretary of the Treasury to allocate any unutilized national megawatt capacity as rapidly as possible. The national megawatt capacity acts as a limit on the credit for energy production from advanced nuclear power facilities.

Effective February 9, 2018.

§45L **Credit for energy-efficient new homes**

The Act extends the credit for energy-efficient new homes to homes acquired through December 31, 2017.

Effective for homes acquired after December 31, 2016.

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

The Act extends the mine rescue team training credit, making it available for expenses incurred in taxable years beginning after December 31, 2016.

Effective for taxable years beginning after December 31, 2016.

§45Q **Credit for carbon capture**

The Act creates a series of credits ranging from $10 per metric ton to $20 per metric ton of carbon oxide captured and disposed of in a secure geological storage.

Effective for taxable years beginning after December 31, 2017.

§48 **Qualified fuel cell and microturbine property**

The Act extends the credits for solar energy, thermal energy, qualified fuel cell, qualified microturbine, and heat and power system properties to apply to property the construction of which begins in 2017 through 2021.

The Act amends the credit for fiber-optic solar, qualified fuel cell, and qualified small wind energy property to reduce the credit rate from 30% down to 0% depending on when construction of the property begins.

Effective for taxable years beginning after or property placed in service after December 31, 2016.

The following provisions are operative for Hawaii income tax purposes.

§62(a) **Deductions for payments associated with whistleblower lawsuits**

The Act caps deductions for attorney fees and court costs associated with whistleblower cases at the amount of the award paid that is included in the recipient's income for the year. The specific deductions that are capped are those in connection with an award to a whistleblower or any action brought under section 21F of the Securities Exchange Act of 1934, section 23 of the Commodity Exchange Act, or state law relating to false or fraudulent claims.

Effective for taxable years beginning after December 31, 2017.

§§72(t), 165, 401, 402, 403, 408, and 457 **Disaster related rules for retirement funds**

The Act waives the 10% penalty for early withdrawals from retirement plans for qualified wildfire distributions. Qualified wildfire distributions are those made on or after October 8, 2017 and before January 1, 2019 to individuals whose principal residence was in a California wildfire disaster area. The Act shields plans from disqualification due to such distributions and allows individuals to recontribute the distributions received no later than June 30, 2018.

Effective for distributions made on or after October 8, 2017 and before January 1, 2019.

§108 **Exclusion from gross income for discharge of principal residence indebtedness**

The Act extends the exclusion from gross income for discharge of principal residence indebtedness for debt discharged before January 1, 2018 or subject to a written arrangement before January 1, 2018.

Effective for discharges of indebtedness after December 31, 2016.

§139F **Wrongful incarceration awards**

The Act extends the waiver of the limitations period to 3 years after the passage of the Protecting Americans from Tax Hikes Act of 2015 (P.L. 114-113; December 18, 2015). That Act provided an additional 1 year period to claim refunds or credits of taxes paid on awards received due to wrongful incarceration. The Act extends that to 3 years.

Effective February 9, 2018.

§163(h) **Mortgage insurance premiums**

The Act extends the treatment of mortgage insurance premiums as qualified principal residence interest through 2017.

Effective for amounts paid or accrued after December 31, 2016.

§165(h) **Qualified net disaster losses**

The Act waives the 10% of adjusted gross income threshold for deductibility of qualified net disaster losses for losses in the California Wildfire Area from October

8, 2017 through December 31, 2017. The loss must be at least $500. The loss can be deducted in addition to the standard deduction.

Effective for losses from October 8, 2017 through December 31, 2017.

§168(e) **3-year depreciation for race horses**

The Act extends the special rule providing a 3-year depreciation schedule for race horses placed in service before January 1, 2018 and for young race horses placed in service after December 31, 2017.

Effective for race horses placed in service after December 31, 2016.

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

§168(i) **Motorsport entertainment complexes**

The Act extends the 7-year recovery period for motorsport entertainment complexes to cover property placed in service in 2017.

Effective for property placed in service after December 31, 2016.

§168(j) **Indian reservation property**

The Act extends the general allowance of accelerated depreciation for business property placed in service on an Indian reservation to cover property placed in service after December 31, 2016.

Effective for property placed in service after December 31, 2016.

The following provisions are operative for Hawaii income tax purposes.

§168(l) **Bonus depreciation for second-generation biofuel plant property**

The Act extends bonus depreciation for second-generation biofuel plant property to apply to property placed in service before January 1, 2018.

Effective for property placed in service after December 31, 2016.

§170 **Charitable contributions relating to wildfire relief**

The Act excludes charitable contributions that are designated for relief efforts for the California wildfire from the limits under section 170(b).

Effective for cash contributions made between October 8, 2017 and December 31, 2018.

§179D **Energy efficient consumer buildings**

The Act extends the deduction for energy efficient consumer buildings to apply to property placed in service before January 1, 2018.

Effective for property placed in service after December 31, 2016.

§179E **Expensing of mine safety equipment**

The Act extends the special rule allowing taxpayers to deduct the cost of mine safety equipment rather than capitalize it to cover equipment placed in service after December 31, 2016.

Effective for property placed in service after December 31, 2016.

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

§181 **Special expensing rules for qualified television and film productions**

The Act extends the special rules that allow full expensing of certain capital expenditures of television and film productions to apply to productions commencing before January 1, 2018.

Effective for productions commencing after December 31, 2016.

§199 **Domestic activities deduction**

The domestic activities deduction allows deductions for various trade or business activities conducted in the United States. A special rule provides that for purposes of the deduction Puerto Rico is a part of the United States. The Act extends the treatment of Puerto Rico as part of the United States through tax years beginning before January 1, 2018.

P.L. 115-97, known as Tax Cuts and Jobs Act and digested herein, repealed the domestic activities deduction for tax years beginning after December 31, 2017.

§222 **Tuition and related expenses**

The Act extends the above-the-line deduction for qualified tuition and related expenses through 2017.

Effective for tax years beginning after December 31, 2016.

The following provisions are operative for Hawaii income tax purposes.

§401(k) **Hardship distributions**

The Act allows recipients of hardship distributions to continue to making plan contributions, overturning the current rule disallowing contributions once a hardship distribution has been received.

The Act also liberalizes the rules for hardship distributions, allowing hardship distributions from account earnings and employer contributions rather than only from employee contributions. Also, recipients can receive hardship distributions without taking a plan loan first.

Effective for plan years beginning after December 31, 2018.

§451(k) **Sales or dispositions to implement FERC or state requirements**

The Act extends the deferral of gain on sales or dispositions made to implement Federal Energy Regulatory Commission (FERC) or state electric restructuring policies to apply to sales or dispositions before January 1, 2018.

Effective for dispositions after December 31, 2016.

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

§911 **Tax home of citizens or residents living abroad**

The Act ensures that the earned income exclusion can be used by those in a combat zone regardless of whether the taxpayer has a U.S. home.

Effective for taxable years beginning after December 31, 2017.

The following provision is operative for Hawaii income tax purposes.

§1201 **Capital gains rate on qualified timber gains**

The Act extends the special capital gains rate available to qualified timber gains to apply to taxable years beginning before January 1, 2018.

P.L. 115-97, known as Tax Cuts and Jobs Act and digested herein, repealed section 1201 in its entirety for taxable years beginning after December 31, 2017.

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

§1391 **Designated empowerment zones**

The Act extends the termination date for empowerment zones to December 31, 2017.

Effective for taxable years beginning after December 31, 2016.

§1400Z-1 **Qualified opportunity zones**

The Act extends the benefits of qualified opportunity zones to those in Puerto Rico.

Effective December 22, 2017.

§936; non-code section **American Samoa economic development credit**

The Act extends the credit to apply to taxable years beginning after December 31, 2016 and before January 1, 2018.

Effective for taxable years beginning after December 31, 2016.