

**DIGEST OF THE IRS RESTRUCTURING
AND REFORM ACT OF 1998
P. L. 105-206**

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

<u>CODE SECTION</u>	<u>DESCRIPTION OF PROVISION</u>
----------------------------	----------------------------------------

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

Non-Code provision	Reorganization of Internal Revenue Service (IRS) to implement focus on customer. Act section 1001(a).
Non-Code provision	Savings provision to ensure that the reorganization of the IRS will not change any existing tax laws or taxpayer rights or affect the legality of ongoing IRS actions. Act section 1001(b).
Non-Code provision	IRS to revise mission statement to place a greater emphasis on serving the public and meeting taxpayers' needs. Act section 1002.
Non-Code provision	Amendments to the Inspector General Act of 1978 relating to the elimination of the Office of the Chief Inspector within the IRS and creation of a new, independent office for the oversight and inspection of the IRS in the Office of the Inspector General for Tax Administration. Act sections 1103(a)-(e)(3).
Non-Code provision	Amendments to Part III of Title 5 of the United States Code, relating to the reorganization of the IRS in expanding its range of options to motivate, reorient, and reward its employees. Act section 1201.

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

Non-Code provision	Commissioner of IRS reauthorized to offer qualifying employees a cash incentive to voluntarily terminate their employment to enable Commissioner to have sufficient flexibility to reposition the IRS workforce to be more responsive to taxpayer needs. Act section 1202.
Non-Code provision	Specific acts of misconduct defined as grounds for termination of IRS employees. Act section 1203.
Non-Code provision	Basis for evaluation of IRS employees reestablished with the repeal of Section 6231 of the Technical and Miscellaneous Act of 1988. Act section 1204.
Non-Code provision	Commissioner of IRS to implement an employee training program to ensure adequate customer service training. Act section 1205.
Non-Code provision	Promotion of electronic filing of tax and information returns with: (1) establishment of a strategic plan to increase taxpayer use of electronic filing; (2) creation of an electronic commerce advisory group to ensure receipt of input regarding the strategic plan from the private sector; and (3) promotion of an electronic tax administration programs. Act sections 2001(a)-(b).
Non-Code provision	Report from the chair of the IRS Oversight Board, the Secretary of the Treasury and the chair of the electronic commerce advisory group required on progress of plans to promote electronic filing. Act section 2001(d).
Non-Code provision	Department of the Treasury to conduct a study evaluating the merits and disadvantages of extending the deadline for providing taxpayers with copies of information returns from January 31 to February 15. Act section 2002(b).
Non-Code provision	IRS to develop procedures to eliminate any paper filing of any other information, statement, election or schedule required from a taxpayer filing an electronic return. Act section 2003(c).

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

Non-Code provision	IRS to establish procedures for all tax forms, instructions, publications, and “other taxpayer guidance” in the most recent five-year period to be made available electronically on the internet. Act section 2003(d).
Non-Code provision	IRS to develop procedures allowing a taxpayer to electronically authorize the disclosure of return information. Act section 2003(e).
Non-Code provision	IRS to develop return-free system for selected taxpayers. Act section 2004.
Non-Code provision	IRS to develop procedures to enable a taxpayer filing returns electronically to review his/her account electronically. Act section 2005.
Non-Code provision	Short title: Title III citation as the “Taxpayer Bill of Rights 3.” Act section 3000.
Non-Code provision	Amending administrative procedures to allow tax-exempt bond issuers examined by the IRS to appeal any adverse examination determination to the Appeals Division of the IRS. Act section 3105.
Non-Code provision	IRS to issue a separate form with instructions for use by taxpayers in applying for relief under the innocent spouse and separate liability election rules. Act section 3201(c).

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

Non-Code provision	IRS to send any notice relating to a joint return separately to each individual filing the joint return. Act section 3201(d). (The State shall administratively conform to appropriate procedures developed by the IRS upon new IRC section 6015 being adopted. See Digest notation for IRC section 6015.)
Non-Code provision	Threats to audit any taxpayer in an attempt to coerce the taxpayer to enter into a Tip Reporting Alternative Commitment agreement prohibited. Act section 3414.
Non-Code provision	Revenue officers who seek to commence collection action against a taxpayer must now generally secure a supervisor's approval prior to issuing a notice of lien or levy with respect to a taxpayer's property, or levying or seizing a taxpayer's property. Act section 3421(a).
Non-Code provision	The approval process for liens, levies, and seizures requires the supervisor to review the taxpayer's information, verify the balance of the tax debt due and affirm that the collection action proposed is appropriate under the circumstances. Act section 3421(b).
Non-Code provision	Implementation of a uniform asset disposal mechanism for sales of seized assets. Act section 3443.
Non-Code provision	Approval of seizure of tangible personal property or real property (other than rental real property) used in the taxpayer's trade or business prohibited unless it is determined that the taxpayer's other assets subject to collection are not sufficient to pay the amount due and the expenses of the proceedings. Act section 3445(c).
Non-Code provision	Regarding offers to compromise, the Treasury Department must prepare a statement setting forth the rights of the taxpayer and obligations of the IRS. Act section 3462(d).
Non-Code provision	IRS to include on each deficiency notice the date it determines to be the last day on which the taxpayer may file a petition with the Tax Court. Act section 3463(a).

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

IRS Restructuring and Reform Act of 1998 (P.L. 105-206)

Non-Code provision	In procedures relating to appeals of examinations and collections, IRS must ensure that an appeals officer is regularly available within each state. Act section 3465(b).
Non-Code provision	In procedures relating to appeals of examinations and collections, IRS must also consider using videoconferencing techniques for conference between appeals officers and taxpayers from rural areas seeking appeals. Act section 3465(c).
Non-Code provision	Clarification of instances where prohibition on requests to taxpayers to waive their right to sue will not apply. Act section 3468(b).
Non-Code provision	IRS to establish procedures to clearly alert married taxpayers of their joint and several liabilities on all appropriate publications and instructions. Act section 3501(a). (The State will administratively conform to appropriate procedures developed by the IRS upon the new IRC section 6015 being adopted. See Digest notation for IRC section 6015.)
Non-Code provision	IRS to provide general publication and publication in any collection-related notices of an individual's right to elect innocent spouse relief and/or separate liability. Act section 3501(b). (The State will administratively conform to appropriate procedures developed by the IRS upon the new IRC section 6015 being adopted. See Digest notation for IRC section 6015.)
Non-Code provision	Revision of IRS Publication 1 ("Your Rights as a Taxpayer") to explain taxpayer's rights in interviews with the IRS. Act section 3502.
Non-Code provision	Revision of IRS Publication 1 addressing the disclosure of criteria and procedures utilized by the IRS for selecting taxpayers for examination. Act section 3503(a).

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

Non-Code provision	Before final publication in Publication 1, drafts of proposed revisions to the statement addressing the disclosure of audit section criteria must be submitted to the House Committee on Ways and Means and the Senate Committee on Finance. Act section 3503(b).
Non-Code provision	IRS to include an explanation of its entire examination and collection process with the first deficiency letter sent to a taxpayer. Act section 3504.
Non-Code provision	IRS to provide any taxpayer who has an installment agreement in effect with an annual statement setting forth the taxpayer's beginning of the year balance, all payments made during the year, and the remaining balance at year's end. Act section 3506.
Non-Code provision	Confidentiality rules explained in tax form instruction booklets must include disclosure statement of the situations in which the return information may be disclosed to a party outside of the IRS. Act section 3508.
Non-Code provision	In collecting data for the IRS's annual report to Congress on allegations of IRS employee misconduct, IRS to maintain records of taxpayer complaints against individual IRS employees. Act section 3701.
Non-Code provision	Federal taxes may be paid by check or money order made payable to the "United States Treasury" as opposed to the "IRS." Act section 3703.
Non-Code provision	Expansion of IRS employee contacts in correspondence with taxpayer. Act section 3705(a).
Non-Code provision	IRS to develop procedures enabling one IRS employee to handle a taxpayer's matter until resolved. Act section 3705(b).
Non-Code provision	IRS telephone help line options expanded to include help line in Spanish and option to communicate with a live person in addition to hearing any applicable recorded message. Act sections 3705(c), (d).

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

IRS Restructuring and Reform Act of 1998 (P.L. 105-206)

Non-Code provision	Clarification and limit of IRS's use of pseudonyms. Act section 3706.
Non-Code provision	Illegal tax protester designation prohibited. Act sections 3707(a)(1), (a)(2)(B).
Non-Code provision	Existing tax protester designations are to be removed from IRS's Individual Master File no earlier than January 1, 1999. Act section 3707(a)(2)(A).
Non-Code provision	Nonfiler designations are still allowed except that such a designation must be removed once the taxpayer has filed income tax returns for two consecutive years and paid all taxes shown on the returns. Act section 3707(b).
Non-Code provision	Listing of local IRS telephone numbers and addresses in local telephone books. Act section 3709.
Non-Code provision	The Joint Committee on Taxation and the Secretary of the Treasury are each required to undertake separate studies to review the administration and implementation by the IRS of the interest and penalty provisions of the IRS. Act section 3801.
Non-Code provision	The Joint committee on Taxation and the Secretary of the Treasury to conduct independent studies of the scope and use of provisions relating to taxpayer confidentiality. Act section 3802.
Non-Code provision	The Secretary of the Treasury and the IRS Commissioner to conduct a joint study to examine noncompliance with internal revenue laws by taxpayers. Act section 3803.
Non-Code provision	The Secretary of the Treasury to conduct a study on the use of reward payments made for detection of underpayments of tax and to bring to trial persons guilty of tax crimes. Act section 3804.
Non-Code provision	Century date change made high priority. Act section 4011.

IRS Restructuring and Reform Act of 1998 (P.L. 105-206)

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

- | | |
|--------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Non-Code provision | IRS to provide Congress with an independent view of tax administration and, during the legislative process, to provide the Congressional tax writing committees with opinions on the administrability of pending amendments to the IRC. Act section 4021. |
| Non-Code provision | The Commissioner to conduct each year after 1998 an analysis of the sources of complexity in the administration of federal tax laws. Act section 4022(a). |
| Non-Code provision | The joint Committee on Taxation, in consultation with the IRS and the Treasury Department, is to provide a 'Tax Complexity Analysis' for each bill or joint resolution reported by the Senate Finance Committee, the House Ways and Means Committee, or any conference committee, if the legislation affects any provision of the IRC and it has wide-spread applicability to individuals or small business. Act section 4022(b). |
| Non-Code provision | Clarification of the change in the terminology used in U.S. trade statutes from "most-favored-nation" to "normal trade relations." Act section 5003. |
| Non-Code provision | Short title: Title citation as the Tax Technical Corrections Act of 1998. Act section 6001. |

The following provision is operative for Hawaii income tax purposes.

- | | |
|--------------------|--------------------------------------------------------------------------------------------------------------------------------------------|
| Non-Code provision | Technical amendment defining terms used in the IRS Restructuring and Reform Act of 1998. Act section 6002 . Effective as of July 22, 1998. |
|--------------------|--------------------------------------------------------------------------------------------------------------------------------------------|

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

- | | |
|--------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Non-Code provision | Technical correction amending Act section 201(c)(3) of the Taxpayer Relief Act of 1997 (TRA of 1997), clarifying education tax credit reporting requirements. Act section 6004(a)(3). |
|--------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

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

Non-Code provision Technical correction amending Act section 226(a) of the TRA of 1997, clarifying treatment of qualified zone academy bond credit for estimated tax and overpayment purposes. Act section 6004(g)(1).

The following provisions are operative for Hawaii income tax purposes.

Non-Code provision Technical correction amending Act section 301(a)(2) of the TRA of 1997, clarifying increase in phase-out range for joint returns relating to restoration of the Individual Retirement Account (IRA) deduction for certain taxpayers. Act section 6005(a)(2). Effective for tax years beginning after December 31, 1997.

Non-Code provision Technical correction amending Act section 302(b) of the TRA of 1997, clarifying excess contributions to Roth IRAs. Act section 6005(b)(8)(C). Effective for tax years beginning after December 31, 1997.

Non-Code provision Technical correction amending Act section 312(d)[(e)](2) of the TRA of 1997, providing for election to apply prior law in claiming exclusion of gain from sale or exchange of a principal residence on August 5, 1997 as well as sales and exchanges occurring before August 5, 1997. Act section 6005(e)(3). Effective as if originally included in Act section 312 of the Taxpayer Relief Act of 1997. See Digest notations for IRC sections 121(b)(2) and 121 (c)(1).

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

Non-Code provision Technical correction amending Act section 501(f) of the TRA of 1997, clarifying the exemption from the generation-skipping tax for cost-of-living adjustments relating to estate and gift tax provisions. Act section 6007(a)(2).

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

- | | |
|--------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Non-Code provision | Technical correction amending Act section 506(e) of the TRA of 1997, clarifying final determination of gift tax value for purposes of estate taxes after expiration of applicable statute of limitations. Act section 6007(e)(l). |
| Non-Code provision | Technical correction amending Act section 977(e)(2) of the TRA of 1997, changing the definition of a non-Amtrak state. Act section 6009(e). |

The following provisions are operative for Hawaii income tax purposes.

- | | |
|--------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Non-Code provision | Technical correction amending Act section 1001(d)(3)(C) of the TRA of 1997, clarifying the terms of the special rule for certain decedents in determining constructive sales treatment for appreciated financial positions. Act section 6010(a)(4). Effective for decedents dying after June 8, 1997. |
| Non-Code provision | Technical correction amending Act section 1012(d)(1) of the TRA of 1997, clarifying the effective date for the application of IRC section 355 to distributions in connection with acquisitions and to intragroup transactions. Act section 6010(c)(1). Effective for distributions after April 16, 1997, generally. |

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

- | | |
|--------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Non-Code provision | Technical correction amending Act section 1032(a) of the TRA of 1997, clarifying application of conforming amendment regarding kerosene taxed as diesel fuel. Act section 6010(h)(1). |
| Non-Code provision | Technical amendment clarifying application of Act section 1032(e)(12)(A) of the TRA of 1997 regarding kerosene taxed as diesel fuel. Act section 6010(h)(2). |

The following provisions are operative for Hawaii income tax purposes.

- | | |
|--------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Non-Code provision | Technical correction amending Act section 1041(b)(2) of the TRA of 1997, clarifying the conforming amendment for binding contracts for expansion of the look-through rule for interest, annuities, royalties and rents derived by subsidiaries of tax-exempt organizations. Act section 6010(j)(3). Effective for tax years beginning after August 5, 1997. |
| Non-Code provision | Technical amendment to Act section 1084(d) of the Taxpayer Relief Act of 1997, clarifying the conforming amendment for master contracts for expansion of the denial of deduction for certain amounts paid in connection with insurance. Act section 6010(o)(3)(B). Effective for contracts issued after June 8, 1997, for tax years ending after such date. See Digest notation under IRC section 264(f)(4)(E). |

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

- | | |
|--------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Non-Code provision | Technical amendment to Act section 1085(a)(3) of the TRA of 1997 relating to improved enforcement of the application of the earned income credit. Clarifies extension procedures applicable to taxpayers who improperly claimed credit in the prior year based upon mathematical or clerical errors. Act section 6010(p)(3). |
|--------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

The following provision is operative for Hawaii income tax purposes.

- | | |
|--------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Non-Code provision | Technical correction amending Act section 1088(b)(2)(C) of the TRA of 1997 that conforms the effective date of the IRC section 481(a) provision to the general effective date of Act section 1088(b)(1) of the TRA of 1997, which repealed the exception to the installment sale rules for sales of property by a manufacturer to a dealer. Act section 6010(q). Effective for tax years beginning one year after August 5, 1997. |
|--------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

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

Non-Code provision	Technical correction amending Act section 1144(c)(1)-(2) of the TRA of 1997, clarifying modification of penalty applicable to foreign corporations and partnerships regarding transfers of property to foreign partnerships subject to information reporting comparable to information reporting for such transfers to foreign corporations. Act section 6011(g).
Non-Code provision	Technical correction amending Act section 1213(b) of the TRA of 1997, clarifying the treatment as information return relating to qualified lessee construction allowances for short-term leases. Act section 6012(b)(5).

The following provisions are operative for Hawaii income tax purposes.

Non-Code provision	Technical correction amending Act section 1226 of the TRA of 1997, synchronizing the effective dates for all provisions relating to electing large partnerships. Act section 6012(e). Effective for partnership tax years beginning after December 31, 1997.
Non-Code provision	Technical correction amending Act section 1505(d)(2) of the TRA of 1997, clarifying extension of moratorium on application of certain nondiscrimination rules to state and local governments. Act section 6015(b). Effective for tax years beginning on or after August 5, 1997, generally.
Non-Code provision	Technical correction amending Act section 1529(a) and (b)(1)(B) of the TRA of 1997, expanding the scope of the exclusion for amounts received by full-time police or fire department employees or their survivors for work-related illnesses. Act section 6015(c)(1)-(2). Effective as of August 5, 1997.
Non-Code provision	Technical correction amending Act section 1601(d)(4)(A) of the TRA of 1997, clarifying the modification of IRC section 403(b) relating to certain accounts maintained by an Indian tribal government. Act section 6016(a)(2)(A)-(B). Effective as of August 20, 1996.

The following provisions are operative for Hawaii income tax purposes.

Non-Code provision	Technical correction amending Act section 1116(b)(2)(C) of the Small Business Job Protection Act of 1996 (SBJPA of 1996), relating to clarification of employment tax status of certain fisherman. Act section 6018(a). Effective for payments made after December 31, 1997.
Non-Code provision	Technical correction amending Act section 1431(c)(1)(E) of the SBJPA of 1996, clarifying definition of highly compensated employees and repeal of family aggregation. Act section 6018(c). Effective for tax years beginning after December 31, 1996, generally.
Non-Code provision	Technical corrections amending Act section 1604(b)(3) of the SBJPA of 1996, clarifying calculation of depreciation under income forecast method. Act section 6018(d)(1)-(2). Effective for property placed in service after September 13, 1995, generally.

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

Non-Code provision	Technical correction amending Act section 1609(h)(1) of the SBJPA of 1996, clarifying the extension of airport and airway trust fund excise taxes. Act section 6018(e).
Non-Code provision	Technical correction amending Act section 1807(c)(3) of the SBJPA of 1996, clarifying effect of carryovers on adoption credit phaseout. Act section 6018(f)(2).

The following provisions are operative for Hawaii income tax purposes.

Non-Code provision	Technical amendment of Act section 1903, SBJPA of 1996, clarifying modifications of rules relating to foreign trusts having one or more U.S. beneficiaries. Act section 6018(g). Effective for transfers of property after February 6, 1995.
Non-Code provision	Termination of exception for certain real estate investment trusts from the treatment of stapled entities for real property interests acquired after March 26, 1998. Act section 7002. Effective for tax years ending after March 26, 1998.

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

IRS Restructuring and Reform Act of 1998 (P.L. 105-206)

- l(g)(3)(C),(D) Conforming amendment relating to the repeal of tax on transfers to trusts at less than fair market value in determination of allocable parental tax for certain unearned income of minor children taxed as if parent's income.
- l(h)(5) Regarding reduction in the tax rates imposed on long-term capital gains, 18-month holding period for most capital assets (e.g., shares of stock) eliminated. 10-percent, 20-percent and/or 25-percent long-term rates apply to most capital assets held more than 12 months.
- l(h)(6)(A) A collectible that is a capital asset need only be held for more than 12 months in order for the gain or loss to be classified as a "collectible gain or loss" for purposes of determining the applicable capital gains rates.
- l(h)(7)(A) Provides for new formula to determine the amount of unrecaptured IRC section 1250 gain (gains from certain depreciable realty) for purposes of determining the applicable capital gains rates.
- l(h)(13) Regarding tax treatment of capital gains, technical amendment that clarifies the special rules for determining what is considered 28-percent gain and determining the amount of 28-percent loss.
- l(h) Technical corrections and amendments to federal maximum capital gains rates for individuals.
- 23(b)(2)(A) Technical correction amending Act section 1807(c)(3) of the SBJPA of 1996 so as to clarify effect of carryovers on adoption credit phaseout.
- 23(c) Technical amendment clarifying that first-time homebuyer credit is a nonrefundable personal credit and that it is claimed after the adoption expense credit.
- 24(d) Technical amendments relating to the new child tax credit.
- 25(e)(1)(C) Technical amendment clarifying that first-time homebuyer credit is claimed after the credit for interest on certain home mortgages.

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

IRS Restructuring and Reform Act of 1998 (P.L. 105-206)

- 32(c)(1)(F) Technical amendment clarifying identification requirement for individuals eligible for earned income credit.
- 32(c)(1)(G) Technical amendment clarifying identification requirement for qualifying children under earned income credit.
- 32(c)(2)(B) Technical amendment clarifying computation of worker's modified adjusted gross income for purposes of the earned income credit phaseout - workfare payments not included in earned income.
- 32(c)(3)(A) Technical amendment clarifying identification requirement for qualifying children under the earned income credit as a prerequisite for claiming the earned income credit rather than as a part of the definition of eligible qualifying children.
- 32(c)(3)(D) Technical amendment clarifying identification requirement for qualifying children under the earned income credit.
- 32(c)(5) Technical amendment clarifying computation of worker's modified adjusted gross income for purposes of the earned income credit phaseout.
- 32(m)-(n) Technical amendment to the supplemental child care credit.
- 34(b) Miscellaneous clerical changes and repeal of deadwood language relating to certain uses of gasoline and special fuels.

The following section is operative for Hawaii income tax purposes.

- 42(j)(4)(D) Amending low-income housing credit. Effective for obligations issued after December 31, 1997.

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

- 45A(b)(1)(B) Miscellaneous clerical changes and repeal of deadwood language relating to Indian employment credit.
- 49(b)(4) Technical amendment clarifying treatment of increase in nonqualified nonrecourse financing.

The following sections are NOT operative for Hawaii income tax purposes

IRS Restructuring and Reform Act of 1998 (P.L. 105-206)

- 50(a)(5)(C) Technical amendment clarifying treatment of qualified academy bond credit.
- 55(b)(3) Technical amendment reordering the formula for computing the alternative minimum tax rate on net capital gain of corporate taxpayers.
- 55(e)(1) Technical amendment clarifying how gross receipts tests are applied in determining what constitutes a small business corporation for purposes of qualifying for the exemption from the alternative minimum tax.
- 57(a)(7) Relating to items of tax preference, amending exclusion for gains on sale of certain small business stock in determining the maximum capital gains rate for individuals and the minimum tax.
- 59(a)(3)-(4) Technical amendment relating to the election to use the simplified IRC section 904 limitation for alternative minimum tax.
- 59(b) Miscellaneous clerical changes and repeal of deadwood language relating to alternative minimum taxable income.

The following sections are operative for Hawaii income tax purposes.

- 66(c) Relating to equitable relief for joint and separate return filers in a community property state, IRS may grant equitable relief from liability for any unpaid tax or any deficiency attributable to an item for which relief is not otherwise available. Effective for any liability for tax unpaid as of, or arising after, July 22, 1998, generally.
- 72(e)(9) Technical amendment clarifying that distributions from a qualified state tuition program are treated as consisting of principal or contributions which are generally not taxed and earnings which may be subject to tax. Effective after December 31, 1997.

The following section is operative for Hawaii income tax purposes

72(n) Miscellaneous clerical changes and repeal of deadwood language relating to annuities, certain proceeds of endowment and life insurance contracts. Effective as of July 22, 1998.

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

72(t)(2)(A) Waiver of early withdrawal tax for IRS levies on employer-sponsored retirement plans or individual retirement plans (IRAs).

72(t)(3)(A) Miscellaneous clerical changes and repeal of deadwood language relating to qualified first-time homebuyer distributions in context of additional tax on early distributions from qualified retirement plans.

72(t)(8)(E) Technical amendment clarifying how distribution from certain retirement plans may be used without penalty to purchase first homes.

The following sections are operative for Hawaii income tax purposes.

108(f)(2)
108(f)(3) Technical amendment clarifying that the exclusion from gross income for forgiven or discharged student loans applies to loans made by certain tax-exempt organizations to refinance any existing student loan and not just loans made by educational organizations. This amendment further clarifies that refinancing loans made by both educational organization and certain tax-exempt organizations must be made under a program of the refinancing organization that requires the student to fulfill a public service requirement. Effective for discharges of indebtedness after August 5, 1997.

119(b) Clarification and broadening of the gross income exclusion of meals for certain employees, providing that, if more than ½ of the employees to whom meals are provided are furnished the meals “for the convenience of the employer,” all meals provided to all employees are treated as furnished for the convenience of the employer. Effective for tax years beginning before, on, or after July 22, 1998.

The following sections are operative for Hawaii income tax purposes

- 121(b)(2) Technical amendment clarifying that for married individuals filing jointly who fail to qualify for the \$500,000 exclusion for gain on the sale of a principal resident, the amount of excludable gain is computed separately for each spouse. Effective for sales and exchanges after May 6, 1997, generally.
- 121(c)(1) Technical amendment clarifying that the \$250,000 or \$500,000 exclusion, not the realized gain from the sale of a principal residence, is prorated for a taxpayer who does not meet the two-year ownership and use requirements in the case of a sale or exchange due to a change in place of employment, health, or unforeseen circumstances. Effective for sales and exchanges after May 6, 1997, generally.

The following sections are NOT operative for Hawaii income tax purposes

- 135(c)(2)(C) Relating to education IRAs, conforming definition of the term “eligible educational institution” with the definition used for purposes of IRC section 529.
- 135(c)(3) Relating to qualified state tuition programs, conforming definition of the term “eligible educational institution” with the definition used for purposes of IRC section 530.
- 135(d)(2) Technical amendment providing that the qualified higher education expenses that are taken into account in determining the excludable amount of interest on redeemed U.S. savings bonds must be reduced by the amount of expenses that are taken into account in determining the exclusion for distributions from an education IRA.
- 142(f)(3)(A) Miscellaneous clerical changes and repeal of deadwood language relating to exempt facility bond.

The following sections are operative for Hawaii income tax purposes.

- 162(a) Technical amendment expanding the exception to the one-year rule on the deductibility of travel expenses of a federal employee to include expenses for temporary travel in order to prosecute or to provide support services for the prosecution of a federal crime. Effective for amounts paid or incurred with respect to tax years ending after August 5, 1997.
- 168(c) Technical amendment allowing taxpayers to elect to compute depreciation on tangible personal property that is qualified for the 200-percent declining balance method by using the 150-percent declining balance method over the recovery periods applicable for tax purposes. Effective as of August 5, 1997.
- 170(e)(6)(B)
170(e)(6)(C) Technical amendment clarifying rules on charitable contributions of computer technology and equipment by C corporations. Effective for tax years beginning after December 31, 1997.
- 170(e)(6)(F) Technical amendment correcting the termination date of the provision permitting an increased charitable contribution for gifts of computer technology and equipment by C corporations. The increased charitable contribution deduction applies to contributions made during tax years beginning after December 31, 1997, and before January 1, 2001.

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

- 196(c)(6)-(8) Technical amendment making employer social security credit deductible after the normal carryforward time period has expired. The deduction for the unused credit is taken in the year after the expiration of the normal carryforward time period.

The following section is operative for Hawaii income tax purposes.

- 219(g)(1),(7) Technical amendment restoring IRA deduction for certain taxpayers - special rule for spouses who are not active participants. Effective for tax years beginning after December 31, 1997.

The following sections are operative for Hawaii income tax purposes

- 221(d) Amendment providing for IRS to issue regulations on the proper calculation of the 60-month period relating to limit on period deduction for interest on education loans allowed. The State will follow regulations issued by the IRS. Effective for interest payments due and paid after December 31, 1997 and the portion of the 60-month period referred to in IRC section 221(d) after December 31, 1997.
- 221(e)(1) Technical amendments clarifying that, in order for interest to be deductible on a qualified education loan, the debt must be incurred by the taxpayer solely to pay qualified higher education expenses. Effective for interest payments due and paid after December 31, 1997 and the portion of the 60-month period referred to in IRC section 221(d) after December 31, 1997.
- 264(a)(3) Technical amendment clarifying expansion of denial of deduction for certain amounts paid in connection with insurance which contemplates a plan of systematic borrowing of increases in cash value. Effective for contracts issued after June 8, 1997, in tax years ending after such date.
- 264(a)(4) Technical amendment clarifying expansion of denial of deduction for interest paid on policy loans relating to any life insurance, endowment, or annuity contract on any individual. Effective for contracts issued after June 8, 1997, in tax years ending after such date.
- 264(f)(4)(E) Amendment clarifying that coverage under a master life insurance contract that is treated as a separate contract is not subject to the deduction limit on interest allocable to the inside buildup on the contract. Effective for contracts issued after July 8, 1997, in tax years ending after such date.
- 264(f)(5)(A)(iv) Amendment clarifying the treatment of reporting requirements to determine applicability of interest deduction limitation on inside buildup with respect to any life insurance policy or annuity or endowment contracts. Effective for contracts issued after June 8, 1997, in tax years ending after such date.

The following sections are operative for Hawaii income tax purposes

- 264(f)(8)(A) Technical amendment clarifying aggregation rules relating to expansion of denial of deduction for certain amounts paid in connection with insurance. Effective for contracts issued after June 8, 1997, in tax years ending after such date.
- 280F(a)(1)(C) Technical amendment clarifying that the maximum depreciation amounts that may be claimed for electric cars in the years following the regular depreciation period are tripled. Effective for property placed in service after August 5, 1997, and before January 1, 2005.
- 304(b)(5)(B)-(C) Amendment eliminating cross reference to IRC section 1248(d) (which provides rules for determining exclusions from earnings and profits in connection with the deemed-dividend rules that apply upon the sale of controlled foreign corporation stock) for purposes of determining earnings and profits. Effective for distributions and acquisitions after June 8, 1997, generally.
- 304(b)(6) Relating to tax treatment of redemptions involving related corporations, the IRS is authorized to issue regulations that would prevent the multiple inclusions of an item in income in an IRC section 304 transaction where the issuing or acquiring corporation is a foreign corporation. Effective for distribution and acquisitions after June 8, 1997, generally.
- 351(c) Amending application of IRC section 355 to distributions in connection with acquisitions and to intragroup transactions; specifically, the determination of control in certain divisive transactions. Effective for transfers after August 5, 1997, generally.
- 351(g)(1)(B)-(C) Relating to treatment of certain preferred stock as boot in an IRC section 351 transfer to a controlled corporation, amendment clarifying that if the transferor receives only nonqualified preferred stock, the general nonrecognition treatment under IRC section 351(a) will not apply to the transferor. Effective for transactions after June 8, 1997, generally.

The following sections are operative for Hawaii income tax purposes.

IRS Restructuring and Reform Act of 1998 (P.L. 105-206)

- 354(a)(2)(C) Amendment extending assessment period for any deficiency attributable to a corporation failing to be a family-owned corporation. Effective for transactions after June 8, 1997, generally.
- 355(e)(3)(A) Amendment clarifying application of IRC section 355 to distributions in connection with acquisitions and to intragroup transactions. Effective for distributions after April 16, 1997, generally.
- 368(a)(2)(H) Amendment clarifying application of IRC section 355 to distributions in connection with acquisitions and to intragroup transactions, relating to the determination of control in certain divisive transactions. Effective for transfers after August 5, 1997, generally.
- 402(c)(4)(C)
403(b)(8)(B) Denial of rollover treatment for transfers of hardship distributions to individual retirement plans. Effective for distributions made after December 31, 1998.
- 404(a)(9)(C)-(D) Technical amendment clarifying gratuitous transfers for the benefit of employees. Effective for transfers made by trusts to, or for the use of, an employee stock ownership plan after August 5, 1997.
- 404(a) Clarification of the deduction for deferred compensation. Compensation shall not be treated as paid or received by an employee until it is actually received by the employee. Effective for years ending after July 22, 1998.
- 408(d)(7)
408(p)(2)(D)
408(p)(2)
408(p)(10) Establishment of savings incentive match plans for employees of small employers. Effective for tax years beginning after December 31, 1996.
- 408(p)(8)-(9) Technical amendment relating to matching contributions on behalf of self-employed individuals not treated as elective employer contributions for purposes of IRAs. Effective for years beginning after December 31, 1996.

The following sections are operative for Hawaii income tax purposes.

- 408A(c)(3)(A) Clarification of Roth IRA contribution limit of a cumulative total of

IRS Restructuring and Reform Act of 1998 (P.L. 105-206)

\$2,000 per year. Effective for tax years beginning after December 31, 1997.

408A(c)(3)(A)(ii) Clarifies that the phaseout range for the Roth IRA maximum contribution limit for married taxpayers filing a separate return is \$0 to \$10,000 of adjusted gross income (AGI). Effective for tax years beginning after December 31, 1997.

408A(c)(3)(B) Clarification that the applicable AGI for conversions to Roth IRAs is the AGI for the year of the distribution to which the conversion relates. Effective for tax years beginning after December 31, 1997.

408A(c)(3)(C)(i) In calculating AGI limit for conversions, the deduction for a contribution to a regular IRA is not taken into account. Effective for tax years beginning after December 31, 1997. Further, for tax years beginning in 2005, the definition of AGI is modified to exclude minimum required distributions from AGI solely for the purposes of determining eligibility to convert a regular IRA to a Roth IRA. Effective for tax years beginning after December 31, 2004.

408A(d)(1) Relating to Roth IRAs, exclusion of qualified distributions. Effective for tax years beginning after December 31, 1997.

408A(d)(2)(B) Elimination of the special rule under which a separate five-year holding period is applied for purposes of determining whether a distribution of amounts attributable to a conversion to a Roth IRA is a qualified distribution. Thus, the five-year holding rule for Roth IRAs will begin with the year for which a contribution is first made to a Roth IRA. A subsequent conversion will not start the running of a new five-year period. Effective for tax years beginning after December 31, 1997.

408A(d)(2)(C) Relating to Roth IRAs, clarification that distributions of excess contributions and earnings allocable to the contributions are not considered qualified distributions. Effective for tax years beginning after December 31, 1997.

The following sections are operative for Hawaii income tax purposes.

408A(d)(3)(A) Relating to Roth IRAs, the four-year income spread election cannot

IRS Restructuring and Reform Act of 1998 (P.L. 105-206)

be changed after the due date for the return for the first year of the income inclusion (including extensions). Effective for tax years beginning after December 31, 1997.

408A(d)(3)(D)-(G)

Relating to Roth IRAs, amending conversion of excess contributions. Effective for years beginning after December 31, 1997.

408A(d)(3)(E)(i)

Relating to rollovers from an IRA other than a Roth IRA, clarifying that where amounts are converted in 1998, and thus subject to the four-year income spread, income inclusion is accelerated for any amounts withdrawn before 2001, the fourth year of the spread. Effective for tax years beginning after December 31, 1997.

408A(d)(3)(F),(G)

Modification of rules relating to conversions from an IRA other than a Roth IRA to prevent taxpayers from receiving premature distributions (i.e., within five years) while retaining the benefit of the nonpayment of the early withdrawal tax. If converted amounts are withdrawn within the five-year period beginning with the year of the conversion, then, only to the extent attributable to amounts that were includible in income due to the conversion, the amount withdrawn will be subject to the 10 percent early withdrawal tax. Effective for tax years beginning after December 31, 1997.

408A(d)(4)

Relating to Roth IRAs, ordering rules will apply to determine what amounts are withdrawn in the event a Roth IRA contains both conversion amounts (possibly from different years) and other contributions. Further, for purposes of these rules, all Roth IRAs, whether or not maintained in separate accounts, will be considered a single Roth IRA. Effective for tax years beginning after December 31, 1997.

The following sections are operative for Hawaii income tax purposes.

- 408A(d)(6)
408A(d)(7) Providing taxpayers the ability to correct erroneous conversions of regular IRAs to Roth IRAs. Contributions to an IRA and earnings on those contributions may be transferred in a trustee-to-trustee transfer from any IRA to another IRA by the due date for the taxpayer's return for the year of the contribution (including extensions). Effective for tax years beginning after December 31, 1997.
- 408A(f) A simplified employee pension (SEP) or savings incentive match plans for employees of small employers (SIMPLE) IRA may not be designated as a Roth IRA, and contributions to a SEP or SIMPLE IRA cannot be taken into account for purposes of the \$2,000 contribution limit. Thus, contributions to a SEP or SIMPLE IRA will not affect the amount that an individual can contribute to a Roth IRA. Effective for tax years beginning after December 31, 1997.
- 475(c) Certain customer receivables ineligible for market-to-market accounting method for dealers in securities. Effective for tax years ending after July 22, 1998, generally.
- 475(f)(1)(D) Technical amendment clarifying treatment of gain or loss of a commodities or securities trader based upon the election to use the mark-to-market accounting rules. Effective for tax years of electing securities and commodities traders ending after August 5, 1997, generally.
- 475(g) Provides for regulations making certain customer receivables ineligible for mark-to-market treatments. Effective for tax years ending after July 22, 1998, generally.
- 501(n)(3) Miscellaneous clerical changes and repeal of deadwood language relating to charitable risk pools in determining exemption from tax on corporations, certain trusts, etc. Effective as of July 22, 1998.
- 501(o) Miscellaneous clerical changes and repeal of deadwood language relating to treatment of hospitals participating in provider-sponsored organizations in determining exemption from tax on corporations, certain trusts, etc. Effective as of July 22, 1998.

The following sections are operative for Hawaii income tax purposes.

- 512(b)(13)(A)
512(b)(13)(B) Clarifying determination of whether interest, rents, royalties and annuities constitute unrelated business income of a tax-exempt organization. Effective for tax years beginning after August 5, 1997, generally.
- 512(b)(17)(B) Miscellaneous clerical changes and repeal of deadwood language relating to unrelated business taxable income - treatment of certain amounts derived from foreign corporations. Effective as of July 22, 1998.
- 529(c)(3)(A) Technical amendment clarifying that distributions from a qualified state tuition program are taxed to the beneficiary under the IRC section 72 annuity rules unless excludable from income under another IRC section. Effective January 1, 1998, generally.
- 529(e)(2) Relating to qualified state tuition programs, technical amendment expanding the definition of a family member to include the spouse of the designated beneficiary for purposes of allowing tax-free rollovers of credits or transfers and redesignation of beneficiaries. Effective January 1, 1998, generally.
- 530(b)(1)(E) Technical amendment providing that the balance remaining in an education IRA must be distributed within 30 days after a beneficiary reaches age 30. Effective for tax years beginning after December 31, 1997.
- 530(b)(1) Technical amendment clarifying that an education IRA must be established for the purpose of paying the qualified higher education expenses of an individual who is a designated beneficiary of the education IRA. Effective for tax years beginning after December 31, 1997.
- 530(d)(1)
530(d)(8) Clarifying requirements and treatment of a distribution from an education IRA upon the death of a beneficiary under age 30. Effective for tax years beginning after December 31, 1997.

The following sections are operative for Hawaii income tax purposes.

- 530(d)(2)(D) Technical amendment eliminating a double tax benefit for qualified higher education expenses and an education IRA distribution. Effective for tax years beginning after December 31, 1997.
- 530(d)(4)(B) Technical amendment limiting the applicability of the 10-percent additional tax to certain distributions from an education IRA. Effective for tax years beginning after December 31, 1997.
- 530(d)(4)(C) Technical amendment clarifying how and when the distribution from an education IRA must be made. Effective for tax years beginning after December 31, 1997.
- 530(d)(5)
530(d)(6) Clarification of distribution and rollover of an education IRA, effect of a change in the beneficiary, and age requirement of the new beneficiaries following a rollover of a distribution to another education IRA or a change in the beneficiary. Effective for tax years beginning after December 31, 1997.
- 530(d)(7) Clarification of the effects of transfers of education IRAs upon a death or divorce. Effective for tax years beginning after December 31, 1997.
- 530(d)(8) Relating to education IRAs, where distribution of the account balance is required within 30 days after the death of a beneficiary under age 30, the balance at the close of the 30-day period is deemed to be distributed at that time. Effective for tax years beginning after December 31, 1997.
- 543(d)(5)(A) Miscellaneous clerical changes and repeal of deadwood language relating to personal holding company income - active business computer software royalties. Effective as of July 22, 1998.
- 641(c),(d) Conforming amendment repealing imposition of income tax on transfers to trusts at less than fair market value. Effective for sales or exchanges after August 5, 1997.

The following sections are operative for Hawaii income tax purposes.

- 645
646 Clarification limiting the election to treat a revocable trust as part of a decedent's estate for generation-skipping transfer purposes. IRC section 646 redesignated as IRC section 645. Effective for the estates of decedents dying after August 5, 1997.
- 664(d)(1)(C),(2)(C) Clarification of limitations on charitable remainder trust eligibility for certain trusts. Effective for transfers in trust after July 28, 1997, generally.
- 672(f)(3)(B) Clarification of the election of mark-to-market for marketable stock in passive foreign investment company. Effective for tax years of U.S. persons beginning after December 31, 1997 and tax years of foreign corporations ending with or within such tax years of U.S. persons.
- 685(b)
685(f) Technical amendment clarifying that a pre-need qualified funeral trust will continue to qualify for the IRC section 685 special rules during the 60-day period beginning on the date of the grantor's death, even though the death of the grantor causes the trust to no longer qualify as a grantor trust. Effective for tax years ending after August 5, 1997.
- 751(c) Amendment clarifying the allocation of basis and unrealized receivables among properties distributed by a partnership. Effective for distributions after August 5, 1997.
- 774(d)(2) Simplified flow-through of certain real estate investment trust (REIT) credits for electing large partnerships. Effective for partnership tax years beginning after December 31, 1997.

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

- 853(c) Elimination of requirement of regulated investment company (RIC) to notify its shareholders of the foreign taxes that are disallowed as a credit for failure to meet the holding period requirements.

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

853(e),(f) A RIC may not elect to flow through to its shareholders foreign tax credits for foreign taxes paid by the RIC if its failure to meet the holding period requirements under IRC section 901k would disallow the credit for those taxes. (IRC section 853(e) redesignated at 853(f)).

The following section is operative for Hawaii income tax purposes.

857(d)(3)(A) Modification of earnings and profits rules for determining whether a REIT has earnings and profits from non-REIT year. Effective for tax years beginning after August 5, 1997.

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

871(f)(2)(B) Miscellaneous clerical changes and repeal of deadwood language relating to the imposition of income tax on nonresident alien individuals - certain annuities received under qualified plans.

901(k)(4)(A) Clarification of the exception from the stock holding period requirement for claiming foreign tax credits applies to stock that is held by a securities dealer engaged in the active conduct of a securities business in a foreign country.

991 Repeal of excise tax on transfers to foreign entities; recognition of gain on certain transfers to foreign trusts and estates.

The following sections are operative for Hawaii income tax purposes.

1017(a)(2) Miscellaneous clerical changes and repeal deadwood language relating to discharge of indebtedness. Effective as of July 22, 1998.

1045(a) Technical amendment clarifying that the gain from the sale of qualified small business stock held by a taxpayer other than a corporation can be rolled over tax-free to other qualified small business stock. A similar rule applies to certain partnerships and S corporations. Effective for sales after August 5, 1997.

The following section is operative for Hawaii income tax purposes.

1045(b)(5) Clarification that the rules pertaining to the 50-percent exclusion for gain from certain small business stock are to apply to rollover of gain from qualified small business stock to another qualified small business stock. Effective for sales after August 5, 1997.

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

1059(g)(1) IRS to issue regulations to clarify the tax treatment of certain extraordinary dividends received by corporate shareholders. Effective for distributions after May 3, 1995, generally. The State shall conform to the appropriate regulations issued by the IRS.

The following section is operative for Hawaii income tax purposes.

1223(11),(12) Technical amendment providing that inherited property will be eligible for the lowest applicable capital gains rates because they will be treated as if held more than 12 months. Effective as of January 1, 1998.

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

1223(11),(12) Amendment providing that property acquired from a decedent sold before 1998, in tax years ending after May 6, 1997, within 18 months (instead of within one year) of decedent's death is treated as held for 18 months (instead of one year).

1223(12) Amendment providing that special use valuation property that is sold to another qualified heir before 1998, in tax years ending after May 6, 1997, within 18 months (instead of one year) of decedent's death is treated as held for 18 months (instead of one year).

1235(a) Amendment providing that patents by inventors and certain investors are treated as the sale or exchange of a capital asset held for more than 18 months.

The following sections are operative for Hawaii income tax purposes

- 1250(d)(4)(D) Miscellaneous clerical changes and repeal of deadwood language relating to gain from dispositions of certain depreciable realty. Effective as of July 22, 1998.
- 1259(b)(2) Technical amendment clarifying that to qualify for the exception from constructive sales rules for positions with respect to debt instruments, the position must either itself meet the requirements as to unconditional principal amount, non-convertibility and interest terms or alternatively, be a hedge of a position meeting these requirements. Effective for constructive sales after June 8, 1997, generally.
- 1259(d)(1) Definition clarified such that a forward contract includes a contract that provides for cash settlement with respect to a substantially fixed amount of property at a substantially fixed price. Effective for constructive sales after June 8, 1997, generally.

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

- 1291(d)(1) Coordination of mark-to-market election for marketable stock in passive foreign investment company (PFIC) with other mark-to-market provisions.
- 1296(d) Clarification that a shareholder deduction is allowed under the statutory mark-to-market rule with respect to a RIC that elects to use the rule for its PFIC stock.
- 1297(e)(4) Technical amendment specifying that U.S. option holders of stock of a controlled foreign corporation are not subject to PFIC shareholder inclusion.
- 1297(e) Valuation of assets for passive foreign investment company determination.
- 1298(a)(2)(B) Amendment clarifying applicability of attribution rules that determine whether a U.S. person indirectly owns stock in a PFIC.

The following section is operative for Hawaii income tax purposes.

1361(e)(4) Conforming amendment repealing tax on transfers to electing small business trusts at less than fair market value. Effective for sales or exchanges after August 5, 1997.

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

1397E(d)(4)(B) Relating to the qualified zone academy bond credit, clarification of
1397E(g) treatment for estimated tax and overpayment purposes.
1397E(h)

The following sections are operative for Hawaii income tax purposes.

6015 New code section. Expands the relief from joint and several liability that is available to joint return filers by: (1) relaxing some of the requirements for obtaining “innocent spouse” relief (but requiring taxpayer to make an election in writing in order to obtain innocent spouse relief) and expressly making partial relief available on a proportionate basis; (2) allowing an individual who has filed a joint return and who is no longer married to, is legally separated from, or no longer lives with the spouse with whom the return was filed to elect separate liability for any deficiency with respect to the joint return; (3) authorizing the Department to grant equitable relief from liability for any unpaid tax or any deficiency in cases where the rules at (1) and (2) above do not apply. The adoption of this code section will be included in the State of Hawaii Department of Taxation’s 1999 conformity bill.

6230(c)(5)(A) Conforming amendment relating to spouse-of-a-partner rule for purposes of relief from joint and several liability on joint return. Effective for any tax liability unpaid as of, or arising after, July 22, 1998, generally.

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

6231(a)(7) IRS required to notify partners of certain changes in tax matters partner. Effective for selections of tax matters partners made by the IRS after July 22, 1998.

The following section is operative for Hawaii income tax purposes.

6511(h)-(i)

New code section. Suspension of statute of limitations on filing refund claims during periods of disability, with due regard to section 235-11, Hawaii Revised Statutes, relating to the limitation period for assessment, levy, collection, or credit. The adoption of this code section will be included in the State of Hawaii Department of Taxation's 1999 conformity bill.

**DIGEST OF THE SURFACE TRANSPORTATION
REVENUE ACT OF 1998
P. L. 105-178**

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

<u>CODE SECTION</u>	<u>DESCRIPTION OF PROVISION</u>
----------------------------	----------------------------------------

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

Non-Code provision	Amendment to section 977(e)(1)(B) of the Taxpayer Relief Act of 1997 relating to additional qualified expenses available to nonAmtrak states for payments by the National Railroad Passenger Corporation. Act section 9007.
Non-Code provision	Amendment to section 1032(f) of the Taxpayer Relief Act of 1997 relating to delay in effective date of new requirement for approved diesel or kerosene fuel terminals. Act section 9008.

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

40(e)(1)	Extension of ethanol and renewable source methanol tax provisions through September 30, 2007, for the federal excise tax reduction, and December 31, 2007, for the federal income tax credit.
40(h)	Reduced federal ethanol income tax credit rate beginning in 2001.

The following sections are operative for Hawaii income tax purposes.

132(F)(2)(A), (B)	Base amount increased for the gross income exclusion on qualified parking benefits (\$175) and other qualified transportation fringe benefits (\$65), such as van pooling and transit passes provided to employees, to reflect inflation adjustment. Effective for tax years beginning after December 31, 1998.
132(f)(2)(A)	Base amount for the exclusion limit for qualified transportation benefits other than parking, such as van pooling and transit passes, is increased to \$100 per month. Effective for tax years beginning after December 31, 2001.

The following sections are operative for Hawaii income tax purposes.

- 132(f)(4) Election to receive taxable cash compensation in lieu of any nontaxable qualified transportation fringe benefit, not limited to qualified parking benefit. Effective for tax years beginning after December 31, 1997.
- 132(f)(6) Clarification of the inflation adjustment computation for the qualified transportation benefits other than parking. Effective for tax years beginning after December 31, 1998.
- 132(f)(6)(A) Clarification of the inflation adjustment computation for qualified transportation benefits. Effective for tax years beginning after December 31, 2001.

**DIGEST OF THE TAX AND TRADE
RELIEF EXTENSION ACT OF 1998
P. L. 105-277**

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

<u>CODE SECTION</u>	<u>DESCRIPTION OF PROVISION</u>
----------------------------	----------------------------------------

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

Non-Code provision	Extension of duty-free treatment under generalized system of preferences program. Act section 1011.
Non-Code provision	Extension of trade adjustment assistance program. Act section 1012.

The following provision is operative for Hawaii income tax purposes.

Non-Code provision	Income averaging for farmers made permanent. Act section 2011. Effective as October 21, 1998.
--------------------	-----------------------------------------------------------------------------------------------

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

Non-Code provision	Farm production flexibility contract payments paid under the Federal Agriculture Improvement and Reform Act of 1996 to farmers hard hit by disasters in 1998 will not be included in income prior to receipt. Act section 2012(a).
Non-Code provision	The Secretary of the Treasury is directed to report to Congress on a comprehensive study of the recovery periods and depreciation methods of IRC Section 168 with the goal of recommending “more rational” ways for determining periods and methods. Act section 2022.

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

Non-Code provision Allows a short period (January 1, through March 31, 1999) for States to modify existing State agreements to exempt students from Social Security coverage who are employed by a public school, university, or college in a nonexempted State. Act section 2023.

The following provision is operative for Hawaii income tax purposes.

Non-Code provision Provides for assumptions in determining treatment of certain deductible liquidating distributions of regulated investment companies and real estate investment trusts- assumptions. Act section 3001(d). Effective for distributions on or after May 22, 1998.

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

Non-Code provisions Technical corrections relating to definitions and coordinating references to the Internal Revenue Code, 1997, and 1998 tax acts. Act sections 4001(a), (b).

Non-Code provision Technical correction to section 3301 of the Internal Revenue Service Restructuring and Reform Act of 1998 (RRA of 1998) clarifying that the application of the zero interest rate to periods beginning before July 22, 1998 is also subject to any applicable statute of limitation that has not expired with respect to any underpayment or overpayment. Act section 4002(d).

Non-Code provisions Technical correction to section 3401 of RRA of 1998 clarifying the due process requirements in IRS collection actions, relating to review by special trial judges. Act sections 4002(e)(1),(2).

Non-Code provision Technical correction to section 311 of the Taxpayer Relief Act of 1997 (TRA of 1997) clarifying the federal capital gain tax rate applicable on property held for more than 12 months but less than 18 months for distributions made to noncharitable noncorporate beneficiaries after 1997. Act section 4003(b).

Non-Code provision Technical correction to section 915 of TRA of 1997 clarifying abatement of interest on underpayments by taxpayers in presidentially declared disaster areas. Act section 4003(e)(1).

Tax and Trade Relief Extension Act of 1998 (P.L. 105-277)

The following provision is operative for Hawaii income tax purposes.

Non-Code provision Technical amendment to section 1042 of TRA of 1997 providing for rules for filing consolidated returns for affiliated corporations, subject to section 235-92(2), Hawaii Revised Statutes. Act section 4003(g). Effective for tax years beginning after December 31, 1997.

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

Non-Code provision Amendment to section 207 of the Social Security Act related to Uruguay Round Agreements Act clarifying inapplicability of assignment prohibition on the withholding of federal income taxes. Act section 4005(a).

Non-Code provision Amendment to section 201(g) of the Social Security Act related to Uruguay Round Agreements Act clarifying proper allocation of costs of withholding between the trusts funds and the general fund. Act section 4005(b).

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

1(h)(13) Technical amendments relating to section 5001 of the RRA of 1998, clarifying the federal capital gain tax rate applicable on property held more than 12 months but less than 18 months for distributions by a regulated investment company or a real estate investment trust after 1997.

1(h)(13)(D) Technical amendments relating to section 311 of the TRA of 1997 clarifying the federal capital gain tax rate applicable on property held more than 12 months but less than 18 months for distributions made by charitable remainder trusts after 1997.

24(d)(2) Amendment clarifying that additional child credit is not reduced by the amount of an individual's alternative minimum tax during 1998.

26(a) Nonrefundable personal credits fully allowed to offset the individual's regular tax liability during 1998.

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

- 41(h)(1) Retroactively extends the research tax credit for 12 months. Effective for qualified research expenditures paid or incurred during the period July 1, 1998, through June 30, 1999.
- 45C(b)(1)(D) For purposes of the orphan drug credit, the research tax credit is considered to remain in effect after July 30, 1995 and before July 1, 1996, and for periods after June 30, 1999.
- 51(c)(4)(B) Retroactively extends the work opportunity tax credit for 12 months. Effective for wages paid or incurred to qualified individuals who begin work for the employer on or after July 1, 1998, and before July 1, 1999.
- 51(d)(6)(B) Clerical amendment relating to vocational rehabilitation referrals for purposes of determining the work opportunity credit.
- 51A(f) Extends the welfare-to-work tax credit for two months. Effective for wages paid or incurred to a qualified individual who begins work for an employer on or after May 1, 1999, and before July 1, 1999.
- 56(a)(3) Clerical amendment relating to treatment of certain long-term contracts in determining adjustments in computing alternative minimum tax.

The following sections are operative for Hawaii income tax purposes.

- 67(b)(3) Technical correction clarifying that deductions for casualty and theft losses from nonbusiness transactions entered into for profit are not miscellaneous itemized deductions subject to the 2 percent adjusted gross income floor exclusion. Effective for taxable years beginning after December 31, 1986.
- 68(c)(3) Technical correction clarifying that deductions for casualty and theft losses from nonbusiness transactions entered into for profit are not subject to the 3 percent/80 percent overall limitation on itemized deductions. Effective for taxable years beginning after December 31, 1990.

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

Tax and Trade Relief Extension Act of 1998 (P.L. 105-277)

86(b)(2)(A) Technical correction clarifying that the deduction for interest paid on education loans is disregarded in calculating modified adjusted gross income for purposes of IRC section 86(b)(2)(A), relating to social security and railroad retirement benefits.

135(c)(4)(A) Technical correction clarifying that the deduction for interest paid on education loans is disregarded in calculating modified adjusted gross income for purposes of IRC section 135(c)(4)(A), relating to U.S. savings bonds.

The following section is operative for Hawaii income tax purposes.

137(b)(3)(A) Technical correction clarifying that the deduction for interest paid on education loans is disregarded in calculating adjusted gross income for purposes of IRC section 137(b)(3)(A), relating to adoption assistance programs. Effective for any qualified education loan incurred on, before, or after August 5, 1997, but only with respect to any loan interest payments due and paid after December 31, 1997, and the portion of the 60-month period referred to in IRC section 221(d) after December 31, 1997.

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

146(d)(1),(2) Increases the current annual State private activity bond volume limits.

The following section is operative for Hawaii income tax purposes.

162(l)(1)(B) Accelerates the current phase-in of the 100 percent deduction for health insurance premiums for self-employed individuals from 2007 to 2003. Effective for taxable years beginning after December 31, 1998.

The following sections are operative for Hawaii income tax purposes.

- 163(h)(2)(F) Technical correction clarifying that otherwise deductible qualified education loan interest is not treated as nondeductible personal interest. Effective for any qualified education loan incurred on, before, or after August 5, 1997, but only with respect to any loan interest payments due and paid after December 31, 1997, and the portion of the 60-month period referred to in IRC section 221(d) after December 31, 1997.
- 170(e)(5)(D) Retroactively reinstates and extends permanently the enhanced charitable deduction equal to the fair market value of “qualified appreciated stock” contributed to a private foundation. Effective for contributions of qualified appreciated stock to private foundations made after June 30, 1998.
- 172(b)(1)(F)(ii) Technical amendment clarifying that the net operation loss (NOL) carryback period for farming losses is extended to five years, whether or not the loss was incurred in a Presidentially declared disaster. Effective for net operating losses incurred after December 31, 1997.
- 172(b)(1)(F)(iv) Technical amendment coordinating the use of eligible losses with the general rule for NOLs in the same manner as a loss arising from a specified liability loss. Effective for tax years beginning after August 5, 1997.
- 172(b)(1)(G) Amendment providing for a 5-year NOL carryback period for farming losses. Effective for NOLs for tax years beginning after December 31, 1997.
- 172(d)(4)(C) Technical correction clarifying that casualty or theft losses incurred in nonbusiness transactions entered into for profit are added to nonbusiness casualty and theft losses taken into account in computing noncorporate taxpayer’s NOL. Effective for tax years beginning after December 31, 1983.

The following sections are operative for Hawaii income tax purposes.

- 172(f)(1)(B) Clarification of the definition of “specified liability losses.” “Specified liability losses” entitled to the 10-year NOL carryback are limited to (in addition to product liability losses) liabilities under certain federal and state laws. Effective for NOLs arising in tax years ending after October 21, 1998.
- 172(i), (j) Technical amendment relating to farming losses, redesignating subsection (i) as subsection (j) and adding a new subsection (i) that provides for (1) clarification and treatment of “farming losses,” and (2) an election to forgo application of the five-year NOL carryback for farming losses. Effective for NOLs for tax years beginning after December 31, 1997.
- 219(g)(3)(A) Technical correction clarifying that the deduction for interest paid on education loans is disregarded in calculating adjusted gross income for purposes of IRC section 219(g)(3)(A)(ii), relating to retirement savings. Effective for any qualified education loan incurred on, before, or after August 5, 1997, but only with respect to any loan interest payments due and paid after December 31, 1997, and the portion of the 60-month period referred to in IRC section 221(d) after December 31, 1997.
- 221(b)(2)(C) Technical correction clarifying that adjusted gross income amount for the education loan interest deduction phase-out is determined after exclusion of savings bond interest used to pay higher education expenses and adoption assistance benefits. Effective for any qualified education loan incurred on, before, or after August 5, 1997, but only with respect to any loan interest payments due and paid after December 31, 1997, and the portion of the 60-month period referred to in IRC section 221(d) after December 31, 1997.
- 221(e)(1) Technical correction clarifying that a qualified education loan does not include a loan from a qualified employer plan. Effective for any qualified education loan incurred on, before, or after August 5, 1997, but only with respect to any loan interest payments due and paid after December 31, 1997, and the portion of the 60-month period referred to in IRC section 221(d) after December 31, 1997.

The following sections are operative for Hawaii income tax purposes.

- 264(f)(3) Technical correction clarifying the definition of unborrowed policy cash value (“inside buildup”) for life insurance, annuity, or endowment contracts. Effective for contracts issued after June 8, 1997.
- 332(b) Conforming amendment relating to the complete liquidation of subsidiaries to which IRC section 332 applies in determining the treatment of certain deductible liquidating distributions of regulated investment companies and real estate investment trusts. Effective for distributions after May 21, 1998.
- 332(c) Effective retroactively for distributions made after May 21, 1998, any amount a liquidating regulated investment company or real estate investment trust may take as a deduction for dividends paid with respect to an otherwise tax-free liquidating distribution to an 80-percent corporate owner would be includible in the recipient corporation’s income. Effective for distributions after May 21, 1998, regardless of when the plan of liquidation was adopted.
- 334(b)(1) Conforming amendment relating to the basis of property received in liquidations for determining treatment of certain deductible liquidating distributions of regulated investment companies and real estate investment trusts. Effective for distributions after May 21, 1998.
- 351(c)(2), 368(a)(2)(H)(ii) Technical correction clarifying the “control immediately after” requirement of IRC sections 351(c) and 368(a)(2)(H) for purposes of determining whether there has been an acquisition of a 50-percent or greater interest in a corporation. Effective for transfers after August 5, 1997, generally.
- 408A(c)(3)(C) Technical correction clarifying contribution limits based on modified adjusted gross income for Roth IRAs. Effective for tax years beginning after December 31, 1998.

The following sections are operative for Hawaii income tax purposes.

- 451(h) New code subsection. Lottery and other prize winners who are given a choice of cash or an annuity generally will be able to elect the annuity option within 60 days and avoid income tax on the present value of the annuity but, rather, will pay the tax on the annuity amount as it is received each year. Effective for prizes to which a person first becomes entitled to after October 21, 1998.
- 469(i)(3)(E) Technical correction clarifying that the deduction for interest paid on education loans is disregarded in calculating adjusted gross income for purposes of IRC section 469(i)(3)(E)(iii), relating to passive activity losses. Effective for any qualified education loan incurred on, before, or after August 5, 1997, but only with respect to any loan interest payments due and paid after December 31, 1997, and the portion of the 60-month period referred to in IRC section 221(d) after December 31, 1997.

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

- 873(b)(1) Technical correction clarifying that a casualty or theft deduction loss is allowable to nonresident alien individuals only if the loss is of property located within the U.S.
- 953(a), 953(b)(3),
953(b)(4), 953(e),
954(c)(1)(B)(i),
954(c)(2)(C), 954(e)(2),
954(h), 954(i) One-year modified extension of the exceptions from, Subpart F for active financing income from foreign-related banking, financing or similar businesses to help U.S. financial firms compete abroad.
- 953(a), 953(e),
953(b)(3), 953(b)(4) Provides for new exception to general Subpart F treatment that is applicable to certain exempt insurance income derived by a qualifying insurance company from insuring risks both within and outside of its country of creation or organization.
- 954(c)(1)(B)(i) Modification of the treatment of the excess of gains over losses from the sale of the assets of an active lending or financing business.
- 954(c)(2)(C),
954(h)(6) Provides for new exception from general Subpart F treatment for certain income derived by a securities dealer.

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

- 954(e), 954(h)(7) Expands the current anti-abuse rules for income derived in the active conduct of a banking, financing or similar business.
- 954(h) Foreign personal holding company income does not include “qualified banking or financing income” of an “eligible controlled foreign corporation.”
- 954(i) Provides for one-year exception from the definition of foreign personal holding company income for the “qualified insurance income” of a qualifying insurance company or a qualifying insurance company branch.

The following section is operative for Hawaii income tax purposes.

- 6015(c)(3) Technical amendment narrowing the ability to obtain a tax credit or refund with respect to actions commenced under IRC section 6015 to instances where the taxpayer qualifies for innocent spouse relief under IRC section 6015(b) or where the IRS exercises its authority to provide equitable relief pursuant to IRC section 6015(b). Effective for any tax liability arising after July 22, 1998, and any tax liability arising on or before July 22, 1998, but remaining unpaid as of such date, generally. The adoption of this code section will be included in the State of Hawaii Department of Taxation’s 1999 conformity bill.

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

- 6654(d)(1)(C) For taxable years beginning in 2000 and 2001, the 105 percent of last year’s liability safe harbor for any individual with an AGI of more than \$150,000 as shown on the return for the preceding taxable year is modified to be a 106 percent of last year’s liability safe harbor. Effective for any installment payment for tax years beginning after December 31, 1999.

RICKY RAY HEMOPHILIA RELIEF ACT OF 1998
P. L. 105-369

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

CODE SECTION

DESCRIPTION OF PROVISION

The following provision is operative for Hawaii income tax purposes.

Non-Code provision	Payments received from the Ricky Ray Hemophilia Relief Fund shall be treated for purposes of the Internal Revenue Code (IRC) of 1986 as damages described in IRC section 104(a)(2). Act section 103)(h)(1). Effective as of November 12, 1998.
--------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------