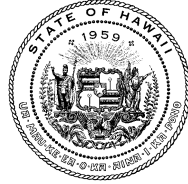


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May 23, 2022

## **DEPARTMENT OF TAXATION ANNOUNCEMENT NO. 2022-02**

RE: Act 7, Session Laws of Hawaii 2022, Relating to Conformity of the Hawaii Income and Estate Tax Law to the Internal Revenue Code

On April 21, 2022, S.B. 3143 was approved by Governor David Y. Ige and became Act 7, Session Laws of Hawaii 2022 (Act 7). Act 7 conforms Hawaii income and estate and generation-skipping transfer tax laws to the Internal Revenue Code of 1986 (IRC), as amended as of December 31, 2021.

Act 7 generally addresses the IRC amendments made by the American Rescue Plan Act of 2021, P. L. 117-2 (ARPA), which became law on March 11, 2021. IRC amendments made by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) and the Consolidated Appropriations Act of 2021 were addressed in Act 13, Session Laws of Hawaii (SLH) 2020, and Act 89, SLH 2021, respectively. The purpose of this Tax Announcement is to highlight significant changes brought about by Act 7.

### **Targeted Economic Injury Disaster Loan (EIDL) Advances**

Act 7 adopts ARPA section 9672(1) which allows the exclusion of EIDL advances from gross income for the purposes of income tax. However, it is important to note that Hawaii has not adopted ARPA section 9672(2). As such, deductions for expenses paid with EIDL advance funds are disallowed for Hawaii income tax purposes.

### **Restaurant Revitalization Fund (RRF) Grants**

Act 7 adopts ARPA section 9673(1) which allows the exclusion RRF grants from gross income for the purposes of income tax. However, it is important to note that Hawaii has not adopted ARPA section 9673(2). As such, deductions for expenses paid with RRF grant funds are disallowed for Hawaii income tax purposes.

### **Recovery Rebate Credit (RRC) Payments**

Act 7 excludes the RRC payments provided under ARPA section 9601 from gross income for Hawaii income tax purposes. The maximum RRC payment was \$1,400 per person, with a maximum phaseout income threshold of \$75,000, or \$150,000 for joint filers. Hawaii also conformed to the exclusion from income of the first and second RRC payments.

## **Student Loan Forgiveness**

ARPA amended IRC section 108(f)(5)(A), to allow the exclusion of qualified student loans cancelled or discharged in 2021 through 2025 from gross income. This amendment applies to Hawaii income tax through existing conformity to IRC section 108, except for subsection (i).

Qualified student loans include loans for post-secondary education provided by the government or the educational institution, private education loans, and original and certain refinanced loans from tax-exempt organizations with a public service requirement. Forgiveness does not apply to private education loans or loans from tax-exempt organizations if the discharge is on account of services provided to the lending organization.

## **Special Tax Treatment for Coronavirus-related Distributions**

Act 7 adopted section 2202(a) of the CARES Act retroactively to taxable years beginning after December 31, 2019. Prior to Act 7 becoming law, Hawaii did not conform to this provision.

Section 2202(a) provides expanded distribution options and favorable tax treatment for up to \$100,000 of coronavirus-related distributions from eligible retirement plans to qualified individuals; allows the coronavirus-related distribution to be included in income ratably over three years; and provides that if the amount distributed is recontributed to an eligible retirement plan within the three-year period beginning on the day after the date on which the distribution was received, the distribution may be treated as if it were paid in a direct trustee-to-trustee transfer to an eligible retirement plan. For more information, please see Internal Revenue Notice 2020-50, "Guidance for Coronavirus-Related Distributions and Loans from Retirement Plans Under the CARES Act."

A qualified individual who included a coronavirus-related distribution in gross income in the year of the distribution, and desires to report the distribution ratably over three years, will need to file an amended Hawaii income tax return for 2020 and 2021 (if already filed). Likewise, a qualified individual who recontributes the distribution to an eligible retirement plan after reporting the distribution as income will also need to file an amended Hawaii income tax return for the year of the distribution to report the amount of the recontribution and should reduce their gross income by the amount of the recontribution, but not in an amount exceeding the amount of the coronavirus-related distribution.

As section 2202(a) of the CARES Act characterizes such a recontribution as a direct trustee-to-trustee transfer to an eligible retirement plan, such amounts will retain their character, as between employer contribution, pretax employee contribution, and previously taxed contribution pursuant to Hawaii Administrative Rules section 18-235-7-03(d)(2).

This Tax Announcement only provides the highlights of Act 7 and is not intended to be an exhaustive or complete analysis of the law. For a more comprehensive analysis of Hawaii's

conformity to federal tax law changes, please see the [2022 Digest of Tax Measures](#). If you have any questions, you may contact the Technical Section by email at [tax.technical.section@hawaii.gov](mailto:tax.technical.section@hawaii.gov) or by telephone at (808) 587-1577.

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