

2018 Conformity Update

Hawaii Association of Public Accountants
October 31, 2018

This presentation is for general informational purposes only, and should not be relied upon for tax law. Please refer to the applicable Hawaii Revised Statutes, Tax Information Release, Tax Facts, and Forms and Instructions for official Department of Taxation information.

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For More Information

- ▶ Act 27, SLH 2018 (SB2821 SD1 HD1 CD1)
 - capitol.hawaii.gov
- ▶ IRS.gov
- ▶ Bipartisan Budget Act of 2015, Public Law No. 114-74
- ▶ Tax Cuts and Jobs Act, Public Law No. 115-97
- ▶ Bipartisan Budget Act of 2018, Public Law No. 115-123

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Outline of Presentation

- ▶ Hawaii's response to the Tax Cuts and Jobs Act
 - Individual income tax provisions
 - Business income tax provisions
 - Estate tax
- ▶ Hawaii's response to the new Partnership Audit Rules
- ▶ 2018 Extender Legislation

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TCJA Provisions not covered:

- ▶ Insurance Provisions
- ▶ Accounting Method Provisions
- ▶ Excise Tax Provisions
- ▶ Federal Credits
- ▶ Employment and Retirement Provisions
- ▶ International Provisions
 - §§91, 250, and 267A

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Response to Tax Cuts and Jobs Act

Individual Provisions

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Mortgage Interest

- ▶ Federal Law:
 - Mortgage interest deductible only if attributable to mortgage balances of \$750,000 or less.
 - Applies to tax years 2018–2025.
 - IRC §163(h)(3)(F).
- ▶ Hawaii Law:
 - Mortgage interest deductible only if attributable to mortgage balances of \$1,000,000 or less.
 - HRS §235–2.4(j)(3).
 - Home equity interest deductible with \$100,000 limitation.

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State and Local Taxes

- ▶ Federal Law:
 - Limits the deduction for taxes paid to \$10,000.
 - Limitation applies only to individuals.
 - Applies to tax years 2018–2025.
 - IRC §164(b)(6)(B).
- ▶ Hawaii Law:
 - Does not limit the deduction for taxes paid.
 - HRS §235–2.4(k)(1).

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Personal Casualty Losses

- ▶ Federal Law:
 - Personal casualty loss deductions allowed only if attributable to a federally declared disaster.
 - Exception: If there are related personal casualty gains, losses are deductible to the extent of gains.
 - Applies to tax years 2018–2025.
 - IRC §165(h)(5).
- ▶ Hawaii Law:
 - Net personal casualty losses deductible if total exceeds:
 - \$100; and
 - 10% of AGI
 - HRS §235–2.4(l)(3).

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Moving Expenses

- ▶ Federal Law:
 - Deduction for moving expenses suspended.
Exception: Member of the Armed Forces on active duty moving pursuant to military orders.
 - Applies to tax years 2018–2025.
 - IRC §217(k).
- ▶ Hawaii Law:
 - Moving expenses allowed as a deduction if:
 - New place of work adds more than 50 miles to the one-way commute, and
 - Taxpayer is genuinely working in the new location.
 - HRS §235–2.4(q).

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Exclusions from Income

- ▶ Federal Law:
 - Suspends the exclusion from income for moving expense reimbursement.
 - Suspends the exclusion from income for bicycle commuting reimbursements.
 - Apply to tax years 2018–2025.
 - IRC §132(f)(8) and (g)(2).
- ▶ Hawaii Law:
 - Neither exclusion is suspended for Hawaii income tax purposes.
 - HRS §235–2.4(h).

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2% floor and Pease limitation

- ▶ Federal Law:
 - 2% floor on certain miscellaneous itemized deductions suspended.
 - Pease limitation suspended.
 - Apply to tax years 2018–2025.
 - IRC §§ 67(g) and 68(f).
- ▶ Hawaii Law:
 - 2% floor on certain miscellaneous itemized deductions not suspended.
 - Pease limitation not suspended.
 - HRS §235–2.4(b) and (c).

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Section 529 Plans

- ▶ Federal Law:
 - Qualified distributions includes up to \$10,000 per year for elementary and secondary school expenses.
 - Applies to tax years beginning after December 31, 2017.
 - IRC §529(c)(7).
- ▶ Hawaii Law:
 - Distributions for elementary and secondary education are not qualified distributions.
 - HRS §235–2.4(hh).

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Adopted

- ▶ §213(f) – Reduction in medical expense deduction floor
- ▶ §170(b)(1) – Increase in charitable contribution limit
- ▶ §529A – Expansion in allowable contributions to ABLE accounts
- ▶ §529(c)(3)(C) – Rollovers to ABLE accounts from 529 accounts
- ▶ §112 – Exclusion for Sinai Peninsula combat pay
- ▶ §108 – Exclusion for forgiveness of student loan debt due to death
- ▶ §165(d) – Limitation of wagering losses
- ▶ §215 – Alimony deduction/inclusion reversal

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Response to Tax Cuts and Jobs Act Business Provisions

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Corporate Tax Rate Reduction

- ▶ Federal Law:
 - 21% corporate tax rate.
 - Applies to tax years beginning after December 31, 2017.
 - IRC §11.
- ▶ Hawaii Law:
 - Rates unchanged.
 - HRS §235-71.

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20% Pass-through Deduction

- ▶ Federal Law:
 - 20% deduction for pass-through income.
 - Exceptions if any.
 - Applies to tax years 2018-2025.
 - IRC §199A.
- ▶ Hawaii Law:
 - No deduction for pass-through income.
 - HRS §235-2.3(b)(17).

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Bonus Depreciation

- ▶ Federal Law:
 - 100% expensing in the first year property is placed in service.
 - Applies to property placed in service after September 17, 2017 and before January 1, 2023 (January 1, 2024 for property with longer production periods).
 - IRC §168(k).
- ▶ Hawaii Law:
 - Bonus depreciation under IRC section 168(k) not allowed.
 - HRS §235-2.4(m).

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Section 179 Expensing

- ▶ Federal Law:
 - Aggregate amount increased from \$500,000 to \$1M; threshold increased from \$2M to \$2.5M.
 - Applies to tax years beginning after December 31, 2017.
 - IRC §179.
- ▶ Hawaii Law:
 - Amounts unchanged.
 - Aggregate amount remains \$25,000; threshold remains \$200,000.
 - HRS §235-2.4(o).

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Deductibility of Fines and Penalties

- ▶ Federal Law:
 - Exception to the disallowance of deduction for fines and penalties provided for:
 - Restitution payments;
 - Court ordered payments in a suit in which no governmental entity was involved;
 - Amounts paid as taxes due.
 - Applies to tax years beginning after December 31, 2017.
 - IRC §162(f)(2), (3), and (4).
- ▶ Hawaii Law:
 - No deduction for fines and penalties; no exceptions.
 - HRS §235-2.4(i).

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Entertainment Expenses

- ▶ Federal Law:
 - Disallows deductions for entertainment expenses.
 - Retains deduction for 50% of food and beverage expense associated with operating a trade or business.
 - Applies to tax years beginning after December 31, 2017.
 - IRC §274(a).
- ▶ Hawaii Law:
 - Deductibility of entertainment expenses unchanged.
 - Entertainment expenses still deductible up to 50% of the total expense.
 - HRS §235-2.4(u).

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Response to Tax Cuts and Jobs Act

Estate Tax

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Estate Tax

- ▶ Federal Law:
 - Estate, gift, and generation–skipping transfer tax exemption amount increased from \$10M.
 - Applies to decedents dying after December 31, 2017 and before January 1, 2026.
 - IRC §2010(c)(3).
- ▶ Hawaii Law:
 - Estate tax and generation–skipping transfer tax exemption amount remains at 2017 level of \$5.49M.
 - Decoupling from the federal exemption amount necessitated many conforming amendments.
 - HRS §§ 236E–3 and 6.

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Estate Tax Conforming Amendments

- ▶ Decoupling from the federal exemption amount necessitated conforming amendments in the following areas:
 - Audit and assessment authority
 - Filing Requirements
 - Due Dates
 - Statutes of Limitations for Assessment and Refund
 - Installment Payments
 - Extensions

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Response to New Partnership Audit Rules

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Partnership Audit Rules

- ▶ Federal Law:
 - Federal law replaced TEFRA with a new partnership audit regime.
 - The major difference between TEFRA and the new regime is that the partnership is required to pay the assessment.
 - Applies to tax years beginning after January 1, 2017.
 - IRC §§ 6221 through 6241.
- ▶ Hawaii Law:
 - Hawaii adopted the substantive provisions of the new partnership audit regime.
 - Hawaii does not adopt the procedural or timing provisions of the new partnership audit regime.
 - HRS §235-2.45(m) and (n).

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Partnership Audit Rules

- ▶ §6221 – Audit, assessment, and collection at partnership level.
- ▶ §6222 – Partner's return must be consistent with partnership return.
- ▶ §6223 – Partnership representative may bind partnership.
- ▶ §6225 – Partnership must pay underpayment at the highest individual or corporate rate.
- ▶ §6226 – Partnership may elect out to have partners pay the underpayment.
- ▶ §6241 – Selected definitions.

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Extenders

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Extenders Adopted

- ▶ §108(a)(1)(E) – Exclusion of income from discharge of principal residence debt
- ▶ §163(h)(3) – Mortgage insurance premiums deductible as mortgage interest
- ▶ §168(e)(3)(A) – 3-year depreciation for young race horses
- ▶ §179D(h) – Deduction for energy-efficient commercial buildings

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Thank You