

JAN 25 2006

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# A BILL FOR AN ACT

RELATING TO GENERAL EXCISE TAX.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Chapter 237, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "§237-     Certification of persons with impaired sight or  
5 hearing, or who are totally disabled. (a) A person claiming  
6 impairment of sight under section 237-17 shall be certified on  
7 the basis of a written report after an examination performed by  
8 a qualified ophthalmologist or qualified optometrist.

9           (b) A person claiming impairment of hearing under section  
10 237-17 shall be certified by a qualified otolaryngologist or a  
11 licensed audiologist under chapter 468E.

12           (c) A person claiming total disability under section  
13 237-17 shall be certified by:

14           (1) A physician licensed under chapter 453 or 460;

15           (2) A qualified out-of-state physician who is licensed to  
16 practice in the state in which the physician resides;

17           or



1        (3) A commissioned medical officer in the United States  
2                Army, Navy, Marine Corps, or Public Health Service,  
3                engaged in the discharge of official duty.

4        (d) Certification shall be on forms prescribed by the  
5 department."

6                SECTION 2. Section 237-1, Hawaii Revised Statutes, is  
7 amended by adding three new definitions to be appropriately  
8 inserted and to read as follows:

9                "Blind" means a person whose central visual acuity does  
10 not exceed 20/200 in the better eye with correcting lenses, or  
11 whose visual acuity is greater than 20/200 but is accompanied by  
12 a limitation in the field of vision such that the widest  
13 diameter of the visual field subtends an angle no greater than  
14 twenty degrees.

15                "Deaf" means a person whose average loss in the speech  
16 frequencies (500-2000 Hertz) in the better ear is eighty-two  
17 decibels, A.S.A., or worse.

18                "Totally disabled" means a person who is totally and  
19 permanently disabled, physically or mentally, which results in  
20 the person's inability to engage in any substantial gainful  
21 business or occupation."



1 SECTION 3. Section 237-17, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§237-17 Persons with impaired sight~~[7]~~ or hearing, or who**  
4 **are totally disabled.** (a) Anything in section 237-13 to the  
5 contrary notwithstanding, the privilege tax levied, assessed,  
6 and collected on account of the business or other activities of  
7 [individuals]:

8 (1) Individuals who are blind, deaf, or totally disabled~~[7~~  
9 ~~corporations]~~;

10 (2) Corporations, all of whose outstanding shares are  
11 owned by individuals who are blind, deaf, or totally  
12 disabled~~[7-general]~~;

13 (3) General, limited, or limited liability partnerships,  
14 all of whose partners are blind, deaf, or totally  
15 disabled~~[7-or limited]~~;

16 (4) Limited liability companies, all of whose members are  
17 blind, deaf, or totally disabled~~[7]~~; or

18 (5) Trusts established for the sole benefit of an  
19 individual or individuals who are blind, deaf, or  
20 totally disabled,

21 shall not exceed one-half of one per cent of the proceeds,  
22 sales, income, or other receipts subject to tax.



1 ~~[For the purpose of this chapter "blind", "deaf", or "totally~~  
2 ~~disabled" is defined as in section 235-1.]~~

3       **(b)** The impairment of sight or hearing, or the total  
4 disability, shall be certified [to] as provided in [section  
5 235-1] this chapter."

6       SECTION 4. Section 237-24, Hawaii Revised Statutes, is  
7 amended to read as follows:

8       "**§237-24 Amounts not taxable.** This chapter shall not  
9 apply to the following amounts:

- 10       (1) Amounts received under life insurance policies and  
11       contracts paid by reason of the death of the insured;
- 12       (2) Amounts received (other than amounts paid by reason of  
13       death of the insured) under life insurance, endowment,  
14       or annuity contracts, either during the term or at  
15       maturity or upon surrender of the contract;
- 16       (3) Amounts received under any accident insurance or  
17       health insurance policy or contract or under workers'  
18       compensation acts or employers' liability acts, as  
19       compensation for personal injuries, death, or  
20       sickness, including also the amount of any damages or  
21       other compensation received, whether as a result of



- 1           action or by private agreement between the parties on  
2           account of the personal injuries, death, or sickness;
- 3           (4) The value of all property of every kind and sort  
4           acquired by gift, bequest, or devise, and the value of  
5           all property acquired by descent or inheritance;
- 6           (5) Amounts received by any person as compensatory damages  
7           for any tort injury to the person, or to the person's  
8           character reputation, or received as compensatory  
9           damages for any tort injury to or destruction of  
10          property, whether as the result of action or by  
11          private agreement between the parties (provided that  
12          amounts received as punitive damages for tort injury  
13          or breach of contract injury shall be included in  
14          gross income);
- 15          (6) Amounts received as salaries or wages for services  
16          rendered by an employee to an employer;
- 17          (7) Amounts received as alimony and other similar payments  
18          and settlements;
- 19          (8) Amounts collected by distributors as fuel taxes on  
20          "liquid fuel" imposed by chapter 243, and the amounts  
21          collected by such distributors as a fuel tax imposed  
22          by any Act of the Congress of the United States;

1           (9) Taxes on liquor imposed by chapter 244D on dealers  
2           holding permits under that chapter;

3           (10) The amounts of taxes on cigarettes and tobacco  
4           products imposed by chapter 245 on wholesalers or  
5           dealers holding licenses under that chapter and  
6           selling the products at wholesale;

7           (11) Federal excise taxes imposed on articles sold at  
8           retail and collected from the purchasers thereof and  
9           paid to the federal government by the retailer;

10          (12) The amounts of federal taxes under chapter 37 of the  
11          Internal Revenue Code, or similar federal taxes,  
12          imposed on sugar manufactured in the State, paid by  
13          the manufacturer to the federal government;

14          (13) An amount up to, but not in excess of, \$2,000 a year  
15          of gross income received by [any]:

16           (A) Any blind, deaf, or totally disabled person  
17           engaging, or continuing, in any business, trade,  
18           activity, occupation, or calling within the  
19           State; [a]

20           (B) A corporation all of whose outstanding shares are  
21           owned by an individual or individuals who are  
22           blind, deaf, or totally disabled; [a]

- 1           (C)   A general, limited, or limited liability
- 2                           partnership, all of whose partners are blind,
- 3                           deaf, or totally disabled; [~~or~~-a]
- 4           (D)   A limited liability company, all of whose members
- 5                           are blind, deaf, or totally disabled; or
- 6           (E)   A trust established for the sole benefit of an
- 7                           individual or individuals who are blind, deaf, or
- 8                           totally disabled;
- 9       (14)   Amounts received by a producer of sugarcane from the
- 10                           manufacturer to whom the producer sells the sugarcane,
- 11                           where:
- 12           (A)   The producer is an independent cane farmer, so
- 13                           classed by the Secretary of Agriculture under the
- 14                           Sugar Act of 1948 (61 Stat. 922, Chapter 519) as
- 15                           the Act may be amended or supplemented;
- 16           (B)   The value or gross proceeds of sale of the sugar,
- 17                           and other products manufactured from the
- 18                           sugarcane, is included in the measure of the tax
- 19                           levied on the manufacturer under section
- 20                           237-13(1) or (2);
- 21           (C)   The producer's gross proceeds of sales are
- 22                           dependent upon the actual value of the products

1 manufactured therefrom or the average value of  
2 all similar products manufactured by the  
3 manufacturer; and

4 (D) The producer's gross proceeds of sales are  
5 reduced by reason of the tax on the value or sale  
6 of the manufactured products;

7 (15) Money paid by the State or eleemosynary child-placing  
8 organizations to foster parents for their care of  
9 children in foster homes; and

10 (16) Amounts received by a cooperative housing corporation  
11 from its shareholders in reimbursement of funds paid  
12 by such corporation for lease rental, real property  
13 taxes, and other expenses of operating and maintaining  
14 the cooperative land and improvements; provided that  
15 such a cooperative corporation is a corporation:

16 (A) Having one and only one class of stock  
17 outstanding;

18 (B) Each of the stockholders of which is entitled  
19 solely by reason of the stockholder's ownership  
20 of stock in the corporation, to occupy for  
21 dwelling purposes a house, or an apartment in a  
22 building owned or leased by the corporation; and





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1 (C) No stockholder of which is entitled (either  
 2 conditionally or unconditionally) to receive any  
 3 distribution not out of earnings and profits of  
 4 the corporation except in a complete or partial  
 5 liquidation of the corporation."

6 SECTION 5. Statutory material to be repealed is bracketed  
 7 and stricken. New statutory material is underscored.

8 SECTION 6. This Act, upon its approval, shall apply to  
 9 taxable years beginning after December 31, 2005.

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# SB. NO. 3211

**Report Title:**

Excise Tax; Trusts; Blind, Deaf, or Totally Disabled Individual

**Description:**

Exempts up to \$2,000 a year of gross income for trusts that benefit a blind, deaf, or totally disabled individual, and taxes income in excess of the exemption at 0.5% rate.

