

---

---

# A BILL FOR AN ACT

RELATING TO EXEMPTION FROM GENERAL EXCISE TAX.

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

1           SECTION 1. Section 237-24.3, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§237-24.3 Additional amounts not taxable.** In addition to  
4 the amounts not taxable under section 237-24, this chapter shall  
5 not apply to:

6           (1) Amounts received from the loading, transportation, and  
7 unloading of agricultural commodities shipped for a  
8 producer or produce dealer on one island of this State  
9 to a person, firm, or organization on another island  
10 of this State. The terms "agricultural commodity",  
11 "producer", and "produce dealer" shall be defined in  
12 the same manner as they are defined in section 147-1;  
13 provided that agricultural commodities need not have  
14 been produced in the State;

15           (2) Amounts received from sales of:

16           (A) Intoxicating liquor as the term "liquor" is  
17 defined in chapter 244D;



- 1 (B) Cigarettes and tobacco products as defined in
- 2 chapter 245; and
- 3 (C) Agricultural, meat, or fish products;
- 4 to any person or common carrier in interstate or
- 5 foreign commerce, or both, whether ocean-going or air,
- 6 for consumption out-of-state on the shipper's vessels
- 7 or airplanes;
- 8 (3) Amounts received by the manager, submanager, or board
- 9 of directors of:
  - 10 (A) An association of apartment owners of a
  - 11 condominium property regime established in
  - 12 accordance with chapter 514A or 514B; or
  - 13 (B) A nonprofit homeowners or community association
  - 14 incorporated in accordance with chapter 414D or
  - 15 any predecessor thereto and existing pursuant to
  - 16 covenants running with the land,
  - 17 in reimbursement of sums paid for common expenses;
- 18 (4) Amounts received or accrued from:
  - 19 (A) The loading or unloading of cargo from ships,
  - 20 barges, vessels, or aircraft, whether or not the
  - 21 ships, barges, vessels, or aircraft travel



1                   between the State and other states or countries  
2                   or between the islands of the State;

3           (B) Tugboat services including pilotage fees  
4                   performed within the State, and the towage of  
5                   ships, barges, or vessels in and out of state  
6                   harbors, or from one pier to another; and

7           (C) The transportation of pilots or governmental  
8                   officials to ships, barges, or vessels offshore;  
9                   rigging gear; checking freight and similar  
10                  services; standby charges; and use of moorings  
11                  and running mooring lines;

12           (5) Amounts received by an employee benefit plan by way of  
13                  contributions, dividends, interest, and other income;  
14                  and amounts received by a nonprofit organization or  
15                  office, as payments for costs and expenses incurred  
16                  for the administration of an employee benefit plan;  
17                  provided that this exemption shall not apply to any  
18                  gross rental income or gross rental proceeds received  
19                  after June 30, 1994, as income from investments in  
20                  real property in this State; and provided further that  
21                  gross rental income or gross rental proceeds from  
22                  investments in real property received by an employee



1 benefit plan after June 30, 1994, under written  
2 contracts executed prior to July 1, 1994, shall not be  
3 taxed until the contracts are renegotiated, renewed,  
4 or extended, or until after December 31, 1998,  
5 whichever is earlier. For the purposes of this  
6 paragraph, "employee benefit plan" means any plan as  
7 defined in section 1002(3) of title 29 of the United  
8 States Code, as amended;

9 (6) Amounts received for purchases made with United States  
10 Department of Agriculture food coupons under the  
11 federal food stamp program, and amounts received for  
12 purchases made with United States Department of  
13 Agriculture food vouchers under the Special  
14 Supplemental Foods Program for Women, Infants and  
15 Children;

16 (7) Amounts received by a hospital, infirmary, medical  
17 clinic, health care facility, pharmacy, or a  
18 practitioner licensed to administer the drug to an  
19 individual for selling prescription drugs or  
20 prosthetic or assistive devices to an individual;  
21 provided that this paragraph shall not apply to any  
22 amounts received for services provided in selling



1 prescription drugs or prosthetic or assistive devices.

2 As used in this paragraph:

3 "Assistive device" means any device, including a  
4 demonstrator, that a consumer purchases or accepts  
5 transfer of that is used to assist a person in  
6 connection with a life activity including but not  
7 limited to mobility, vision, hearing, speech,  
8 communication, maneuvering, and manipulation of a  
9 person's environment. Assistive devices include but  
10 are not limited to:

11 (A) Manual wheelchairs, motorized wheelchairs,  
12 motorized scooters, and other devices that  
13 enhance the mobility of an individual;

14 (B) Hearing devices, telephone communication devices  
15 for the deaf, assistive listening devices, and  
16 other devices that enhance an individual's  
17 ability to hear;

18 (C) Voice synthesized computer modules, optical  
19 scanners, talking software, braille printers, and  
20 other devices that enhance a sight impaired  
21 individual's ability to communicate; and



1            (D) Any other device that enables a person with a  
2            disability to communicate, see, hear, speak,  
3            manipulate the person's environment, move, or  
4            maneuver;

5            "Prescription drugs" are those drugs defined  
6            under section 328-1 and dispensed by filling or  
7            refilling a written or oral prescription by a  
8            practitioner licensed under law to administer the drug  
9            and sold by a licensed pharmacist under section 328-16  
10           or practitioners licensed to administer drugs; and

11           "Prosthetic device" means any artificial device  
12           or appliance, instrument, apparatus, or contrivance,  
13           including their components, parts, accessories, and  
14           replacements thereof, used to replace a missing or  
15           surgically removed part of the human body, which is  
16           prescribed by a licensed practitioner of medicine,  
17           osteopathy, or podiatry and ~~[which]~~ that is sold by  
18           the practitioner or ~~[which]~~ that is dispensed and sold  
19           by a dealer of prosthetic devices; provided that  
20           "prosthetic device" shall not mean any ~~[auditory,~~  
21           ophthalmic, dental, or ocular device ~~[or appliance,~~  
22           ~~instrument, apparatus, or contrivance];~~



- 1           (8) Taxes on transient accommodations imposed by chapter
- 2                   237D and passed on and collected by operators holding
- 3                   certificates of registration under that chapter;
- 4           (9) Amounts received as dues by an unincorporated
- 5                   merchants association from its membership for
- 6                   advertising media, promotional, and advertising costs
- 7                   for the promotion of the association for the benefit
- 8                   of its members as a whole and not for the benefit of
- 9                   an individual member or group of members less than the
- 10                  entire membership;
- 11          (10) Amounts received by a labor organization for real
- 12                  property leased to:
- 13                  (A) A labor organization; or
- 14                  (B) A trust fund established by a labor organization
- 15                          for the benefit of its members, families, and
- 16                          dependents for medical or hospital care, pensions
- 17                          on retirement or death of employees,
- 18                          apprenticeship and training, and other membership
- 19                          service programs.
- 20                  As used in this paragraph, "labor organization" means
- 21                  a labor organization exempt from federal income tax



1 under section 501(c)(5) of the Internal Revenue Code,  
2 as amended;

3 (11) Amounts received from foreign diplomats and consular  
4 officials who are holding cards issued or authorized  
5 by the United States Department of State granting them  
6 an exemption from state taxes; and

7 (12) Amounts received as rent for the rental or leasing of  
8 aircraft or aircraft engines used by the lessees or  
9 renters for interstate air transportation of  
10 passengers and goods. For purposes of this paragraph,  
11 payments made pursuant to a lease shall be considered  
12 rent regardless of whether the lease is an operating  
13 lease or a financing lease. The definition of  
14 "interstate air transportation" is the same as in 49  
15 U.S.C. 40102."

16 SECTION 2. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18 SECTION 3. This Act shall take effect upon its approval,  
19 and shall apply to gross income or gross proceeds received after  
20 December 31, 2008; provided that the amendments made to section  
21 237-24.3, Hawaii Revised Statutes, by section 1 of this Act





# H.B. NO. 2304

1 shall not be repealed when that section is reenacted on December  
2 31, 2009, by section 4 of Act 239, Session Laws of Hawaii 2007.  
3

INTRODUCED BY: Kirk Caldwell

JAN 15 2008



**Report Title:**

General Excise Tax Exemption; Assistive Devices

**Description:**

Exempts from the general excise tax, amounts received for selling assistive devices. Defines assistive devices.

