
A BILL FOR AN ACT

RELATING TO GENERAL EXCISE TAX.

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

1 SECTION 1. The purpose of this Act is to extend the
2 general excise tax exemption for non-profit hospitals,
3 infirmaries, and sanitarium to for-profit hospitals, infirmaries,
4 and sanitarium that provide services to an annual patient
5 population consisting of sixty per cent or more uninsured,
6 medicaid, and medicare patients.

7 The legislature intends that all gross income or gross
8 proceeds derived by non-profit or for-profit hospitals,
9 infirmaries, and sanitarium, including income or proceeds derived
10 from the sale of prescription drugs and prosthetic devices, be
11 exempt from the general excise tax.

12 SECTION 2. Section 237-23, Hawaii Revised Statutes, is
13 amended by amending subsections (a), (b), and (c) to read as
14 follows:

15 "(a) This chapter shall not apply to the following
16 persons:

17 (1) Public service companies as that term is defined in
18 section 239-2, with respect to the gross income,



1 either actual gross income or gross income estimated
2 and adjusted, that is included in the measure of the
3 tax imposed by chapter 239;

4 (2) Public utilities owned and operated by the State or
5 any county, or other political subdivision thereof;

6 (3) Fraternal benefit societies, orders, or associations,
7 operating under the lodge system, or for the exclusive
8 benefit of the members of the fraternity itself,
9 operating under the lodge system, and providing for
10 the payment of death, sick, accident, prepaid legal
11 services, or other benefits to the members of the
12 societies, orders, or associations, and to their
13 dependents;

14 (4) Corporations, associations, trusts, or societies
15 organized and operated exclusively for religious,
16 charitable, scientific, or educational purposes, as
17 well as that of operating senior citizens housing
18 facilities qualifying for a loan under the laws of the
19 United States as authorized by section 202 of the
20 Housing Act of 1959, as amended, as well as that of
21 operating a prepaid legal services plan, as well as
22 that of operating or managing a homeless facility, or



1 any other program for the homeless authorized under
2 part VII of chapter 356D;

3 (5) Business leagues, chambers of commerce, boards of
4 trade, civic leagues, agricultural and horticultural
5 organizations, and organizations operated exclusively
6 for the benefit of the community and for the promotion
7 of social welfare that shall include the operation of
8 a prepaid legal service plan, and from which no profit
9 inures to the benefit of any private stockholder or
10 individual;

11 (6) [~~Hospitals,~~] All nonprofit hospitals and any for-
12 profit hospital that provides services to an annual
13 patient population consisting of sixty per cent or
14 more uninsured, medicaid, and medicare patients,
15 infirmaries, and sanitararia;

16 (7) Cooperative associations incorporated under chapter
17 421 or Code section 521 cooperatives which fully meet
18 the requirements of section 421-23, except Code
19 section 521 cooperatives need not be organized in
20 Hawaii; provided that:

21 (A) The exemption shall apply only to the gross
22 income derived from activities that are pursuant



1 to purposes and powers authorized by chapter 421,
2 except those provisions pertaining to or
3 requiring corporate organization in Hawaii do not
4 apply to Code section 521 cooperatives;

5 (B) The exemption shall not relieve any person who
6 receives any proceeds of sale from the
7 association of the duty of returning and paying
8 the tax on the total gross proceeds of the sales
9 on account of which the payment was made, in the
10 same amount and at the same rate as would apply
11 thereto had the sales been made directly by the
12 person, and all those persons shall be [~~se~~]
13 taxable; and

14 (C) As used in this paragraph, "section 521
15 cooperatives" mean associations that qualify as a
16 cooperative under section 521 (with respect to
17 exemption of farmers' cooperatives from tax) of
18 the Internal Revenue Code of 1986, as amended;

19 (8) Persons affected with Hansen's disease and kokuas,
20 with respect to business within the county of Kalawao;

21 (9) Corporations, companies, associations, or trusts
22 organized for the establishment and conduct of



1 cemeteries no part of the net earnings of which inures
2 to the financial benefit of any private stockholder or
3 individual; provided that the exemption shall apply
4 only to the activities of those persons in the conduct
5 of cemeteries and shall not apply to any activity the
6 primary purpose of which is to produce income, even
7 though the income is to be used for or in the
8 furtherance of the exempt activities of those persons;
9 and

10 (10) Nonprofit shippers associations operating under part
11 296 of the Civil Aeronautics Board Economic
12 Regulations.

13 (b) The exemptions enumerated in subsection (a)(3) to
14 [~~6~~] (5) shall apply only:

15 (1) To those persons who shall have registered with the
16 department of taxation by filing a written application
17 for registration in such form as the department shall
18 prescribe, shall have paid the registration fee of
19 \$20, and shall have had the exemption allowed by the
20 department or by a court or tribunal of competent
21 jurisdiction upon appeal from any assessment resulting
22 from disallowance of the exemption by the department;



- 1 (2) To activities from which no profit inures to the
2 benefit of any private stockholder or individual,
3 except for death or other benefits to the members of
4 fraternal societies; and
- 5 (3) To the fraternal, religious, charitable, scientific,
6 educational, communal, or social welfare activities of
7 such persons, or to the activities of such hospitals,
8 infirmaries, and sanitarium as such, and not to any
9 activity the primary purpose of which is to produce
10 income even though the income is to be used for or in
11 furtherance of the exempt activities of such persons.
- 12 (c) To obtain allowance of an exemption:
- 13 (1) A person under subsection (a)(3) to [~~(6)~~] (5), who
14 has received or applied for recognition of tax exempt
15 status under [~~section~~] Section 501(c)(3), (4), (6), or
16 (8) of the Internal Revenue Code of 1986, as amended,
17 or who is a subordinate person of a person who has
18 received a group exemption letter under [~~section~~]
19 Section 501(c)(3), (4), (6), or (8) of the Internal
20 Revenue Code of 1986, as amended, shall register with
21 the department by filing a statement attaching a copy
22 of the exemption or application for recognition of



1 exempt status and any particular facts that the
2 department may require; and
3 (2) All other persons under subsection (a) (3) to [~~4~~] (5)
4 shall file an application for exemption in the form of
5 an affidavit or affidavits setting forth in general
6 all facts affecting the right to the exemption and
7 such particular facts as the department may require,
8 to which shall be attached such records, papers, and
9 other information as the department may prescribe."

10 SECTION 3. Section 237-24.3, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§237-24.3 Additional amounts not taxable.** In addition to
13 the amounts not taxable under section 237-24, this chapter shall
14 not apply to:

15 (1) Amounts received from the loading, transportation, and
16 unloading of agricultural commodities shipped for a
17 producer or produce dealer on one island of this State
18 to a person, firm, or organization on another island
19 of this State. The terms "agricultural commodity",
20 "producer", and "produce dealer" shall be defined in
21 the same manner as they are defined in section 147-1;



1 provided that agricultural commodities need not have
2 been produced in the [~~State;~~] state;

3 (2) Amounts received from sales of:

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

6 (B) Cigarettes and tobacco products as defined in
7 chapter 245; and

8 (C) Agricultural, meat, or fish products;

9 to any person or common carrier in interstate or
10 foreign commerce, or both, whether ocean-going or air,
11 for consumption out-of-state on the shipper's vessels
12 or airplanes;

13 (3) Amounts received by the manager, submanager, or board
14 of directors of:

15 (A) An association of apartment owners of a
16 condominium property regime established in
17 accordance with chapter 514A or 514B; or

18 (B) A nonprofit homeowners or community association
19 incorporated in accordance with chapter 414D or
20 any predecessor thereto and existing pursuant to
21 covenants running with the land,

22 in reimbursement of sums paid for common expenses;



1 (4) Amounts received or accrued from:

2 (A) The loading or unloading of cargo from ships,
3 barges, vessels, or aircraft, whether or not the
4 ships, barges, vessels, or aircraft travel
5 between the [~~State,~~] state and other states or
6 countries or between the islands of the [~~State,~~]
7 state;

8 (B) Tugboat services including pilotage fees
9 performed within the [~~State,~~] state, and the
10 towage of ships, barges, or vessels in and out of
11 state harbors, or from one pier to another; and

12 (C) The transportation of pilots or governmental
13 officials to ships, barges, or vessels offshore;
14 rigging gear; checking freight and similar
15 services; standby charges; and use of moorings
16 and running mooring lines;

17 (5) Amounts received by an employee benefit plan by way of
18 contributions, dividends, interest, and other income;
19 and amounts received by a nonprofit organization or
20 office, as payments for costs and expenses incurred
21 for the administration of an employee benefit plan;
22 provided that this exemption shall not apply to any



1 gross rental income or gross rental proceeds received
2 after June 30, 1994, as income from investments in
3 real property in this [~~State;~~] state; and provided
4 further that gross rental income or gross rental
5 proceeds from investments in real property received by
6 an employee benefit plan after June 30, 1994, under
7 written contracts executed prior to July 1, 1994,
8 shall not be taxed until the contracts are
9 renegotiated, renewed, or extended, or until after
10 December 31, 1998, whichever is earlier. For the
11 purposes of this paragraph, "employee benefit plan"
12 means any plan as defined in [~~section~~] Section 1002(3)
13 of [~~title~~] Title 29 of the United States Code, as
14 amended;

15 (6) Amounts received for purchases made with United States
16 Department of Agriculture food coupons under the
17 federal food stamp program, and amounts received for
18 purchases made with United States Department of
19 Agriculture food vouchers under the Special
20 Supplemental Foods Program for Women, Infants and
21 Children;



1 (7) Amounts received by a [~~hospital, infirmary,~~] medical
2 clinic, health care facility, pharmacy, or a
3 practitioner licensed to administer the drug to an
4 individual for selling prescription drugs or
5 prosthetic devices to an individual; provided that
6 this paragraph shall not apply to any amounts received
7 for services provided in selling prescription drugs or
8 prosthetic devices. As used in this paragraph:

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

15 "Prosthetic device" means any artificial device
16 or appliance, instrument, apparatus, or contrivance,
17 including their components, parts, accessories, and
18 replacements thereof, used to replace a missing or
19 surgically removed part of the human body, which is
20 prescribed by a licensed practitioner of medicine,
21 osteopathy, or podiatry and which is sold by the
22 practitioner or which is dispensed and sold by a



1 dealer of prosthetic devices; provided that
2 "prosthetic device" shall not mean any auditory,
3 ophthalmic, dental, or ocular device or appliance,
4 instrument, apparatus, or contrivance;

5 (8) Taxes on transient accommodations imposed by chapter
6 237D and passed on and collected by operators holding
7 certificates of registration under that chapter;

8 (9) Amounts received as dues by an unincorporated
9 merchants association from its membership for
10 advertising media, promotional, and advertising costs
11 for the promotion of the association for the benefit
12 of its members as a whole and not for the benefit of
13 an individual member or group of members less than the
14 entire membership;

15 (10) Amounts received by a labor organization for real
16 property leased to:

17 (A) A labor organization; or

18 (B) A trust fund established by a labor organization
19 for the benefit of its members, families, and
20 dependents for medical or hospital care, pensions
21 on retirement or death of employees,



1 apprenticeship and training, and other membership
2 service programs.

3 As used in this paragraph, "labor organization" means
4 a labor organization exempt from federal income tax
5 under [~~section~~] Section 501(c)(5) of the Internal
6 Revenue Code, as amended;

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

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

20 SECTION 4. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.

22 SECTION 5. This Act shall take effect on July 1, 2008.



Report Title:

For-profit Hospitals; General Excise Tax Exemption

Description:

Extends the general excise tax exemption for hospitals, infirmaries, and sanitarium to for-profit hospitals, that provide services to an annual patient population consisting of sixty per cent or more uninsured, medicaid, and medicare patients. Makes conforming amendments. (HB2759 HD1)

