
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Section 235-2.3, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) The following Internal Revenue Code subchapters,
4 parts of subchapters, sections, subsections, and parts of
5 subsections shall not be operative for the purposes of this
6 chapter, unless otherwise provided:

7 (1) Subchapter A (sections 1 to 59A) (with respect to
8 determination of tax liability), except section
9 1(h)(2) (relating to net capital gain reduced by the
10 amount taken into account as investment income),
11 except sections 2(a), 2(b), and 2(c) (with respect to
12 the definition of "surviving spouse" and "head of
13 household"), except section 41 (with respect to the
14 credit for increasing research activities), except
15 section 42 (with respect to low-income housing
16 credit), and except sections 47 and 48, as amended, as
17 of December 31, 1984 (with respect to certain



- 1 depreciable tangible personal property). For
2 treatment, see sections 235-110.91, 235-110.7, and
3 235-110.8;
- 4 (2) Section 78 (with respect to dividends received from
5 certain foreign corporations by domestic corporations
6 choosing foreign tax credit);
- 7 (3) Section 86 (with respect to social security and tier 1
8 railroad retirement benefits);
- 9 (4) Section 103 (with respect to interest on state and
10 local bonds). For treatment, see section 235-7(b);
- 11 (5) Section 114 (with respect to extraterritorial income).
12 For treatment, any transaction as specified in the
13 transitional rule for 2005 and 2006 as specified in
14 the American Jobs Creation Act of 2004 section 101(d)
15 and any transaction that has occurred pursuant to a
16 binding contract as specified in the American Jobs
17 Creation Act of 2004 section 101(f) are inoperative;
- 18 (6) Section 120 (with respect to amounts received under
19 qualified group legal services plans). For treatment,
20 see section 235-7(a)(9) to (11);



- 1 (7) Section 122 (with respect to certain reduced uniformed
2 services retirement pay). For treatment, see section
3 235-7(a)(3);
- 4 (8) Section 135 (with respect to income from United States
5 savings bonds used to pay higher education tuition and
6 fees). For treatment, see section 235-7(a)(1);
- 7 (9) Subchapter B (sections 141 to 150) (with respect to
8 tax exemption requirements for state and local bonds);
- 9 (10) Section 151 (with respect to allowance of deductions
10 for personal exemptions). For treatment, see section
11 235-54;
- 12 (11) Section 179B (with respect to expensing of capital
13 costs incurred in complying with Environmental
14 Protection Agency sulphur regulations);
- 15 (12) Section 181 (with respect to special rules for certain
16 film and television productions);
- 17 (13) Section 196 (with respect to deduction for certain
18 unused investment credits);
- 19 (14) Section 199 (with respect to the U.S. production
20 activities deduction);
- 21 (15) Section 222 (with respect to qualified tuition and
22 related expenses);



- 1 (16) Sections 241 to 247 (with respect to special
2 deductions for corporations). For treatment, see
3 section 235-7(c);
- 4 (17) Section 280C (with respect to certain expenses for
5 which credits are allowable). For treatment, see
6 section 235-110.91;
- 7 (18) Section 291 (with respect to special rules relating to
8 corporate preference items);
- 9 (19) Section 367 (with respect to foreign corporations);
- 10 (20) Section 501(c)(12), (15), and (16) (with respect to
11 exempt organizations); except for companies that
12 provide potable water under section 501(c)(12);
- 13 (21) Section 515 (with respect to taxes of foreign
14 countries and possessions of the United States);
- 15 (22) Subchapter G (sections 531 to 565) (with respect to
16 corporations used to avoid income tax on
17 shareholders);
- 18 (23) Subchapter H (sections 581 to 597) (with respect to
19 banking institutions), except section 584 (with
20 respect to common trust funds). For treatment, see
21 chapter 241;



- 1 (24) Section 642(a) and (b) (with respect to special rules
2 for credits and deductions applicable to trusts). For
3 treatment, see sections 235-54(b) and 235-55;
- 4 (25) Section 646 (with respect to tax treatment of electing
5 Alaska Native settlement trusts);
- 6 (26) Section 668 (with respect to interest charge on
7 accumulation distributions from foreign trusts);
- 8 (27) Subchapter L (sections 801 to 848) (with respect to
9 insurance companies). For treatment, see sections
10 431:7-202 and 431:7-204;
- 11 (28) Section 853 (with respect to foreign tax credit
12 allowed to shareholders). For treatment, see section
13 235-55;
- 14 (29) Subchapter N (sections 861 to 999) (with respect to
15 tax based on income from sources within or without the
16 United States), except sections 985 to 989 (with
17 respect to foreign currency transactions). For
18 treatment, see sections 235-4, 235-5, and 235-7(b),
19 and 235-55;
- 20 (30) Section 1042(g) (with respect to sales of stock in
21 agricultural refiners and processors to eligible farm
22 cooperatives);



- 1 (31) Section 1055 (with respect to redeemable ground
2 rents);
- 3 (32) Section 1057 (with respect to election to treat
4 transfer to foreign trust, etc., as taxable exchange);
- 5 (33) Sections 1291 to 1298 (with respect to treatment of
6 passive foreign investment companies);
- 7 (34) Subchapter Q (sections 1311 to 1351) (with respect to
8 readjustment of tax between years and special
9 limitations);
- 10 (35) Subchapter R (sections 1352 to 1359) (with respect to
11 election to determine corporate tax on certain
12 international shipping activities using per ton rate);
- 13 (36) Subchapter U (sections 1391 to 1397F) (with respect to
14 designation and treatment of empowerment zones,
15 enterprise communities, and rural development
16 investment areas). For treatment, see chapter 209E;
- 17 (37) Subchapter W (sections 1400 to 1400C) (with respect to
18 District of Columbia enterprise zone);
- 19 (38) Section 14000 (with respect to education tax
20 benefits);
- 21 (39) Section 1400P (with respect to housing tax benefits);
- 22 (40) Section 1400R (with respect to employment relief); and



1 (41) Section 1400T (with respect to special rules for
2 mortgage revenue bonds)."

3 SECTION 2. Section 237-23, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) This chapter shall not apply to the following
6 persons:

- 7 (1) Public service companies as that term is defined in
8 section 239-2, with respect to the gross income,
9 either actual gross income or gross income estimated
10 and adjusted, that is included in the measure of the
11 tax imposed by chapter 239;
- 12 (2) Public utilities owned and operated by the State or
13 any county, or other political subdivision thereof;
- 14 (3) Fraternal benefit societies, orders, or associations,
15 operating under the lodge system, or for the exclusive
16 benefit of the members of the fraternity itself,
17 operating under the lodge system, and providing for
18 the payment of death, sick, accident, prepaid legal
19 services, or other benefits to the members of the
20 societies, orders, or associations, and to their
21 dependents;



- 1 (4) Corporations, associations, trusts, or societies
2 organized and operated exclusively for religious,
3 charitable, scientific, or educational purposes, as
4 well as that of operating senior citizens housing
5 facilities qualifying for a loan under the laws of the
6 United States as authorized by section 202 of the
7 Housing Act of 1959, as amended, as well as that of
8 operating a prepaid legal services plan, as well as
9 that of operating or managing a homeless facility, or
10 any other program for the homeless authorized under
11 part VII of chapter 356D;
- 12 (5) Business leagues, chambers of commerce, boards of
13 trade, civic leagues, agricultural and horticultural
14 organizations, and organizations operated exclusively
15 for the benefit of the community and for the promotion
16 of social welfare that shall include the operation of
17 a prepaid legal service plan, and from which no profit
18 inures to the benefit of any private stockholder or
19 individual;
- 20 (6) Hospitals, infirmaries, and sanitararia;
- 21 (7) Cooperative associations incorporated under chapter
22 421 or Code section 521 cooperatives which fully meet



1 the requirements of section 421-23, except Code
2 section 521 cooperatives need not be organized in
3 Hawaii; provided that:

4 (A) The exemption shall apply only to the gross
5 income derived from activities that are pursuant
6 to purposes and powers authorized by chapter 421,
7 except those provisions pertaining to or
8 requiring corporate organization in Hawaii do not
9 apply to Code section 521 cooperatives;

10 (B) The exemption shall not relieve any person who
11 receives any proceeds of sale from the
12 association of the duty of returning and paying
13 the tax on the total gross proceeds of the sales
14 on account of which the payment was made, in the
15 same amount and at the same rate as would apply
16 thereto had the sales been made directly by the
17 person, and all those persons shall be so
18 taxable; and

19 (C) As used in this paragraph, "section 521
20 cooperatives" mean associations that qualify as a
21 cooperative under section 521 (with respect to



1 exemption of farmers' cooperatives from tax) of
2 the Internal Revenue Code of 1986, as amended;
3 (8) Persons affected with Hansen's disease and kokuas,
4 with respect to business within the county of Kalawao;
5 (9) Corporations, companies, associations, or trusts
6 organized for the establishment and conduct of
7 cemeteries no part of the net earnings of which inures
8 to the financial benefit of any private stockholder or
9 individual; provided that the exemption shall apply
10 only to the activities of those persons in the conduct
11 of cemeteries and shall not apply to any activity the
12 primary purpose of which is to produce income, even
13 though the income is to be used for or in the
14 furtherance of the exempt activities of those persons;
15 [and]
16 (10) Nonprofit shippers associations operating under part
17 296 of the Civil Aeronautics Board Economic
18 Regulations[-]; and
19 (11) Companies that provide potable water and are exempt
20 under section 501(c)(12) of the Internal Revenue Code
21 of 1986, as amended."



1 SECTION 3. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act shall take effect upon approval, and
4 shall apply to taxable years beginning after December 31, 2050.



Report Title:

Income Tax; General Excise Tax; Potable Water

Description:

Provides an income tax and general excise tax exemption for companies that provide potable water and are exempt under section 501(c)(12) of the IRC. Effective upon approval.
(HB2540 SD1)

