
A BILL FOR AN ACT

RELATING TO AN EXEMPTION FROM THE GENERAL EXCISE TAX.

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

1 SECTION 1. The legislature finds that Hawaii is among a
2 minority of states that provide no exemption from the state
3 excise or sales tax for the sale of food. An exemption from the
4 sale of certain types of food from the general excise tax, would
5 allow Hawaii to join the majority of states in recognizing the
6 societal benefit of providing targeted tax relief for food
7 purchases.

8 Food items qualifying under the Special Supplemental
9 Nutrition Program for Women, Infants, and Children (WIC)
10 administered by the federal Food and Nutrition Service of the
11 United States Department of Agriculture program should be exempt
12 from the general excise tax. These food items have been chosen
13 for exemption from the general excise tax because they have been
14 recognized by the Hawaii WIC program as being highly nutritious
15 components of a healthy diet.

16 The purpose of this Act is to offset the regressive nature
17 of the general excise tax by exempting from the state general
18 excise tax the sale of food qualifying under the WIC program.



1 SECTION 2. 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;

18 (B) Cigarettes and tobacco products as defined in
19 chapter 245; and

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

21 to any person or common carrier in interstate or
22 foreign commerce, or both, whether ocean-going or air,



1 for consumption out-of-state on the shipper's vessels
2 or airplanes;

3 (3) Amounts received by the manager or board of directors
4 of:

5 (A) An association of apartment owners of a
6 condominium property regime established in
7 accordance with chapter 514B; or

8 (B) A nonprofit homeowners or community association
9 incorporated in accordance with chapter 414D or
10 any predecessor thereto and existing pursuant to
11 covenants running with the land,

12 in reimbursement of sums paid for common expenses;

13 (4) Amounts received or accrued from:

14 (A) The loading or unloading of cargo from ships,
15 barges, vessels, or aircraft, whether or not the
16 ships, barges, vessels, or aircraft travel
17 between the State and other states or countries
18 or between the islands of the State;

19 (B) Tugboat services including pilotage fees
20 performed within the State, and the towage of
21 ships, barges, or vessels in and out of state
22 harbors, or from one pier to another; and



1 (C) The transportation of pilots or governmental
2 officials to ships, barges, or vessels offshore;
3 rigging gear; checking freight and similar
4 services; standby charges; and use of moorings
5 and running mooring lines;

6 (5) Amounts received by an employee benefit plan by way of
7 contributions, dividends, interest, and other income;
8 and amounts received by a nonprofit organization or
9 office, as payments for costs and expenses incurred
10 for the administration of an employee benefit plan;
11 provided that this exemption shall not apply to any
12 gross rental income or gross rental proceeds received
13 after June 30, 1994, as income from investments in
14 real property in this State; and provided further that
15 gross rental income or gross rental proceeds from
16 investments in real property received by an employee
17 benefit plan after June 30, 1994, under written
18 contracts executed prior to July 1, 1994, shall not be
19 taxed until the contracts are renegotiated, renewed,
20 or extended, or until after December 31, 1998,
21 whichever is earlier. For the purposes of this
22 paragraph, "employee benefit plan" means any plan as

1 defined in section 1002(3) of title 29 of the United
2 States Code, as amended;

3 (6) Amounts received for ~~[purchases]~~;

4 (A) Purchases made with United States Department of
5 Agriculture food coupons under the federal food
6 stamp program~~[, and amounts received for~~
7 ~~purchases]~~;

8 (B) Purchases made with United States Department of
9 Agriculture food vouchers under the Special
10 Supplemental Foods Program for Women, Infants and
11 Children; and

12 (C) Purchases by any purchaser of items that qualify
13 under the Special Supplemental Foods Program for
14 Women, Infants, and Children as of January 1,
15 2008, and as amended thereafter; provided that if
16 the Special Supplemental Foods Program for Women,
17 Infants, and Children ceases, proceeds from
18 purchases of the most recent qualifying items
19 shall remain exempt amounts under this
20 subsection;

21 (7) Amounts received by a hospital, infirmary, medical
22 clinic, health care facility, pharmacy, or a



1 practitioner licensed to administer the drug to an
2 individual for selling prescription drugs or
3 prosthetic devices to an individual; provided that
4 this paragraph shall not apply to any amounts received
5 for services provided in selling prescription drugs or
6 prosthetic devices. As used in this paragraph:

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

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



1 devices; provided that "prosthetic device" shall
2 not mean any auditory, ophthalmic, dental, or
3 ocular device or appliance, instrument,
4 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 501(c) (5) of the Internal Revenue Code,
6 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 section 40102."

20 SECTION 3. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 4. This Act shall take effect upon its approval
2 and shall apply to gross income or gross proceeds received on or
3 after January 1, 2008.



Report Title:

General Excise Tax; Exemption

Description:

Exempts the sale of food qualifying under the women, infants, and children program administered by the federal food and nutrition service of the U.S. Department of Agriculture from the general excise tax. (SD1)

