

JAN 18 2008

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



S.B. NO. 2349

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: *Suzanne Chun Calland*



Report Title:

General Excise Tax Exemption; Assistive Devices

Description:

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

