

JAN 18 2008

A BILL FOR AN ACT

RELATING TO HEALTH.

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

1 SECTION 1. **Purpose.** The purpose of this Act is to require
2 the department of taxation to defer collecting the general
3 excise taxes owed by the Hawaii Medical Center LLC on the gross
4 income and gross proceeds derived from its hospitals between
5 July 1, 2008, and December 31, .

6 The legislature finds that the deferral is necessary for
7 the continued operation of the Hawaii Medical Center's hospitals
8 during the deferral period. The legislature further finds that
9 the Hawaii Medical Center's hospital in Ewa is the only hospital
10 in proximity to Leeward Oahu communities. The continued
11 operation of that hospital, which is necessary for the public
12 health and safety, depends upon the financial viability of the
13 Hawaii Medical Center. The legislature intends that this Act
14 assist the Hawaii Medical Center in maintaining its financial
15 viability as a health care entity serving the public on Oahu.

16 SECTION 2. **Deferral of collection of general excise taxes**
17 **owed by the Hawaii Medical Center LLC between July 1, 2008, and**
18 **December 31,** . The department of taxation shall defer the



1 collection of general excise taxes owed by the Hawaii Medical
 2 Center LLC on the gross income and gross proceeds derived from
 3 the operation of the Center's hospitals between July 1, 2008,
 4 and December 31, . The approval of the governor shall not
 5 be required for the department to defer the collection.

6 SECTION 3. **Payment of deferred general excise taxes and**
 7 **interest after December 31,** . After December 31, , the
 8 Hawaii Medical Center LLC shall pay to the department of
 9 taxation the deferred general excise taxes plus interest imposed
 10 in accordance with section 231-39(b)(4)(A), Hawaii Revised
 11 Statutes. The Hawaii Medical Center LLC shall make the payment
 12 in cash under an installment plan, the terms and conditions of
 13 which shall be approved by the department of taxation. In the
 14 alternative to installment payments, the Hawaii Medical Center
 15 LLC may make a lump sum payment to the department on January 1,
 16 , of the full amount owed.

17 No penalty shall be imposed on the Hawaii Medical Center
 18 LLC for the deferred general excise taxes, except as otherwise
 19 provided under sections 4 or 5 of this Act.

20 SECTION 4. **No distribution to limited liability company**
 21 **members from July 1, 2008, until full payment of deferred**
 22 **general excise taxes and interest.** The Hawaii Medical Center



1 LLC shall not make any distribution to any member of the Hawaii
2 Medical Center LLC from July 1, 2008, until the deferred general
3 excise tax and interest liability is fully paid to the
4 department of taxation.

5 If any distribution is made to a member of the limited
6 liability company contrary to this section, the balance of the
7 deferred general excise taxes owed plus interest shall become
8 immediately due. The Hawaii Medical Center LLC shall also
9 immediately pay to the department of taxation a penalty equal to
10 twenty five per cent of the total amount due.

11 For the purpose of this section, "distribution" means the
12 same as defined under section 428-101, Hawaii Revised Statutes.
13 The term shall not mean any salary paid to, or fringe benefit
14 contribution paid for, an officer or employee of a hospital
15 operated by the Hawaii Medical Center LLC.

16 SECTION 5. **Immediate payment of deferred taxes, interest,**
17 **and penalty upon occurrence of certain event.** (a) If any of
18 the following events occur between July 1, 2008, and December
19 31, , the balance of any deferred taxes and interest owed by
20 the Hawaii Medical Center LLC shall become immediately due:



1 (1) If any hospital owned by the Hawaii Medical Center LLC
2 is sold or leased to another person after the
3 effective date of this Act;

4 (2) If the ownership interest of the Hawaii Physicians
5 Group in the Hawaii Medical Center LLC falls below
6 forty nine per cent; or

7 (3) If the Hawaii Medical Center LLC is dissolved.

8 (b) Upon the occurrence of any event listed under
9 subsection (a), the Hawaii Medical Center LLC shall immediately
10 pay to the department of taxation the amount of deferred taxes
11 and interest owed plus a penalty of twenty five per cent of that
12 amount.

13 SECTION 6. **Filing of returns.** During the period from July
14 1, 2008, to December 31, , the Hawaii Medical Center LLC
15 shall file general excise tax returns in the manner required
16 under chapter 231, Hawaii Revised Statutes; provided that during
17 that period, the Center shall not be required to make any
18 general excise tax payments that have been deferred under this
19 Act.

20 SECTION 7. **Collection of unpaid deferred general excise**
21 **taxes and interest; lien for deferred general excise taxes.** (a)
22 If, after December 31, , the Hawaii Medical Center LLC



1 becomes delinquent in the payment of an installment of deferred
 2 general excise taxes and interest, the department of taxation
 3 may collect the delinquent amount. For this purpose, section
 4 231-13, section 231-14, and section 231-25 to section 231-33,
 5 Hawaii Revised Statutes, shall apply.

6 (b) The department shall hold a lien for the deferred
 7 general excise taxes of the Hawaii Medical Center LLC until the
 8 deferred taxes and interest are fully paid. The lien and any
 9 foreclosure action shall be subject to section 231-61 to section
 10 231-70, Hawaii Revised Statutes.

11 SECTION 8. **Superiority of provisions of this Act.** If any
 12 provision of this Act conflicts with any other state law or
 13 rule, the provisions of this Act shall prevail. To the extent
 14 possible, the department of taxation shall implement this Act
 15 consistent with chapters 231 and 237, Hawaii Revised Statutes,
 16 and any other applicable state law.

17 SECTION 9. **Effective date.** This Act shall take effect on
 18 July 1, 2008.

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Report Title:

General Excise Tax; Hawaii Medical Center LLC

Description:

Requires the department of taxation to defer general excise tax collection for the Hawaii Medical Center's hospital operations between July 1, 2008, and an unspecified date. Also requires the department to collect the deferred taxes plus interest after the unspecified date. Provides for immediate payment of deferred taxes, interest, and penalty upon occurrence of certain events.

