

JAN 23 2009

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# A BILL FOR AN ACT

RELATING TO GENERAL EXCISE TAXATION.

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

1           SECTION 1. The legislature finds that pursuant to the  
2 authority granted by Congress under title 10 United States Code  
3 section 1071 et seq., the United States Department of Defense  
4 established the TRICARE program as the managed care component of  
5 the Military Health System, a federal government program that  
6 provides health care services to over 9,000,000 Americans,  
7 composed of active duty, reserve, and retired members of the  
8 United States uniformed services, their family members, and  
9 survivors, including approximately 150,000 current and former  
10 service members and their family members who reside in Hawaii.

11           The legislature further finds that the purpose and mission  
12 of the TRICARE program is to ensure the availability of high-  
13 quality, low-cost health care services to members of the  
14 uniformed services and their families, which is crucial to  
15 ensuring military readiness, national defense, and the health  
16 and welfare of the residents of the State.



1           The TRICARE program augments the health care services  
2 provided by the United States Department of Defense personnel at  
3 military treatment facilities. TRICARE is a program of the  
4 Department of Defense, TRICARE Management Activity, which  
5 contracts with third-party administrators, known as "managed  
6 care support contractors", to establish and maintain networks of  
7 TRICARE-authorized civilian health care providers in various  
8 regions of the United States. On behalf of the United States  
9 Department of Defense, managed care support contractors make  
10 advances to health care providers, including doctors, hospitals,  
11 and other providers, for costs of health care services provided  
12 to TRICARE beneficiaries. The United States Department of  
13 Defense reimburses managed care support contractors for the  
14 actual cost or advancement made to third party health care  
15 providers.

16           The legislature understands that some uncertainty may exist  
17 about whether the amounts received by a managed care support  
18 contractor of the TRICARE program for the actual cost or  
19 advancement to third party health care providers, on behalf of  
20 the federal government, are subject to the state general excise  
21 tax. The legislature finds that, to avoid increasing the costs  
22 of health care services delivered through the TRICARE program



1 and any adverse consequences to members of our uniformed  
2 services and their families from the increased costs, it is  
3 desirable to clarify that the amounts received by a managed care  
4 support contractor of the TRICARE program are not subject to the  
5 state general excise tax.

6 The purpose of this Act is to clarify that the amounts  
7 received by a managed care support contractor of the TRICARE  
8 program for the actual cost or advancement to third party health  
9 care providers, pursuant to a contract with the United States  
10 for the administration of the TRICARE program, are excluded from  
11 the state general excise tax.

12 SECTION 2. Section 237-24, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 **"§237-24 Amounts not taxable.** This chapter shall not  
15 apply to the following amounts:

- 16 (1) Amounts received under life insurance policies and  
17 contracts paid by reason of the death of the insured;  
18 (2) Amounts received (other than amounts paid by reason of  
19 death of the insured) under life insurance, endowment,  
20 or annuity contracts, either during the term or at  
21 maturity or upon surrender of the contract;



- 1           (3) Amounts received under any accident insurance or  
2           health insurance policy or contract or under workers'  
3           compensation acts or employers' liability acts, as  
4           compensation for personal injuries, death, or  
5           sickness, including also the amount of any damages or  
6           other compensation received, whether as a result of  
7           action or by private agreement between the parties on  
8           account of the personal injuries, death, or sickness;
- 9           (4) The value of all property of every kind and sort  
10          acquired by gift, bequest, or devise, and the value of  
11          all property acquired by descent or inheritance;
- 12          (5) Amounts received by any person as compensatory damages  
13          for any tort injury to the person, or to the person's  
14          character reputation, or received as compensatory  
15          damages for any tort injury to or destruction of  
16          property, whether as the result of action or by  
17          private agreement between the parties (provided that  
18          amounts received as punitive damages for tort injury  
19          or breach of contract injury shall be included in  
20          gross income);
- 21          (6) Amounts received as salaries or wages for services  
22          rendered by an employee to an employer;



- 1           (7) Amounts received as alimony and other similar payments  
2                   and settlements;
- 3           (8) Amounts collected by distributors as fuel taxes on  
4                   "liquid fuel" imposed by chapter 243, and the amounts  
5                   collected by such distributors as a fuel tax imposed  
6                   by any Act of the Congress of the United States;
- 7           (9) Taxes on liquor imposed by chapter 244D on dealers  
8                   holding permits under that chapter;
- 9           (10) The amounts of taxes on cigarettes and tobacco  
10                   products imposed by chapter 245 on wholesalers or  
11                   dealers holding licenses under that chapter and  
12                   selling the products at wholesale;
- 13          (11) Federal excise taxes imposed on articles sold at  
14                   retail and collected from the purchasers thereof and  
15                   paid to the federal government by the retailer;
- 16          (12) The amounts of federal taxes under chapter 37 of the  
17                   Internal Revenue Code, or similar federal taxes,  
18                   imposed on sugar manufactured in the State, paid by  
19                   the manufacturer to the federal government;
- 20          (13) An amount up to, but not in excess of, \$2,000 a year  
21                   of gross income received by any blind, deaf, or  
22                   totally disabled person engaging, or continuing, in



1 any business, trade, activity, occupation, or calling  
2 within the State; a corporation all of whose  
3 outstanding shares are owned by an individual or  
4 individuals who are blind, deaf, or totally disabled;  
5 a general, limited, or limited liability partnership,  
6 all of whose partners are blind, deaf, or totally  
7 disabled; or a limited liability company, all of whose  
8 members are blind, deaf, or totally disabled;

9 (14) Amounts received by a producer of sugarcane from the  
10 manufacturer to whom the producer sells the sugarcane,  
11 where:

12 (A) The producer is an independent cane farmer, so  
13 classed by the Secretary of Agriculture under the  
14 Sugar Act of 1948 (61 Stat. 922, Chapter 519) as  
15 the Act may be amended or supplemented;

16 (B) The value or gross proceeds of the sale of the  
17 sugar, and other products manufactured from the  
18 sugarcane, [~~is~~] are included in the measure of  
19 the tax levied on the manufacturer under section  
20 237-13(1) or (2);

21 (C) The producer's gross proceeds of sales are  
22 dependent upon the actual value of the products



1 manufactured therefrom or the average value of  
2 all similar products manufactured by the  
3 manufacturer; and

4 (D) The producer's gross proceeds of sales are  
5 reduced by reason of the tax on the value or sale  
6 of the manufactured products;

7 (15) Money paid by the State or eleemosynary child-placing  
8 organizations to foster parents for their care of  
9 children in foster homes; ~~and~~

10 (16) Amounts received by a cooperative housing corporation  
11 from its shareholders in reimbursement of funds paid  
12 by ~~such~~ the corporation for lease rental, real  
13 property taxes, and other expenses of operating and  
14 maintaining the cooperative land and improvements;  
15 provided that ~~such a~~ the cooperative corporation is  
16 a corporation:

17 (A) Having one and only one class of stock  
18 outstanding;

19 (B) Each of the stockholders of which is entitled  
20 solely by reason of the stockholder's ownership  
21 of stock in the corporation, to occupy for



1 dwelling purposes a house, or an apartment in a  
 2 building owned or leased by the corporation; and  
 3 (C) No stockholder of which is entitled (either  
 4 conditionally or unconditionally) to receive any  
 5 distribution not out of earnings and profits of  
 6 the corporation except in a complete or partial  
 7 liquidation of the corporation[-]; and

8 (17) Amounts received by a managed care support contractor  
 9 of the TRICARE program that is established under title  
 10 10 United States Code chapter 55, as amended, for the  
 11 actual cost or advancement to third party health care  
 12 providers pursuant to a contract with the United  
 13 States."

14 SECTION 3. Statutory material to be repealed is bracketed  
 15 and stricken. New statutory material is underscored.

16 SECTION 4. This Act shall take effect on July 1, 2009.  
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**Report Title:**

General Excise Tax; Health Care; TRICARE Program; Exemption

**Description:**

Excludes from the general excise tax, amounts received by a managed care support contractor of the TRICARE program for the actual cost or advancement to third party health care providers pursuant to a contract with the United States.

