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## A BILL FOR AN ACT

RELATING TO GENERAL EXCISE TAX.

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

1           SECTION 1. Section 237-13, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§237-13 Imposition of tax.** There is hereby levied and  
4 shall be assessed and collected annually privilege taxes against  
5 persons on account of their business and other activities in the  
6 State measured by the application of rates against values of  
7 products, gross proceeds of sales, or gross income, whichever is  
8 specified, as follows:

9           (1) Tax on manufacturers.

10           (A) Upon every person engaging or continuing within  
11 the State in the business of manufacturing,  
12 including compounding, canning, preserving,  
13 packing, printing, publishing, milling,  
14 processing, refining, or preparing for sale,  
15 profit, or commercial use, either directly or  
16 through the activity of others, in whole or in  
17 part, any article or articles, substance or  
18 substances, commodity or commodities, the amount



1 of the tax to be equal to the value of the  
2 articles, substances, or commodities,  
3 manufactured, compounded, canned, preserved,  
4 packed, printed, milled, processed, refined, or  
5 prepared for sale, as shown by the gross proceeds  
6 derived from the sale thereof by the manufacturer  
7 or person compounding, preparing, or printing  
8 them, multiplied by one-half of one per cent.

9 (B) The measure of the tax on manufacturers is the  
10 value of the entire product for sale, regardless  
11 of the place of sale or the fact that deliveries  
12 may be made to points outside the State.

13 (C) If any person liable for the tax on manufacturers  
14 ships or transports the person's product, or any  
15 part thereof, out of the State, whether in a  
16 finished or unfinished condition, or sells the  
17 same for delivery to points outside the State  
18 (for example, consigned to a mainland purchaser  
19 via common carrier f.o.b. Honolulu), the value of  
20 the products in the condition or form in which  
21 they exist immediately before entering interstate  
22 or foreign commerce, determined as hereinafter



1 provided, shall be the basis for the assessment  
2 of the tax imposed by this paragraph. This tax  
3 shall be due and payable as of the date of entry  
4 of the products into interstate or foreign  
5 commerce, whether the products are then sold or  
6 not. The department shall determine the basis  
7 for assessment, as provided by this paragraph, as  
8 follows:

- 9 (i) If the products at the time of their entry  
10 into interstate or foreign commerce already  
11 have been sold, the gross proceeds of sale,  
12 less the transportation expenses, if any,  
13 incurred in realizing the gross proceeds for  
14 transportation from the time of entry of the  
15 products into interstate or foreign  
16 commerce, including insurance and storage in  
17 transit, shall be the measure of the value  
18 of the products;
- 19 (ii) If the products have not been sold at the  
20 time of their entry into interstate or  
21 foreign commerce, and in cases governed by  
22 clause (i) in which the products are sold



1 under circumstances such that the gross  
2 proceeds of sale are not indicative of the  
3 true value of the products, the value of the  
4 products constituting the basis for  
5 assessment shall correspond as nearly as  
6 possible to the gross proceeds of sales for  
7 delivery outside the State, adjusted as  
8 provided in clause (i), or if sufficient  
9 data are not available, sales in the State,  
10 of similar products of like quality and  
11 character and in similar quantities, made by  
12 the taxpayer (unless not indicative of the  
13 true value) or by others. Sales outside the  
14 State, adjusted as provided in clause (i),  
15 may be considered when they constitute the  
16 best available data. The department shall  
17 prescribe uniform and equitable rules for  
18 ascertaining the values;

19 (iii) At the election of the taxpayer and with the  
20 approval of the department, the taxpayer may  
21 make the taxpayer's returns under clause (i)  
22 even though the products have not been sold



1 at the time of their entry into interstate  
2 or foreign commerce; and  
3 (iv) In all cases in which products leave the  
4 State in an unfinished condition, the basis  
5 for assessment shall be adjusted so as to  
6 deduct the portion of the value as is  
7 attributable to the finishing of the goods  
8 outside the State.

9 (2) Tax on business of selling tangible personal property;  
10 producing.

11 (A) Upon every person engaging or continuing in the  
12 business of selling any tangible personal  
13 property whatsoever (not including, however,  
14 bonds or other evidence of indebtedness, or  
15 stocks), there is likewise hereby levied, and  
16 shall be assessed and collected, a tax equivalent  
17 to [~~four~~] five per cent of the gross proceeds of  
18 sales of the business; provided that insofar as  
19 the sale of tangible personal property is a  
20 wholesale sale under section [~~+~~]237-4(a)(8)[~~+~~],  
21 the sale shall be subject to section 237-13.3.  
22 Upon every person engaging or continuing within



1           this State in the business of a producer, the tax  
2           shall be equal to one-half of one per cent of the  
3           gross proceeds of sales of the business, or the  
4           value of the products, for sale, if sold for  
5           delivery outside the State or shipped or  
6           transported out of the State, and the value of  
7           the products shall be determined in the same  
8           manner as the value of manufactured products  
9           covered in the cases under paragraph (1)(C).

10           (B) Gross proceeds of sales of tangible property in  
11           interstate and foreign commerce shall constitute  
12           a part of the measure of the tax imposed on  
13           persons in the business of selling tangible  
14           personal property, to the extent, under the  
15           conditions, and in accordance with the provisions  
16           of the Constitution of the United States and the  
17           Acts of the Congress of the United States which  
18           may be now in force or may be hereafter adopted,  
19           and whenever there occurs in the State an  
20           activity to which, under the Constitution and  
21           Acts of Congress, there may be attributed gross



1                   proceeds of sales, the gross proceeds shall be so  
2                   attributed.

3                   (C) No manufacturer or producer, engaged in such  
4                   business in the State and selling the  
5                   manufacturer's or producer's products for  
6                   delivery outside of the State (for example,  
7                   consigned to a mainland purchaser via common  
8                   carrier f.o.b. Honolulu), shall be required to  
9                   pay the tax imposed in this chapter for the  
10                  privilege of so selling the products, and the  
11                  value or gross proceeds of sales of the products  
12                  shall be included only in determining the measure  
13                  of the tax imposed upon the manufacturer or  
14                  producer.

15                  (D) When a manufacturer or producer, engaged in such  
16                  business in the State, also is engaged in selling  
17                  the manufacturer's or producer's products in the  
18                  State at wholesale, retail, or in any other  
19                  manner, the tax for the privilege of engaging in  
20                  the business of selling the products in the State  
21                  shall apply to the manufacturer or producer as  
22                  well as the tax for the privilege of



1 manufacturing or producing in the State, and the  
2 manufacturer or producer shall make the returns  
3 of the gross proceeds of the wholesale, retail,  
4 or other sales required for the privilege of  
5 selling in the State, as well as making the  
6 returns of the value or gross proceeds of sales  
7 of the products required for the privilege of  
8 manufacturing or producing in the State. The  
9 manufacturer or producer shall pay the tax  
10 imposed in this chapter for the privilege of  
11 selling its products in the State, and the value  
12 or gross proceeds of sales of the products, thus  
13 subjected to tax, may be deducted insofar as  
14 duplicated as to the same products by the measure  
15 of the tax upon the manufacturer or producer for  
16 the privilege of manufacturing or producing in  
17 the State; provided that no producer of  
18 agricultural products who sells the products to a  
19 purchaser who will process the products outside  
20 the State shall be required to pay the tax  
21 imposed in this chapter for the privilege of  
22 producing or selling those products.





1 (E) A taxpayer selling to a federal cost-plus  
2 contractor may make the election provided for by  
3 paragraph (3) (C), and in that case the tax shall  
4 be computed pursuant to the election,  
5 notwithstanding this paragraph or paragraph (1)  
6 to the contrary.

7 (F) The department, by rule, may require that a  
8 seller take from the purchaser of tangible  
9 personal property a certificate, in a form  
10 prescribed by the department, certifying that the  
11 sale is a sale at wholesale; provided that:

12 (i) Any purchaser who furnishes a certificate  
13 shall be obligated to pay to the seller,  
14 upon demand, the amount of the additional  
15 tax that is imposed upon the seller whenever  
16 the sale in fact is not at wholesale; and

17 (ii) The absence of a certificate in itself shall  
18 give rise to the presumption that the sale  
19 is not at wholesale unless the sales of the  
20 business are exclusively at wholesale.

21 (3) Tax upon contractors.



1 (A) Upon every person engaging or continuing within  
2 the State in the business of contracting, the tax  
3 shall be equal to [~~four~~] five per cent of the  
4 gross income of the business.

5 (B) In computing the tax levied under this paragraph,  
6 there shall be deducted from the gross income of  
7 the taxpayer so much thereof as has been included  
8 in the measure of the tax levied under  
9 subparagraph (A), on:

10 (i) Another taxpayer who is a contractor, as  
11 defined in section 237-6;

12 (ii) A specialty contractor, duly licensed by the  
13 department of commerce and consumer affairs  
14 pursuant to section 444-9, in respect of the  
15 specialty contractor's business; or

16 (iii) A specialty contractor who is not licensed  
17 by the department of commerce and consumer  
18 affairs pursuant to section 444-9, but who  
19 performs contracting activities on federal  
20 military installations and nowhere else in  
21 this State;



1 provided that any person claiming a deduction  
2 under this paragraph shall be required to show in  
3 the person's return the name and general excise  
4 number of the person paying the tax on the amount  
5 deducted by the person.

6 (C) In computing the tax levied under this paragraph  
7 against any federal cost-plus contractor, there  
8 shall be excluded from the gross income of the  
9 contractor so much thereof as fulfills the  
10 following requirements:

11 (i) The gross income exempted shall constitute  
12 reimbursement of costs incurred for  
13 materials, plant, or equipment purchased  
14 from a taxpayer licensed under this chapter,  
15 not exceeding the gross proceeds of sale of  
16 the taxpayer on account of the transaction;  
17 and

18 (ii) The taxpayer making the sale shall have  
19 certified to the department that the  
20 taxpayer is taxable with respect to the  
21 gross proceeds of the sale, and that the  
22 taxpayer elects to have the tax on gross



1                   income computed the same as upon a sale to  
2                   the state government.

3           (D) A person who, as a business or as a part of a  
4           business in which the person is engaged, erects,  
5           constructs, or improves any building or  
6           structure, of any kind or description, or makes,  
7           constructs, or improves any road, street,  
8           sidewalk, sewer, or water system, or other  
9           improvements on land held by the person (whether  
10          held as a leasehold, fee simple, or otherwise),  
11          upon the sale or other disposition of the land or  
12          improvements, even if the work was not done  
13          pursuant to a contract, shall be liable to the  
14          same tax as if engaged in the business of  
15          contracting, unless the person shows that at the  
16          time the person was engaged in making the  
17          improvements the person intended, and for the  
18          period of at least one year after completion of  
19          the building, structure, or other improvements  
20          the person continued to intend to hold and not  
21          sell or otherwise dispose of the land or  
22          improvements. The tax in respect of the



1 improvements shall be measured by the amount of  
2 the proceeds of the sale or other disposition  
3 that is attributable to the erection,  
4 construction, or improvement of such building or  
5 structure, or the making, constructing, or  
6 improving of the road, street, sidewalk, sewer,  
7 or water system, or other improvements. The  
8 measure of tax in respect of the improvements  
9 shall not exceed the amount which would have been  
10 taxable had the work been performed by another,  
11 subject as in other cases to the deductions  
12 allowed by subparagraph (B). Upon the election  
13 of the taxpayer, this paragraph may be applied  
14 notwithstanding that the improvements were not  
15 made by the taxpayer, or were not made as a  
16 business or as a part of a business, or were made  
17 with the intention of holding the same. However,  
18 this paragraph shall not apply in respect of any  
19 proceeds that constitute or are in the nature of  
20 rent; all such gross income shall be taxable  
21 under paragraph (9); provided that insofar as the  
22 business of renting or leasing real property



1                   under a lease is taxed under section 237-16.5,  
2                   the tax shall be levied by section 237-16.5.

3           (4) Tax upon theaters, amusements, radio broadcasting  
4           stations, etc.

5           (A) Upon every person engaging or continuing within  
6           the State in the business of operating a theater,  
7           opera house, moving picture show, vaudeville,  
8           amusement park, dance hall, skating rink, radio  
9           broadcasting station, or any other place at which  
10           amusements are offered to the public, the tax  
11           shall be equal to [~~four~~] five per cent of the  
12           gross income of the business, and in the case of  
13           a sale of an amusement at wholesale under section  
14           237-4(a)(13), the tax shall be subject to section  
15           237-13.3.

16           (B) The department may require that the person  
17           rendering an amusement at wholesale take from the  
18           licensed seller a certificate, in a form  
19           prescribed by the department, certifying that the  
20           sale is a sale at wholesale; provided that:

21           (i) Any licensed seller who furnishes a  
22           certificate shall be obligated to pay to the



1 person rendering the amusement, upon demand,  
2 the amount of additional tax that is imposed  
3 upon the seller whenever the sale is not at  
4 wholesale; and

5 (ii) The absence of a certificate in itself shall  
6 give rise to the presumption that the sale  
7 is not at wholesale unless the person  
8 rendering the sale is exclusively rendering  
9 the amusement at wholesale.

10 (5) Tax upon sales representatives, etc. Upon every  
11 person classified as a representative or purchasing  
12 agent under section 237-1, engaging or continuing  
13 within the State in the business of performing  
14 services for another, other than as an employee, there  
15 is likewise hereby levied and shall be assessed and  
16 collected a tax equal to [~~four~~] five per cent of the  
17 commissions and other compensation attributable to the  
18 services so rendered by the person.

19 (6) Tax on service business.

20 (A) Upon every person engaging or continuing within  
21 the State in any service business or calling  
22 including professional services not otherwise



1 specifically taxed under this chapter, there is  
2 likewise hereby levied and shall be assessed and  
3 collected a tax equal to [~~four~~] five per cent of  
4 the gross income of the business, and in the case  
5 of a wholesaler under section 237-4(a)(10), the  
6 tax shall be equal to one-half of one per cent of  
7 the gross income of the business.

8 Notwithstanding the foregoing, a wholesaler under  
9 section 237-4(a)(10) shall be subject to section  
10 237-13.3.

11 (B) The department may require that the person  
12 rendering a service at wholesale take from the  
13 licensed seller a certificate, in a form  
14 prescribed by the department, certifying that the  
15 sale is a sale at wholesale; provided that:

16 (i) Any licensed seller who furnishes a  
17 certificate shall be obligated to pay to the  
18 person rendering the service, upon demand,  
19 the amount of additional tax that is imposed  
20 upon the seller whenever the sale is not at  
21 wholesale; and





1 (ii) The absence of a certificate in itself shall  
2 give rise to the presumption that the sale  
3 is not at wholesale unless the person  
4 rendering the sale is exclusively rendering  
5 services at wholesale.

6 (C) Where any person is engaged in the business of  
7 selling interstate or foreign common carrier  
8 [~~telecommunication~~] telecommunications services  
9 within and without the State, other than as a  
10 home service provider, the tax shall be imposed  
11 on that portion of gross income received by a  
12 person from service which is originated or  
13 terminated in this State and is charged to a  
14 telephone number, customer, or account in this  
15 State notwithstanding any other state law (except  
16 for the exemption under section 237-23(a)(1)) to  
17 the contrary. If, under the Constitution and  
18 laws of the United States, the entire gross  
19 income as determined under this paragraph of a  
20 business selling interstate or foreign common  
21 carrier telecommunication services cannot be  
22 included in the measure of the tax, the gross



1 income shall be apportioned as provided in  
2 section 237-21; provided that the apportionment  
3 factor and formula shall be the same for all  
4 persons providing those services in the State.

5 (D) Where any person is engaged in the business of a  
6 home service provider, the tax shall be imposed  
7 on the gross income received or derived from  
8 providing interstate or foreign mobile  
9 telecommunications services to a customer with a  
10 place of primary use in this State when such  
11 services originate in one state and terminate in  
12 another state, territory, or foreign country;  
13 provided that all charges for mobile  
14 telecommunications services which are billed by  
15 or for the home service provider are deemed to be  
16 provided by the home service provider at the  
17 customer's place of primary use, regardless of  
18 where the mobile telecommunications originate,  
19 terminate, or pass through; provided further that  
20 the income from charges specifically derived from  
21 interstate or foreign mobile telecommunications  
22 services, as determined by books and records that



1 are kept in the regular course of business by the  
2 home service provider in accordance with section  
3 239-24, shall be apportioned under any  
4 apportionment factor or formula adopted under  
5 subparagraph (C). Gross income shall not  
6 include:

7 (i) Gross receipts from mobile  
8 telecommunications services provided to a  
9 customer with a place of primary use outside  
10 this State;

11 (ii) Gross receipts from mobile  
12 telecommunications services that are subject  
13 to the tax imposed by chapter 239;

14 (iii) Gross receipts from mobile  
15 telecommunications services taxed under  
16 section 237-13.8; and

17 (iv) Gross receipts of a home service provider  
18 acting as a serving carrier providing mobile  
19 telecommunications services to another home  
20 service provider's customer.

21 For the purposes of this paragraph, "charges for  
22 mobile telecommunications services", "customer",



1 "home service provider", "mobile  
2 telecommunications services", "place of primary  
3 use", and "serving carrier" have the same meaning  
4 as in section 239-22.

5 (7) Tax on insurance producers. Upon every person engaged  
6 as a licensed producer pursuant to chapter 431, there  
7 is hereby levied and shall be assessed and collected a  
8 tax equal to 0.15 per cent of the commissions due to  
9 that activity.

10 (8) Tax on receipts of sugar benefit payments. Upon the  
11 amounts received from the United States government by  
12 any producer of sugar (or the producer's legal  
13 representative or heirs), as defined under and by  
14 virtue of the Sugar Act of 1948, as amended, or other  
15 Acts of the Congress of the United States relating  
16 thereto, there is hereby levied a tax of one-half of  
17 one per cent of the gross amount received; provided  
18 that the tax levied hereunder on any amount so  
19 received and actually disbursed to another by a  
20 producer in the form of a benefit payment shall be  
21 paid by the person or persons to whom the amount is  
22 actually disbursed, and the producer actually making a



1 benefit payment to another shall be entitled to claim  
2 on the producer's return a deduction from the gross  
3 amount taxable hereunder in the sum of the amount so  
4 disbursed. The amounts taxed under this paragraph  
5 shall not be taxable under any other paragraph,  
6 subsection, or section of this chapter.

7 (9) Tax on other business. Upon every person engaging or  
8 continuing within the State in any business, trade,  
9 activity, occupation, or calling not included in the  
10 preceding paragraphs or any other provisions of this  
11 chapter, there is likewise hereby levied and shall be  
12 assessed and collected, a tax equal to [~~four~~] five per  
13 cent of the gross income thereof. In addition, the  
14 rate prescribed by this paragraph shall apply to a  
15 business taxable under one or more of the preceding  
16 paragraphs or other provisions of this chapter, as to  
17 any gross income thereof not taxed thereunder as gross  
18 income or gross proceeds of sales or by taxing an  
19 equivalent value of products, unless specifically  
20 exempted."

21 SECTION 2. Section 237-15, Hawaii Revised Statutes, is  
22 amended to read as follows:



1           "**§237-15 Technicians.** When technicians supply dentists or  
2 physicians with dentures, orthodontic devices, braces, and  
3 similar items which have been prepared by the technician in  
4 accordance with specifications furnished by the dentist or  
5 physician, and such items are to be used by the dentist or  
6 physician in the dentist's or physician's professional practice  
7 for a particular patient who is to pay the dentist or physician  
8 for the same as a part of the dentist's or physician's  
9 professional services, the technician shall be taxed as though  
10 the technician were a manufacturer selling a product to a  
11 licensed retailer, rather than at the rate of [~~four~~] five per  
12 cent which is generally applied to professions and services."

13           SECTION 3. Section 237-16.5, Hawaii Revised Statutes, is  
14 amended as follows:

15           1. By amending subsection (a) to read:

16           "(a) This section relates to the leasing of real property  
17 by a lessor to a lessee. There is hereby levied, and shall be  
18 assessed and collected annually, a privilege tax against persons  
19 engaging or continuing within the State in the business of  
20 leasing real property to another, equal to [~~four~~] five per cent  
21 of the gross proceeds or gross income received or derived from  
22 the leasing; provided that where real property is subleased by a



1 lessee to a sublessee, the lessee, as provided in this section,  
2 shall be allowed a deduction from the amount of gross proceeds  
3 or gross income received from its sublease of the real property.  
4 The deduction shall be in the amount allowed under this section.

5 All deductions under this section and the name and general  
6 excise tax number of the lessee's lessor shall be reported on  
7 the general excise tax return. Any deduction allowed under this  
8 section shall only be allowed with respect to leases and  
9 subleases in writing and relating to the same real property."

10 2. By amending subsection (f) to read:

11 "(f) This section shall not cause the tax upon a lessor,  
12 with respect to any item of the lessor's gross proceeds or gross  
13 income, to exceed [~~four~~] five per cent."

14 SECTION 4. Section 237-18, Hawaii Revised Statutes, is  
15 amended by amending subsection (f) to read as follows:

16 "(f) Where tourism related services are furnished through  
17 arrangements made by a travel agency or tour packager and the  
18 gross income is divided between the provider of the services and  
19 the travel agency or tour packager, the tax imposed by this  
20 chapter shall apply to each such person with respect to such  
21 person's respective portion of the proceeds, and no more.



1           As used in this subsection, "tourism related services"  
2 means catamaran cruises, canoe rides, dinner cruises, lei  
3 greetings, transportation included in a tour package,  
4 sightseeing tours not subject to chapter 239, admissions to  
5 luaus, dinner shows, extravaganzas, cultural and educational  
6 facilities, and other services rendered directly to the customer  
7 or tourist, but only if the providers of the services other than  
8 air transportation are subject to a [~~four~~] five per cent tax  
9 under this chapter or the applicable tax under chapter 239."

10           SECTION 5. Section 238-2, Hawaii Revised Statutes, is  
11 amended to read as follows:

12           "**§238-2 Imposition of tax on tangible personal property;**  
13 **exemptions.** There is hereby levied an excise tax on the use in  
14 this State of tangible personal property which is imported by a  
15 taxpayer in this State whether owned, purchased from an  
16 unlicensed seller, or however acquired for use in this State.  
17 The tax imposed by this chapter shall accrue when the property  
18 is acquired by the importer or purchaser and becomes subject to  
19 the taxing jurisdiction of the State. The rates of the tax  
20 hereby imposed and the exemptions thereof are as follows:

21           (1) If the importer or purchaser is licensed under chapter  
22           237 and is:





1 (A) A wholesaler or jobber importing or purchasing  
2 for purposes of sale or resale; or  
3 (B) A manufacturer importing or purchasing material  
4 or commodities which are to be incorporated by  
5 the manufacturer into a finished or saleable  
6 product (including the container or package in  
7 which the product is contained) wherein it will  
8 remain in such form as to be perceptible to the  
9 senses, and which finished or saleable product is  
10 to be sold in such manner as to result in a  
11 further tax on the activity of the manufacturer  
12 as the manufacturer or as a wholesaler, and not  
13 as a retailer,  
14 there shall be no tax; provided that if the  
15 wholesaler, jobber, or manufacturer is also engaged in  
16 business as a retailer (so classed under chapter 237),  
17 paragraph (2) shall apply to the wholesaler, jobber,  
18 or manufacturer, but the director of taxation shall  
19 refund to the wholesaler, jobber, or manufacturer, in  
20 the manner provided under section 231-23(c) such  
21 amount of tax as the wholesaler, jobber, or  
22 manufacturer shall, to the satisfaction of the



1 director, establish to have been paid by the  
2 wholesaler, jobber, or manufacturer to the director  
3 with respect to property which has been used by the  
4 wholesaler, jobber, or manufacturer for the purposes  
5 stated in this paragraph;

6 (2) If the importer or purchaser is licensed under chapter  
7 237 and is:

8 (A) A retailer or other person importing or  
9 purchasing for purposes of sale or resale, not  
10 exempted by paragraph (1);

11 (B) A manufacturer importing or purchasing material  
12 or commodities which are to be incorporated by  
13 the manufacturer into a finished or saleable  
14 product (including the container or package in  
15 which the product is contained) wherein it will  
16 remain in such form as to be perceptible to the  
17 senses, and which finished or saleable product is  
18 to be sold at retail in this State, in such  
19 manner as to result in a further tax on the  
20 activity of the manufacturer in selling such  
21 products at retail;



- 1 (C) A contractor importing or purchasing material or  
2 commodities which are to be incorporated by the  
3 contractor into the finished work or project  
4 required by the contract and which will remain in  
5 such finished work or project in such form as to  
6 be perceptible to the senses;
- 7 (D) A person engaged in a service business or calling  
8 as defined in section 237-7, or a person  
9 furnishing transient accommodations subject to  
10 the tax imposed by section 237D-2, in which the  
11 import or purchase of tangible personal property  
12 would have qualified as a sale at wholesale as  
13 defined in section 237-4(a)(8) had the seller of  
14 the property been subject to the tax in chapter  
15 237; or
- 16 (E) A publisher of magazines or similar printed  
17 materials containing advertisements, when the  
18 publisher is under contract with the advertisers  
19 to distribute a minimum number of magazines or  
20 similar printed materials to the public or  
21 defined segment of the public, whether or not  
22 there is a charge to the persons who actually



1           receive the magazines or similar printed  
2           materials,  
3           the tax shall be one-half of one per cent of the  
4           purchase price of the property, if the purchase and  
5           sale are consummated in Hawaii; or, if there is no  
6           purchase price applicable thereto, or if the purchase  
7           or sale is consummated outside of Hawaii, then one-  
8           half of one per cent of the value of such property;  
9           and

10          (3) In all other cases, [~~four~~] five per cent of the value  
11          of the property.

12          For purposes of this section, tangible personal property is  
13          property that is imported by the taxpayer for use in this State,  
14          notwithstanding the fact that title to the property, or the risk  
15          of loss to the property, passes to the purchaser of the property  
16          at a location outside this State."

17          SECTION 6. Section 238-2.3, Hawaii Revised Statutes, is  
18          amended to read as follows:

19          "**§238-2.3 Imposition of tax on imported services or**  
20          **contracting; exemptions.** There is hereby levied an excise tax  
21          on the value of services or contracting as defined in section  
22          237-6 that are performed by an unlicensed seller at a point



1 outside the State and imported or purchased for use in this  
2 State. The tax imposed by this chapter shall accrue when the  
3 service or contracting as defined in section 237-6 is received  
4 by the importer or purchaser and becomes subject to the taxing  
5 jurisdiction of the State. The rates of the tax hereby imposed  
6 and the exemptions from the tax are as follows:

7 (1) If the importer or purchaser is licensed under chapter  
8 237 and is:

9 (A) Engaged in a service business or calling in which  
10 the imported or purchased services or contracting  
11 become identifiable elements, excluding overhead,  
12 of the services rendered by the importer or  
13 purchaser, and the gross income of the importer  
14 or purchaser is subject to the tax imposed under  
15 chapter 237 on services at the rate of one-half  
16 of one per cent or the rate of tax imposed under  
17 section 237-13.3; or

18 (B) A manufacturer importing or purchasing services  
19 or contracting that become identifiable elements,  
20 excluding overhead, of a finished or saleable  
21 product (including the container or package in  
22 which the product is contained) and the finished



1 or saleable product is to be sold in a manner  
2 that results in a further tax on the manufacturer  
3 as a wholesaler, and not a retailer;

4 there shall be no tax imposed on the value of the  
5 imported or purchased services or contracting;  
6 provided that if the manufacturer is also engaged in  
7 business as a retailer as classified under chapter  
8 237, paragraph (2) shall apply to the manufacturer,  
9 but the director of taxation shall refund to the  
10 manufacturer, in the manner provided under section  
11 231-23(c), that amount of tax that the manufacturer,  
12 to the satisfaction of the director, shall establish  
13 to have been paid by the manufacturer to the director  
14 with respect to services that have been used by the  
15 manufacturer for the purposes stated in this  
16 paragraph[-];

17 (2) If the importer or purchaser is a person licensed  
18 under chapter 237 and is:

19 (A) Engaged in a service business or calling in which  
20 the imported or purchased services or contracting  
21 become identifiable elements, excluding overhead,  
22 of the services rendered by the importer or



1 purchaser, and the gross income from those  
2 services when sold by the importer or purchaser  
3 is subject to the tax imposed under chapter 237  
4 at the highest rate;

5 (B) A manufacturer, importing or purchasing services  
6 or contracting that become identifiable elements,  
7 excluding overhead, of the finished or saleable  
8 manufactured product (including the container or  
9 package in which the product is contained) and  
10 the finished or saleable product is to be sold in  
11 a manner that results in a further tax under  
12 chapter 237 on the activity of the manufacturer  
13 as a retailer; or

14 (C) A contractor importing or purchasing services or  
15 contracting that become identifiable elements,  
16 excluding overhead, of the finished work or  
17 project required, under the contract, and where  
18 the gross proceeds derived by the contractor are  
19 subject to the tax under section 237-13(3) as a  
20 contractor,



1           the tax shall be one-half of one per cent of the value  
 2           of the imported or purchased services or contracting;  
 3           and

4           (3) In all other cases, the importer or purchaser is  
 5           subject to the tax at the rate of [~~four~~] five per cent  
 6           on the value of the imported or purchased services or  
 7           contracting."

8           SECTION 7. Statutory material to be repealed is bracketed  
 9           and stricken. New statutory material is underscored.

10          SECTION 8. This Act shall take effect on July 1, 2010, and  
 11          be repealed on June 30, 2012; provided that sections 237-13,  
 12          237-15, 237-16.5, 237-18, 238-2, and 238-2.3, Hawaii Revised  
 13          Statutes, shall be reenacted in the form in which they existed  
 14          on the day before the effective date of this Act.

15

INTRODUCED BY:

*Calvin K. Soy*  
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BY REQUEST

JAN 21 2010





**Report Title:**

General Excise Tax; Temporary 2-Year Increase of 1%

**Description:**

Temporarily increases rate of general excise tax from 4% to 5% from 07/01/2010 to 06/30/2012.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

