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## A BILL FOR AN ACT

RELATING TO TAXATION.

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

1           SECTION 1. Section 235-7, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3           "(a) There shall be excluded from gross income, adjusted  
4 gross income, and taxable income:

5           (1) Income not subject to taxation by the State under the  
6 Constitution and laws of the United States;

7           (2) Rights, benefits, and other income exempted from  
8 taxation by section 88-91, having to do with the state  
9 retirement system, and the rights, benefits, and other  
10 income, comparable to the rights, benefits, and other  
11 income exempted by section 88-91, under any other  
12 public retirement system;

13           (3) Any compensation received in the form of a pension for  
14 past services;

15           (4) Compensation paid to a patient affected with Hansen's  
16 disease employed by the State or the United States in  
17 any hospital, settlement, or place for the treatment  
18 of Hansen's disease;



- 1           (5) Except as otherwise expressly provided, payments made
- 2           by the United States or this State, under an act of
- 3           Congress or a law of this State, which by express
- 4           provision or administrative regulation or
- 5           interpretation are exempt from both the normal and
- 6           surtaxes of the United States, even though not so
- 7           exempted by the Internal Revenue Code itself;
- 8           (6) Any income expressly exempted or excluded from the
- 9           measure of the tax imposed by this chapter by any
- 10          other law of the State, it being the intent of this
- 11          chapter not to repeal or supersede any express
- 12          exemption or exclusion;
- 13          (7) Income received by each member of the reserve
- 14          components of the Army, Navy, Air Force, Marine Corps,
- 15          or Coast Guard of the United States of America, and
- 16          the Hawaii national guard as compensation for
- 17          performance of duty, equivalent to pay received for
- 18          forty-eight drills (equivalent of twelve weekends) and
- 19          fifteen days of annual duty, at an:
- 20           (A) E-1 pay grade after eight years of service;
- 21           provided that this subparagraph shall apply to
- 22           taxable years beginning after December 31, 2004;

- 1 (B) E-2 pay grade after eight years of service;  
2 provided that this subparagraph shall apply to  
3 taxable years beginning after December 31, 2005;
- 4 (C) E-3 pay grade after eight years of service;  
5 provided that this subparagraph shall apply to  
6 taxable years beginning after December 31, 2006;
- 7 (D) E-4 pay grade after eight years of service;  
8 provided that this subparagraph shall apply to  
9 taxable years beginning after December 31, 2007;  
10 and
- 11 (E) E-5 pay grade after eight years of service;  
12 provided that this subparagraph shall apply to  
13 taxable years beginning after December 31, 2008;
- 14 (8) Income derived from the operation of ships or aircraft  
15 if the income is exempt under the Internal Revenue  
16 Code pursuant to the provisions of an income tax  
17 treaty or agreement entered into by and between the  
18 United States and a foreign country; provided that the  
19 tax laws of the local governments of that country  
20 reciprocally exempt from the application of all of  
21 their net income taxes, the income derived from the



- 1 operation of ships or aircraft that are documented or  
2 registered under the laws of the United States;
- 3 (9) The value of legal services provided by a prepaid  
4 legal service plan to a taxpayer, the taxpayer's  
5 spouse, and the taxpayer's dependents;
- 6 (10) Amounts paid, directly or indirectly, by a prepaid  
7 legal service plan to a taxpayer as payment or  
8 reimbursement for the provision of legal services to  
9 the taxpayer, the taxpayer's spouse, and the  
10 taxpayer's dependents;
- 11 (11) Contributions by an employer to a prepaid legal  
12 service plan for compensation (through insurance or  
13 otherwise) to the employer's employees for the costs  
14 of legal services incurred by the employer's  
15 employees, their spouses, and their dependents;
- 16 (12) Amounts received in the form of a monthly surcharge by  
17 a utility acting on behalf of an affected utility  
18 under section 269-16.3 shall not be gross income,  
19 adjusted gross income, or taxable income for the  
20 acting utility under this chapter. Any amounts  
21 retained by the acting utility for collection or other  
22 costs shall not be included in this exemption; [and]



1 (13) One hundred per cent of the gain realized by a fee  
2 simple owner from the sale of a leased fee interest in  
3 units within a condominium project, cooperative  
4 project, or planned unit development to the  
5 association of owners under chapter 514A or 514B, or  
6 the residential cooperative corporation of the  
7 leasehold units.

8 For purposes of this paragraph:

9 "Fee simple owner" shall have the same meaning as  
10 provided under section 516-1; provided that it shall  
11 include legal and equitable owners;

12 "Legal and equitable owner", and "leased fee  
13 interest" shall have the same meanings as provided  
14 under section 516-1; and

15 "Condominium project" and "cooperative project"  
16 shall have the same meanings as provided under section  
17 514C-1[-]; and

18 (14) Amounts received by an organization that is exempt  
19 from income tax under section 501(c)(12) of the  
20 Internal Revenue Code of 1986, as amended, but only to  
21 the extent that the organization provides potable



1           water to its members and only as to amounts that are  
2           received from its members for water used for:  
3           (A) Their personal or household use, or  
4           (B) An agricultural purpose; provided that the  
5           exemption shall not apply to any activity where  
6           the purpose is to produce income, even though the  
7           income is used for, or in the furtherance of the  
8           agricultural purpose."

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

11          "§237-24 Amounts not taxable. This chapter shall not  
12          apply to the following amounts:

- 13           (1) Amounts received under life insurance policies and  
14           contracts paid by reason of the death of the insured;
- 15           (2) Amounts received (other than amounts paid by reason of  
16           death of the insured) under life insurance, endowment,  
17           or annuity contracts, either during the term or at  
18           maturity or upon surrender of the contract;
- 19           (3) Amounts received under any accident insurance or  
20           health insurance policy or contract or under workers'  
21           compensation acts or employers' liability acts, as  
22           compensation for personal injuries, death, or

- 1 sickness, including also the amount of any damages or  
2 other compensation received, whether as a result of  
3 action or by private agreement between the parties on  
4 account of the personal injuries, death, or sickness;
- 5 (4) The value of all property of every kind and sort  
6 acquired by gift, bequest, or devise, and the value of  
7 all property acquired by descent or inheritance;
- 8 (5) Amounts received by any person as compensatory damages  
9 for any tort injury to the person, or to the person's  
10 character reputation, or received as compensatory  
11 damages for any tort injury to or destruction of  
12 property, whether as the result of action or by  
13 private agreement between the parties (provided that  
14 amounts received as punitive damages for tort injury  
15 or breach of contract injury shall be included in  
16 gross income);
- 17 (6) Amounts received as salaries or wages for services  
18 rendered by an employee to an employer;
- 19 (7) Amounts received as alimony and other similar payments  
20 and settlements;
- 21 (8) Amounts collected by distributors as fuel taxes on  
22 "liquid fuel" imposed by chapter 243, and the amounts



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





1 a general, limited, or limited liability partnership,  
2 all of whose partners are blind, deaf, or totally  
3 disabled; or a limited liability company, all of whose  
4 members are blind, deaf, or totally disabled;

5 (14) Amounts received by a producer of sugarcane from the  
6 manufacturer to whom the producer sells the sugarcane,  
7 where:

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

12 (B) The value or gross proceeds of the sale of the  
13 sugar, and other products manufactured from the  
14 sugarcane, are included in the measure of the tax  
15 levied on the manufacturer under section 237-  
16 13(1) or (2);

17 (C) The producer's gross proceeds of sales are  
18 dependent upon the actual value of the products  
19 manufactured therefrom or the average value of  
20 all similar products manufactured by the  
21 manufacturer; and



- 1 (D) The producer's gross proceeds of sales are
- 2 reduced by reason of the tax on the value or sale
- 3 of the manufactured products;
- 4 (15) Money paid by the State or eleemosynary child-placing
- 5 organizations to foster parents for their care of
- 6 children in foster homes;
- 7 (16) Amounts received by a cooperative housing corporation
- 8 from its shareholders in reimbursement of funds paid
- 9 by the corporation for lease rental, real property
- 10 taxes, and other expenses of operating and maintaining
- 11 the cooperative land and improvements; provided that
- 12 the cooperative corporation is a corporation:
- 13 (A) Having one and only one class of stock
- 14 outstanding;
- 15 (B) Each of the stockholders of which is entitled
- 16 solely by reason of the stockholder's ownership
- 17 of stock in the corporation, to occupy for
- 18 dwelling purposes a house, or an apartment in a
- 19 building owned or leased by the corporation; and
- 20 (C) No stockholder of which is entitled (either
- 21 conditionally or unconditionally) to receive any
- 22 distribution not out of earnings and profits of



1           the corporation except in a complete or partial  
2           liquidation of the corporation; [~~and~~]

3       (17) Amounts received by a managed care support contractor  
4           of the TRICARE program that is established under Title  
5           10 United States Code chapter 55, as amended, for the  
6           actual cost or advancement to third party health care  
7           providers pursuant to a contract with the United  
8           States[-]; and

9       (18) Amounts received by an organization that is exempt  
10       from income tax under section 501(c)(12) of the  
11       Internal Revenue Code of 1986, as amended, but only to  
12       the extent that the organization provides potable  
13       water to its members and only as to amounts that are  
14       received from its members for water used for:

15       (A) Their personal or household use, or

16       (B) An agricultural purpose; provided that the  
17       exemption shall not apply to any activity where  
18       the purpose is to produce income, even though the  
19       income is used for, or in the furtherance of the  
20       agricultural purpose."

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



1 SECTION 4. This Act shall take effect upon its approval;  
2 provided that:

3 (1) The amendment to section 235-7, Hawaii Revised  
4 Statutes, shall not be repealed when that section is  
5 reenacted on January 1, 2013 pursuant to Act 166,  
6 Session Laws of Hawaii 2006;

7 (2) The amendment to section 237-24, Hawaii Revised  
8 Statutes, shall not be repealed when that section is  
9 reenacted on December 31, 2013 pursuant to Act 70,  
10 Session Laws of Hawaii 2009; and

11 (3) This Act shall apply to taxable years beginning after  
12 December 31, 2009.

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INTRODUCED BY: Cindy Drennon

JAN 22 2010

**Report Title:**

Income Tax; GET; Potable Water Companies

**Description:**

Exempts federally tax exempt companies that supply potable water from the state income and general excise taxes.

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