
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. The purpose of this Act is to temporarily
2 increase:

3 (1) From July 1, 2010, to June 30, 2015, the general
4 excise and use tax rates from four per cent to five
5 per cent. This Act does not affect the county
6 surcharge imposed for a transit system;

7 (2) For calendar years beginning after December 31, 2010,
8 to December 31, 2015, the capital goods excise tax
9 credit from four per cent to five per cent; and

10 (3) For calendar years beginning after December 31, 2010,
11 to December 31, 2015, the refundable food/excise tax
12 credit by \$10 per exemption.

13 SECTION 2. Section 235-55.85, Hawaii Revised Statutes, is
14 amended by amending subsection (b) to read as follows:

15 "(b) Each resident individual taxpayer may claim a
16 refundable food/excise tax credit multiplied by the number of
17 qualified exemptions to which the taxpayer is entitled in
18 accordance with the table below; provided that a husband and



1 wife filing separate tax returns for a taxable year for which a
2 joint return could have been filed by them shall claim only the
3 tax credit to which they would have been entitled had a joint
4 return been filed.

5 Adjusted gross income	Credit per exemption
6 Under \$5,000	[85] <u>95</u>
7 \$5,000 under \$10,000	[75] <u>85</u>
8 \$10,000 under \$15,000	[65] <u>75</u>
9 \$15,000 under \$20,000	[55] <u>65</u>
10 \$20,000 under \$30,000	[45] <u>55</u>
11 \$30,000 under \$40,000	[35] <u>45</u>
12 \$40,000 under \$50,000	[25] <u>35</u>
13 \$50,000 and over	0"

14 SECTION 3. Section 235-110.7, Hawaii Revised Statutes, is
15 amended as follows:

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

17 "(a) There shall be allowed to each taxpayer subject to
18 the tax imposed by this chapter a capital goods excise tax
19 credit which shall be deductible from the taxpayer's net income
20 tax liability, if any, imposed by this chapter for the taxable
21 year in which the credit is properly claimed.



1 The amount of the tax credit shall be determined by the
2 application of the following rates against the cost of the
3 eligible depreciable tangible personal property used by the
4 taxpayer in a trade or business and placed in service within
5 Hawaii after December 31, 1987. For calendar years beginning
6 after:

7 (1) December 31, 1987, the applicable rate shall be three
8 per cent;

9 (2) December 31, 1988, the applicable rate shall be four
10 per cent;

11 (3) December 31, 2008, the applicable rate shall be zero
12 per cent; [and]

13 (4) December 31, 2009, [~~and thereafter,~~] the applicable
14 rate shall be four per cent[-];

15 (5) December 31, 2010, the applicable rate shall be five
16 per cent; and

17 (6) December 31, 2015, the applicable rate shall be four
18 per cent.

19 For taxpayers with fiscal taxable years, the applicable
20 rate shall be the rate for the calendar year in which the
21 eligible depreciable tangible personal property used in the
22 trade or business is placed in service within Hawaii.



1 In the case of a partnership, S corporation, estate, or
2 trust, the tax credit allowable is for eligible depreciable
3 tangible personal property which is placed in service by the
4 entity. The cost upon which the tax credit is computed shall be
5 determined at the entity level. Distribution and share of
6 credit shall be determined by rules.

7 In the case of eligible depreciable tangible personal
8 property for which a credit for sales or use taxes paid to
9 another state is allowable under section 238-3(i), the amount of
10 the tax credit allowed under this section shall not exceed the
11 amount of use tax actually paid under chapter 238 relating to
12 such tangible personal property.

13 If a deduction is taken under section 179 (with respect to
14 election to expense certain depreciable business assets) of the
15 Internal Revenue Code of 1954, as amended, no tax credit shall
16 be allowed for that portion of the cost of property for which
17 the deduction was taken."

18 2. By amending subsection (e) to read:

19 "(e) As used in this section, the definition of section 38
20 property (with respect to investment in depreciable tangible
21 personal property) as defined by section 48(a)(1)(A), (a)(1)(B),
22 (a)(3), (a)(4), (a)(7), (a)(8), (a)(10)(A), (b), (c), (f), (l),



1 (m), and (s) of the Internal Revenue Code of 1954, as amended as
2 of December 31, 1984, is operative for the purposes of this
3 section only.

4 As used in this section:

5 "Cost" means (1) the actual invoice price of the tangible
6 personal property, or (2) the basis from which depreciation is
7 taken under section 167 (with respect to depreciation) or from
8 which a deduction may be taken under section 168 (with respect
9 to accelerated cost recovery system) of the Internal Revenue
10 Code of 1954, as amended, whichever is less.

11 "Eligible depreciable tangible personal property" is
12 section 38 property as defined by the operative provisions of
13 section 48 and having a depreciable life under section 167 or
14 for which a deduction may be taken under section 168 of the
15 federal Internal Revenue Code of 1954, as amended.

16 "Placed in service" means the earliest of the following
17 taxable years:

18 (1) The taxable year in which, under the:

19 (A) Taxpayer's depreciation practice, the period for
20 depreciation; or



1 (B) Accelerated cost recovery system, a claim for
2 recovery allowances; with respect to such
3 property begins; or

4 (2) The taxable year in which the property is placed in a
5 condition or state of readiness and availability for a
6 specifically assigned function.

7 "Purchase" means an acquisition of property.

8 "Tangible personal property" means tangible personal
9 property which is placed in service within Hawaii after
10 December 31, 1987, and the purchase or importation of which
11 resulted in a transaction which was subject to the imposition
12 and payment of tax at the rate of [~~four~~] five per cent under
13 chapter 237 or 238. "Tangible personal property" does not
14 include tangible personal property which is an integral part of
15 a building or structure or tangible personal property used in a
16 foreign trade zone, as defined under chapter 212."

17 SECTION 4. Section 237-13, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§237-13 Imposition of tax.** There is hereby levied and
20 shall be assessed and collected annually privilege taxes against
21 persons on account of their business and other activities in the
22 State measured by the application of rates against values of



1 products, gross proceeds of sales, or gross income, whichever is
2 specified, as follows:

3 (1) Tax on manufacturers.

4 (A) Upon every person engaging or continuing within
5 the State in the business of manufacturing,
6 including compounding, canning, preserving,
7 packing, printing, publishing, milling,
8 processing, refining, or preparing for sale,
9 profit, or commercial use, either directly or
10 through the activity of others, in whole or in
11 part, any article or articles, substance or
12 substances, commodity or commodities, the amount
13 of the tax to be equal to the value of the
14 articles, substances, or commodities,
15 manufactured, compounded, canned, preserved,
16 packed, printed, milled, processed, refined, or
17 prepared for sale, as shown by the gross proceeds
18 derived from the sale thereof by the manufacturer
19 or person compounding, preparing, or printing
20 them, multiplied by one-half of one per cent.

21 (B) The measure of the tax on manufacturers is the
22 value of the entire product for sale, regardless



1 of the place of sale or the fact that deliveries
2 may be made to points outside the State.

3 (C) If any person liable for the tax on manufacturers
4 ships or transports the person's product, or any
5 part thereof, out of the State, whether in a
6 finished or unfinished condition, or sells the
7 same for delivery to points outside the State
8 (for example, consigned to a mainland purchaser
9 via common carrier f.o.b. Honolulu), the value of
10 the products in the condition or form in which
11 they exist immediately before entering interstate
12 or foreign commerce, determined as hereinafter
13 provided, shall be the basis for the assessment
14 of the tax imposed by this paragraph. This tax
15 shall be due and payable as of the date of entry
16 of the products into interstate or foreign
17 commerce, whether the products are then sold or
18 not. The department shall determine the basis
19 for assessment, as provided by this paragraph, as
20 follows:

21 (i) If the products at the time of their entry
22 into interstate or foreign commerce already



1 have been sold, the gross proceeds of sale,
2 less the transportation expenses, if any,
3 incurred in realizing the gross proceeds for
4 transportation from the time of entry of the
5 products into interstate or foreign
6 commerce, including insurance and storage in
7 transit, shall be the measure of the value
8 of the products;

9 (ii) If the products have not been sold at the
10 time of their entry into interstate or
11 foreign commerce, and in cases governed by
12 clause (i) in which the products are sold
13 under circumstances such that the gross
14 proceeds of sale are not indicative of the
15 true value of the products, the value of the
16 products constituting the basis for
17 assessment shall correspond as nearly as
18 possible to the gross proceeds of sales for
19 delivery outside the State, adjusted as
20 provided in clause (i), or if sufficient
21 data are not available, sales in the State,
22 of similar products of like quality and



1 character and in similar quantities, made by
2 the taxpayer (unless not indicative of the
3 true value) or by others. Sales outside the
4 State, adjusted as provided in clause (i),
5 may be considered when they constitute the
6 best available data. The department shall
7 prescribe uniform and equitable rules for
8 ascertaining the values;

9 (iii) At the election of the taxpayer and with the
10 approval of the department, the taxpayer may
11 make the taxpayer's returns under clause (i)
12 even though the products have not been sold
13 at the time of their entry into interstate
14 or foreign commerce; and

15 (iv) In all cases in which products leave the
16 State in an unfinished condition, the basis
17 for assessment shall be adjusted so as to
18 deduct the portion of the value as is
19 attributable to the finishing of the goods
20 outside the State.

21 (2) Tax on business of selling tangible personal property;
22 producing.



1 (A) Upon every person engaging or continuing in the
2 business of selling any tangible personal
3 property whatsoever (not including, however,
4 bonds or other evidence of indebtedness, or
5 stocks), there is likewise hereby levied, and
6 shall be assessed and collected, a tax equivalent
7 to [~~four~~] five per cent of the gross proceeds of
8 sales of the business; provided that insofar as
9 the sale of tangible personal property is a
10 wholesale sale under section [†]237-4(a)(8)[†],
11 the sale shall be subject to section 237-13.3.
12 Upon every person engaging or continuing within
13 this State in the business of a producer, the tax
14 shall be equal to one-half of one per cent of the
15 gross proceeds of sales of the business, or the
16 value of the products, for sale, if sold for
17 delivery outside the State or shipped or
18 transported out of the State, and the value of
19 the products shall be determined in the same
20 manner as the value of manufactured products
21 covered in the cases under paragraph (1)(C).



1 (B) Gross proceeds of sales of tangible property in
2 interstate and foreign commerce shall constitute
3 a part of the measure of the tax imposed on
4 persons in the business of selling tangible
5 personal property, to the extent, under the
6 conditions, and in accordance with the provisions
7 of the Constitution of the United States and the
8 Acts of the Congress of the United States which
9 may be now in force or may be hereafter adopted,
10 and whenever there occurs in the State an
11 activity to which, under the Constitution and
12 Acts of Congress, there may be attributed gross
13 proceeds of sales, the gross proceeds shall be so
14 attributed.

15 (C) No manufacturer or producer, engaged in such
16 business in the State and selling the
17 manufacturer's or producer's products for
18 delivery outside of the State (for example,
19 consigned to a mainland purchaser via common
20 carrier f.o.b. Honolulu), shall be required to
21 pay the tax imposed in this chapter for the
22 privilege of so selling the products, and the



1 value or gross proceeds of sales of the products
2 shall be included only in determining the measure
3 of the tax imposed upon the manufacturer or
4 producer.

5 (D) When a manufacturer or producer, engaged in such
6 business in the State, also is engaged in selling
7 the manufacturer's or producer's products in the
8 State at wholesale, retail, or in any other
9 manner, the tax for the privilege of engaging in
10 the business of selling the products in the State
11 shall apply to the manufacturer or producer as
12 well as the tax for the privilege of
13 manufacturing or producing in the State, and the
14 manufacturer or producer shall make the returns
15 of the gross proceeds of the wholesale, retail,
16 or other sales required for the privilege of
17 selling in the State, as well as making the
18 returns of the value or gross proceeds of sales
19 of the products required for the privilege of
20 manufacturing or producing in the State. The
21 manufacturer or producer shall pay the tax
22 imposed in this chapter for the privilege of



1 selling its products in the State, and the value
2 or gross proceeds of sales of the products, thus
3 subjected to tax, may be deducted insofar as
4 duplicated as to the same products by the measure
5 of the tax upon the manufacturer or producer for
6 the privilege of manufacturing or producing in
7 the State; provided that no producer of
8 agricultural products who sells the products to a
9 purchaser who will process the products outside
10 the State shall be required to pay the tax
11 imposed in this chapter for the privilege of
12 producing or selling those products.

13 (E) A taxpayer selling to a federal cost-plus
14 contractor may make the election provided for by
15 paragraph (3)(C), and in that case the tax shall
16 be computed pursuant to the election,
17 notwithstanding this paragraph or paragraph (1)
18 to the contrary.

19 (F) The department, by rule, may require that a
20 seller take from the purchaser of tangible
21 personal property a certificate, in a form



1 prescribed by the department, certifying that the
2 sale is a sale at wholesale; provided that:

3 (i) Any purchaser who furnishes a certificate
4 shall be obligated to pay to the seller,
5 upon demand, the amount of the additional
6 tax that is imposed upon the seller whenever
7 the sale in fact is not at wholesale; and

8 (ii) The absence of a certificate in itself shall
9 give rise to the presumption that the sale
10 is not at wholesale unless the sales of the
11 business are exclusively at wholesale.

12 (3) Tax upon contractors.

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

17 (B) In computing the tax levied under this paragraph,
18 there shall be deducted from the gross income of
19 the taxpayer so much thereof as has been included
20 in the measure of the tax levied under
21 subparagraph (A), on:



- 1 (i) Another taxpayer who is a contractor, as
- 2 defined in section 237-6;
- 3 (ii) A specialty contractor, duly licensed by the
- 4 department of commerce and consumer affairs
- 5 pursuant to section 444-9, in respect of the
- 6 specialty contractor's business; or
- 7 (iii) A specialty contractor who is not licensed
- 8 by the department of commerce and consumer
- 9 affairs pursuant to section 444-9, but who
- 10 performs contracting activities on federal
- 11 military installations and nowhere else in
- 12 this State;

13 provided that any person claiming a deduction
14 under this paragraph shall be required to show in
15 the person's return the name and general excise
16 number of the person paying the tax on the amount
17 deducted by the person.

- 18 (C) In computing the tax levied under this paragraph
- 19 against any federal cost-plus contractor, there
- 20 shall be excluded from the gross income of the
- 21 contractor so much thereof as fulfills the
- 22 following requirements:



1 (i) The gross income exempted shall constitute
2 reimbursement of costs incurred for
3 materials, plant, or equipment purchased
4 from a taxpayer licensed under this chapter,
5 not exceeding the gross proceeds of sale of
6 the taxpayer on account of the transaction;
7 and

8 (ii) The taxpayer making the sale shall have
9 certified to the department that the
10 taxpayer is taxable with respect to the
11 gross proceeds of the sale, and that the
12 taxpayer elects to have the tax on gross
13 income computed the same as upon a sale to
14 the state government.

15 (D) A person who, as a business or as a part of a
16 business in which the person is engaged, erects,
17 constructs, or improves any building or
18 structure, of any kind or description, or makes,
19 constructs, or improves any road, street,
20 sidewalk, sewer, or water system, or other
21 improvements on land held by the person (whether
22 held as a leasehold, fee simple, or otherwise),



1 upon the sale or other disposition of the land or
2 improvements, even if the work was not done
3 pursuant to a contract, shall be liable to the
4 same tax as if engaged in the business of
5 contracting, unless the person shows that at the
6 time the person was engaged in making the
7 improvements the person intended, and for the
8 period of at least one year after completion of
9 the building, structure, or other improvements
10 the person continued to intend to hold and not
11 sell or otherwise dispose of the land or
12 improvements. The tax in respect of the
13 improvements shall be measured by the amount of
14 the proceeds of the sale or other disposition
15 that is attributable to the erection,
16 construction, or improvement of such building or
17 structure, or the making, constructing, or
18 improving of the road, street, sidewalk, sewer,
19 or water system, or other improvements. The
20 measure of tax in respect of the improvements
21 shall not exceed the amount which would have been
22 taxable had the work been performed by another,



1 subject as in other cases to the deductions
2 allowed by subparagraph (B). Upon the election
3 of the taxpayer, this paragraph may be applied
4 notwithstanding that the improvements were not
5 made by the taxpayer, or were not made as a
6 business or as a part of a business, or were made
7 with the intention of holding the same. However,
8 this paragraph shall not apply in respect of any
9 proceeds that constitute or are in the nature of
10 rent; all such gross income shall be taxable
11 under paragraph (9); provided that insofar as the
12 business of renting or leasing real property
13 under a lease is taxed under section 237-16.5,
14 the tax shall be levied by section 237-16.5.

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

17 (A) Upon every person engaging or continuing within
18 the State in the business of operating a theater,
19 opera house, moving picture show, vaudeville,
20 amusement park, dance hall, skating rink, radio
21 broadcasting station, or any other place at which
22 amusements are offered to the public, the tax



1 shall be equal to [~~four~~] five per cent of the
2 gross income of the business, and in the case of
3 a sale of an amusement at wholesale under section
4 237-4(a)(13), the tax shall be subject to section
5 237-13.3.

6 (B) The department may require that the person
7 rendering an amusement at wholesale take from the
8 licensed seller a certificate, in a form
9 prescribed by the department, certifying that the
10 sale is a sale at wholesale; provided that:

11 (i) Any licensed seller who furnishes a
12 certificate shall be obligated to pay to the
13 person rendering the amusement, upon demand,
14 the amount of additional tax that is imposed
15 upon the seller whenever the sale is not at
16 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 person
20 rendering the sale is exclusively rendering
21 the amusement at wholesale.



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

10 (6) Tax on service business.

11 (A) Upon every person engaging or continuing within
12 the State in any service business or calling
13 including professional services not otherwise
14 specifically taxed under this chapter, there is
15 likewise hereby levied and shall be assessed and
16 collected a tax equal to [~~four~~] five per cent of
17 the gross income of the business, and in the case
18 of a wholesaler under section 237-4(a)(10), the
19 tax shall be equal to one-half of one per cent of
20 the gross income of the business.

21 Notwithstanding the foregoing, a wholesaler under



1 section 237-4(a).(10) shall be subject to section
2 237-13.3.

3 (B) The department may require that the person
4 rendering a service at wholesale take from the
5 licensed seller a certificate, in a form
6 prescribed by the department, certifying that the
7 sale is a sale at wholesale; provided that:

8 (i) Any licensed seller who furnishes a
9 certificate shall be obligated to pay to the
10 person rendering the service, upon demand,
11 the amount of additional tax that is imposed
12 upon the seller whenever the sale is not at
13 wholesale; and

14 (ii) The absence of a certificate in itself shall
15 give rise to the presumption that the sale
16 is not at wholesale unless the person
17 rendering the sale is exclusively rendering
18 services at wholesale.

19 (C) Where any person is engaged in the business of
20 selling interstate or foreign common carrier
21 ~~[telecommunication]~~ telecommunications services
22 within and without the State, other than as a



1 home service provider, the tax shall be imposed
2 on that portion of gross income received by a
3 person from service which is originated or
4 terminated in this State and is charged to a
5 telephone number, customer, or account in this
6 State notwithstanding any other state law (except
7 for the exemption under section 237-23(a)(1)) to
8 the contrary. If, under the Constitution and
9 laws of the United States, the entire gross
10 income as determined under this paragraph of a
11 business selling interstate or foreign common
12 carrier telecommunication services cannot be
13 included in the measure of the tax, the gross
14 income shall be apportioned as provided in
15 section 237-21; provided that the apportionment
16 factor and formula shall be the same for all
17 persons providing those services in the State.

18 (D) Where any person is engaged in the business of a
19 home service provider, the tax shall be imposed
20 on the gross income received or derived from
21 providing interstate or foreign mobile
22 telecommunications services to a customer with a



1 place of primary use in this State when such
2 services originate in one state and terminate in
3 another state, territory, or foreign country;
4 provided that all charges for mobile
5 telecommunications services which are billed by
6 or for the home service provider are deemed to be
7 provided by the home service provider at the
8 customer's place of primary use, regardless of
9 where the mobile telecommunications originate,
10 terminate, or pass through; provided further that
11 the income from charges specifically derived from
12 interstate or foreign mobile telecommunications
13 services, as determined by books and records that
14 are kept in the regular course of business by the
15 home service provider in accordance with section
16 239-24, shall be apportioned under any
17 apportionment factor or formula adopted under
18 subparagraph (C). Gross income shall not
19 include:

- 20 (i) Gross receipts from mobile
21 telecommunications services provided to a



1 customer with a place of primary use outside
2 this State;

3 (ii) Gross receipts from mobile
4 telecommunications services that are subject
5 to the tax imposed by chapter 239;

6 (iii) Gross receipts from mobile
7 telecommunications services taxed under
8 section 237-13.8; and

9 (iv) Gross receipts of a home service provider
10 acting as a serving carrier providing mobile
11 telecommunications services to another home
12 service provider's customer.

13 For the purposes of this paragraph, "charges for
14 mobile telecommunications services", "customer",
15 "home service provider", "mobile
16 telecommunications services", "place of primary
17 use", and "serving carrier" have the same meaning
18 as in section 239-22.

19 (7) Tax on insurance producers. Upon every person engaged
20 as a licensed producer pursuant to chapter 431, there
21 is hereby levied and shall be assessed and collected a



1 tax equal to .0.15 per cent of the commissions due to
2 that activity.

3 (8) Tax on receipts of sugar benefit payments. Upon the
4 amounts received from the United States government by
5 any producer of sugar (or the producer's legal
6 representative or heirs), as defined under and by
7 virtue of the Sugar Act of 1948, as amended, or other
8 Acts of the Congress of the United States relating
9 thereto, there is hereby levied a tax of one-half of
10 one per cent of the gross amount received; provided
11 that the tax levied hereunder on any amount so
12 received and actually disbursed to another by a
13 producer in the form of a benefit payment shall be
14 paid by the person or persons to whom the amount is
15 actually disbursed, and the producer actually making a
16 benefit payment to another shall be entitled to claim
17 on the producer's return a deduction from the gross
18 amount taxable hereunder in the sum of the amount so
19 disbursed. The amounts taxed under this paragraph
20 shall not be taxable under any other paragraph,
21 subsection, or section of this chapter.



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

15 SECTION 5. Section 237-15, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§237-15 Technicians.** When technicians supply dentists or
18 physicians with dentures, orthodontic devices, braces, and
19 similar items which have been prepared by the technician in
20 accordance with specifications furnished by the dentist or
21 physician, and such items are to be used by the dentist or
22 physician in the dentist's or physician's professional practice



1 for a particular patient who is to pay the dentist or physician
2 for the same as a part of the dentist's or physician's
3 professional services, the technician shall be taxed as though
4 the technician were a manufacturer selling a product to a
5 licensed retailer, rather than at the rate of [~~four~~] five per
6 cent which is generally applied to professions and services."

7 SECTION 6. Section 237-16.5, Hawaii Revised Statutes, is
8 amended as follows:

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

10 "(a) This section relates to the leasing of real property
11 by a lessor to a lessee. There is hereby levied, and shall be
12 assessed and collected annually, a privilege tax against persons
13 engaging or continuing within the State in the business of
14 leasing real property to another, equal to [~~four~~] five per cent
15 of the gross proceeds or gross income received or derived from
16 the leasing; provided that where real property is subleased by a
17 lessee to a sublessee, the lessee, as provided in this section,
18 shall be allowed a deduction from the amount of gross proceeds
19 or gross income received from its sublease of the real property.
20 The deduction shall be in the amount allowed under this section.

21 All deductions under this section and the name and general
22 excise tax number of the lessee's lessor shall be reported on



1 the general excise tax return. Any deduction allowed under this
2 section shall only be allowed with respect to leases and
3 subleases in writing and relating to the same real property."

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

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

8 SECTION 7. Section 237-18, Hawaii Revised Statutes, is
9 amended by amending subsection (f) to read as follows:

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

16 As used in this subsection, "tourism related services"
17 means catamaran cruises, canoe rides, dinner cruises, lei
18 greetings, transportation included in a tour package,
19 sightseeing tours not subject to chapter 239, admissions to
20 luaus, dinner shows, extravaganzas, cultural and educational
21 facilities, and other services rendered directly to the customer
22 or tourist, but only if the providers of the services other than



1 air transportation are subject to a [~~four~~] five per cent tax
2 under this chapter or the applicable tax under chapter 239."

3 SECTION 8. Section 238-2, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§238-2 Imposition of tax on tangible personal property;**

6 **exemptions.** There is hereby levied an excise tax on the use in
7 this State of tangible personal property which is imported by a
8 taxpayer in this State whether owned, purchased from an
9 unlicensed seller, or however acquired for use in this State.

10 The tax imposed by this chapter shall accrue when the property
11 is acquired by the importer or purchaser and becomes subject to
12 the taxing jurisdiction of the State. The rates of the tax
13 hereby imposed and the exemptions thereof are as follows:

14 (1). If the importer or purchaser is licensed under chapter
15 237 and is:

16 (A) A wholesaler or jobber importing or purchasing
17 for purposes of sale or resale; or

18 (B) A manufacturer importing or purchasing material
19 or commodities which are to be incorporated by
20 the manufacturer into a finished or saleable
21 product (including the container or package in
22 which the product is contained) wherein it will



1 remain in such form as to be perceptible to the
2 senses, and which finished or saleable product is
3 to be sold in such manner as to result in a
4 further tax on the activity of the manufacturer
5 as the manufacturer or as a wholesaler, and not
6 as a retailer,

7 there shall be no tax; provided that if the
8 wholesaler, jobber, or manufacturer is also engaged in
9 business as a retailer (so classed under chapter 237),
10 paragraph (2) shall apply to the wholesaler, jobber,
11 or manufacturer, but the director of taxation shall
12 refund to the wholesaler, jobber, or manufacturer, in
13 the manner provided under section 231-23(c) such
14 amount of tax as the wholesaler, jobber, or
15 manufacturer shall, to the satisfaction of the
16 director, establish to have been paid by the
17 wholesaler, jobber, or manufacturer to the director
18 with respect to property which has been used by the
19 wholesaler, jobber, or manufacturer for the purposes
20 stated in this paragraph;

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



- 1 (A) A retailer or other person importing or
2 purchasing for purposes of sale or resale, not
3 exempted by paragraph (1);
- 4 (B) A manufacturer importing or purchasing material
5 or commodities which are to be incorporated by
6 the manufacturer into a finished or saleable
7 product (including the container or package in
8 which the product is contained) wherein it will
9 remain in such form as to be perceptible to the
10 senses, and which finished or saleable product is
11 to be sold at retail in this State, in such
12 manner as to result in a further tax on the
13 activity of the manufacturer in selling such
14 products at retail;
- 15 (C) A contractor importing or purchasing material or
16 commodities which are to be incorporated by the
17 contractor into the finished work or project
18 required by the contract and which will remain in
19 such finished work or project in such form as to
20 be perceptible to the senses;
- 21 (D) A person engaged in a service business or calling
22 as defined in section 237-7, or a person



1 furnishing transient accommodations subject to
2 the tax imposed by section 237D-2, in which the
3 import or purchase of tangible personal property
4 would have qualified as a sale at wholesale as
5 defined in section 237-4(a)(8) had the seller of
6 the property been subject to the tax in chapter
7 237; or

8 (E) A publisher of magazines or similar printed
9 materials containing advertisements, when the
10 publisher is under contract with the advertisers
11 to distribute a minimum number of magazines or
12 similar printed materials to the public or
13 defined segment of the public, whether or not
14 there is a charge to the persons who actually
15 receive the magazines or similar printed
16 materials,

17 the tax shall be one-half of one per cent of the
18 purchase price of the property, if the purchase and
19 sale are consummated in Hawaii; or, if there is no
20 purchase price applicable thereto, or if the purchase
21 or sale is consummated outside of Hawaii, then one-



1 half of one per cent of the value of such property;
2 and

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

5 For purposes of this section, tangible personal property is
6 property that is imported by the taxpayer for use in this State,
7 notwithstanding the fact that title to the property, or the risk
8 of loss to the property, passes to the purchaser of the property
9 at a location outside this State."

10 SECTION 9. Section 238-2.3, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§238-2.3 Imposition of tax on imported services or**
13 **contracting; exemptions.** There is hereby levied an excise tax
14 on the value of services or contracting as defined in section
15 237-6 that are performed by an unlicensed seller at a point
16 outside the State and imported or purchased for use in this
17 State. The tax imposed by this chapter shall accrue when the
18 service or contracting as defined in section 237-6 is received
19 by the importer or purchaser and becomes subject to the taxing
20 jurisdiction of the State. The rates of the tax hereby imposed
21 and the exemptions from the tax are as follows:



1 (1) If the importer or purchaser is licensed under chapter
2 237 and is:
3 (A) Engaged in a service business or calling in which
4 the imported or purchased services or contracting
5 become identifiable elements, excluding overhead,
6 of the services rendered by the importer or
7 purchaser, and the gross income of the importer
8 or purchaser is subject to the tax imposed under
9 chapter 237 on services at the rate of one-half
10 of one per cent or the rate of tax imposed under
11 section 237-13.3; or
12 (B) A manufacturer importing or purchasing services
13 or contracting that become identifiable elements,
14 excluding overhead, of a finished or saleable
15 product (including the container or package in
16 which the product is contained) and the finished
17 or saleable product is to be sold in a manner
18 that results in a further tax on the manufacturer
19 as a wholesaler, and not a retailer;
20 there shall be no tax imposed on the value of the
21 imported or purchased services or contracting;
22 provided that if the manufacturer is also engaged in



1 business as a retailer as classified under chapter
2 237, paragraph (2) shall apply to the manufacturer,
3 but the director of taxation shall refund to the
4 manufacturer, in the manner provided under section
5 231-23(c), that amount of tax that the manufacturer,
6 to the satisfaction of the director, shall establish
7 to have been paid by the manufacturer to the director
8 with respect to services that have been used by the
9 manufacturer for the purposes stated in this
10 paragraph[-];

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

13 (A) Engaged in a service business or calling in which
14 the imported or purchased services or contracting
15 become identifiable elements, excluding overhead,
16 of the services rendered by the importer or
17 purchaser, and the gross income from those
18 services when sold by the importer or purchaser
19 is subject to the tax imposed under chapter 237
20 at the highest rate;

21 (B) A manufacturer importing or purchasing services
22 or contracting that become identifiable elements,



1 excluding overhead, of the finished or saleable
2 manufactured product (including the container or
3 package in which the product is contained) and
4 the finished or saleable product is to be sold in
5 a manner that results in a further tax under
6 chapter 237 on the activity of the manufacturer
7 as a retailer; or

8 (C) A contractor importing or purchasing services or
9 contracting that become identifiable elements,
10 excluding overhead, of the finished work or
11 project required, under the contract, and where
12 the gross proceeds derived by the contractor are
13 subject to the tax under section 237-13(3) as a
14 contractor,

15 the tax shall be one-half of one per cent of the value
16 of the imported or purchased services or contracting;
17 and

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

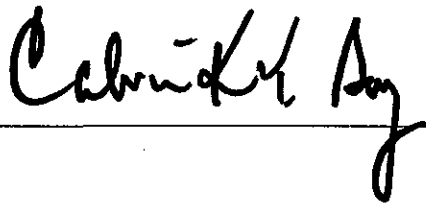


1 SECTION 10. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 11. This Act shall take effect on July 1, 2010,
4 and shall be repealed on June 30, 2015; provided that sections
5 235-55.85, 235-110.7, 237-13, 237-15, 237-16.5, 237-18, 238-2,
6 and 238-2.3, Hawaii Revised Statutes, shall be reenacted in the
7 form in which they existed on the day before the effective date
8 of this Act.

9

INTRODUCED BY:



JAN 27 2010



Report Title:

General Excise and Use Tax Rates; Increase

Description:

Temporarily increases the general excise and use tax rates from 4% to 5%, the capital goods excise tax credit rate from 4% to 5%, and the refundable food/excise tax credit by \$10 per exemption. Takes effect on 07/01/2010 and is repealed on 06/30/2015.

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

