
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 PART I.

2 SECTION 1. The purpose of this part is to temporarily
3 suspend the general excise tax exemption for certain persons and
4 instead require those persons to pay the general excise tax at
5 the one-half per cent rate.

6 SECTION 2. Chapter 237, Hawaii Revised Statutes, is
7 amended by adding a new section to be appropriately designated
8 and to read as follows:

9 "§237-A Temporary suspension of exemption of certain
10 persons; levy of tax at one-half per cent rate. (a)

11 Notwithstanding sections 237-16.8, 237-23, and any other law to
12 the contrary, the exemption of the following persons from
13 taxation under this chapter shall be suspended from October 1,
14 2010 through June 30, 2015:

15 (1) Fraternal benefit societies, orders, or associations
16 operating under the lodge system, or for the exclusive
17 benefit of the members of the fraternity itself,
18 operating under the lodge system, and providing for



1 the payment of death, sick, accident, prepaid legal
2 services, or other benefits to the members of the
3 societies, orders, or associations, and to their
4 dependents;

5 (2) Except as otherwise provided under subsection (d),
6 corporations, associations, trusts, or societies
7 organized and operated exclusively for religious,
8 charitable, scientific, or educational purposes, as
9 well as that of operating senior citizens housing
10 facilities qualifying for a loan under the laws of the
11 United States as authorized by section 202 of the
12 Housing Act of 1959, as amended, as well as that of
13 operating a prepaid legal services plan, as well as
14 that of operating or managing a homeless facility, or
15 any other program for the homeless authorized under
16 part VII of chapter 356D;

17 (3) Business leagues, chambers of commerce, boards of
18 trade, civic leagues, agricultural and horticultural
19 organizations, and organizations operated exclusively
20 for the benefit of the community and for the promotion
21 of social welfare that shall include the operation of
22 a prepaid legal service plan, and from which no profit



1 inures to the benefit of any private stockholder or
2 individual;

3 (4) Hospitals, infirmaries, and sanitararia;

4 (5) Cooperative associations incorporated under chapter
5 421 or Code section 521 cooperatives which fully meet
6 the requirements of section 421-23, except Code
7 section 521 cooperatives need not be organized in
8 Hawaii;

9 (6) Hansen's disease patients and kokuas with respect to
10 business within the county of Kalawao;

11 (7) Nonprofit cemetery operators even though the income is
12 to be used for or in the furtherance of the exempt
13 activities of the operators; and

14 (8) Nonprofit shippers associations operating under part
15 296 of the Civil Aeronautics Board Economic
16 Regulations.

17 (b) There is levied, assessed, and collected annually
18 against a person whose exemption is suspended under this
19 subsection, a tax at the rate of one-half per cent on the
20 person's previously exempt gross income or gross proceeds of
21 sale. The "previously exempt gross income or gross proceeds of
22 sale" means the gross income, gross proceeds of sale, or value



1 that would have been exempt under sections 237-16.8 or 237-23 on
2 the day before the effective date of this Act.

3 The term does not include:

4 (1) Any gross income or gross proceeds of sale not
5 identified in subsection (a) that would have been
6 taxable under this chapter on the day before the
7 effective date of this Act, and such gross income or
8 gross proceeds shall continue to be taxed at the
9 applicable rate from the effective date of this Act;

10 or

11 (2) The term does not include amounts received as a gift
12 or donation by a:

13 (A) Fraternal benefit society, order, or association;

14 (B) Corporation, association, trust, or society
15 organized and operated exclusively for
16 charitable, scientific, or educational purposes;

17 (C) Business league, chamber of commerce, board of
18 trade, civic league, agricultural or
19 horticultural organization, and organization
20 operated exclusively for the benefit of the
21 community and for the promotion of social
22 welfare; or



1 (D) Nonprofit hospital, infirmary, or sanitarium.

2 The person against whom the tax is levied and assessed
3 under this section shall be responsible for the payment of the
4 tax to the director of taxation.

5 (c) This chapter shall apply to the payment, collection,
6 enforcement, and appeal of the tax levied under this section.

7 If deemed necessary by the director of taxation, the
8 director may establish additional requirements, procedures, and
9 forms pursuant to rules adopted under chapter 91 to effectuate
10 this section.

11 (d) This section shall not apply to the exemptions under
12 sections 237-16.8 or 237-23(a)(4) for corporations,
13 associations, trusts, or societies organized and operated
14 exclusively for religious purposes."

15 SECTION 3. Section 237-16.8, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "~~+~~§237-16.8~~+~~ **Exemption of certain convention,**
18 **conference, and trade show fees~~-~~ for religious organizations.**

19 In addition to any other applicable exemption provided under
20 this chapter, there shall be exempted from the measure of taxes
21 imposed by this chapter all of the value or gross income derived
22 by a [~~fraternal benefit,~~] religious[~~, charitable, scientific,~~



1 educational, ~~or other nonprofit~~] organization under section
 2 501(c) of the Internal Revenue Code of 1986, as amended, from
 3 fees for convention, conference, or trade show exhibit or
 4 display spaces; provided that the gross proceeds of sales by a
 5 vendor through the use of exhibit or display space at a
 6 conference, convention, or trade show shall be subject to the
 7 imposition of the general excise tax under section 237-13."

8 SECTION 4. Section 237-23, Hawaii Revised Statutes, is
 9 amended by amending subsections (a), (b), and (c) to read as
 10 follows:

11 "(a) [~~This~~] Except as otherwise provided under section
 12 237-A, this chapter shall not apply to the following persons:

13 (1) Public service companies as that term is defined in
 14 section 239-2, with respect to the gross income,
 15 either actual gross income or gross income estimated
 16 and adjusted, that is included in the measure of the
 17 tax imposed by chapter 239;

18 (2) Public utilities owned and operated by the State or
 19 any county, or other political subdivision thereof;

20 [~~(3) Fraternal benefit societies, orders, or associations,~~
 21 ~~operating under the lodge system, or for the exclusive~~
 22 ~~benefit of the members of the fraternity itself,~~

1 ~~operating under the lodge system, and providing for~~
 2 ~~the payment of death, sick, accident, prepaid legal~~
 3 ~~services, or other benefits to the members of the~~
 4 ~~societies, orders, or associations, and to their~~
 5 ~~dependents;] and~~

6 [(4)] (3) Corporations, associations, trusts, or societies
 7 organized and operated exclusively for religious,
 8 [charitable, scientific, or educational] purposes [as
 9 well as that of operating senior citizens housing
 10 facilities qualifying for a loan under the laws of the
 11 United States as authorized by section 202 of the
 12 Housing Act of 1959, as amended, as well as that of
 13 operating a prepaid legal services plan, as well as
 14 that of operating or managing a homeless facility, or
 15 any other program for the homeless authorized under
 16 part VII of chapter 356D;

17 (5) ~~Business leagues, chambers of commerce, boards of~~
 18 ~~trade, civic leagues, agricultural and horticultural~~
 19 ~~organizations, and organizations operated exclusively~~
 20 ~~for the benefit of the community and for the promotion~~
 21 ~~of social welfare that shall include the operation of~~
 22 ~~a prepaid legal service plan, and from which no profit~~



1 ~~inures to the benefit of any private stockholder or~~
2 ~~individual;~~

3 ~~(6) Hospitals, infirmaries, and sanitararia;~~

4 ~~(7) Cooperative associations incorporated under chapter~~
5 ~~421 or Code section 521 cooperatives which fully meet~~
6 ~~the requirements of section 421-23, except Code~~
7 ~~section 521 cooperatives need not be organized in~~
8 ~~Hawaii; provided that:~~

9 ~~(A) The exemption shall apply only to the gross~~
10 ~~income derived from activities that are pursuant~~
11 ~~to purposes and powers authorized by chapter 421,~~
12 ~~except those provisions pertaining to or~~
13 ~~requiring corporate organization in Hawaii do not~~
14 ~~apply to Code section 521 cooperatives;~~

15 ~~(B) The exemption shall not relieve any person who~~
16 ~~receives any proceeds of sale from the~~
17 ~~association of the duty of returning and paying~~
18 ~~the tax on the total gross proceeds of the sales~~
19 ~~on account of which the payment was made, in the~~
20 ~~same amount and at the same rate as would apply~~
21 ~~thereto had the sales been made directly by the~~



1 ~~person, and all those persons shall be so~~

2 ~~taxable; and~~

3 ~~(C) As used in this paragraph, "section 521~~

4 ~~cooperatives" mean associations that qualify as a~~

5 ~~cooperative under section 521 (with respect to~~

6 ~~exemption of farmers' cooperatives from tax) of~~

7 ~~the Internal Revenue Code of 1986, as amended;~~

8 ~~(8) Persons affected with Hansen's disease and kokuas,~~

9 ~~with respect to business within the county of Kalawao;~~

10 ~~(9) Corporations, companies, associations, or trusts~~

11 ~~organized for the establishment and conduct of~~

12 ~~cemeteries no part of the net earnings of which inures~~

13 ~~to the financial benefit of any private stockholder or~~

14 ~~individual; provided that the exemption shall apply~~

15 ~~only to the activities of those persons in the conduct~~

16 ~~of cemeteries and shall not apply to any activity the~~

17 ~~primary purpose of which is to produce income, even~~

18 ~~though the income is to be used for or in the~~

19 ~~furtherance of the exempt activities of those persons;~~

20 ~~and~~



1 ~~(10) Nonprofit shippers associations operating under part~~
2 ~~296 of the Civil Aeronautics Board Economic~~
3 ~~Regulations].~~

4 (b) The [~~exemptions~~] exemption enumerated in subsection
5 (a) (3) [~~to (6)~~] shall apply only:

6 (1) To those persons who shall have registered with the
7 department of taxation by filing a written application
8 for registration in such form as the department shall
9 prescribe, shall have paid the registration fee of
10 \$20, and shall have had the exemption allowed by the
11 department or by a court or tribunal of competent
12 jurisdiction upon appeal from any assessment resulting
13 from disallowance of the exemption by the department;

14 (2) To activities from which no profit inures to the
15 benefit of any private stockholder or individual [~~7~~
16 ~~except for death or other benefits to the members of~~
17 ~~fraternal societies]; and~~

18 (3) To the [~~fraternal,~~] religious [~~7~~, ~~charitable,~~
19 ~~scientific, educational, communal, or social welfare]~~
20 activities of such persons, [~~or to the activities of~~
21 ~~such hospitals, infirmaries, and sanitarium as such,]~~
22 and not to any activity the primary purpose of which



1 is to produce income even though the income is to be
 2 used for or in furtherance of the exempt activities of
 3 such persons.

- 4 (c) To obtain allowance of an exemption[+
 5 ~~(1)~~ A] a person under subsection (a) (3) [~~to (6)~~] who has
 6 received or applied for recognition of tax exempt
 7 status under section 501(c) (3) [~~(4), (6), or (8)~~] of
 8 the Internal Revenue Code of 1986, as amended, or who
 9 is a subordinate person of a person who has received a
 10 group exemption letter under section 501(c) (3) [~~(4)~~
 11 ~~(6), or (8)~~] of the Internal Revenue Code of 1986, as
 12 amended, shall register with the department by filing
 13 a statement attaching a copy of the exemption or
 14 application for recognition of exempt status and any
 15 particular facts that the department may require[; and
 16 ~~(2)~~ All other persons under subsection (a) (3) to (6) shall
 17 file an application for exemption in the form of an
 18 affidavit or affidavits setting forth in general all
 19 facts affecting the right to the exemption and such
 20 particular facts as the department may require, to
 21 which shall be attached such records, papers, and
 22 other information as the department may prescribe]."



PART II.

1
 2 SECTION 5. The purpose of this part is to temporarily
 3 suspend the general excise tax exemption for certain amounts of
 4 gross income and gross proceeds of sale for certain sales and
 5 services and to instead assess the general excise tax at a rate
 6 of one-half per cent for those amounts.

7 SECTION 6. Chapter 237, Hawaii Revised Statutes, is
 8 amended by adding a new section to be appropriately designated
 9 and to read as follows:

10 "§237-B Temporary suspension of exemption of certain
 11 amounts; levy of tax at one-half per cent rate. (a)

12 Notwithstanding any other law to the contrary, the exemption of
 13 the following amounts from taxation under this chapter shall be
 14 suspended from October 1, 2010 through June 30, 2015:

- 15 (1) Amounts deducted from the gross income received by
 16 contractors as described under section 237-13(3) (A);
 17 (2) Reimbursements received by federal cost-plus
 18 contractors for the costs of purchased materials,
 19 plant, and equipment as described under section 237-
 20 13(3) (C);



- 1 (3) Gross receipts of home service providers acting as
2 service carriers for other home service providers as
3 described under section 237-13(6) (D);
- 4 (4) Amounts deducted from the gross income of real
5 property lessees because of receipt from sublessees as
6 described under section 237-16.5;
- 7 (5) The value or gross income received by nonprofit
8 organizations from certain conventions, conferences,
9 trade shows, or display spaces as described under
10 section 237-16.8;
- 11 (6) Amounts received, charged, or attributable to services
12 furnished by related entities or the imputed or stated
13 interests of related entities as described under
14 section 237-23.5(a);
- 15 (7) Amounts received by common paymasters and disbursed as
16 employee compensation or benefits as described under
17 section 237-23.5(b);
- 18 (8) Amounts received by blind, deaf, or totally disabled
19 persons and corporations, partnerships, and limited
20 liability companies entirely owned by blind, deaf, or
21 totally disabled persons as described under section
22 237-24(13);



- 1 (9) Amounts received by sugarcane producers as described
- 2 under section 237-24(14);
- 3 (10) Moneys received by foster parents as described under
- 4 section 237-24(15);
- 5 (11) Amounts received by cooperative housing corporations
- 6 from shareholders as reimbursement for expenses as
- 7 described under section 237-24(16);
- 8 (12) Amounts received from the loading, transportation, and
- 9 unloading of agricultural commodities shipped
- 10 interisland as described under section 237-24.3(1);
- 11 (13) Amounts received from the sale of intoxicating liquor,
- 12 cigarettes and tobacco products, and agricultural,
- 13 meat, or fish products to persons or common carriers
- 14 engaged in interstate or foreign commerce as described
- 15 under section 237-24.3(2);
- 16 (14) Amounts received by managers, submanagers, or boards
- 17 of directors of condominium property regime owner,
- 18 nonprofit homeowner, or nonprofit community
- 19 associations as described under section 237-24.3(3) in
- 20 the form in which it existed on July 1, 2010;



- 1 (15) Amounts received or accrued from the loading or
2 unloading of cargo as described under section 237-
3 24.3(4) (A) ;
- 4 (16) Amounts received or accrued from tugboat and towage
5 services as described under section 237-24.3(4) (B) ;
- 6 (17) Amounts received or accrued from the transportation of
7 pilots or government officials and other maritime-
8 related services as described under section 237-
9 24.3(4) (C) ;
- 10 (18) Amounts received by employee benefit plans by way of
11 dividends, interest, and other income as described
12 under section 237-24.3(5) ; provided that employee and
13 employer contributions to employee benefit plans shall
14 continue to be exempt from taxation under this
15 section;
- 16 (19) Amounts received by nonprofit organizations or offices
17 for the administration of employee benefit plans as
18 described under section 237-24.3(5) ;
- 19 (20) Amounts received by hospitals, infirmaries, medical
20 clinics, health care facilities, pharmacies, or
21 licensed practitioners for selling prescription drugs



- 1 or prosthetic devices as described under section 237-
2 24.3(7);
- 3 (21) Amounts received as dues by unincorporated merchants
4 associations as described under section 237-24.3(9);
- 5 (22) Amounts received by labor organizations for real
6 property leases as described under section 237-
7 24.3(10);
- 8 (23) Amounts received as rent for aircraft or aircraft
9 engines used for interstate air transportation as
10 described under section 237-24.3(12);
- 11 (24) Amounts received by exchanges and exchange members as
12 described under section 237-24.5;
- 13 (25) Amounts received by hotel operators or suboperators
14 and disbursed for employee compensation and benefits
15 as described under section 237-24.7(1) in the form in
16 which it existed on July 1, 2010;
- 17 (26) Amounts received by county transportation system
18 operators as described under section 237-24.7(2);
19 provided that subsidies or grants from the federal and
20 county governments shall continue to be exempt from
21 taxation under this section;



- 1 (27) Amounts received by orchard property operators and
2 disbursed for employee compensation and benefits as
3 described under section 237-24.7(4);
- 4 (28) Amounts received by community organizations, school
5 booster clubs, and nonprofit organizations for
6 election-related assistance as described under section
7 237-24.7(7);
- 8 (29) Amounts received by management companies from related
9 telecommunications services common carriers and
10 disbursed for employee compensation and benefits as
11 described under section 237-24.7(9);
- 12 (30) Amounts received as high technology development grants
13 as described under section 237-24.7(10);
- 14 (31) Amounts received by the Hawaii convention center
15 operator as reimbursements of costs or advances as
16 described under section 237-24.75(2);
- 17 (32) Amounts received by professional employment
18 organizations from client companies and disbursed for
19 employee benefits and compensation as described under
20 section 237-24.75(3);



- 1 (33) Amounts received by financial institutions, trust
- 2 companies, and trust departments as described under
- 3 section 237-24.8;
- 4 (34) Amounts received from the servicing and maintenance of
- 5 aircrafts or construction of aircraft service and
- 6 maintenance facilities as described under section 237-
- 7 24.9;
- 8 (35) Gross proceeds received from the sale of tangible
- 9 personal property to the United States and state-
- 10 chartered credit unions as described under section
- 11 237-25(a) (3);
- 12 (36) Gross proceeds, as described under section 237-26,
- 13 received by:
- 14 (A) Contractors or subcontractors with the United
- 15 States for the performance of scientific work;
- 16 and
- 17 (B) Sellers of tangible personal property to such
- 18 contractors or subcontractors;
- 19 (37) Amounts received by petroleum product refiners from
- 20 other refiners for further refining of petroleum
- 21 products as described under section 237-27;



1 (38) Gross proceeds received from the construction,
2 reconstruction, erection, operation, use, maintenance,
3 or furnishing of air pollution control facilities, as
4 described under section 237-27.5, that do not have
5 valid certificates of exemption on the effective date
6 of this Act;

7 (39) Gross proceeds received from shipbuilding and ship
8 repairs as described under section 237-28.1;

9 (40) Gross income received from the planning, design,
10 financing, construction, sale, or lease of affordable
11 housing projects, as described under section 237-
12 29(a), that do not have valid certificates of
13 exemption or approval under section 201H-36 on the
14 effective date of this Act;

15 (41) Gross income received by nonprofit or limited
16 distribution mortgagors for low- and moderate-income
17 housing projects, as described under section 237-
18 29(b), that were not certified or approved under
19 section 201H-36 on or before the effective date of
20 this Act;



- 1 (42) The value of, or gross proceeds received from tangible
2 personal property shipped out of the State as
3 described under section 237-29.5;
- 4 (43) The value of or gross income received from contracting
5 or services performed for use outside the State as
6 described under section 237-29.53;
- 7 (44) Gross proceeds or gross income received from the sale
8 of tangible personal property imported for subsequent
9 resale at wholesale as described under section 237-
10 29.55;
- 11 (45) Amounts received by telecommunications common carriers
12 from call center operators for interstate or foreign
13 telecommunications services as described under section
14 237-29.8;
- 15 (46) Gross proceeds received by qualified businesses in
16 enterprise zones, as described under section 209E-11,
17 that do not have valid certificates of qualification
18 from the department of business, economic development,
19 and tourism on the effective date of this Act;
- 20 (47) Proceeds earned from county senior citizen's fairs as
21 described under section 349-10; and



1 (48) Compensation received by agencies for providing
2 services to homeless families or individuals or
3 operating or managing homeless facilities as described
4 under section 356D-129.

5 (b) There is levied, assessed, and collected annually
6 against a person, a tax at the rate of one-half per cent on the
7 previously exempt gross income or gross proceeds of sale
8 received by the person.

9 "Previously exempt gross income or gross proceeds of sale"
10 means the amount of the gross income or gross proceeds of sale,
11 the exemption for which is suspended under subsection (a). The
12 term also includes the following:

13 (1) The value received by a nonprofit organization from
14 conventions, conferences, trade show exhibits, and
15 display spaces, the exemption for which is suspended
16 under subsection (a) (5);

17 (2) The value of tangible personal property shipped out of
18 the State, the exemption for which is suspended under
19 subsection (a) (42); and

20 (3) The value of contracting or services performed for use
21 outside the State, the exemption for which is
22 suspended under subsection (a) (43).



1 The person against whom the tax is levied and assessed
2 under this section shall be responsible for payment of the tax
3 to the director of taxation.

4 (c) This chapter shall apply to the payment, collection,
5 enforcement, and appeal of the tax levied under this section.

6 If deemed necessary by the director of taxation, the
7 director may establish additional requirements, procedures, and
8 forms pursuant to rules adopted under chapter 91, to effectuate
9 this section."

10 PART III.

11 SECTION 7. In codifying the new sections added by sections
12 2 and 6 of this Act, the revisor of statutes shall substitute
13 appropriate section numbers for the letters used in designating
14 the new sections in this Act.

15 SECTION 8. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 9. This Act shall take effect on October 1, 2010;
18 provided that:

19 (1) This Act shall apply to taxable years beginning after
20 December 31, 2009;

21 (2) Sections 2 and 6 shall be repealed on June 30, 2015;

22 and



H.B. NO. 2877

1 (3) Sections 237-16.8 and 237-23, Hawaii Revised Statutes,
2 shall be reenacted in the form in which they read on
3 the day before the effective date of this Act.

4

INTRODUCED BY:

Calvin K. Y. Au

JAN 27 2010



Report Title:

General Excise Tax; Temporary Suspension; Exemption For Certain Persons and Gross Amounts

Description:

Suspends temporarily the exemption for certain persons and certain amounts of gross income or proceeds from the general excise tax and requires the payment of the tax at a one-half per cent rate. Takes effect on 10/01/10 and sunsets on 06/30/15.

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