
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 suspend the general excise, use, and public service company tax
3 exemptions for certain amounts received by certain persons and,
4 instead, require those persons to pay the applicable tax on
5 those amounts at a one per cent rate. The suspension and
6 imposition of the tax commences on July 1, 2010, and ends on
7 June 30, 2015. In recognition of the possible difficulty of
8 collecting the tax commencing on July 1, 2010, the legislature
9 expressly authorizes the department of taxation to permit
10 taxpayers to postpone payment of taxes due in early fiscal year
11 2010-2011 until the deadline to file the annual general excise,
12 use, or public service company tax return, as applicable
13 (without regard to any extension).

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

17 "§237- Temporary suspension of exemption of certain
18 amounts; levy of tax at one per cent rate. (a) Notwithstanding



1 any other law to the contrary, the exemption of the following
2 amounts from taxation under this chapter shall be suspended from
3 July 1, 2010, through June 30, 2015:

- 4 (1) Amounts deducted from the gross income received by
5 contractors as described under section 237-13(3)(B);
- 6 (2) Reimbursements received by federal cost-plus
7 contractors for the costs of purchased materials,
8 plant, and equipment as described under section 237-
9 13(3)(C);
- 10 (3) Gross receipts of home service providers acting as
11 service carriers providing mobile telecommunication
12 services to other home service providers as described
13 under section 237-13(6)(D);
- 14 (4) Amounts deducted from the gross income of real
15 property lessees because of receipt from sublessees as
16 described under section 237-16.5;
- 17 (5) The value or gross income received by nonprofit
18 organizations from certain conventions, conferences,
19 trade shows, or display spaces as described under
20 section 237-16.8;
- 21 (6) Amounts received, charged, or attributable to services
22 furnished by related entities or the imputed or stated



- 1 interests of related entities as described under
- 2 section 237-23.5(a);
- 3 (7) Amounts received by common paymasters and disbursed as
- 4 employee compensation or benefits as described under
- 5 section 237-23.5(b);
- 6 (8) Amounts received by sugarcane producers as described
- 7 under section 237-24(14);
- 8 (9) Amounts received by cooperative housing corporations
- 9 from shareholders as reimbursement for expenses as
- 10 described under section 237-24(16);
- 11 (10) Amounts received from the loading, transportation, and
- 12 unloading of agricultural commodities shipped
- 13 interisland as described under section 237-24.3(1);
- 14 (11) Amounts received from the sale of intoxicating liquor,
- 15 cigarettes and tobacco products, and agricultural,
- 16 meat, or fish products to persons or common carriers
- 17 engaged in interstate or foreign commerce as described
- 18 under section 237-24.3(2);
- 19 (12) Amounts received by managers, submanagers, or boards
- 20 of directors of condominium property regime owner,
- 21 nonprofit homeowner, or nonprofit community



- 1 associations as described under section 237-24.3(3) in
2 the form in which it exists on July 1, 2010;
- 3 (13) Amounts received or accrued from the loading or
4 unloading of cargo as described under section 237-
5 24.3(4)(A);
- 6 (14) Amounts received or accrued from tugboat and towage
7 services as described under section 237-24.3(4)(B);
- 8 (15) Amounts received or accrued from the transportation of
9 pilots or government officials and other maritime-
10 related services as described under section 237-
11 24.3(4)(C);
- 12 (16) Amounts received by labor organizations for real
13 property leases as described under section 237-
14 24.3(10);
- 15 (17) Amounts received as rent for aircraft or aircraft
16 engines used for interstate air transportation as
17 described under section 237-24.3(12);
- 18 (18) Amounts received by exchanges and exchange members as
19 described under section 237-24.5;
- 20 (19) Amounts received by hotel operators or suboperators
21 and disbursed for employee compensation and benefits



- 1 as described under section 237-24.7(1) in the form in
2 which it exists on July 1, 2010;
- 3 (20) Amounts received by operators of orchard properties
4 and disbursed for employee compensation and benefits
5 as described under section 237-24.7(4);
- 6 (21) Amounts received by management companies from related
7 telecommunications services common carriers and
8 disbursed for employee compensation and benefits as
9 described under section 237-24.7(9);
- 10 (22) Amounts received as high technology development grants
11 as described under section 237-24.7(10);
- 12 (23) Amounts received by the Hawaii convention center
13 operator as reimbursements of costs or advances as
14 described under section 237-24.75(2);
- 15 (24) Amounts received by professional employment
16 organizations from client companies and disbursed for
17 employee benefits and compensation as described under
18 section 237-24.75(3);
- 19 (25) Amounts received from the servicing and maintenance of
20 aircrafts or construction of aircraft service and
21 maintenance facilities as described under section 237-
22 24.9;



- 1 (26) Gross proceeds received from the sale of tangible
2 personal property to the United States and state-
3 chartered credit unions as described under section
4 237-25(a)(3);
- 5 (27) Gross proceeds, as described under section 237-26,
6 received by:
- 7 (A) Contractors or subcontractors with the United
8 States for the performance of scientific work;
9 and
- 10 (B) Sellers of tangible personal property to such
11 contractors or subcontractors;
- 12 (28) Amounts received by petroleum product refiners from
13 other refiners for further refining of petroleum
14 products as described under section 237-27; and
- 15 (29) Gross proceeds received from the construction,
16 reconstruction, erection, operation, use, maintenance,
17 or furnishing of air pollution control facilities, as
18 described under section 237-27.5, that do not have
19 valid certificates of exemption on July 1, 2010;
- 20 (30) Gross proceeds received from shipbuilding and ship
21 repairs as described under section 237-28.1;



- 1 (31) Gross income received from the planning, design,
2 financing, construction, sale, or lease of affordable
3 housing projects, as described under section 237-
4 29(a), that do not have valid certificates of
5 exemption or approval under section 46-15.1 or 201H-36
6 on July 1, 2010;
- 7 (32) Gross income received by nonprofit or limited
8 distribution mortgagors for low- and moderate-income
9 housing projects, as described under section 237-
10 29(b), that were not certified or approved under
11 section 46-15.1 or 201H-36 on or before July 1, 2010;
- 12 (33) The value of or gross proceeds received from tangible
13 personal property shipped out of the state as
14 described under section 237-29.5;
- 15 (34) The value of or gross income received from contracting
16 or services performed for use outside the state as
17 described under section 237-29.53;
- 18 (35) Gross proceeds or gross income received from the sale
19 of tangible personal property imported for subsequent
20 resale at wholesale as described under section 237-
21 29.55;



1 (36) Amounts received by telecommunications common carriers
2 from call center operators for interstate or foreign
3 telecommunications services as described under section
4 237-29.8; and

5 (37) Gross proceeds received by qualified businesses in
6 enterprise zones, as described under section 209E-11,
7 that do not have valid certificates of qualification
8 from the department of business, economic development,
9 and tourism on July 1, 2010.

10 (b) There is levied, assessed, and collected annually
11 against the persons under subsection (a), a tax at the rate of
12 one per cent on the previously exempt gross income or gross
13 proceeds of sale.

14 As used in this subsection "previously exempt gross income
15 or gross proceeds of sale" means the amount of the gross income
16 or gross proceeds of sale, the exemption for which is suspended
17 under subsection (a). The term also includes the following:

18 (1) The value received by a nonprofit organization from
19 conventions, conferences, trade show exhibits, and
20 display spaces, the exemption for which is suspended
21 under subsection (a) (5);



1 (2) The value of tangible personal property shipped out of
2 the state, the exemption for which is suspended under
3 subsection (a) (33); and

4 (3) The value of contracting or services performed for use
5 outside the state, the exemption for which is
6 suspended under subsection (a) (34).

7 The persons exempted under subsection (a), against whom the
8 tax is levied and assessed under this section, shall be
9 responsible for payment of the tax to the director of taxation.

10 (c) The provisions of this chapter shall apply to the
11 payment, collection, enforcement, and appeal of the tax levied
12 under this section.

13 The director of taxation may establish additional
14 requirements, procedures, and forms pursuant to rules adopted
15 under chapter 91, to effectuate this section."

16 SECTION 3. Chapter 238, Hawaii Revised Statutes, is
17 amended by adding a new section to be appropriately designated
18 and to read as follows:

19 "§238- Temporary suspension of exemption of certain
20 amounts; levy of tax at one per cent rate. (a) Notwithstanding
21 any other law to the contrary, the exemption of the following



1 from taxation under this chapter shall be suspended from July 1,
2 2010, through June 30, 2015:

3 (1) The leasing or renting of aircraft or keeping of
4 aircraft solely for leasing or renting for commercial
5 transportation of passengers and goods or the
6 acquisition or importation of aircraft or aircraft
7 engines by a lessee or renter engaged in interstate
8 air transportation, as described under section 238-
9 1(6);

10 (2) The use of oceangoing vehicles for passenger or
11 passenger and goods transportation from one point to
12 another within the state as a public utility, as
13 described under section 238-1(7);

14 (3) The use of material, parts, or tools imported or
15 purchased by a person licensed under chapter 237 which
16 are used for aircraft service and maintenance or the
17 construction of an aircraft service and maintenance
18 facility, as described under section 238-1(8);

19 (4) The use of services or contracting imported for resale
20 where the contracting or services are for resale,
21 consumption, or use outside the state, as described
22 under section 238-1(9);



1 (5) The use or sale of intoxicating liquor and cigarette
 2 and tobacco products imported into the state and sold
 3 to any person or common carrier in interstate
 4 commerce, whether ocean-going or air, for consumption
 5 out-of-state by the person, crew, or passengers on the
 6 shipper's vessels or airplanes, as described under
 7 section 238-3(g);

8 (6) The use of any vessel constructed under section 189-25
 9 prior to July 1, 1969, as described under section 238-
 10 3(h);

11 (7) The use of property, services, or contracting subject
 12 to section 237-26 or section 237-29 as described under
 13 section 238-3(j); and

14 (8) The use of any air pollution control facility subject
 15 to section 237-27.5 as described under section 238-
 16 3(k).

17 (b) There is levied, assessed, and collected annually
 18 against the persons under subsection (a), a tax at the rate of
 19 one per cent on the previously exempt value of property placed
 20 in use in this state.

21 As used in this subsection "previously exempt value of
 22 property placed in use in this state" means the value of



1 property, the exemption for which is suspended under subsection
2 (a).

3 The persons exempted under subsection (a), against whom the
4 tax is levied and assessed under this section, shall be
5 responsible for payment of the tax to the director of taxation.

6 (c) The provisions of this chapter shall apply to the
7 payment, collection, enforcement, and appeal of the tax levied
8 under this section.

9 The director of taxation may establish additional
10 requirements, procedures, and forms pursuant to rules adopted
11 under chapter 91, to effectuate this section."

12 SECTION 4. Chapter 239, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 **"§239- Temporary suspension of credit or exemption of**
16 **certain amounts; levy of tax at one per cent rate. (a)**

17 Notwithstanding any other law to the contrary, the following
18 shall be suspended from July 1, 2010, through June 30, 2015:

19 (1) The credit for costs incurred by a telephone public
20 utility for establishment of lifeline telephone
21 service rates as described under section 239-6.5; and



1 (2) The exemption for amounts received by a person
2 operating a call center by a person engaged in
3 business as a telecommunications common carrier for
4 interstate or foreign telecommunications services as
5 described under section 239-12.

6 (b) There is levied, assessed, and collected annually
7 against the persons under subsection (a), a tax at the rate of
8 one per cent on the previously credited cost or exempt amount.

9 As used in this subsection:

10 "Previously credited cost" means the cost described under
11 subsection (a) (1).

12 "Previously exempt amount" means the amount described under
13 subsection (a) (2).

14 The persons under subsection (a), against whom the tax is
15 levied and assessed under this section, shall be responsible for
16 payment of the tax to the director of taxation.

17 (c) The provisions of this chapter shall apply to the
18 payment, collection, enforcement, and appeal of the tax levied
19 under this section.

20 The director of taxation may establish additional
21 requirements, procedures, and forms pursuant to rules adopted
22 under chapter 91, to effectuate this section."



1 SECTION 5. New statutory material is underscored.

2 SECTION 6. This Act shall take effect on July 1, 2010, and
3 shall be repealed on June 30, 2015; provided that:

4 (1) The department of taxation shall have the authority to
5 postpone the payment of the tax imposed under this Act
6 until the deadline to file the annual general excise,
7 use, or public service company tax returns, as
8 applicable, (without regard to any extension);

9 (2) Section 2 of this Act suspending certain exemptions of
10 section 237-24, Hawaii Revised Statutes, shall not be
11 affected by the repeal and reenactment of that section
12 on December 31, 2013, pursuant to Act 70, Session Laws
13 of Hawaii 2009; and

14 (3) Section 2 of this Act suspending certain exemptions of
15 sections 237-24.3 and 237-24.7, Hawaii Revised
16 Statutes, shall not be affected by the repeal and
17 reenactment of those sections on December 31, 2010,
18 pursuant to Act 196, Session Laws of Hawaii 2009.



Report Title:

General Excise, Use, and Public Service Company Taxes; Temporary Suspension; Exemption for Certain Persons and Gross Amounts

Description:

Suspends temporarily the exemptions for certain persons and certain amounts of gross income or proceeds from the general excise, use, and public service company tax and requires the payment of the tax at a one per cent rate. Effective July 1, 2010, and sunsets on June 30, 2015. (HB2877 HD1)

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