
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 repeal certain
2 exemptions under the general excise, use, and public service
3 company taxes. Among the tax exemptions repealed is the
4 exemption for nonprofit organizations other than religious
5 organizations. The exemption for nonprofit religious
6 organizations, however, is retained.

7 This Act takes effect on July 1, 2010 and sunsets on June
8 30, 2015.

9 SECTION 2. Section 46-15.1, Hawaii Revised Statutes, is
10 amended by amending subsection (a) to read as follows:

11 "(a) Any law to the contrary notwithstanding, any county
12 shall have and may exercise the same powers, subject to
13 applicable limitations, as those granted the Hawaii housing
14 finance and development corporation pursuant to chapter 201H
15 insofar as those powers may be reasonably construed to be
16 exercisable by a county for the purpose of developing,
17 constructing, and providing low- and moderate-income housing;
18 provided that no county shall be empowered to cause the State to



1 issue general obligation bonds to finance a project pursuant to
2 this section; [~~provided further that county projects shall be~~
3 ~~granted an exemption from general excise or receipts taxes in~~
4 ~~the same manner as projects of the Hawaii housing finance and~~
5 ~~development corporation pursuant to section 201H-36;~~] and
6 provided further that section 201H-16 shall not apply to this
7 section unless federal guidelines specifically provide local
8 governments with that authorization and the authorization does
9 not conflict with any state laws. The powers shall include the
10 power, subject to applicable limitations, to:

- 11 (1) Develop and construct dwelling units, alone or in
12 partnership with developers;
- 13 (2) Acquire necessary land by lease, purchase, exchange,
14 or eminent domain;
- 15 (3) Provide assistance and aid to a public agency or other
16 person in developing and constructing new housing and
17 rehabilitating existing housing for elders of low- and
18 moderate-income, other persons of low- and moderate-
19 income, and persons displaced by any governmental
20 action, by making long-term mortgage or interim
21 construction loans available;



- 1 (4) Contract with any eligible bidders to provide for
2 construction of urgently needed housing for persons of
3 low- and moderate-income;
- 4 (5) Guarantee the top twenty-five per cent of the
5 principal balance of real property mortgage loans,
6 plus interest thereon, made to qualified borrowers by
7 qualified lenders;
- 8 (6) Enter into mortgage guarantee agreements with
9 appropriate officials of any agency or instrumentality
10 of the United States to induce those officials to
11 commit to insure or to insure mortgages under the
12 National Housing Act, as amended;
- 13 (7) Make a direct loan to any qualified buyer for the
14 downpayment required by a private lender to be made by
15 the borrower as a condition of obtaining a loan from
16 the private lender in the purchase of residential
17 property;
- 18 (8) Provide funds for a share, not to exceed fifty per
19 cent, of the principal amount of a loan made to a
20 qualified borrower by a private lender who is unable
21 otherwise to lend the borrower sufficient funds at



1 reasonable rates in the purchase of residential
2 property; and

3 (9) Sell or lease completed dwelling units.

4 For purposes of this section, a limitation is applicable to
5 the extent that it may reasonably be construed to apply to a
6 county."

7 SECTION 3. Section 209E-11, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "§209E-11 State general excise exemptions. (a) The
10 department shall certify annually to the department of taxation
11 that any qualified business operating in an enterprise zone
12 before July 1, 2010, is exempt from the payment of general
13 excise taxes on the gross proceeds from an eligible business
14 activity as defined in this chapter; provided that agricultural
15 businesses other than those engaged in the production of
16 genetically-engineered agricultural products shall not be exempt
17 from the payment of general excise taxes on the gross proceeds
18 of agricultural retail sales.

19 The gross proceeds received by a contractor licensed under
20 chapter 444 shall be exempt from the general excise tax for
21 construction within an enterprise zone performed before July 1,
22 2010, for a qualified business operating within an enterprise



1 zone before July 1, 2010, or a business that has been approved
2 by the department to enroll into the enterprise zone program[-]
3 before July 1, 2010. The exemption under this section for a
4 qualified business that is not a contractor, shall extend for a
5 period not to exceed seven consecutive years; provided that for
6 qualified businesses engaged in the manufacturing of tangible
7 personal property or the producing or processing of agricultural
8 products, the exemption shall extend for a period not to exceed
9 ten years; provided further that if a force majeure event
10 occurs, then the period of time shall be tolled until the force
11 majeure event ceases.

12 (b) No general excise tax exemption shall be provided
13 under this section for the following:

14 (1) A qualified business that begins operating in an
15 enterprise zone after June 30, 2010;

16 (2) A contractor who performs work for a qualified
17 business described under paragraph (1); or

18 (3) A contractor who performs work after June 30, 2010 for
19 any qualified business."

20 SECTION 4. Section 235-110.7, Hawaii Revised Statutes, is
21 amended by amending subsection (a) to read as follows:



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

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

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

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

16 (3) December 31, 2008, the applicable rate shall be zero
17 per cent; and

18 (4) December 31, 2009, and thereafter, the applicable rate
19 shall be four per cent.

20 For taxpayers with fiscal taxable years, the applicable
21 rate shall be the rate for the calendar year in which the



1 eligible depreciable tangible personal property used in the
2 trade or business is placed in service within Hawaii.

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

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

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

20 SECTION 5. Section 237-1, Hawaii Revised Statutes, is
21 amended as follows:



1 1. By amending the definition of "person" or "company" to
2 read:

3 "Person" or "company" includes every individual,
4 partnership, society, unincorporated association, joint
5 adventure, group, hui, joint stock company, corporation,
6 trustee, personal representative, trust estate, decedent's
7 estate, trust, trustee in bankruptcy, or other entity, whether
8 such persons are doing business for themselves or in a fiduciary
9 capacity, ~~and~~ whether the individuals are residents or
10 nonresidents of the State, ~~and~~ whether the corporation or
11 other association is created or organized under the laws of the
12 State or of another jurisdiction[-], whether the entity is
13 organized or recognized as a for-profit or nonprofit entity, and
14 whether the individual or entity is taxable under state or
15 federal income tax law. Any person who has in the person's
16 possession, for sale in the State, the property of a nonresident
17 owner, other than as an employee of such owner, shall be deemed
18 the seller of the property, when sold."

19 2. By repealing the definition of "prepaid legal service
20 plan":

21 ~~["Prepaid legal service plan" ("Plan") means a group legal~~
22 ~~service plan in which the cost of the services are prepaid by~~



1 ~~the group member or by some other person or organization in the~~
2 ~~member's behalf. A group legal service plan is a plan by which~~
3 ~~legal services are rendered to individual members of a group~~
4 ~~identifiable in terms of some common interest. A plan shall~~
5 ~~provide:~~

6 ~~(A) That individual members shall be afforded freedom of~~
7 ~~choice in the selection of their own attorney or~~
8 ~~attorneys to provide legal services under such plan.~~

9 ~~(B) For the payment of equal amounts for the cost of~~
10 ~~services rendered without regard to the identity of~~
11 ~~the attorney or attorneys selected by the plan member~~
12 ~~or members. No plan shall otherwise discriminate on~~
13 ~~the basis of such selection."]~~

14 SECTION 6. Section 237-4, Hawaii Revised Statutes, is
15 amended by amending subsection () to read as follows:

16 "(a) "Wholesaler" or "jobber" applies only to a person
17 making sales at wholesale. Only the following are sales at
18 wholesale:

19 (1) Sales to a licensed retail merchant, jobber, or other
20 licensed seller for purposes of resale;

21 (2) Sales to a licensed manufacturer of materials or
22 commodities that are to be incorporated by the



1 manufacturer into a finished or saleable product
2 (including the container or package in which the
3 product is contained) during the course of its
4 preservation, manufacture, or processing, including
5 preparation for market, and that will remain in such
6 finished or saleable product in such form as to be
7 perceptible to the senses, which finished or saleable
8 product is to be sold and not otherwise used by the
9 manufacturer;

10 (3) Sales to a licensed producer or cooperative
11 association of materials or commodities that are to be
12 incorporated by the producer or by the cooperative
13 association into a finished or saleable product that
14 is to be sold and not otherwise used by the producer
15 or cooperative association, including specifically
16 materials or commodities expended as essential to the
17 planting, growth, nurturing, and production of
18 commodities that are sold by the producer or by the
19 cooperative association;

20 (4) Sales to a licensed contractor, of materials or
21 commodities that are to be incorporated by the
22 contractor into the finished work or project required



1 by the contract and that will remain in such finished
2 work or project in such form as to be perceptible to
3 the senses;

- 4 (5) Sales to a licensed producer, or to a cooperative
5 association described in section [~~237-23(a)(7)~~] 237-
6 24(5)(E) for sale to a licensed producer, or to a
7 licensed person operating a feed lot, of poultry or
8 animal feed, hatching eggs, semen, replacement stock,
9 breeding services for the purpose of raising or
10 producing animal or poultry products for disposition
11 as described in section 237-5 or for incorporation
12 into a manufactured product as described in paragraph
13 (2) or for the purpose of breeding, hatching, milking,
14 or egg laying other than for the customer's own
15 consumption of the meat, poultry, eggs, or milk so
16 produced; provided that in the case of a feed lot
17 operator, only the segregated cost of the feed
18 furnished by the feed lot operator as part of the feed
19 lot operator's service to a licensed producer of
20 poultry or animals to be butchered or to a cooperative
21 association described in section [~~237-23(a)(7)~~] 237-
22 24(5)(E) of such licensed producers shall be deemed to



1 be a sale at wholesale; and provided further that any
2 amount derived from the furnishing of feed lot
3 services, other than the segregated cost of feed,
4 shall be deemed taxable at the service business rate.
5 This paragraph shall not apply to the sale of feed for
6 poultry or animals to be used for hauling,
7 transportation, or sports purposes;

8 (6) Sales to a licensed producer, or to a cooperative
9 association described in section [~~237-23(a)(7)~~] 237-
10 24(5)(E) for sale to the producer, of seed or
11 seedstock for producing agricultural and aquacultural
12 products, or bait for catching fish (including the
13 catching of bait for catching fish), which
14 agricultural and aquacultural products or fish are to
15 be disposed of as described in section 237-5 or to be
16 incorporated in a manufactured product as described in
17 paragraph (2);

18 (7) Sales to a licensed producer, or to a cooperative
19 association described in section [~~237-23(a)(7)~~] 237-
20 24(5)(E) for sale to such producer; of polypropylene
21 shade cloth; of polyfilm; of polyethylene film; of
22 cartons and such other containers, wrappers, and



1 sacks, and binders to be used for packaging eggs,
2 vegetables, fruits, and other agricultural and
3 aquacultural products; of seedlings and cuttings for
4 producing nursery plants or aquacultural products; or
5 of chick containers; which cartons and such other
6 containers, wrappers, and sacks, binders, seedlings,
7 cuttings, and containers are to be used as described
8 in section 237-5, or to be incorporated in a
9 manufactured product as described in paragraph (2);

10 (8) Sales of tangible personal property where:

11 (A) Tangible personal property is sold upon the order
12 or request of a licensed seller for the purpose
13 of rendering a service in the course of the
14 person's service business or calling, or upon the
15 order or request of a person subject to tax under
16 section 237D-2 for the purpose of furnishing
17 transient accommodations;

18 (B) The tangible personal property becomes or is used
19 as an identifiable element of the service
20 rendered; and

21 (C) The cost of the tangible personal property does
22 not constitute overhead to the licensed seller;



1 the sale shall be subject to section 237-13.3;
2 (9) Sales to a licensed leasing company of capital goods
3 that have a depreciable life, are purchased by the
4 leasing company for lease to its customers, and are
5 thereafter leased as a service to others;

6 (10) Sales of services to a licensed seller engaging in a
7 business or calling whenever:

8 (A) Either:

9 (i) In the context of a service-to-service
10 transaction, a service is rendered upon the
11 order or request of a licensed seller for
12 the purpose of rendering another service in
13 the course of the seller's service business
14 or calling, including a dealer's furnishing
15 of goods or services to the purchaser of
16 tangible personal property to fulfill a
17 warranty obligation of the manufacturer of
18 the property;

19 (ii) In the context of a service-to-tangible
20 personal property transaction, a service is
21 rendered upon the order or request of a
22 licensed seller for the purpose of



1 manufacturing, producing, or preparing
2 tangible personal property to be sold;
3 (iii) In the context of a services-to-contracting
4 transaction, a service is rendered upon the
5 order or request of a licensed contractor as
6 defined in section 237-6 for the purpose of
7 assisting that licensed contractor; or
8 (iv) In the context of a services-to-transient
9 accommodations rental transaction, a service
10 is rendered upon the order or request of a
11 person subject to tax under section 237D-2
12 for the purpose of furnishing transient
13 accommodations;
14 (B) The benefit of the service passes to the customer
15 of the licensed seller, licensed contractor, or
16 person furnishing transient accommodations as an
17 identifiable element of the other service or
18 property to be sold, the contracting, or the
19 furnishing of transient accommodations;
20 (C) The cost of the service does not constitute
21 overhead to the licensed seller, licensed



1 contractor, or person furnishing transient
2 accommodations;

3 (D) The gross income of the licensed seller is not
4 divided between the licensed seller and another
5 licensed seller, contractor, or person furnishing
6 transient accommodations for imposition of the
7 tax under this chapter;

8 (E) The gross income of the licensed seller is not
9 subject to a deduction under this chapter or
10 chapter 237D; and

11 (F) The resale of the service, tangible personal
12 property, contracting, or transient
13 accommodations is subject to the tax imposed
14 under this chapter at the highest tax rate.

15 Sales subject to this paragraph shall be subject to
16 section 237-13.3;

17 (11) Sales to a licensed retail merchant, jobber, or other
18 licensed seller of bulk condiments or prepackaged
19 single-serving packets of condiments that are provided
20 to customers by the licensed retail merchant, jobber,
21 or other licensed seller;



1 (12) Sales to a licensed retail merchant, jobber, or other
2 licensed seller of tangible personal property that
3 will be incorporated or processed by the licensed
4 retail merchant, jobber, or other licensed seller into
5 a finished or saleable product during the course of
6 its preparation for market (including disposable,
7 nonreturnable containers, packages, or wrappers, in
8 which the product is contained and that are generally
9 known and most commonly used to contain food or
10 beverage for transfer or delivery), and which finished
11 or saleable product is to be sold and not otherwise
12 used by the licensed retail merchant, jobber, or other
13 licensed seller;

14 (13) Sales of amusements subject to taxation under section
15 237-13(4) to a licensed seller engaging in a business
16 or calling whenever:

17 (A) Either:

18 (i) In the context of an amusement-to-service
19 transaction, an amusement is rendered upon
20 the order or request of a licensed seller
21 for the purpose of rendering another service.



- 1 in the course of the seller's service
- 2 business or calling;
- 3 (ii) In the context of an amusement-to-tangible
- 4 personal property transaction, an amusement
- 5 is rendered upon the order or request of a
- 6 licensed seller for the purpose of selling
- 7 tangible personal property; or
- 8 (iii) In the context of an amusement-to-amusement
- 9 transaction, an amusement is rendered upon
- 10 the order or request of a licensed seller
- 11 for the purpose of rendering another
- 12 amusement in the course of the person's
- 13 amusement business;
- 14 (B) The benefit of the amusement passes to the
- 15 customer of the licensed seller as an
- 16 identifiable element of the other service,
- 17 tangible personal property to be sold, or
- 18 amusement;
- 19 (C) The cost of the amusement does not constitute
- 20 overhead to the licensed seller;
- 21 (D) The gross income of the licensed seller is not
- 22 divided between the licensed seller and another



1 licensed seller, person furnishing transient
 2 accommodations, or person rendering an amusement
 3 for imposition of the tax under chapter 237;

4 (E) The gross income of the licensed seller is not
 5 subject to a deduction under this chapter; and

6 (F) The resale of the service, tangible personal
 7 property, or amusement is subject to the tax
 8 imposed under this chapter at the highest rate.

9 As used in this paragraph, "amusement" means
 10 entertainment provided as part of a show for which
 11 there is an admission charge. Sales subject to this
 12 paragraph shall be subject to section 237-13.3; and

13 (14) Sales by a printer to a publisher of magazines or
 14 similar printed materials containing advertisements,
 15 when the publisher is under contract with the
 16 advertisers to distribute a minimum number of
 17 magazines or similar printed materials to the public
 18 or defined segment of the public, whether or not there
 19 is a charge to the persons who actually receive the
 20 magazines or similar printed materials."

21 SECTION 7. Section 237-21, Hawaii Revised Statutes, is
 22 amended to read as follows:



1 "§237-21 Apportionment. If any person, other than persons
2 liable to the tax on manufacturers as provided by section 237-
3 13(1), is engaged in business both within and without the State
4 or in selling goods for delivery outside the State, and if under
5 the Constitution or laws of the United States [~~or section 237-~~
6 ~~29.5~~] the entire gross income of such person cannot be included
7 in the measure of this tax, there shall be apportioned to the
8 State and included in the measure of the tax that portion of the
9 gross income which is derived from activities within the State,
10 to the extent that the apportionment is required by the
11 Constitution or laws of the United States [~~or section 237-29.5~~].
12 In the case of a tax upon the production of property in the
13 State the apportionment shall be determined as in the case of
14 the tax on manufacturers. In other cases, if and to the extent
15 that the apportionment cannot be accurately made by separate
16 accounting methods, there shall be apportioned to the State and
17 included in the measure of this tax that proportion of the total
18 gross income, so requiring apportionment, which the cost of
19 doing business within the State, applicable to the gross income,
20 bears to the cost of doing business both within and without the
21 State, applicable to the gross income. "



1 SECTION 8. Section 237-22, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "(b) To the extent that any deduction, allocation, or
4 other method to determine tax liability is necessary to comply
5 with subsection (a), each taxpayer liable for the tax imposed by
6 this chapter shall be entitled to full offset for the amount of
7 legally imposed sales, gross receipts, or use taxes paid by the
8 taxpayer with respect to the imported property, service, or
9 contracting to another state and any subdivision thereof;
10 provided that such offset shall not exceed the amount of general
11 excise tax imposed under this chapter upon the gross proceeds of
12 sales or gross income from the sale and subsequent sale of the
13 imported property, service, or contracting. The amount of
14 legally imposed sales, gross receipts, or use taxes paid by the
15 taxpayer with respect to the import shall be first applied
16 against any use tax, as permitted under section [~~238-3(i)~~] 238-
17 3(g), and any remaining amount may be applied under this section
18 for the same imported property, service, or contracting.

19 The director of taxation shall have the authority to
20 implement this offset by prescribing tax forms and instructions
21 that require tax reporting and payment by deduction, allocation,



1 or any other method to determine tax liability to the extent
2 necessary to comply with the foregoing.

3 The director of taxation may require the taxpayer to
4 produce the necessary receipts or vouchers indicating the
5 payment of the sales, gross receipts, or use taxes to another
6 state or subdivision as a condition for the allowance of this
7 offset."

8 SECTION 9. Section 237-23, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "§237-23 Exemptions, persons exempt, applications for
11 exemption. (a) This chapter shall not apply to the following
12 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;~~

6 ~~(4)]~~ (3) Corporations, associations, trusts, or societies
7 organized and operated exclusively for religious [~~7~~
8 ~~charitable, scientific, or educational]~~ purposes [~~7~~ 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]; and~~

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)]~~ (4) Persons affected with Hansen's disease and
9 kokuas, with respect to business within the county of
10 Kalawao [~~;~~
11 ~~(9) Corporations, companies, associations, or trusts~~
12 ~~organized for the establishment and conduct of~~
13 ~~cemeteries no part of the net earnings of which inures~~
14 ~~to the financial benefit of any private stockholder or~~
15 ~~individual; provided that the exemption shall apply~~
16 ~~only to the activities of those persons in the conduct~~
17 ~~of cemeteries and shall not apply to any activity the~~
18 ~~primary purpose of which is to produce income, even~~
19 ~~though the income is to be used for or in the~~
20 ~~furtherance of the exempt activities of those persons;~~
21 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,
16 except for death or other benefits to the members of
17 fraternal societies; and

18 (3) To the [~~fraternal,~~] religious [~~, 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 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)~~]
17 shall file an application for exemption in the form of
18 an affidavit or affidavits setting forth in general
19 all facts affecting the right to the exemption and
20 such particular facts as the department may require,
21 to which shall be attached such records, papers, and
22 other information as the department may prescribe.



1 (d) [~~For all persons, the~~] The statement registering the
2 person with the department or application for exemption shall be
3 filed on or before March 31 of the first year of registration or
4 within three months after the commencement of business. In the
5 event of allowance of the exemption, no further statement or
6 application therefor need be filed unless there is a material
7 change in the facts. In the event of disallowance of the
8 exemption, a license may be obtained upon payment of the
9 required fee as provided by section 237-9, less the \$20 already
10 paid under this section, which shall be credited thereon. In
11 the event the registrant has a license under this chapter, no
12 further fee shall be required for registration under this
13 section.

14 (e) The department for good cause may extend the time for
15 registration or the time for filing an application for
16 exemption."

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

19 "§237-24 Amounts not taxable. This chapter shall not
20 apply to the following amounts:

21 (1) Amounts received under life insurance policies and
22 contracts paid by reason of the death of the insured;



1 (2) Amounts received (other than amounts paid by reason of
2 death of the insured) under life insurance, endowment,
3 or annuity contracts, either during the term or at
4 maturity or upon surrender of the contract;

5 (3) Amounts received under any accident insurance or
6 health insurance policy or contract or under workers'
7 compensation acts or employers' liability acts, as
8 compensation for personal injuries, death, or
9 sickness, including also the amount of any damages or
10 other compensation received, whether as a result of
11 action or by private agreement between the parties on
12 account of the personal injuries, death, or sickness;

13 (4) The value of all property of every kind and sort
14 acquired by gift, bequest, or devise, and the value of
15 all property acquired by descent or inheritance;

16 (5) Amounts received as a gift or donation by a:
17 (A) Fraternal benefit society, order, or association;
18 (B) Corporation, association, trust, or society
19 organized and operated exclusively for
20 charitable, scientific, or educational purposes;
21 (C) Business league, chamber of commerce, board of
22 trade, civic league, agricultural or



1 horticultural organization, and organization
2 operated exclusively for the benefit of the
3 community and for the promotion of social
4 welfare;

5 (D) Hospital, infirmary, or sanitarium;

6 (E) Cooperative association incorporated under
7 section 521 of the Internal Revenue Code, as
8 amended, or chapter 421; or

9 (F) Corporation, company, association, or trust
10 organized for the establishment and conduct of a
11 cemetery;

12 [~~(5)~~] (6) Amounts received by any person as compensatory
13 damages for any tort injury to the person, or to the
14 person's character reputation, or received as
15 compensatory damages for any tort injury to or
16 destruction of property, whether as the result of
17 action or by private agreement between the parties
18 (provided that amounts received as punitive damages
19 for tort injury or breach of contract injury shall be
20 included in gross income);

21 [~~(6)~~] (7) Amounts received as salaries or wages for
22 services rendered by an employee to an employer;



- 1 ~~[(7)]~~ (8) Amounts received as alimony and other similar
2 payments and settlements;
- 3 ~~[(8)]~~ (9) Amounts collected by distributors as fuel taxes
4 on "liquid fuel" imposed by chapter 243, and the
5 amounts collected by such distributors as a fuel tax
6 imposed by any Act of the Congress of the United
7 States;
- 8 ~~[(9)]~~ (10) Taxes on liquor imposed by chapter 244D on
9 dealers holding permits under that chapter;
- 10 ~~[(10)]~~ (11) The amounts of taxes on cigarettes and tobacco
11 products imposed by chapter 245 on wholesalers or
12 dealers holding licenses under that chapter and
13 selling the products at wholesale;
- 14 ~~[(11)]~~ (12) Federal excise taxes imposed on articles sold at
15 retail and collected from the purchasers thereof and
16 paid to the federal government by the retailer;
- 17 ~~[(12)]~~ (13) The amounts of federal taxes under chapter 37 of
18 the Internal Revenue Code, or similar federal taxes,
19 imposed on sugar manufactured in the State, paid by,
20 the manufacturer to the federal government;
- 21 ~~[(13)]~~ ~~An amount up to, but not in excess of, \$2,000 a year~~
22 ~~of gross income received by any blind, deaf, or~~



1 ~~totally disabled person engaging, or continuing, in~~
2 ~~any business, trade, activity, occupation, or calling~~
3 ~~within the State; a corporation all of whose~~
4 ~~outstanding shares are owned by an individual or~~
5 ~~individuals who are blind, deaf, or totally disabled;~~
6 ~~a general, limited, or limited liability partnership,~~
7 ~~all of whose partners are blind, deaf, or totally~~
8 ~~disabled; or a limited liability company, all of whose~~
9 ~~members are blind, deaf, or totally disabled;~~

10 ~~(14) Amounts received by a producer of sugarcane from the~~
11 ~~manufacturer to whom the producer sells the sugarcane,~~
12 ~~where:~~

13 ~~(A) The producer is an independent cane farmer, so~~
14 ~~classified by the Secretary of Agriculture under the~~
15 ~~Sugar Act of 1948 (61 Stat. 922, Chapter 519) as~~
16 ~~the Act may be amended or supplemented;~~

17 ~~(B) The value or gross proceeds of the sale of the~~
18 ~~sugar, and other products manufactured from the~~
19 ~~sugarcane, are included in the measure of the tax~~
20 ~~levied on the manufacturer under section 237-~~
21 ~~13(1) or (2);~~



1 ~~(C)~~ The producer's gross proceeds of sales are
2 dependent upon the actual value of the products
3 manufactured therefrom or the average value of
4 all similar products manufactured by the
5 manufacturer, and

6 ~~(D)~~ The producer's gross proceeds of sales are
7 reduced by reason of the tax on the value or sale
8 of the manufactured products;

9 ~~(15)]~~ (14) Money paid by the State or eleemosynary child-
10 placing organizations to foster parents for their care
11 of children in foster homes;

12 ~~[(16)]~~ (15) Amounts received by a cooperative housing
13 corporation from its shareholders in reimbursement of
14 funds paid by the corporation for lease rental, real
15 property taxes, and other expenses of operating and
16 maintaining the cooperative land and improvements;
17 provided that the cooperative corporation is a
18 corporation:

19 (A) Having one and only one class of stock
20 outstanding;

21 (B) Each of the stockholders of which is entitled
22 solely by reason of the stockholder's ownership



1 of stock in the corporation, to occupy for
2 dwelling purposes a house, or an apartment in a
3 building owned or leased by the corporation; and
4 (C) No stockholder of which is entitled (either
5 conditionally or unconditionally) to receive any
6 distribution not out of earnings and profits of
7 the corporation except in a complete or partial
8 liquidation of the corporation; and

9 ~~[(17)]~~ (16) Amounts received by a managed care support
10 contractor of the TRICARE program that is established
11 under Title 10 United States Code chapter 55, as
12 amended, for the actual cost or advancement to third
13 party health care providers pursuant to a contract
14 with the United States."

15 SECTION 11. Section 237-24.3, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "§237-24.3 Additional amounts not taxable. In addition to
18 the amounts not taxable under section 237-24, this chapter shall
19 not apply to:

20 ~~[(1) Amounts received from the loading, transportation, and~~
21 ~~unloading of agricultural commodities shipped for a~~
22 ~~producer or produce dealer on one island of this State~~



1 ~~to a person, firm, or organization on another island~~
2 ~~of this State. The terms "agricultural commodity",~~
3 ~~"producer", and "produce dealer" shall be defined in~~
4 ~~the same manner as they are defined in section 147-1,~~
5 ~~provided that agricultural commodities need not have~~
6 ~~been produced in the State;~~

7 ~~(2) Amounts received from sales of:~~

8 ~~(A) Intoxicating liquor as the term "liquor" is~~
9 ~~defined in chapter 244D;~~

10 ~~(B) Cigarettes and tobacco products as defined in~~
11 ~~chapter 245; and~~

12 ~~(C) Agricultural, meat, or fish products;~~

13 ~~to any person or common carrier in interstate or~~
14 ~~foreign commerce, or both, whether ocean going or air,~~
15 ~~for consumption out of state on the shipper's vessels~~
16 ~~or airplanes;~~

17 ~~(3)]~~ (1) Amounts received by the manager, submanager, or
18 board of directors of:

19 (A) An association of owners of a condominium
20 property regime established in accordance with
21 chapter 514A or 514B; or



1 (B) A nonprofit homeowners or community association
2 incorporated in accordance with chapter 414D or
3 any predecessor thereto and existing pursuant to
4 covenants running with the land,
5 in reimbursement of sums paid for common expenses;

6 ~~[(4) Amounts received or accrued from:~~

7 ~~(A) The loading or unloading of cargo from ships,~~
8 ~~barges, vessels, or aircraft, whether or not the~~
9 ~~ships, barges, vessels, or aircraft travel~~
10 ~~between the State and other states or countries~~
11 ~~or between the islands of the State;~~

12 ~~(B) Tugboat services including pilotage fees~~
13 ~~performed within the State, and the towage of~~
14 ~~ships, barges, or vessels in and out of state~~
15 ~~harbors, or from one pier to another; and~~

16 ~~(C) The transportation of pilots or governmental~~
17 ~~officials to ships, barges, or vessels offshore;~~
18 ~~rigging gear; checking freight and similar~~
19 ~~services; standby charges; and use of moorings~~
20 ~~and running mooring lines;~~

21 ~~(5)]~~ (2) Amounts received by an employee benefit plan by
22 way of contributions, dividends, interest, and other



1 income; and amounts received by a nonprofit
2 organization or office, as payments for costs and
3 expenses incurred for the administration of an
4 employee benefit plan; provided that this exemption
5 shall not apply to any gross rental income or gross
6 rental proceeds received after June 30, 1994, as
7 income from investments in real property in this
8 State; and provided further that gross rental income
9 or gross rental proceeds from investments in real
10 property received by an employee benefit plan after
11 June 30, 1994, under written contracts executed prior
12 to July 1, 1994, shall not be taxed until the
13 contracts are renegotiated, renewed, or extended, or
14 until after December 31, 1998, whichever is earlier.
15 For the purposes of this paragraph, "employee benefit
16 plan" means any plan as defined in section 1002(3) of
17 title 29 of the United States Code, as amended;

18 ~~[(6)]~~ (3) Amounts received for purchases made with United
19 States Department of Agriculture food coupons under
20 the federal food stamp program, and amounts received
21 for purchases made with United States Department of
22 Agriculture food vouchers under the Special



1 Supplemental Foods Program for Women, Infants and
2 Children;

3 ~~[(7) Amounts received by a hospital, infirmary, medical~~
4 ~~clinic, health care facility, pharmacy, or a~~
5 ~~practitioner licensed to administer the drug to an~~
6 ~~individual for selling prescription drugs or~~
7 ~~prosthetic devices to an individual, provided that~~
8 ~~this paragraph shall not apply to any amounts received~~
9 ~~for services provided in selling prescription drugs or~~
10 ~~prosthetic devices. As used in this paragraph:~~

11 ~~"Prescription drugs" are those drugs defined~~
12 ~~under section 328-1 and dispensed by filling or~~
13 ~~refilling a written or oral prescription by a~~
14 ~~practitioner licensed under law to administer the drug~~
15 ~~and sold by a licensed pharmacist under section 328-16~~
16 ~~or practitioners licensed to administer drugs; and~~

17 ~~"Prosthetic device" means any artificial device~~
18 ~~or appliance, instrument, apparatus, or contrivance,~~
19 ~~including their components, parts, accessories, and~~
20 ~~replacements thereof, used to replace a missing or~~
21 ~~surgically removed part of the human body, which is~~
22 ~~prescribed by a licensed practitioner of medicine,~~



1 ~~osteopathy, or podiatry and which is sold by the~~
 2 ~~practitioner or which is dispensed and sold by a~~
 3 ~~dealer of prosthetic devices, provided that~~
 4 ~~"prosthetic device" shall not mean any auditory,~~
 5 ~~ophthalmic, dental, or ocular device or appliance,~~
 6 ~~instrument, apparatus, or contrivance;~~

7 ~~(8)]~~ (4) Taxes on transient accommodations imposed by
 8 chapter 237D and passed on and collected by operators
 9 holding certificates of registration under that
 10 chapter; and

11 ~~[(9)~~ ~~Amounts received as dues by an unincorporated~~
 12 ~~merchants association from its membership for~~
 13 ~~advertising media, promotional, and advertising costs~~
 14 ~~for the promotion of the association for the benefit~~
 15 ~~of its members as a whole and not for the benefit of~~
 16 ~~an individual member or group of members less than the~~
 17 ~~entire membership;~~

18 ~~(10)~~ ~~Amounts received by a labor organization for real~~
 19 ~~property leased to:~~

20 ~~(A) A labor organization; or~~

21 ~~(B) A trust fund established by a labor organization~~
 22 ~~for the benefit of its members, families, and~~



1 ~~dependents for medical or hospital care, pensions~~
2 ~~on retirement or death of employees,~~
3 ~~apprenticeship and training, and other membership~~
4 ~~service programs.~~

5 ~~As used in this paragraph, "labor organization" means~~
6 ~~a labor organization exempt from federal income tax~~
7 ~~under section 501(c)(5) of the Internal Revenue Code,~~
8 ~~as amended,~~

9 ~~(11)]~~ (5) Amounts received from foreign diplomats and
10 consular officials who are holding cards issued or
11 authorized by the United States Department of State
12 granting them an exemption from state taxes[, and

13 ~~(12)~~ ~~Amounts received as rent for the rental or leasing of~~
14 ~~aircraft or aircraft engines used by the lessees or~~
15 ~~renters for interstate air transportation of~~
16 ~~passengers and goods. For purposes of this paragraph,~~
17 ~~payments made pursuant to a lease shall be considered~~
18 ~~rent regardless of whether the lease is an operating~~
19 ~~lease or a financing lease. The definition of~~
20 ~~"interstate air transportation" is the same as in 49~~
21 ~~U.S.C. 40102]."~~



1 SECTION 12. Section 237-24.7, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§237-24.7 Additional amounts not taxable. In addition to
4 the amounts not taxable under section 237-24, this chapter shall
5 not apply to:

6 (1) Amounts received by the operator of a hotel from the
7 owner of the hotel or from a time share association,
8 and amounts received by the suboperator of a hotel
9 from the owner of the hotel, from a time share
10 association, or from the operator of the hotel, in
11 amounts equal to and which are disbursed by the
12 operator or suboperator for employee wages, salaries,
13 payroll taxes, insurance premiums, and benefits,
14 including retirement, vacation, sick pay, and health
15 benefits. As used in this paragraph:

16 "Employee" means employees directly engaged in
17 the day-to-day operation of the hotel and employed by
18 the operator or suboperator.

19 "Hotel" means an operation as defined in section
20 445-90 or a time share plan as defined in section
21 514E-1.



1 "Operator" means any person who, pursuant to a
2 written contract with the owner of a hotel or time
3 share association, operates or manages the hotel for
4 the owner or time share association.

5 "Owner" means the fee owner or lessee under a
6 recorded lease of a hotel.

7 "Suboperator" means any person who, pursuant to a
8 written contract with the operator, operates or
9 manages the hotel as a subcontractor of the operator.

10 "Time share association" means an "association"
11 as that term is defined in section 514E-1;

12 (2) Amounts received by the operator of a county
13 transportation system operated under an operating
14 contract with a political subdivision, where the
15 political subdivision is the owner of the county
16 transportation system. As used in this paragraph:

17 "County transportation system" means a mass
18 transit system of motorized buses providing regularly
19 scheduled transportation within a county.

20 "Operating contract" or "contract" means a
21 contract to operate and manage a political



1 subdivision's county transportation system, which
2 provides that:

3 (A) The political subdivision shall exercise
4 substantial control over all aspects of the
5 operator's operation;

6 (B) The political subdivision controls the
7 development of transit policy, service
8 planning, routes, and fares; and

9 (C) The operator develops in advance a draft
10 budget in the same format as prescribed for
11 agencies of the political subdivision. The
12 budget must be subject to the same
13 constraints and controls regarding the
14 lawful expenditure of public funds as any
15 public sector agency, and deviations from
16 the budget must be subject to approval by
17 the appropriate political subdivision
18 officials involved in the budgetary process.

19 "Operator" means any person who, pursuant to an
20 operating contract with a political subdivision,
21 operates or manages a county transportation system.



1 "Owner" means a political subdivision that owns
2 or is the lessee of all the properties and facilities
3 of the county transportation system (including buses,
4 real estate, parking garages, fuel pumps, maintenance
5 equipment, office supplies, etc.), and that owns all
6 revenues derived therefrom;

7 (3) Surcharge taxes on rental motor vehicles imposed by
8 chapter 251 and passed on and collected by persons
9 holding certificates of registration under that
10 chapter;

11 (4) Amounts received by the operator of orchard properties
12 from the owner of the orchard property in amounts
13 equal to and which are disbursed by the operator for
14 employee wages, salaries, payroll taxes, insurance
15 premiums, and benefits, including retirement,
16 vacation, sick pay, and health benefits. As used in
17 this paragraph:

18 "Employee" means an employee directly engaged in
19 the day-to-day operations of the orchard properties
20 and employed by the operator.

21 "Operator" means a producer who, pursuant to a
22 written contract with the owner of the orchard



1 property, operates or manages the orchard property for
2 the owner where the property contains an area
3 sufficient to make the undertaking economically
4 feasible.

5 "Orchard property" means any real property that
6 is used to raise trees with a production life cycle of
7 fifteen years or more producing fruits or nuts having
8 a normal period of development from the initial
9 planting to the first commercially saleable harvest of
10 not less than three years.

11 "Owner" means a fee owner or lessee under a
12 recorded lease of orchard property;

13 (5) Taxes on nursing facility income imposed by chapter
14 346E and passed on and collected by operators of
15 nursing facilities;

16 (6) Amounts received under property and casualty insurance
17 policies for damage or loss of inventory used in the
18 conduct of a trade or business located within the
19 State or a portion thereof that is declared a natural
20 disaster area by the governor pursuant to section 209-
21 2;



1 ~~[(7)]~~ ~~Amounts received as compensation by community~~
2 ~~organizations, school booster clubs, and nonprofit~~
3 ~~organizations under a contract with the chief election~~
4 ~~officer for the provision and compensation of precinct~~
5 ~~officials and other election-related personnel,~~
6 ~~services, and activities, pursuant to section 11-5,~~

7 ~~(8)]~~ (7) Interest received by a person domiciled outside
8 the State from a trust company (as defined in section
9 412:8-101) acting as payment agent or trustee on
10 behalf of the issuer or payees of an interest bearing
11 instrument or obligation, if the interest would not
12 have been subject to tax under this chapter if paid
13 directly to the person domiciled outside the State
14 without the use of a paying agent or trustee; provided
15 that if the interest would otherwise be taxable under
16 this chapter if paid directly to the person domiciled
17 outside the State, it shall not be exempt solely
18 because of the use of a Hawaii trust company as a
19 paying agent or trustee; and

20 ~~[(9)]~~ (8) Amounts received by a management company from
21 related entities engaged in the business of selling
22 interstate or foreign common carrier



1 telecommunications services in amounts equal to and
2 which are disbursed by the management company for
3 employee wages, salaries, payroll taxes, insurance
4 premiums, and benefits, including retirement,
5 vacation, sick pay, and health benefits. As used in
6 this paragraph:

7 "Employee" means employees directly engaged in
8 the day-to-day operation of related entities engaged
9 in the business of selling interstate or foreign
10 common carrier telecommunications services and
11 employed by the management company.

12 "Management company" means any person who,
13 pursuant to a written contract with a related entity
14 engaged in the business of selling interstate or
15 foreign common carrier telecommunications services,
16 provides managerial or operational services to that
17 entity.

18 "Related entities" means:

- 19 (A) An affiliated group of corporations within
20 the meaning of section 1504 (with respect to
21 affiliated group defined) of the federal
22 Internal Revenue Code of 1986, as amended;



1 (B) A controlled group of corporations within
2 the meaning of section 1563 (with respect to
3 definitions and special rules) of the
4 federal Internal Revenue Code of 1986, as
5 amended;

6 (C) Those entities connected through ownership
7 of at least eighty per cent of the total
8 value and at least eighty per cent of the
9 total voting power of each such entity (or
10 combination thereof), including
11 partnerships, associations, trusts, S
12 corporations, nonprofit corporations,
13 limited liability partnerships, or limited
14 liability companies; and

15 (D) Any group or combination of the entities
16 described in paragraph (C) constituting a
17 unitary business for income tax purposes;
18 whether or not the entity is located within or without
19 the State or licensed under this chapter [~~and~~

20 ~~(10) Amounts received as grants under section 206M-15]."~~

21 SECTION 13. Section 237-27, Hawaii Revised Statutes, is
22 amended as follows:



1 1. By amending its title to read:

2 " ~~[Exemption of certain]~~ Certain petroleum refiners."

3 2. By amending subsection (b) to read:

4 "(b) ~~[There shall be excluded from the measure of the tax~~
5 ~~en]~~ When a refiner [such] sells part of the petroleum products
6 resultant from the refiner's business ~~[as is]~~ to ~~[be further~~
7 ~~refined by]~~ another refiner~~[-, to the extent that the petroleum~~
8 ~~products resultant from such further refining will be (or but~~
9 ~~for this subsection would be) included in the measure of the tax~~
10 ~~on such other refiner, and where]~~ for further refinement, the
11 tax shall be imposed at the rate of one-half of one per cent on
12 the gross income derived from the sale of the petroleum
13 products. Where the petroleum products are to be used partly
14 for such refining and partly for other purposes, the proportion
15 used for each purpose shall be determined upon the basis of
16 weight or BTU content."

17 SECTION 14. Section 237-29.55, Hawaii Revised Statutes, is
18 amended as follows:

19 1. By amending its title to read:

20 " ~~[Exemption for sale]~~ Sale of tangible personal property
21 for resale at wholesale."

22 2. By amending subsection (a) to read:



1 "~~(a) [There shall be exempted from, and excluded from the~~
2 ~~measure of, the taxes imposed by this chapter all of the gross~~
3 ~~proceeds or gross income arising from the sale of]~~ When tangible
4 personal property imported to Hawaii from a foreign or domestic
5 source is sold to a licensed taxpayer for subsequent resale for
6 the purpose of wholesale as defined under section 237-4 ~~[-]~~, the
7 gross proceeds or gross income arising from the sale shall be
8 taxed at the rate of one-half of one per cent."

9 SECTION 15. Section 238-1, Hawaii Revised Statutes, is
10 amended by amending the definition of "use" to read as follows:

11 "Use" (and any nounal, verbal, adjectival, adverbial, and
12 other equivalent form of the term) herein used interchangeably
13 means any use, whether the use is of such nature as to cause the
14 property, services, or contracting to be appreciably consumed or
15 not, or the keeping of the property or services for such use or
16 for sale, the exercise of any right or power over tangible or
17 intangible personal property incident to the ownership of that
18 property, and shall include control over tangible or intangible
19 property by a seller who is licensed or who should be licensed
20 under chapter 237, who directs the importation of the property
21 into the State for sale and delivery to a purchaser in the
22 State, liability and free on board (FOB) to the contrary



1 notwithstanding, regardless of where title passes, but the term
2 "use" shall not include:

3 (1) Temporary use of property, not of a perishable or
4 quickly consumable nature, where the property is
5 imported into the State for temporary use (not sale)
6 therein by the person importing the same and is not
7 intended to be, and is not, kept permanently in the
8 State. For example, without limiting the generality
9 of the foregoing language:

10 (A) In the case of a contractor importing permanent
11 equipment for the performance of a construction
12 contract, with intent to remove, and who does
13 remove, the equipment out of the State upon
14 completing the contract;

15 (B) In the case of moving picture films imported for
16 use in theaters in the State with intent or under
17 contract to transport the same out of the State
18 after completion of such use; and

19 (C) In the case of a transient visitor importing an
20 automobile or other belongings into the State to
21 be used by the transient visitor while therein



- 1 but which are to be used and are removed upon the
2 transient visitor's departure from the State;
- 3 (2) Use by the taxpayer of property acquired by the
4 taxpayer solely by way of gift;
- 5 (3) Use which is limited to the receipt of articles and
6 the return thereof, to the person from whom acquired,
7 immediately or within a reasonable time either after
8 temporary trial or without trial;
- 9 (4) Use of goods imported into the State by the owner of a
10 vessel or vessels engaged in interstate or foreign
11 commerce and held for and used only as ship stores for
12 the vessels;
- 13 (5) The use or keeping for use of household goods,
14 personal effects, and private automobiles imported
15 into the State for nonbusiness use by a person who:
- 16 (A) Acquired them in another state, territory,
17 district, or country;
- 18 (B) At the time of the acquisition was a bona fide
19 resident of another state, territory, district,
20 or country;
- 21 (C) Acquired the property for use outside the State;
22 and



1 (D) Made actual and substantial use thereof outside
2 this State;
3 provided that as to an article acquired less than
4 three months prior to the time of its importation into
5 the State it shall be presumed, until and unless
6 clearly proved to the contrary, that it was acquired
7 for use in the State and that its use outside the
8 State was not actual and substantial;

9 ~~[-(6) The leasing or renting of any aircraft or the keeping
10 of any aircraft solely for leasing or renting to
11 lessees or renters using the aircraft for commercial
12 transportation of passengers and goods or the
13 acquisition or importation of any such aircraft or
14 aircraft engines by any lessee or renter engaged in
15 interstate air transportation. For purposes of this
16 paragraph, "leasing" includes all forms of lease,
17 regardless of whether the lease is an operating lease
18 or financing lease. The definition of "interstate air
19 transportation" is the same as in 49 U.S.C. 40102;~~

20 ~~-(7) The use of oceangoing vehicles for passenger or
21 passenger and goods transportation from one point to~~



1 another within the State as a public utility as
2 defined in chapter 269;

3 ~~(8)~~ The use of material, parts, or tools imported or
4 purchased by a person licensed under chapter 237 which
5 are used for aircraft service and maintenance, or the
6 construction of an aircraft service and maintenance
7 facility as those terms are defined in section 237-
8 24.9;

9 ~~(9)~~ The use of services or contracting imported for resale
10 where the contracting or services are for resale,
11 consumption, or use outside the State pursuant to
12 section 237-29.53(a);

13 ~~(10)~~ (6) The use of contracting imported or purchased by a
14 contractor as defined in section 237-6 who is:

- 15 (A) Licensed under chapter 237;
- 16 (B) Engaged in business as a contractor; and
- 17 (C) Subject to the tax imposed under section 238-2.3;
- 18 and

19 ~~(11)~~ (7) The use of property, services, or contracting
20 imported by foreign diplomats and consular officials
21 who are holding cards issued or authorized by the



1 United States Department of State granting them an
2 exemption from state taxes.

3 With regard to purchases made and distributed under the
4 authority of chapter 421, a cooperative association shall be
5 deemed the user thereof."

6 SECTION 16. Section 238-3, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "§238-3 Application of tax, etc. (a) The tax imposed by
9 this chapter shall not apply to any property, services, or
10 contracting or to any use of the property, services, or
11 contracting that cannot legally be so taxed under the
12 Constitution or laws of the United States, but only so long
13 as [7] and only to the extent to which the State is without power
14 to impose the tax.

15 To the extent that any exemption, exclusion, or
16 apportionment is necessary to comply with the preceding
17 sentence, the director of taxation shall:

18 (1) Exempt or exclude from the tax under this chapter,
19 property, services, or contracting or the use of
20 property, services, or contracting exempted under
21 chapter 237; or



1 (2) Apportion the gross value of services or contracting
2 sold to customers within the State by persons engaged
3 in business both within and without the State to
4 determine the value of that portion of the services or
5 contracting that is subject to taxation under chapter
6 237 for the purposes of section 237-21.

7 Any provision of law to the contrary notwithstanding,
8 exemptions or exclusions from tax under this chapter allowed on
9 or before April 1, 1978, under the provisions of the
10 Constitution of the United States or an ~~act~~ Act of the
11 Congress of the United States to persons or common carriers
12 engaged in interstate or foreign commerce, or both, whether
13 ocean-going or air, shall continue undiminished and be available
14 thereafter.

15 (b) The tax imposed by this chapter shall not apply to any
16 use of property, services, or contracting the transfer of which
17 property, services, or contracting to, or the acquisition of
18 which by, the person so using the same, has actually been or
19 actually is taxed under chapter 237.

20 (c) The tax imposed by this chapter shall be paid only
21 once upon or in respect of the same property, services, or
22 contracting; provided that nothing in this chapter contained



1 shall be construed to exempt any property, services, or
2 contracting, or the use thereof from taxation under any other
3 law of the State.

4 (d) The tax imposed by this chapter shall be in addition
5 to any other taxes imposed by any other laws of the State,
6 except as otherwise specifically provided herein; provided that
7 if it be finally held by any court of competent jurisdiction,
8 that the tax imposed by this chapter may not legally be imposed
9 in addition to any other tax or taxes imposed by any other law
10 or laws with respect to the same property, services, or
11 contracting, or the use thereof, then this chapter shall be
12 deemed not to apply to the property, services, or contracting,
13 or the use thereof under such specific circumstances, but such
14 other laws shall be given full effect with respect to the
15 property, services, [~~e~~] contracting, or use.

16 (e) The tax imposed by this chapter shall not apply to any
17 use of property exempted by section 238-4.

18 (f) The tax imposed by this chapter shall not apply to any
19 use or consumption of aircraft and vessels, the transfer of
20 which aircraft or vessel to, or the acquisition of which by, the
21 person so using or consuming the same, or the rental for the use



1 of the aircraft or vessel, has actually been or actually is
2 taxed under chapter 237.

3 ~~[(g) The tax imposed by this chapter shall not apply to~~
4 ~~any intoxicating liquor as defined in chapter 244D and~~
5 ~~cigarettes and tobacco products as defined in chapter 245,~~
6 ~~imported into the State and sold to any person or common carrier~~
7 ~~in interstate commerce, whether ocean going or air, for~~
8 ~~consumption out of state by the person, crew, or passengers on~~
9 ~~the shipper's vessels or airplanes.~~

10 ~~(h) The tax imposed by this chapter shall not apply to any~~
11 ~~use of vessels constructed under section 189-25 prior to July 1,~~
12 ~~1969.~~

13 ~~(i)]~~ (g) Each taxpayer liable for the tax imposed by this
14 chapter on tangible personal property, services, or contracting
15 shall be entitled to full credit for the combined amount or
16 amounts of legally imposed sales or use taxes paid by the
17 taxpayer with respect to the same transaction and property,
18 services, or contracting to another state and any subdivision
19 thereof, but such credit shall not exceed the amount of the use
20 tax imposed under this chapter on account of the transaction and
21 property, services, or contracting. The director of taxation
22 may require the taxpayer to produce the necessary receipts or



1 vouchers indicating the payment of the sales or use tax to
2 another state or subdivision as a condition for the allowance of
3 the credit.

4 ~~[(j)]~~ (h) The tax imposed by this chapter shall not apply
5 to any use of property, services, or contracting exempted by
6 section 237-26 ~~[or section 237-29]~~.

7 ~~[(k)]~~ ~~The tax imposed by this chapter shall not apply to~~
8 ~~any use of air pollution control facility exempted by section~~
9 ~~237-27.5.] "~~

10 SECTION 17. Section 246-34.5, Hawaii Revised Statutes, is
11 amended to read as follows:

12 " ~~[(j)]~~ §246-34.5 ~~[(j)]~~ Exemptions for air pollution control
13 facility. The value of all property in the State (not including
14 a building and its structural components, other than a building
15 which is exclusively a treatment facility) actually and solely
16 used or to be used as an air pollution control facility ~~[as the~~
17 ~~term is defined in chapter 237]~~ shall be exempted from the
18 measure of the taxes imposed by this chapter; provided, however,
19 the property exemption shall be applicable only with respect to
20 a certified facility which is property (1) the construction,
21 reconstruction or erection of which is completed by the taxpayer
22 after June 30, 1969, or, (2) acquired by the taxpayer after June



1 30, 1969, if the original use of the property commences with the
2 taxpayer after June 30, 1969; provided further the facility is
3 placed in service by the taxpayer before July 1, 1975.

4 Application for the exemption provided herein shall first
5 be made with the director of health who shall, if satisfied that
6 the facility meets the pollution emission criteria established
7 by the department of health, certify to that fact. Upon receipt
8 of the certification from the department of health, the director
9 of taxation shall exempt the facility from the tax imposed by
10 this chapter. A new certificate shall be obtained from the
11 director of health and filed with the director of taxation every
12 two years certifying that the pollution control facility
13 complies with the pollutant emission criteria established by the
14 department of health. The director of taxation shall furnish
15 all forms required by this section.

16 The director of taxation shall, pursuant to chapter 91,
17 promulgate rules and regulations necessary to administer this
18 section."

19 SECTION 18. Section 349-10, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "§349-10 Annual senior citizen's fair. Each county may
22 hold an annual senior citizen's fair in its respective county.



1 The county shall be responsible for the planning, organizing,
2 and coordinating of the fair in every respect. The state policy
3 advisory board for elder affairs may assist the county in any
4 aspect upon request. [~~Proceeds earned from this fair are deemed~~
5 ~~to be proceeds earned from casual sales as defined in chapter~~
6 ~~237.~~] The county shall distribute such proceeds to the various
7 senior citizen organizations and individuals who participate in
8 the fair in accordance with appropriate methods of distribution
9 as determined by the county."

10 SECTION 19. Section 356D-129, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "[~~f~~] §356D-129 [~~f~~] Exemptions. [~~a~~] ~~Any compensation~~
13 ~~received by a provider agency for services rendered to homeless~~
14 ~~families or individuals, or in operating or managing a homeless~~
15 ~~facility authorized by this part, is exempt from taxation under~~
16 ~~chapter 237.~~

17 ~~(b)]~~ (a) Any county mayor may exempt, by executive order,
18 donors and provider agencies from real property taxes, water and
19 sewer development fees, rates collected for water supplied to
20 consumers and for use of sewers, and any other county taxes,
21 charges, or fees; provided that any county may enact ordinances
22 to regulate the exemptions granted by this subsection.



1 ~~[(e)]~~ (b) Any provider agency operating or managing a
2 homeless facility, or any other program for the homeless
3 authorized by this part, is exempt, for purposes of those
4 facilities or programs, from any requirements contained in part
5 VIII of chapter 346 and chapters 467 and 521."

6 SECTION 20. Section 421H-4, Hawaii Revised Statutes, is
7 amended by amending subsection (c) to read as follows:

8 "(c) The membership shares and cooperative fees are
9 interests in real property for purposes of~~[-~~

10 ~~(1)~~ ~~Cooperative]~~ cooperative housing corporations under
11 section 216 of the federal Internal Revenue Code of
12 1954, as amended~~[, and~~

13 ~~(2) Exemption from state general excise tax under section~~
14 ~~237-24(16)] ."~~

15 SECTION 21. Act 239, Session Laws of Hawaii 2007, section
16 4, as amended by Act 196, Session Laws of Hawaii 2009, section
17 5, is amended by amending section 4 to read as follows:

18 "SECTION 4. This Act shall take effect on January 1,
19 2008 ~~[, provided that this Act shall be repealed on December 31,~~
20 ~~2010, and section 237-24.3, Hawaii Revised Statutes, and section~~
21 ~~237-24.7, Hawaii Revised Statutes, shall be reenacted in the~~
22 ~~form in which they read on December 31, 2007] ."~~



1 SECTION 22. Act 70, Session Laws of Hawaii 2009, is
2 amended by amending section 4 to read as follows:

3 "SECTION 4. This Act shall take effect on July 1, 2009 and
4 shall be repealed on December 31, 2013; provided that section
5 237-24, Hawaii Revised Statutes, shall be reenacted in the form
6 in which it read on [~~June 30, 2009.~~] July 1, 2010."

7 SECTION 23. Act 141, Session Laws of Hawaii 2009, is
8 amended by amending section 3 to read as follows:

9 "SECTION 3: This Act shall take effect on July 1, 2009;
10 provided that on June 30, 2015, this Act shall be repealed and
11 section 46-15.1, Hawaii Revised Statutes, shall be reenacted in
12 the form in which it read on the day before the [~~approval of~~]
13 effective date of Act _____, Session Laws of Hawaii 2010, but
14 without subsection (b) added by this Act."

15 SECTION 24. Section 201H-36, Hawaii Revised Statutes, is
16 repealed.

17 [~~["§201H-36] Exemption from general excise taxes. (a) In~~
18 ~~accordance with section 237-29, the corporation may approve and~~
19 ~~certify for exemption from general excise taxes any qualified~~
20 ~~person or firm involved with a newly constructed, or moderately~~
21 ~~or substantially rehabilitated project:~~

22 (1) ~~Developed under this part;~~



- 1 ~~(2) Developed under a government assistance program~~
2 ~~approved by the corporation, including but not limited~~
3 ~~to the United States Department of Agriculture 502~~
4 ~~program and Federal Housing Administration 235~~
5 ~~program;~~
- 6 ~~(3) Developed under the sponsorship of a private nonprofit~~
7 ~~organization providing home rehabilitation or new~~
8 ~~homes for qualified families in need of decent, low-~~
9 ~~cost housing; or~~
- 10 ~~(4) Developed by a qualified person or firm to provide~~
11 ~~affordable rental housing where at least fifty per~~
12 ~~cent of the available units are for households with~~
13 ~~incomes at or below eighty per cent of the area median~~
14 ~~family income as determined by the United States~~
15 ~~Department of Housing and Urban Development, of which~~
16 ~~at least twenty per cent of the available units are~~
17 ~~for households with incomes at or below sixty per cent~~
18 ~~of the area median family income as determined by the~~
19 ~~United States Department of Housing and Urban~~
20 ~~Development.~~
- 21 ~~(b) All claims for exemption under this section shall be~~
22 ~~filed with and certified by the corporation and forwarded to the~~



1 ~~department of taxation. Any claim for exemption that is filed~~
2 ~~and approved, shall not be considered a subsidy for the purpose~~
3 ~~of this part.~~

4 ~~(c) For the purposes of this section:~~

5 ~~"Moderate rehabilitation" means rehabilitation to upgrade a~~
6 ~~dwelling unit to a decent, safe, and sanitary condition, or to~~
7 ~~repair or replace major building systems or components in danger~~
8 ~~of failure.~~

9 ~~"Substantial rehabilitation":~~

10 ~~(1) Means the improvement of a property to a decent, safe,~~
11 ~~and sanitary condition that requires more than routine~~
12 ~~or minor repairs or improvements. It may include but~~
13 ~~is not limited to the gutting and extensive~~
14 ~~reconstruction of a dwelling unit, or cosmetic~~
15 ~~improvements coupled with the curing of a substantial~~
16 ~~accumulation of deferred maintenance; and~~

17 ~~(2) Includes renovation, alteration, or remodeling to~~
18 ~~convert or adapt structurally sound property to the~~
19 ~~design and condition required for a specific use, such~~
20 ~~as conversion of a hotel to housing for elders.~~

21 ~~(d) The corporation may establish, revise, charge, and~~
22 ~~collect a reasonable service fee, as necessary, in connection~~



1 ~~with its approvals and certifications under this section. The~~
2 ~~fees shall be deposited into the dwelling unit revolving fund."]~~

3 SECTION 25. Section 237-16.8, Hawaii Revised Statutes, is
4 repealed.

5 ~~["§237-16.8] Exemption of certain convention, conference,~~
6 ~~and trade show fees. In addition to any other applicable~~
7 ~~exemption provided under this chapter, there shall be exempted~~
8 ~~from the measure of taxes imposed by this chapter all of the~~
9 ~~value or gross income derived by a fraternal benefit, religious,~~
10 ~~charitable, scientific, educational, or other nonprofit~~
11 ~~organization under section 501(c) of the Internal Revenue Code~~
12 ~~of 1986, as amended, from fees for convention, conference, or~~
13 ~~trade show exhibit or display spaces, provided that the gross~~
14 ~~proceeds of sales by a vendor through the use of exhibit or~~
15 ~~display space at a conference, convention, or trade show shall~~
16 ~~be subject to the imposition of the general excise tax under~~
17 ~~section 237-13."]~~

18 SECTION 26. Section 237-17, Hawaii Revised Statutes, is
19 repealed.

20 ~~["§237-17 Persons with impaired sight, hearing, or who are~~
21 ~~totally disabled. Anything in section 237-13 to the contrary~~
22 ~~notwithstanding, the privilege tax levied, assessed, and~~



1 ~~collected on account of the business or other activities of~~
2 ~~individuals who are blind, deaf, or totally disabled,~~
3 ~~corporations all of whose outstanding shares are owned by~~
4 ~~individuals who are blind, deaf, or totally disabled, general,~~
5 ~~limited, or limited liability partnerships, all of whose~~
6 ~~partners are blind, deaf, or totally disabled, or limited~~
7 ~~liability companies, all of whose members are blind, deaf, or~~
8 ~~totally disabled, shall not exceed one half of one per cent of~~
9 ~~the proceeds, sales, income, or other receipts subject to tax.~~
10 ~~For the purpose of this chapter "blind", "deaf", or "totally~~
11 ~~disabled" is defined as in section 235-1. The impairment of~~
12 ~~sight or hearing, or the disability, shall be certified to as~~
13 ~~provided in section 235-1."]~~

14 SECTION 27. Section 237-24.5, Hawaii Revised Statutes, is
15 repealed.

16 [~~"§237-24.5 Additional exemptions. (a) In addition to~~
17 ~~the amounts exempt under section 237-24, this chapter shall not~~
18 ~~apply to amounts received by:~~

19 ~~(1) An exchange from:~~

20 ~~(A) Transaction fees charged exchange members by the~~
21 ~~exchange for:~~



- 1 ~~(i) The sale or purchase of securities or~~
- 2 ~~products, or both, bought or sold on an~~
- 3 ~~exchange by exchange members for their own~~
- 4 ~~account or an account for which they have~~
- 5 ~~responsibility as an agent, broker, or~~
- 6 ~~fiduciary;~~
- 7 ~~(ii) Order book executions made for purposes of~~
- 8 ~~effecting transactions; and~~
- 9 ~~(iii) Trade processing performed by an exchange in~~
- 10 ~~matching trades, keypunching, record~~
- 11 ~~keeping, post cashing, and notarization;~~
- 12 ~~(B) Membership dues, fees, charges, assessments, and~~
- 13 ~~finer from individuals or firms, including~~
- 14 ~~charges for firm symbols (member identification),~~
- 15 ~~application processing, registration, initiation,~~
- 16 ~~membership transfers, floor or post privileges,~~
- 17 ~~transaction time extensions, expediting~~
- 18 ~~transactions, crossover trades (trading out of~~
- 19 ~~assigned functions) and rule infractions;~~
- 20 ~~(C) Service fees charged to members including fees~~
- 21 ~~for communications, badges, forms, documents, and~~
- 22 ~~reports;~~



- 1 ~~(D) Listing fees and listing maintenance fees charged~~
2 ~~to companies that wish to be listed and have~~
3 ~~their securities or products traded on the~~
4 ~~exchange; and~~
- 5 ~~(E) Participation in the communication network~~
6 ~~consortium operated collectively by United States~~
7 ~~exchanges or other markets recognized by the~~
8 ~~Securities and Exchange Commission, the~~
9 ~~Commodities Futures Trading Commission, or~~
10 ~~similar regulatory authorities outside the United~~
11 ~~States that provides last sale and quote~~
12 ~~securities information to subscribers or that~~
13 ~~connects such markets or exchanges for purposes~~
14 ~~of data transmission;~~
- 15 ~~(2) Exchange members by reason of executing a securities~~
16 ~~or product transaction on an exchange; provided that~~
17 ~~this exemption shall apply only to amounts received by~~
18 ~~exchange members from brokers or dealers registered~~
19 ~~with the Securities and Exchange Commission, from~~
20 ~~futures commission merchants, brokers, or associates~~
21 ~~registered with the Commodities Futures Trading~~
22 ~~Commission, or from similar individuals or firms~~



1 ~~registered with similar regulatory authorities outside~~
2 ~~the United States; and~~

3 ~~(3) Exchange members as proceeds from the sale of their~~
4 ~~exchange memberships.~~

5 ~~(b) As used in this section:~~

6 ~~"Exchange" means an exchange or board of trade as defined~~
7 ~~in 15 United States Code section 78c(a)(1) or in 7 United States~~
8 ~~Code section 7, respectively, which is subject to regulation by~~
9 ~~the Securities and Exchange Commission or the Commodities~~
10 ~~Futures Trading Commission or an organization subject to similar~~
11 ~~regulation under the laws of a jurisdiction outside the United~~
12 ~~States.~~

13 ~~"Exchange member" means an individual or firm that is~~
14 ~~qualified by an exchange as a member and pays membership dues to~~
15 ~~an exchange in order to trade securities or products on an~~
16 ~~exchange.~~

17 ~~"Securities" means securities as defined in 15 United~~
18 ~~States Code section 78c and "products" means contracts of sale~~
19 ~~of commodities for future delivery, futures contracts, options,~~
20 ~~calls, puts, and similar rights as defined in 7 United States~~
21 ~~Code section 2, which securities or products are permitted to be~~
22 ~~traded on an exchange."]~~



1 SECTION 28. Section 237-24.9, Hawaii Revised Statutes, is
2 repealed.

3 [~~"§237-24.9 Aircraft service and maintenance facility.~~

4 ~~(a) This chapter shall not apply to amounts received from the~~
5 ~~servicing and maintenance of aircraft or from the construction~~
6 ~~of an aircraft service and maintenance facility in the State.~~

7 ~~(b) As used in this section:~~

8 ~~"Aircraft" means any craft or artificial contrivance of~~
9 ~~whatever description engaged in intrastate, interstate, or~~
10 ~~international scheduled commercial use as defined in chapter~~
11 ~~263, that operates with two or more jet engines.~~

12 ~~"Aircraft service and maintenance" means all scheduled and~~
13 ~~unscheduled tasks performed within an aircraft service and~~
14 ~~maintenance facility for the inspection, modification,~~
15 ~~maintenance, and repair of aircraft and related components~~
16 ~~including engines, hydraulic and electrical systems, and all~~
17 ~~other components which are an integral part of an aircraft.~~

18 ~~"Aircraft service and maintenance facility" means a~~
19 ~~facility for aircraft service and maintenance that is not less~~
20 ~~than thirty thousand square feet in area, and which may include~~
21 ~~ancillary space which is integral to the facility, such as parts~~



1 ~~and inventory warehouse space, tool rooms, and related~~
2 ~~administrative and employee space.~~

3 ~~"Construction of an aircraft service and maintenance~~
4 ~~facility" means all design, engineering, labor, and material~~
5 ~~costs associated with the construction of facilities the~~
6 ~~principle purpose of which is the provision of facilities for~~
7 ~~aircraft service and maintenance.~~

8 ~~"Maintenance" means the upkeep of aircraft engines,~~
9 ~~hydraulic and electrical systems, and all other components which~~
10 ~~are an integral part of an aircraft, but does not include~~
11 ~~refueling, janitorial services or cleaning, restocking of~~
12 ~~aircraft and passenger supplies, or loading or unloading of~~
13 ~~cargo and passenger baggage."]~~

14 SECTION 29. Section 237-26, Hawaii Revised Statutes, is
15 repealed.

16 [~~"§237-26 Exemption of certain scientific contracts with~~
17 ~~the United States. (a) Any provision of law to the contrary~~
18 ~~notwithstanding, there shall be exempted from the measure of the~~
19 ~~taxes imposed by chapter 237, all of the gross proceeds derived~~
20 ~~by a contractor or subcontractor arising from the performance of~~
21 ~~any scientific work as defined in subsection (b), under a~~
22 ~~contract or subcontract entered into with the United States~~



1 ~~(including any agency or instrumentality thereof but not~~
2 ~~including national banks), and all of the gross proceeds derived~~
3 ~~from the sale of tangible personal property by a seller of such~~
4 ~~tangible personal property to such contractor or subcontractor,~~
5 ~~provided the exemption herein shall apply only to such tangible~~
6 ~~personal property which is to be affixed to, or to become a~~
7 ~~physical, integral part of the scientific facility, or which is~~
8 ~~to be entirely consumed during the performance of the service~~
9 ~~required by the contract or subcontract.~~

10 ~~(b) For purposes of this section, "scientific work" is~~
11 ~~work involving primarily the research and development for, or~~
12 ~~the design, manufacture, instrumentation, installation,~~
13 ~~maintenance, or operation of aerospace, agricultural,~~
14 ~~astronomical, biomedical, electronic, geophysical,~~
15 ~~oceanographic, test range, or other scientific facilities.~~
16 ~~Maintenance or operation, for purposes of this section, shall~~
17 ~~include housekeeping functions in providing certain~~
18 ~~nonscientific logistic and support services."]~~

19 SECTION 30. Section 237-27.5, Hawaii Revised Statutes, is
20 repealed.

21 [~~§237-27.5 Air pollution control facility. (a) As used~~
22 ~~in this section, "air pollution control facility" shall mean a~~



1 ~~new identifiable treatment facility, equipment, device, or the~~
2 ~~like, which is used to abate or control atmospheric pollution or~~
3 ~~contamination by removing, reducing, or rendering less noxious~~
4 ~~air contaminants emitted into the atmosphere from a point~~
5 ~~immediately preceding the point of such removal, reduction, or~~
6 ~~rendering to the point of discharge of air, meeting emission~~
7 ~~standards as established by the department of health, excluding~~
8 ~~air conditioner, fan, or other similar facility for the comfort~~
9 ~~of persons at a place of business.~~

10 ~~(b) Any provision of law to the contrary notwithstanding,~~
11 ~~and upon receipt of the certification required by subsection~~
12 ~~(c), there shall be exempted from, and excluded from the measure~~
13 ~~of, the taxes imposed by this chapter, all of the gross proceeds~~
14 ~~arising from, and all of the amount of tangible personal~~
15 ~~property furnished in conjunction with, the construction,~~
16 ~~reconstruction, erection, operation, use, or maintenance of an~~
17 ~~air pollution control facility.~~

18 ~~(c) Application for the exemption provided by this section~~
19 ~~shall first be made with the director of health who, if~~
20 ~~satisfied that the facility meets the pollution emission~~
21 ~~criteria established by the department of health, shall certify~~
22 ~~to that fact. A new certificate shall be obtained from the~~



1 ~~director of health and filed with the director of taxation every~~
2 ~~five years certifying that the pollution control facility~~
3 ~~complies with the pollutant emission criteria established by the~~
4 ~~department of health."]~~

5 SECTION 31. Section 237-28.1, Hawaii Revised Statutes, is
6 repealed.

7 [~~§237-28.1 Exemption of certain shipbuilding and ship~~
8 ~~repair business. There shall be exempted from, and excluded~~
9 ~~from the measure of, the taxes imposed by this chapter all of~~
10 ~~the gross proceeds arising from shipbuilding and ship repairs~~
11 ~~rendered to surface vessels federally owned or engaged in~~
12 ~~interstate or international trade."]~~

13 SECTION 32. Section 237-29, Hawaii Revised Statutes, is
14 repealed.

15 [~~§237-29 Exemptions for certified or approved housing~~
16 ~~projects. (a) All gross income received by any qualified~~
17 ~~person or firm for the planning, design, financing,~~
18 ~~construction, sale, or lease in the State of a housing project~~
19 ~~that has been certified or approved under section 201H-36 shall~~
20 ~~be exempt from general excise taxes.~~

21 ~~(b) All gross income received by a nonprofit or a limited~~
22 ~~distribution mortgagor for a low and moderate income housing~~



1 ~~project certified or approved under section 201H-36 shall be~~
2 ~~exempt from general excise taxes.~~

3 ~~(c) The director of taxation and the Hawaii housing~~
4 ~~finance and development corporation shall adopt rules pursuant~~
5 ~~to chapter 91 for the purpose of this section, including any~~
6 ~~time limitation for the exemptions."]~~

7 SECTION 33. Section 237-29.5, Hawaii Revised Statutes, is
8 repealed.

9 ~~["§237-29.5 Exemption for sales of tangible personal~~
10 ~~property shipped out of the State. (a) There shall be exempted~~
11 ~~from, and excluded from the measure of, the taxes imposed by~~
12 ~~this chapter all of the value or gross proceeds arising from the~~
13 ~~manufacture, production, or sale of tangible personal property:~~

14 ~~(1) Shipped by the manufacturer, producer, or seller to a~~
15 ~~point outside the State where the property is resold~~
16 ~~or otherwise consumed or used outside the State; or~~

17 ~~(2) The sale of which is exempt under section 237-24.3(2).~~

18 ~~(b) For the purposes of this section, the manufacturer,~~
19 ~~producer, or seller shall take from the purchaser, a~~
20 ~~certificate, in such form as the department shall prescribe,~~
21 ~~certifying that the tangible personal property purchased is to~~
22 ~~be resold or otherwise consumed or used outside the State. Any~~



1 ~~purchaser who shall furnish such a certificate shall be~~
2 ~~obligated to pay to the seller, upon demand, if the property~~
3 ~~purchased is not resold or otherwise consumed or used outside~~
4 ~~the State, the amount of the additional tax which by reason~~
5 ~~thereof is imposed upon the seller."]~~

6 SECTION 34. Section 237-29.53, Hawaii Revised Statutes, is
7 repealed.

8 [~~§237-29.53 Exemption for contracting or services~~
9 ~~exported out of State. (a) There shall be exempted from, and~~
10 ~~excluded from the measure of, taxes imposed by this chapter, all~~
11 ~~of the value or gross income derived from contracting (as~~
12 ~~defined under section 237-6) or services performed by a person~~
13 ~~engaged in a service business or calling in the State for use~~
14 ~~outside the State where:~~

15 (1) ~~The contracting or services are for resale,~~
16 ~~consumption, or use outside the State; and~~

17 (2) ~~The value or gross income derived from the contracting~~
18 ~~or services performed would otherwise be subject to~~
19 ~~the tax imposed under this chapter on contracting or~~
20 ~~services at the highest rate.~~

21 ~~For the purposes of this subsection, the seller or person~~
22 ~~rendering the contracting or services exported and resold,~~



1 ~~consumed, or used outside the State shall take from the~~
2 ~~customer, a certificate or an equivalent, in a form the~~
3 ~~department prescribes, certifying that the contracting or~~
4 ~~service purchased is to be otherwise resold, consumed, or used~~
5 ~~outside the State. Any customer who furnishes this certificate~~
6 ~~or an equivalent shall be obligated to pay the seller or person~~
7 ~~rendering the contracting or services, upon demand, if the~~
8 ~~contracting or service purchased is not resold or otherwise~~
9 ~~consumed or used outside the State, the amount of the additional~~
10 ~~tax which by reason thereof is imposed upon the seller or person~~
11 ~~rendering the contracting or service.~~

12 ~~(b) There shall be exempted from, and excluded from the~~
13 ~~measure of, taxes imposed by this chapter, all of the value or~~
14 ~~gross income derived from contracting (as defined in section~~
15 ~~237-6) or services performed by a person engaged in a service~~
16 ~~business or calling in the State for a purchaser who resells all~~
17 ~~of the contracting or services for resale, consumption, or use~~
18 ~~outside the State pursuant to subsection (a). For the purposes~~
19 ~~of this subsection, the seller or person rendering the~~
20 ~~contracting or services for a purchaser who resells the~~
21 ~~contracting or services for resale, consumption, or use outside~~
22 ~~the State shall take from the purchaser, a certificate or an~~



1 ~~equivalent, in a form that the department prescribes, certifying~~
2 ~~that the contracting or services purchased is to be for resale,~~
3 ~~consumption, or use outside the State pursuant to subsection~~
4 ~~(a). Any purchaser who furnishes this certificate or an~~
5 ~~equivalent shall be obligated to pay the seller or person~~
6 ~~rendering the contracting or services, upon demand, if the~~
7 ~~contracting or services purchased is not resold in its entirety~~
8 ~~to a customer of the purchaser who has complied with subsection~~
9 ~~(a), the amount of the additional tax which by reason thereof is~~
10 ~~imposed upon the seller or the person rendering the contracting~~
11 ~~or service."]~~

12 SECTION 35. Section 237-29.8, Hawaii Revised Statutes, is
13 repealed.

14 [~~["§237-29.8] Call centers; exemption; engaging in~~
15 ~~business; definitions, (a) This chapter shall not apply to~~
16 ~~amounts received from a person operating a call center by a~~
17 ~~person engaged in business as a telecommunications common~~
18 ~~carrier for interstate or foreign telecommunications services,~~
19 ~~including toll free telecommunications, telecommunications~~
20 ~~capabilities for electronic mail, voice, and data~~
21 ~~telecommunications, computerized telephone support, facsimile,~~



1 ~~wide area telecommunications services, or computer to computer~~
2 ~~communication.~~

3 ~~(b) The establishment of a call center in this State by~~
4 ~~any person shall not be used by itself by the State to find that~~
5 ~~any other part of the person's business is engaged in business~~
6 ~~in this State for the purposes of this chapter. Gross income or~~
7 ~~gross proceeds received by a call center for customer service~~
8 ~~and support shall be exempt from the measure of taxes imposed by~~
9 ~~this chapter.~~

10 ~~(c) The department, by rule, may provide that the person~~
11 ~~providing the telecommunications service may take from the~~
12 ~~person operating a call center a certificate, in a form that the~~
13 ~~department shall prescribe, certifying that the amounts received~~
14 ~~for telecommunications services are for operating a call center.~~
15 ~~If the certificate is required by rule of the department, the~~
16 ~~absence of the certificate in itself shall give rise to the~~
17 ~~presumption that the amounts received from the sale of~~
18 ~~telecommunications services are not for operating a call center.~~

19 ~~(d) As used in this section:~~

20 ~~"Call center" means a physical or electronic operation that~~
21 ~~focuses on providing customer service and support for computer~~
22 ~~hardware and software companies, manufacturing companies,~~



1 ~~software service organizations, and telecommunications support~~
2 ~~services, within an organization in which a managed group of~~
3 ~~individuals spend most of their time engaging in business by~~
4 ~~telephone, usually working in a computer automated environment,~~
5 ~~provided that the operation shall not include telemarketing or~~
6 ~~sales.~~

7 ~~"Customer service and support" means product support,~~
8 ~~technical assistance, sales support, phone or computer based~~
9 ~~configuration assistance, software upgrade help lines, and~~
10 ~~traditional help desk services.~~

11 ~~"Telecommunications common carrier" means any person that~~
12 ~~owns, operates, manages, or controls any facility used to~~
13 ~~furnish telecommunications services for profit to the public, or~~
14 ~~to classes of users as to be effectively available to the~~
15 ~~public, engaged in the provision of services, such as voice,~~
16 ~~data, image, graphics, and video services, that make use of all~~
17 ~~or part of their transmission facilities, switches, broadcast~~
18 ~~equipment, signalling, or control devices.~~

19 ~~"Telecommunications service" or "telecommunications" means~~
20 ~~the offering of transmission between or among points specified~~
21 ~~by a user, of information of the user's choosing, including~~
22 ~~voice, data, image, graphics, and video without change in the~~



1 ~~form or content of the information, as sent and received, by~~
2 ~~means of electromagnetic transmission, or other similarly~~
3 ~~capable means of transmission, with or without benefit of any~~
4 ~~closed transmission medium.~~

5 ~~(c) This section shall not apply to gross proceeds or~~
6 ~~gross income received after June 30, 2010."]~~

7 SECTION 36. Section 239-6.5, Hawaii Revised Statutes, is
8 repealed.

9 ~~["§239-6.5] Tax credit for lifeline telephone service~~
10 ~~subsidy. A telephone public utility subject to this chapter~~
11 ~~that has been authorized to establish lifeline telephone service~~
12 ~~rates by the public utilities commission shall be allowed a tax~~
13 ~~credit, equal to the lifeline telephone service costs incurred~~
14 ~~by the utility, to be applied against the utility's tax imposed~~
15 ~~by this chapter. The amount of this credit shall be determined~~
16 ~~and certified annually by the public utilities commission. The~~
17 ~~tax liability for a telephone public utility claiming the credit~~
18 ~~shall be calculated in the manner prescribed in section 239-5,~~
19 ~~provided that the amount of tax due from the utility shall be~~
20 ~~net of the lifeline service credit."]~~

21 SECTION 37. Section 239-11, Hawaii Revised Statutes, is
22 repealed.



1 ~~["§239-11 Exemption of certain contract carriers. (a)~~

2 ~~There shall be exempted and excluded from the measure of the tax~~
3 ~~imposed by this chapter the gross income from any contract~~
4 ~~carrier by water which is engaged primarily in the business of~~
5 ~~transporting persons between harbors or wharves of the various~~
6 ~~counties for interisland cruises within the State; provided that~~
7 ~~such exemption shall be applicable for the period July 1, 1981,~~
8 ~~to June 30, 1996.~~

9 ~~(b) Any contract carrier and related partners, if any,~~
10 ~~claiming an exemption under subsection (a) shall submit an~~
11 ~~annual financial report, prepared by an independent certified~~
12 ~~public accountant, to the department of taxation and to the~~
13 ~~department of business, economic development, and tourism on or~~
14 ~~before the fifteenth day of the fifth month following the close~~
15 ~~of each taxable year for which the exemption is being claimed;~~
16 ~~provided that in addition to reports in 1992, 1993, 1994, and~~
17 ~~1995, an annual financial report shall be due on or before March~~
18 ~~1, 1996. The annual financial report, prepared in a form~~
19 ~~approved by the director of taxation, shall include but not be~~
20 ~~limited to:~~

21 ~~(1) A balance sheet of assets and liabilities;~~

22 ~~(2) A statement of income and expenses;~~



- 1 ~~(3) Supplementary information to financial statements;~~
- 2 ~~(4) A summary of financial condition; and~~
- 3 ~~(5) An apportionment of income and expenses of the~~
- 4 ~~contract carrier and related partners, if any, within~~
- 5 ~~and without the State.~~

6 ~~Within thirty days of the receipt of the financial report~~
7 ~~from the contract carrier and related partners, if any, the~~
8 ~~director of taxation shall submit relevant financial data to the~~
9 ~~legislature. Failure to comply with this subsection by the~~
10 ~~contract carrier or related partners, if any, as determined by~~
11 ~~the director of taxation, shall constitute a waiver of the right~~
12 ~~to claim the exemption."]~~

13 SECTION 38. Section 239-12, Hawaii Revised Statutes, is
14 repealed.

15 ~~["§239-12] Call centers; exemption; engaging in business;~~
16 ~~definitions. (a) This chapter shall not apply to amounts~~
17 ~~received from a person operating a call center by a person~~
18 ~~engaged in business as a telecommunications common carrier for~~
19 ~~interstate or foreign telecommunications services, including~~
20 ~~toll-free telecommunications, telecommunications capabilities~~
21 ~~for electronic mail, voice and data telecommunications,~~
22 ~~computerized telephone support, facsimile, wide area~~



1 ~~telecommunications services, or computer to computer~~
2 ~~communication.~~

3 ~~(b) The department, by rule, may provide that the person~~
4 ~~providing the telecommunications service may take from the~~
5 ~~person operating a call center a certificate, in a form that the~~
6 ~~department shall prescribe, certifying that the amounts received~~
7 ~~for telecommunications services are for operating a call center.~~
8 ~~If the certificate is required by rule of the department, the~~
9 ~~absence of the certificate in itself shall give rise to the~~
10 ~~presumption that the amounts received from the sale of~~
11 ~~telecommunications services are not for operating a call center.~~

12 ~~(c) As used in this section:~~

13 ~~"Call center" means a physical or electronic operation that~~
14 ~~focuses on providing customer service and support for computer~~
15 ~~hardware and software companies, manufacturing companies,~~
16 ~~software service organizations, and telecommunications support~~
17 ~~services, within an organization in which a managed group of~~
18 ~~individuals spend most of their time engaging in business by~~
19 ~~telephone, usually working in a computer automated environment,~~
20 ~~provided that the operation shall not include telemarketing or~~
21 ~~sales.~~



1 ~~"Customer service and support" means product support,~~
 2 ~~technical assistance, sales support, phone or computer-based~~
 3 ~~configuration assistance, software upgrade help lines, and~~
 4 ~~traditional help desk services.~~

5 ~~(d) This section shall not apply to income received after~~
 6 ~~June 30, 2010."]~~

7 SECTION 39. Statutory material to be repealed is bracketed
 8 and stricken. New statutory material is underscored.

9 SECTION 40. This Act shall take effect on July 1, 2010 and
 10 except for section 21, this Act shall be repealed on June 30,
 11 2015; provided that sections 46-15.1, 209E-11, 235-110.7, 237-1,
 12 237-4, 237-21, 237-22, 237-23, 237-24, 237-27, 237-29.55, 238-1,
 13 238-3, 246-34.5, 349-10, 356D-129, 421H-4, Hawaii Revised
 14 Statutes, amended by this Act shall be reenacted in the form in
 15 which they read on the day prior to the effective day of this
 16 Act.

17

INTRODUCED BY: Calvin K. Soy
 JAN 27 2010



Report Title:

General Excise Tax, Use Tax, Public Service Company Tax; Tax Exemption Repeal

Description:

Repeals certain exemptions under the general excise, use, and public service company taxes. The Act takes effect on July 1, 2010 and sunsets on June 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.

