
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 address taxation.

2 More specifically, this Act:

3 (1) Repeals certain general excise and use tax exemptions
4 and exclusions; and

5 (2) Reduces the tax rate imposed on sales to the final
6 consumer from four per cent to three and one-half per
7 cent; and

8 (3) Subjects to the general excise tax certain sales of
9 real property and sales of securities, commodity
10 futures, and bonds.

11 Among the exemptions repealed is that for nonprofit
12 organizations other than religious organizations. The exemption
13 for nonprofit religious organizations is retained.

14 This Act also makes conforming amendments to other
15 statutes, including appropriately reducing the public service
16 company tax rate and repealing certain public service company
17 tax exemptions.



1 SECTION 2. Chapter 237, Hawaii Revised Statutes, is
2 amended by adding two new sections to be appropriately
3 designated and to read as follows:

4 "§237-A Tax on certain real property sales. (a) Except
5 as provided under subsection (b), there is hereby levied, and
6 shall be assessed and collected annually, a privilege tax
7 against a sole proprietorship, partnership, corporation, or
8 limited liability entity that, as a business or part of a
9 business, sells real property owned in fee simple by the sole
10 proprietorship, partnership, corporation, or limited liability
11 entity to another person. The tax shall be equal to 3.5 per
12 cent of the gross proceeds received from the sale of the real
13 property less a deduction for any commission paid from the gross
14 proceeds by the seller to a sales representative that is taxable
15 under section 237-13(5).

16 (b) Gross proceeds from the casual sale of real property
17 shall be exempt from the tax under subsection (a). The
18 exemption shall apply whether the casual sale is made by a
19 person licensed or unlicensed under this chapter.

20 §237-B Tax on certain securities, commodity futures, and
21 bond sales. (a) Except as provided under subsection (b), there
22 is hereby levied, and shall be assessed and collected annually,



1 a privilege tax against a sole proprietorship, partnership,
2 corporation, or limited liability entity that, as a business or
3 part of a business, sells securities, commodity futures, or
4 bonds owned or borrowed by the sole proprietorship, partnership,
5 corporation, or limited liability entity to another person. The
6 tax shall be equal to 3.5 per cent of the gross income received
7 from the sale of the securities, commodity futures, or bonds
8 less a deduction for any commission paid from the gross income
9 by the seller to a sales representative that is taxable under
10 section 237-13(5).

11 (b) Gross income from the casual sale of securities,
12 commodity futures, or bonds shall be exempt from the tax under
13 subsection (a). The exemption shall apply whether the casual
14 sale is made by a person licensed or unlicensed under this
15 chapter."

16 SECTION 3. Section 46-15.1, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

18 "(a) Any law to the contrary notwithstanding, any county
19 shall have and may exercise the same powers, subject to
20 applicable limitations, as those granted the Hawaii housing
21 finance and development corporation pursuant to chapter 201H
22 insofar as those powers may be reasonably construed to be



1 exercisable by a county for the purpose of developing,
2 constructing, and providing low- and moderate-income housing;
3 provided that no county shall be empowered to cause the State to
4 issue general obligation bonds to finance a project pursuant to
5 this section; [~~provided further that county projects shall be~~
6 ~~granted an exemption from general excise or receipts taxes in~~
7 ~~the same manner as projects of the Hawaii housing finance and~~
8 ~~development corporation pursuant to section 201H-36,]~~ and
9 provided further that section 201H-16 shall not apply to this
10 section unless federal guidelines specifically provide local
11 governments with that authorization and the authorization does
12 not conflict with any state laws. The powers shall include the
13 power, subject to applicable limitations, to:

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



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



1 otherwise to lend the borrower sufficient funds at
2 reasonable rates in the purchase of residential
3 property; and

4 (9) Sell or lease completed dwelling units.

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

8 SECTION 4. Section 46-16.8, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "[+] §46-16.8 [+] **County surcharge on state tax.** (a) Each
11 county may establish a surcharge on state tax at the rates
12 enumerated in sections 237-8.6 and 238-2.6. A county electing
13 to establish this surcharge shall do so by ordinance; provided
14 that:

15 (1) No ordinance shall be adopted until the county has
16 conducted a public hearing on the proposed ordinance;

17 (2) The ordinance shall be adopted prior to December 31,
18 2005; and

19 (3) No county surcharge on state tax that may be
20 authorized under this section shall be levied prior to
21 January 1, 2007.



1 Notice of the public hearing required under paragraph (1) shall
2 be published in a newspaper of general circulation within the
3 county at least twice within a period of thirty days immediately
4 preceding the date of the hearing.

5 (b) A county electing to exercise the authority granted
6 under this section shall notify the director of taxation within
7 ten days after the county has adopted a surcharge on state tax
8 ordinance and, beginning no earlier than January 1, 2007, the
9 director of taxation shall levy, assess, collect, and otherwise
10 administer the county surcharge on state tax.

11 (c) Each county with a population greater than five
12 hundred thousand that adopts a county surcharge on state tax
13 ordinance pursuant to subsection (a) shall use the surcharges
14 received from the State for:

- 15 (1) Operating or capital costs of a locally preferred
16 alternative for a mass transit project; and
- 17 (2) Expenses in complying with the Americans with
18 Disabilities Act of 1990 with respect to paragraph
19 (1).

20 The county surcharge on state tax shall not be used to build or
21 repair public roads or highways, bicycle paths, or support



1 public transportation systems already in existence prior to July
2 12, 2005.

3 (d) Each county with a population equal to or less than
4 five hundred thousand that adopts a county surcharge on state
5 tax ordinance pursuant to subsection (a) shall use the
6 surcharges received from the State for:

7 (1) Operating or capital costs of public transportation
8 within each county for public transportation systems,
9 including public roadways or highways, public buses,
10 trains, ferries, pedestrian paths or sidewalks, or
11 bicycle paths; and

12 (2) Expenses in complying with the Americans with
13 Disabilities Act of 1990 with respect to paragraph
14 (1).

15 (e) A county that has adopted a county surcharge on state
16 tax ordinance in accordance with subsection (a) may amend the
17 ordinance to reduce the rate below that in effect on June 30,
18 2009. If a county chooses to amend the ordinance, the ordinance
19 shall be adopted before October 1, 2009, and the reduced
20 surcharge rate shall be effective on January 1, 2010. A county
21 that fails to adopt an amendatory ordinance by the October 1
22 deadline shall not have any further opportunity to do so.



1 A county that adopts an amendatory ordinance in accordance
2 with this subsection shall notify the director of taxation of
3 the adoption within ten days of that action. Beginning on
4 January 1, 2010, the director of taxation shall levy, assess,
5 collect, and otherwise administer the reduced county surcharge
6 on state tax.

7 [~~e~~] (f) As used in this section, "capital costs" means
8 nonrecurring costs required to construct a transit facility or
9 system, including debt service, costs of land acquisition and
10 development, acquiring of rights-of-way, planning, design, and
11 construction, and including equipping and furnishing the
12 facility or system."

13 SECTION 5. Section 209E-11, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§209E-11 State general excise exemptions.** (a) The
16 department shall certify annually to the department of taxation
17 that any qualified business operating in an enterprise zone
18 before July 1, 2009, is exempt from the payment of general
19 excise taxes on the gross proceeds from the manufacture of
20 tangible personal property, the wholesale sale of tangible
21 personal property, the engaging in a service business by a
22 qualified business, or the engaging in research, development,



1 sale, or production of all types of genetically-engineered
2 medical, agricultural, or maritime biotechnology products;
3 provided that agricultural businesses other than those engaged
4 in the production of genetically-engineered agricultural
5 products shall not be exempt from the payment of general excise
6 taxes on the gross proceeds of agricultural retail sales. The
7 gross proceeds received by a contractor licensed under chapter
8 444 shall be exempt from the general excise tax for construction
9 within an enterprise zone performed before July 1, 2009, for a
10 qualified business operating within an enterprise zone[-] before
11 July 1, 2009. The exemption of this subsection for a qualified
12 business, not a contractor, shall extend for a period not to
13 exceed seven consecutive years; provided that if a force majeure
14 event occurs, then the period of time shall be tolled until the
15 force majeure event ceases.

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

18 (1) A qualified business that begins operation as such in
19 an enterprise zone after June 30, 2009;

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



1 (3) A contractor who performs work after June 30, 2009 for
2 any qualified business."

3 SECTION 6. Section 235-110.7, Hawaii Revised Statutes, is
4 amended as follows:

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

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

11 The amount of the tax credit shall be determined by the
12 application of the following rates against the cost of the
13 eligible depreciable tangible personal property used by the
14 taxpayer in a trade or business and placed in service within
15 Hawaii after December 31, 1987. For calendar years beginning
16 after: December 31, 1987, the applicable rate shall be three
17 per cent; December 31, 1988, [~~and thereafter,~~] the applicable
18 rate shall be four per cent[-], and December 31, 2009, the
19 applicable rate shall be three and one-half per cent. For
20 taxpayers with fiscal taxable years, the applicable rate shall
21 be the rate for the calendar year in which the eligible



1 depreciable tangible personal property used in the trade or
2 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 2. By amending subsection (e) to read:

21 "(e) As used in this section, the definition of section 38
22 property (with respect to investment in depreciable tangible



1 personal property) as defined by section 48(a)(1)(A), (a)(1)(B),
 2 (a)(3), (a)(4), (a)(7), (a)(8), (a)(10)(A), (b), (c), (f), (l),
 3 (m), and (s) of the Internal Revenue Code of 1954, as amended as
 4 of December 31, 1984, is operative for the purposes of this
 5 section only.

6 As used in this section:

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

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

18 "Placed in service" means the earliest of the following
 19 taxable years:

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

21 (A) Taxpayer's depreciation practice, the period for
 22 depreciation; or



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

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

7 "Purchase" means an acquisition of property.

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

17 SECTION 7. Section 237-1, Hawaii Revised Statutes, is
 18 amended as follows:

19 1. By amending the definition of "casual sale" to read:

20 "Casual sale" means an occasional or isolated sale or
 21 transaction involving:



- 1 (1) Tangible personal property, real property, securities,
2 commodity futures, or bonds by a person who is not
3 required to be licensed under this chapter, or
4 (2) Tangible personal property, real property, securities,
5 commodity futures, or bonds which ~~is~~ are not
6 ordinarily sold in the business of a person who is
7 regularly engaged in business."

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

10 "Person" or "company" includes every individual,
11 partnership, society, unincorporated association, joint
12 adventure, group, hui, joint stock company, corporation,
13 trustee, personal representative, trust estate, decedent's
14 estate, trust, trustee in bankruptcy, or other entity, whether
15 such persons are doing business for themselves or in a fiduciary
16 capacity, ~~and~~ whether the individuals are residents or
17 nonresidents of the State, ~~and~~ whether the corporation or
18 other association is created or organized under the laws of the
19 State or of another jurisdiction~~[-]~~, whether the entity is
20 organized or recognized as a for-profit or nonprofit entity, and
21 whether or not the individual or entity is taxable under state
22 or federal income tax law. Any person who has in the person's



1 possession, for sale in the State, the property of a nonresident
2 owner, other than as an employee of such owner, shall be deemed
3 the seller of the property, when sold."

4 3. By amending the definition of "representative" to read:

5 "Representative" means any salesperson, commission agent,
6 manufacturer's representative, broker or other person who is
7 authorized or employed by an unlicensed or licensed seller to
8 assist such seller in selling tangible personal or real property
9 [~~for use~~], securities, commodity futures, or bonds in the State,
10 by procuring orders for such sales or otherwise, and who carries
11 on such activities in the State, it being immaterial whether
12 such activities are regular or intermittent; but the term
13 "representative" does not include a manufacturer's
14 representative whose functions are wholly promotional and to act
15 as liaison between an unlicensed seller and a seller or sellers,
16 and which do not include the procuring, soliciting or accepting
17 of orders for property or the making of deliveries of property,
18 or the collecting of payment for deliveries of property, or the
19 keeping of books of account concerning property orders,
20 deliveries or collections transpiring between an unlicensed
21 seller and a seller or sellers. Any unlicensed seller who in



1 person carries on any such activity in the State shall also be
2 classed as a representative."

3 4. By repealing the definition of "prepaid legal service
4 plan".

5 [~~"Prepaid legal service plan" ("Plan") means a group legal
6 service plan in which the cost of the services are prepaid by
7 the group member or by some other person or organization in the
8 member's behalf. A group legal service plan is a plan by which
9 legal services are rendered to individual members of a group
10 identifiable in terms of some common interest. A plan shall
11 provide:~~

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

15 (B) ~~For the payment of equal amounts for the cost of
16 services rendered without regard to the identity of
17 the attorney or attorneys selected by the plan member
18 or members. No plan shall otherwise discriminate on
19 the basis of such selection."]~~

20 SECTION 8. Section 237-3, Hawaii Revised Statutes, is
21 amended by amending subsections (a) and (b) to read as follows:



1 "(a) "Gross income" means the gross receipts, cash or
2 accrued, of the taxpayer received as compensation for personal
3 services and the gross receipts of the taxpayer derived from
4 trade, business, commerce, or sales and the value proceeding or
5 accruing from the sale of tangible personal property, or
6 service, or both, and all receipts, actual or accrued as
7 hereinafter provided, by reason of the investment of the capital
8 of the business engaged in, including interest, discount,
9 rentals, royalties, fees, or other emoluments however designated
10 and without any deductions on account of the cost of property
11 sold, the cost of materials used, labor cost, taxes, royalties,
12 interest, or discount paid or any other expenses whatsoever.

13 "Gross income" also includes the gross receipts from the sale of
14 the following: "securities" as defined in 15 United States Code
15 section 78c or similar laws of jurisdictions outside the United
16 States; "commodity futures" meaning contracts for the sale of a
17 commodity for future delivery and other agreements, options, and
18 rights as defined in 7 United States Code section 2 that are
19 permitted to be traded on a board of trade designated by the
20 Commodity Futures Trading Commission under the Commodity
21 Exchange Act; and "bonds", meaning evidences of indebtedness, no
22 matter the nomenclature, of private or public parties.



1 Every taxpayer shall be presumed to be dealing on a cash
2 basis unless the taxpayer proves to the satisfaction of the
3 department of taxation that the taxpayer is dealing on an
4 accrual basis and the taxpayer's books are so kept, or unless
5 the taxpayer employs or is required to employ the accrual basis
6 for the purposes of the tax imposed by chapter 235 for any
7 taxable year in which event the taxpayer shall report the
8 taxpayer's gross income for the purposes of this chapter on the
9 accrual basis for the same period.

10 "Gross proceeds of sale" means the value actually
11 proceeding from the sale of tangible personal property or real
12 property without any deduction on account of the cost of
13 property sold or expenses of any kind.

14 (b) The words "gross income" and "gross proceeds of sales"
15 shall not be construed to include: [~~gross receipts from the~~
16 ~~sale of securities as defined in 15 United States Code section~~
17 ~~78e or similar laws of jurisdictions outside the United States,~~
18 ~~contracts for the sale of a commodity for future delivery and~~
19 ~~other agreements, options, and rights as defined in 7 United~~
20 ~~States Code section 2 that are permitted to be traded on a board~~
21 ~~of trade designated by the Commodities Futures Trading~~
22 ~~Commission under the Commodity Exchange Act, or evidence of~~



1 ~~indebtedness or, except as otherwise provided, from the sale of~~
2 ~~land in fee simple, improved or unimproved,]~~ dividends as
3 defined by chapter 235; cash discounts allowed and taken on
4 sales; the proceeds of sale of goods, wares, or merchandise
5 returned by customers when the sale price is refunded either in
6 cash or by credit; [~~or the sale price of any article accepted as~~
7 ~~part payment on any new article sold, if the full sale price of~~
8 ~~the new article is included in the "gross income" or "gross~~
9 ~~proceeds of sales",]~~ gross receipts from the sale or transfer of
10 materials or supplies, interest on loans, or the provision of
11 engineering, construction, maintenance, or managerial services
12 by one "member" of an "affiliated public service company group"
13 to another "member" of the same group as such terms are defined
14 in section 239-2. Accounts found to be worthless and actually
15 charged off for income tax purposes may be deducted, at
16 corresponding periods, from gross proceeds of sale, or gross
17 income, within this chapter, so far as they reflect taxable
18 sales made, or gross income earned, after July 1, 1935, but
19 shall be added to gross proceeds of sale or gross income when
20 and if afterwards collected."

21 SECTION 9. Section 237-4, Hawaii Revised Statutes, is
22 amended by amending subsection (a) to read as follows:



1 "(a) "Wholesaler" or "jobber" applies only to a person
2 making sales at wholesale. Only the following are sales at
3 wholesale:

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

6 (2) Sales to a licensed manufacturer of materials or
7 commodities that are to be incorporated by the
8 manufacturer into a finished or saleable product
9 (including the container or package in which the
10 product is contained) during the course of its
11 preservation, manufacture, or processing, including
12 preparation for market, and that will remain in such
13 finished or saleable product in such form as to be
14 perceptible to the senses, which finished or saleable
15 product is to be sold and not otherwise used by the
16 manufacturer;

17 (3) Sales to a licensed producer or cooperative
18 association of materials or commodities that are to be
19 incorporated by the producer or by the cooperative
20 association into a finished or saleable product that
21 is to be sold and not otherwise used by the producer
22 or cooperative association, including specifically



1 materials or commodities expended as essential to the
2 planting, growth, nurturing, and production of
3 commodities that are sold by the producer or by the
4 cooperative association;

5 (4) Sales to a licensed contractor, of materials or
6 commodities that are to be incorporated by the
7 contractor into the finished work or project required
8 by the contract and that will remain in such finished
9 work or project in such form as to be perceptible to
10 the senses;

11 (5) Sales to a licensed producer, or to a cooperative
12 association described in section [~~237-23(a)-(7)~~] 237-
13 24(5)(E) for sale to a licensed producer, or to a
14 licensed person operating a feed lot, of poultry or
15 animal feed, hatching eggs, semen, replacement stock,
16 breeding services for the purpose of raising or
17 producing animal or poultry products for disposition
18 as described in section 237-5 or for incorporation
19 into a manufactured product as described in paragraph
20 (2) or for the purpose of breeding, hatching, milking,
21 or egg laying other than for the customer's own
22 consumption of the meat, poultry, eggs, or milk so



1 produced; provided that in the case of a feed lot
2 operator, only the segregated cost of the feed
3 furnished by the feed lot operator as part of the feed
4 lot operator's service to a licensed producer of
5 poultry or animals to be butchered or to a cooperative
6 association described in section [~~237-23(a)(7)~~] 237-
7 24(5)(E) of such licensed producers shall be deemed to
8 be a sale at wholesale; and provided further that any
9 amount derived from the furnishing of feed lot
10 services, other than the segregated cost of feed,
11 shall be deemed taxable at the service business rate.
12 This paragraph shall not apply to the sale of feed for
13 poultry or animals to be used for hauling,
14 transportation, or sports purposes;

15 (6) Sales to a licensed producer, or to a cooperative
16 association described in section [~~237-23(a)(7)~~] 237-
17 24(5)(E) for sale to the producer, of seed or
18 seedstock for producing agricultural and aquacultural
19 products, or bait for catching fish (including the
20 catching of bait for catching fish), which
21 agricultural and aquacultural products or fish are to
22 be disposed of as described in section 237-5 or to be



1 incorporated in a manufactured product as described in
2 paragraph (2);

- 3 (7) Sales to a licensed producer, or to a cooperative
4 association described in section [~~237-23(a)-(7)~~] 237-
5 24(5)(E) for sale to such producer; of polypropylene
6 shade cloth; of polyfilm; of polyethylene film; of
7 cartons and such other containers, wrappers, and
8 sacks, and binders to be used for packaging eggs,
9 vegetables, fruits, and other agricultural and
10 aquacultural products; of seedlings and cuttings for
11 producing nursery plants or aquacultural products; or
12 of chick containers; which cartons and such other
13 containers, wrappers, and sacks, binders, seedlings,
14 cuttings, and containers are to be used as described
15 in section 237-5, or to be incorporated in a
16 manufactured product as described in paragraph (2);

- 17 (8) Sales of tangible personal property where:

18 (A) Tangible personal property is sold upon the order
19 or request of a licensed seller for the purpose
20 of rendering a service in the course of the
21 person's service business or calling, or upon the
22 order or request of a person subject to tax under



1 section 237D-2 for the purpose of furnishing
2 transient accommodations;

3 (B) The tangible personal property becomes or is used
4 as an identifiable element of the service
5 rendered; and

6 (C) The cost of the tangible personal property does
7 not constitute overhead to the licensed seller;
8 the sale shall be subject to section 237-13.3;

9 (9) Sales to a licensed leasing company of capital goods
10 that have a depreciable life, are purchased by the
11 leasing company for lease to its customers, and are
12 thereafter leased as a service to others;

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

15 (A) Either:

16 (i) In the context of a service-to-service
17 transaction, a service is rendered upon the
18 order or request of a licensed seller for
19 the purpose of rendering another service in
20 the course of the seller's service business
21 or calling, including a dealer's furnishing
22 of goods or services to the purchaser of



1 tangible personal property to fulfill a
2 warranty obligation of the manufacturer of
3 the property;

4 (ii) In the context of a service-to-tangible
5 personal property transaction, a service is
6 rendered upon the order or request of a
7 licensed seller for the purpose of
8 manufacturing, producing, or preparing
9 tangible personal property to be sold;

10 (iii) In the context of a services-to-contracting
11 transaction, a service is rendered upon the
12 order or request of a licensed contractor as
13 defined in section 237-6 for the purpose of
14 assisting that licensed contractor; or

15 (iv) In the context of a services-to-transient
16 accommodations rental transaction, a service
17 is rendered upon the order or request of a
18 person subject to tax under section 237D-2
19 for the purpose of furnishing transient
20 accommodations;

21 (B) The benefit of the service passes to the customer
22 of the licensed seller, licensed contractor, or



1 person furnishing transient accommodations as an
2 identifiable element of the other service or
3 property to be sold, the contracting, or the
4 furnishing of transient accommodations;

5 (C) The cost of the service does not constitute
6 overhead to the licensed seller, licensed
7 contractor, or person furnishing transient
8 accommodations;

9 (D) The gross income of the licensed seller is not
10 divided between the licensed seller and another
11 licensed seller, contractor, or person furnishing
12 transient accommodations for imposition of the
13 tax under this chapter;

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

17 (F) The resale of the service, tangible personal
18 property, contracting, or transient
19 accommodations is subject to the tax imposed
20 under this chapter at the highest tax rate.

21 Sales subject to this paragraph shall be subject to
22 section 237-13.3;



1 (11) Sales to a licensed retail merchant, jobber, or other
2 licensed seller of bulk condiments or prepackaged
3 single-serving packets of condiments that are provided
4 to customers by the licensed retail merchant, jobber,
5 or other licensed seller;

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

19 (13) Sales of amusements subject to taxation under section
20 237-13(4) to a licensed seller engaging in a business
21 or calling whenever:

22 (A) Either:



- 1 (i) In the context of an amusement-to-service
- 2 transaction, an amusement is rendered upon
- 3 the order or request of a licensed seller
- 4 for the purpose of rendering another service
- 5 in the course of the seller's service
- 6 business or calling;
- 7 (ii) In the context of an amusement-to-tangible
- 8 personal property transaction, an amusement
- 9 is rendered upon the order or request of a
- 10 licensed seller for the purpose of selling
- 11 tangible personal property; or
- 12 (iii) In the context of an amusement-to-amusement
- 13 transaction, an amusement is rendered upon
- 14 the order or request of a licensed seller
- 15 for the purpose of rendering another
- 16 amusement in the course of the person's
- 17 amusement business;
- 18 (B) The benefit of the amusement passes to the
- 19 customer of the licensed seller as an
- 20 identifiable element of the other service,
- 21 tangible personal property to be sold, or
- 22 amusement;



- 1 (C) The cost of the amusement does not constitute
- 2 overhead to the licensed seller;
- 3 (D) The gross income of the licensed seller is not
- 4 divided between the licensed seller and another
- 5 licensed seller, person furnishing transient
- 6 accommodations, or person rendering an amusement
- 7 for imposition of the tax under chapter 237;
- 8 (E) The gross income of the licensed seller is not
- 9 subject to a deduction under this chapter; and
- 10 (F) The resale of the service, tangible personal
- 11 property, or amusement is subject to the tax
- 12 imposed under this chapter at the highest rate.

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

- 17 (14) Sales by a printer to a publisher of magazines or
- 18 similar printed materials containing advertisements,
- 19 when the publisher is under contract with the
- 20 advertisers to distribute a minimum number of
- 21 magazines or similar printed materials to the public
- 22 or defined segment of the public, whether or not there



1 is a charge to the persons who actually receive the
2 magazines or similar printed materials."

3 SECTION 10. Section 237-8.6, Hawaii Revised Statutes, is
4 amended by amending subsection (d) to read as follows:

5 "(d) No county surcharge on state tax shall be established
6 on any:

7 (1) Gross income or gross proceeds taxable under this
8 chapter at less than the [~~one-half~~] _____ per cent tax
9 rate; or

10 [~~Gross income or gross proceeds taxable under this~~
11 ~~chapter at the 0.15 per cent tax rate; or~~

12 ~~(3)] Transactions, amounts, persons, gross income, or gross~~
13 ~~proceeds exempt from tax under this chapter."~~

14 SECTION 11. Section 237-13, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "§237-13 **Imposition of tax.** There is hereby levied and
17 shall be assessed and collected annually privilege taxes against
18 persons on account of their business and other activities in the
19 State measured by the application of rates against values of
20 products, gross proceeds of sales, or gross income, whichever is
21 specified, as follows:

22 (1) Tax on manufacturers.



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



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

19 (i) If the products at the time of their entry
20 into interstate or foreign commerce already
21 have been sold, the gross proceeds of sale,
22 less the transportation expenses, if any,



1 incurred in realizing the gross proceeds for
2 transportation from the time of entry of the
3 products into interstate or foreign
4 commerce, including insurance and storage in
5 transit, shall be the measure of the value
6 of the products;

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



1 true value) or by others. Sales outside the
2 State, adjusted as provided in clause (i),
3 may be considered when they constitute the
4 best available data. The department shall
5 prescribe uniform and equitable rules for
6 ascertaining the values;

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

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

19 (2) Tax on business of selling tangible personal property;
20 producing.

21 (A) Upon every person engaging or continuing in the
22 business of selling any tangible personal



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

20 (B) Gross proceeds of sales of tangible property in
21 interstate and foreign commerce shall constitute
22 a part of the measure of the tax imposed on



1 persons in the business of selling tangible
2 personal property, to the extent, under the
3 conditions, and in accordance with the provisions
4 of the Constitution of the United States and the
5 Acts of the Congress of the United States which
6 may be now in force or may be hereafter adopted,
7 and whenever there occurs in the State an
8 activity to which, under the Constitution and
9 Acts of Congress, there may be attributed gross
10 proceeds of sales, the gross proceeds shall be so
11 attributed.

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



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



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

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

17 (F) The department, by rule, may require that a
18 seller take from the purchaser of tangible
19 personal property a certificate, in a form
20 prescribed by the department, certifying that the
21 sale is a sale at wholesale; provided that:



- 1 (i) Any purchaser who furnishes a certificate
- 2 shall be obligated to pay to the seller,
- 3 upon demand, the amount of the additional
- 4 tax that is imposed upon the seller whenever
- 5 the sale in fact is not at wholesale; and
- 6 (ii) The absence of a certificate in itself shall
- 7 give rise to the presumption that the sale
- 8 is not at wholesale unless the sales of the
- 9 business are exclusively at wholesale.

10 (3) Tax upon contractors.

11 (A) Upon every person engaging or continuing within

12 the State in the business of contracting, the tax

13 shall be equal to [~~four~~] three and one-half per

14 cent of the gross income of the business.

15 (B) In computing the tax levied under this paragraph,

16 there shall be deducted from the gross income of

17 the taxpayer so much thereof as has been included

18 in the measure of the tax levied under

19 subparagraph (A), on:

- 20 (i) Another taxpayer who is a contractor, as
- 21 defined in section 237-6;



1 (ii) A specialty contractor, duly licensed by the
2 department of commerce and consumer affairs
3 pursuant to section 444-9, in respect of the
4 specialty contractor's business; or

5 (iii) A specialty contractor who is not licensed
6 by the department of commerce and consumer
7 affairs pursuant to section 444-9, but who
8 performs contracting activities on federal
9 military installations and nowhere else in
10 this State;

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

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

21 (i) The gross income exempted shall constitute
22 reimbursement of costs incurred for



1 materials, plant, or equipment purchased
2 from a taxpayer licensed under this chapter,
3 not exceeding the gross proceeds of sale of
4 the taxpayer on account of the transaction;
5 and

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

13 (D) A person who, as a business or as a part of a
14 business in which the person is engaged, erects,
15 constructs, or improves any building or
16 structure, of any kind or description, or makes,
17 constructs, or improves any road, street,
18 sidewalk, sewer, or water system, or other
19 improvements on land held by the person (whether
20 held as a leasehold, fee simple, or otherwise),
21 upon the sale or other disposition of the land or
22 improvements, even if the work was not done



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



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

13 (4) Tax upon theaters, amusements, radio broadcasting
14 stations, etc.

15 (A) Upon every person engaging or continuing within
16 the State in the business of operating a theater,
17 opera house, moving picture show, vaudeville,
18 amusement park, dance hall, skating rink, radio
19 broadcasting station, or any other place at which
20 amusements are offered to the public, the tax
21 shall be equal to [~~four~~] three and one-half per
22 cent of the gross income of the business, and in



1 the case of a sale of an amusement at wholesale
2 under section 237-4(a)(13), the tax shall be
3 subject to section 237-13.3.

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

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

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

20 (5) Tax upon sales representatives, etc. Upon every
21 person classified as a representative or purchasing
22 agent under section 237-1, engaging or continuing



1 within the State in the business of performing
2 services for another, other than as an employee, there
3 is likewise hereby levied and shall be assessed and
4 collected a tax equal to [~~four~~] three and one-half per
5 cent of the commissions and other compensation
6 attributable to the services so rendered by the
7 person.

8 (6) Tax on service business.

9 (A) Upon every person engaging or continuing within
10 the State in any service business or calling
11 including professional services not otherwise
12 specifically taxed under this chapter, there is
13 likewise hereby levied and shall be assessed and
14 collected a tax equal to [~~four~~] three and one-
15 half per cent of the gross income of the
16 business, and in the case of a wholesaler under
17 section 237-4(a)(10), the tax shall be equal to
18 one-half of one per cent of the gross income of
19 the business. Notwithstanding the foregoing, a
20 wholesaler under section 237-4(a)(10) shall be
21 subject to section 237-13.3.



- 1 (B) The department may require that the person
2 rendering a service at wholesale take from the
3 licensed seller a certificate, in a form
4 prescribed by the department, certifying that the
5 sale is a sale at wholesale; provided that:
- 6 (i) Any licensed seller who furnishes a
7 certificate shall be obligated to pay to the
8 person rendering the service, upon demand,
9 the amount of additional tax that is imposed
10 upon the seller whenever the sale is not at
11 wholesale; and
- 12 (ii) The absence of a certificate in itself shall
13 give rise to the presumption that the sale
14 is not at wholesale unless the person
15 rendering the sale is exclusively rendering
16 services at wholesale.
- 17 (C) Where any person is engaged in the business of
18 selling interstate or foreign common carrier
19 [~~telecommunication~~] telecommunications services
20 within and without the State, other than as a
21 home service provider, the tax shall be imposed
22 on that portion of gross income received by a



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

16 (D) Where any person is engaged in the business of a
17 home service provider, the tax shall be imposed
18 on the gross income received or derived from
19 providing interstate or foreign mobile
20 telecommunications services to a customer with a
21 place of primary use in this State when such
22 services originate in one state and terminate in



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



- 1 (ii) Gross receipts from mobile
- 2 telecommunications services that are subject
- 3 to the tax imposed by chapter 239;
- 4 (iii) Gross receipts from mobile
- 5 telecommunications services taxed under
- 6 section 237-13.8; and
- 7 (iv) Gross receipts of a home service provider
- 8 acting as a serving carrier providing mobile
- 9 telecommunications services to another home
- 10 service provider's customer.

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

17 (7) Tax on insurance producers. Upon every person engaged
18 as a licensed producer pursuant to chapter 431, there
19 is hereby levied and shall be assessed and collected a
20 tax equal to 0.15 per cent of the commissions due to
21 that activity.



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

20 (9) Tax on other business. Upon every person engaging or
21 continuing within the State in any business, trade,
22 activity, occupation, or calling not included in the



1 preceding paragraphs or any other provisions of this
 2 chapter, there is likewise hereby levied and shall be
 3 assessed and collected, a tax equal to [~~four~~] three
 4 and one-half per cent of the gross income thereof. In
 5 addition, the rate prescribed by this paragraph shall
 6 apply to a business taxable under one or more of the
 7 preceding paragraphs or other provisions of this
 8 chapter, as to any gross income thereof not taxed
 9 thereunder as gross income or gross proceeds of sales
 10 or by taxing an equivalent value of products, unless
 11 specifically exempted."

12 SECTION 12. Section 237-13.5, Hawaii Revised Statutes, is
 13 amended to read as follows:

14 "§237-13.5 **Assessment on generated electricity.** Any other
 15 provision of [~~the~~] law to the contrary notwithstanding, the levy
 16 and assessment of the general excise tax on the gross proceeds
 17 from the sale of electric power, including electric power
 18 produced from geothermal resources, to a public utility company
 19 for resale to the public, shall be made only as a tax on the
 20 business of a producer, at the rate assessed producers, under
 21 section 237-13(2) (A) .



1 This section shall not apply to the sale of electric power
 2 by a geothermal resource producer directly to the consumer. The
 3 gross income from such sale shall be taxed at the three and one-
 4 half per cent rate unless exempted under another provision of
 5 this chapter."

6 SECTION 13. Section 237-15, Hawaii Revised Statutes, is
 7 amended to read as follows:

8 "**§237-15 Technicians.** When technicians supply dentists or
 9 physicians with dentures, orthodontic devices, braces, and
 10 similar items which have been prepared by the technician in
 11 accordance with specifications furnished by the dentist or
 12 physician, and such items are to be used by the dentist or
 13 physician in the dentist's or physician's professional practice
 14 for a particular patient who is to pay the dentist or physician
 15 for the same as a part of the dentist's or physician's
 16 professional services, the technician shall be taxed as though
 17 the technician were a manufacturer selling a product to a
 18 licensed retailer[, rather than at the rate of four per cent
 19 which is generally applied to professions and services]."

20 SECTION 14. Section 237-16.5, Hawaii Revised Statutes, is
 21 amended as follows:

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



1 "(a) This section relates to the leasing of real property
2 by a lessor to a lessee. There is hereby levied, and shall be
3 assessed and collected annually, a privilege tax against persons
4 engaging or continuing within the State in the business of
5 leasing real property to another, equal to [~~four~~] three and one-
6 half per cent of the gross proceeds or gross income received or
7 derived from the leasing; provided that where real property is
8 subleased by a lessee to a sublessee, the lessee, as provided in
9 this section, shall be allowed a deduction from the amount of
10 gross proceeds or gross income received from its sublease of the
11 real property. The deduction shall be in the amount allowed
12 under this section.

13 All deductions under this section and the name and general
14 excise tax number of the lessee's lessor shall be reported on
15 the general excise tax return. Any deduction allowed under this
16 section shall only be allowed with respect to leases and
17 subleases in writing and relating to the same real property."

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

19 "(f) This section shall not cause the tax upon a lessor,
20 with respect to any item of the lessor's gross proceeds or gross
21 income, to exceed [~~four~~] three and one-half per cent."



1 SECTION 15. Section 237-18, Hawaii Revised Statutes, is
2 amended by amending subsection (f) to read as follows:

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

9 As used in this subsection, "tourism related services"
10 means catamaran cruises, canoe rides, dinner cruises, lei
11 greetings, transportation included in a tour package,
12 sightseeing tours not subject to chapter 239, admissions to
13 luaus, dinner shows, extravaganzas, cultural and educational
14 facilities, and other services rendered directly to the customer
15 or tourist, but only if the providers of the services [~~other~~
16 ~~than air transportation~~] are subject to a [~~four~~] three and one-
17 half per cent tax under this chapter or three and one-half per
18 cent tax under chapter 239."

19 SECTION 16. Section 237-21, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "**§237-21 Apportionment.** If any person, other than persons
22 liable to the tax on manufacturers as provided by section 237-



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

20 SECTION 17. Section 237-22, Hawaii Revised Statutes, is
21 amended by amending subsection (b) to read as follows:



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

17 The director of taxation shall have the authority to
18 implement this offset by prescribing tax forms and instructions
19 that require tax reporting and payment by deduction, allocation,
20 or any other method to determine tax liability to the extent
21 necessary to comply with the foregoing.



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

6 SECTION 18. Section 237-23, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "§237-23 Exemptions, persons exempt, applications for
9 exemption. (a) This chapter shall not apply to the following
10 persons:

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

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

18 ~~[(3) Fraternal benefit societies, orders, or associations,~~
19 ~~operating under the lodge system, or for the exclusive~~
20 ~~benefit of the members of the fraternity itself,~~
21 ~~operating under the lodge system, and providing for~~
22 ~~the payment of death, sick, accident, prepaid legal~~



1 ~~services, or other benefits to the members of the~~
2 ~~societies, orders, or associations, and to their~~
3 ~~dependents;~~

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

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



- 1 ~~(6) Hospitals, infirmaries, and sanitarium;~~
- 2 ~~(7) Cooperative associations incorporated under chapter~~
- 3 ~~421 or Code section 521 cooperatives which fully meet~~
- 4 ~~the requirements of section 421-23, except Code~~
- 5 ~~section 521 cooperatives need not be organized in~~
- 6 ~~Hawaii; provided that:~~
- 7 ~~(A) The exemption shall apply only to the gross~~
- 8 ~~income derived from activities that are pursuant~~
- 9 ~~to purposes and powers authorized by chapter 421,~~
- 10 ~~except those provisions pertaining to or~~
- 11 ~~requiring corporate organization in Hawaii do not~~
- 12 ~~apply to Code section 521 cooperatives;~~
- 13 ~~(B) The exemption shall not relieve any person who~~
- 14 ~~receives any proceeds of sale from the~~
- 15 ~~association of the duty of returning and paying~~
- 16 ~~the tax on the total gross proceeds of the sales~~
- 17 ~~on account of which the payment was made, in the~~
- 18 ~~same amount and at the same rate as would apply~~
- 19 ~~thereto had the sales been made directly by the~~
- 20 ~~person, and all those persons shall be so~~
- 21 ~~taxable; and~~



1 ~~(C) As used in this paragraph, "section 521~~
 2 ~~cooperatives" mean associations that qualify as a~~
 3 ~~cooperative under section 521 (with respect to~~
 4 ~~exemption of farmers' cooperatives from tax) of~~
 5 ~~the Internal Revenue Code of 1986, as amended;~~

6 ~~(8)]~~ (4) Persons affected with Hansen's disease and
 7 kokuas, with respect to business within the county of
 8 Kalawao [~~+~~

9 ~~(9) Corporations, companies, associations, or trusts~~
 10 ~~organized for the establishment and conduct of~~
 11 ~~cemeteries no part of the net earnings of which inures~~
 12 ~~to the financial benefit of any private stockholder or~~
 13 ~~individual; provided that the exemption shall apply~~
 14 ~~only to the activities of those persons in the conduct~~
 15 ~~of cemeteries and shall not apply to any activity the~~
 16 ~~primary purpose of which is to produce income, even~~
 17 ~~though the income is to be used for or in the~~
 18 ~~furtherance of the exempt activities of those persons;~~
 19 and

20 ~~(10) Nonprofit shippers associations operating under part~~
 21 ~~296 of the Civil Aeronautics Board Economic~~
 22 ~~Regulations].~~



1 (b) The ~~[exemptions]~~ exemption enumerated in subsection

2 (a) (3) ~~[to (6)]~~ shall apply only:

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

11 (2) To activities from which no profit inures to the
12 benefit of any private stockholder or individual,
13 except for death or other benefits to the members of
14 fraternal societies; and

15 (3) To the ~~[fraternal,]~~ religious ~~[, charitable,~~
16 ~~scientific, educational, communal, or social welfare]~~
17 activities of such persons, ~~[or to the activities of~~
18 ~~such hospitals, infirmaries, and sanitarium as such,]~~
19 and not to any activity the primary purpose of which
20 is to produce income even though the income is to be
21 used for or in furtherance of the exempt activities of
22 such persons.



- 1 (c) To obtain allowance of an exemption:
- 2 (1) A person under subsection (a) (3) [~~to (6),~~] who has
- 3 received or applied for recognition of tax exempt
- 4 status under section 501(c) (3) [~~, (4), (6), or (8)]~~ of
- 5 the Internal Revenue Code of 1986, as amended, [~~or who~~
- 6 ~~is a subordinate person of a person who has received a~~
- 7 ~~group exemption letter under section 501(c) (3), (4),~~
- 8 ~~(6), or (8) of the Internal Revenue Code of 1986, as~~
- 9 ~~amended,~~] shall register with the department by filing
- 10 a statement attaching a copy of the exemption or
- 11 application for recognition of exempt status and any
- 12 particular facts that the department may require; and
- 13 (2) All other persons under subsection (a) (3) [~~to (6)]~~
- 14 shall file an application for exemption in the form of
- 15 an affidavit or affidavits setting forth in general
- 16 all facts affecting the right to the exemption and
- 17 such particular facts as the department may require,
- 18 to which shall be attached such records, papers, and
- 19 other information as the department may prescribe.
- 20 (d) [~~For all persons, the~~] The statement registering the
- 21 person with the department or application for exemption shall be
- 22 filed on or before March 31 of the first year of registration or



1 within three months after the commencement of business. In the
2 event of allowance of the exemption, no further statement or
3 application therefor need be filed unless there is a material
4 change in the facts. In the event of disallowance of the
5 exemption, a license may be obtained upon payment of the
6 required fee as provided by section 237-9, less the \$20 already
7 paid under this section, which shall be credited thereon. In
8 the event the registrant has a license under this chapter, no
9 further fee shall be required for registration under this
10 section.

11 (e) The department for good cause may extend the time for
12 registration or the time for filing an application for
13 exemption."

14 SECTION 19. Section 237-24, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "§237-24 Amounts not taxable. This chapter shall not
17 apply to the following amounts:

- 18 (1) Amounts received under life insurance policies and
19 contracts paid by reason of the death of the insured;
20 (2) Amounts received (other than amounts paid by reason of
21 death of the insured) under life insurance, endowment,



- 1 or annuity contracts, either during the term or at
2 maturity or upon surrender of the contract;
- 3 (3) Amounts received under any accident insurance or
4 health insurance policy or contract or under workers'
5 compensation acts or employers' liability acts, as
6 compensation for personal injuries, death, or
7 sickness, including also the amount of any damages or
8 other compensation received, whether as a result of
9 action or by private agreement between the parties on
10 account of the personal injuries, death, or sickness;
- 11 (4) The value of all property of every kind and sort
12 acquired by gift, bequest, or devise, and the value of
13 all property acquired by descent or inheritance;
- 14 (5) Amounts received as a gift or donation by a:
- 15 (A) Fraternal benefit society, order, or association;
16 (B) Corporation, association, trust, or society
17 organized and operated exclusively for
18 charitable, scientific, or educational purposes;
- 19 (C) Business league, chamber of commerce, board of
20 trade, civic league, agricultural or
21 horticultural organization, and organization
22 operated exclusively for the benefit of the



- 1 community and for the promotion of social
- 2 welfare;
- 3 (D) Hospital, infirmary, or sanitarium;
- 4 (E) Cooperative association incorporated under
- 5 section 521 of the Internal Revenue Code, as
- 6 amended, or chapter 421; or
- 7 (F) Corporation, company, association, or trust
- 8 organized for the establishment and conduct of a
- 9 cemetery;
- 10 ~~(5)~~ (6) Amounts received by any person as compensatory
- 11 damages for any tort injury to the person, or to the
- 12 person's character reputation, or received as
- 13 compensatory damages for any tort injury to or
- 14 destruction of property, whether as the result of
- 15 action or by private agreement between the parties
- 16 (provided that amounts received as punitive damages
- 17 for tort injury or breach of contract injury shall be
- 18 included in gross income);
- 19 ~~(6)~~ (7) Amounts received as salaries or wages for
- 20 services rendered by an employee to an employer;
- 21 ~~(7)~~ (8) Amounts received as alimony and other similar
- 22 payments and settlements;



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



1 ~~within the State; a corporation all of whose~~
 2 ~~outstanding shares are owned by an individual or~~
 3 ~~individuals who are blind, deaf, or totally disabled;~~
 4 ~~a general, limited, or limited liability partnership,~~
 5 ~~all of whose partners are blind, deaf, or totally~~
 6 ~~disabled; or a limited liability company, all of whose~~
 7 ~~members are blind, deaf, or totally disabled;~~

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

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

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

20 ~~(C) The producer's gross proceeds of sales are~~
 21 ~~dependent upon the actual value of the products~~
 22 ~~manufactured therefrom or the average value of~~



1 ~~all similar products manufactured by the~~
2 ~~manufacturer, and~~
3 ~~(D) The producer's gross proceeds of sales are~~
4 ~~reduced by reason of the tax on the value or sale~~
5 ~~of the manufactured products;~~

6 ~~(15)]~~ (14) Money paid by the State or eleemosynary child-
7 placing organizations to foster parents for their care
8 of children in foster homes; and

9 ~~[(16)]~~ (15) Amounts received by a cooperative housing
10 corporation from its shareholders in reimbursement of
11 funds paid by such corporation for lease rental, real
12 property taxes, and other expenses of operating and
13 maintaining the cooperative land and improvements;
14 provided that such a cooperative corporation is a
15 corporation:

- 16 (A) Having one and only one class of stock
- 17 outstanding;
- 18 (B) Each of the stockholders of which is entitled
- 19 solely by reason of the stockholder's ownership
- 20 of stock in the corporation, to occupy for
- 21 dwelling purposes a house, or an apartment in a
- 22 building owned or leased by the corporation; and



1 (C) No stockholder of which is entitled (either
 2 conditionally or unconditionally) to receive any
 3 distribution not out of earnings and profits of
 4 the corporation except in a complete or partial
 5 liquidation of the corporation."

6 SECTION 20. Section 237-24.3, Hawaii Revised Statutes, is
 7 amended to read as follows:

8 "§237-24.3 Additional amounts not taxable. In addition to
 9 the amounts not taxable under section 237-24, this chapter shall
 10 not apply to:

11 ~~[(1) Amounts received from the loading, transportation, and~~
 12 ~~unloading of agricultural commodities shipped for a~~
 13 ~~producer or produce dealer on one island of this State~~
 14 ~~to a person, firm, or organization on another island~~
 15 ~~of this State. The terms "agricultural commodity",~~
 16 ~~"producer", and "produce dealer" shall be defined in~~
 17 ~~the same manner as they are defined in section 147-1,~~
 18 ~~provided that agricultural commodities need not have~~
 19 ~~been produced in the State;~~

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

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



1 ~~(B) Cigarettes and tobacco products as defined in~~
2 ~~chapter 245; and~~
3 ~~(C) Agricultural, meat, or fish products;~~
4 ~~to any person or common carrier in interstate or~~
5 ~~foreign commerce, or both, whether ocean going or air,~~
6 ~~for consumption out of state on the shipper's vessels~~
7 ~~or airplanes;~~

8 ~~(3)]~~ (1) Amounts received by the manager, submanager, or
9 board of directors of:

10 (A) An association of owners of a condominium
11 property regime established in accordance with
12 chapter 514A or 514B; or

13 (B) A nonprofit homeowners or community association
14 incorporated in accordance with chapter 414D or
15 any predecessor thereto and existing pursuant to
16 covenants running with the land,

17 in reimbursement of sums paid for common expenses;

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

19 ~~(A) The loading or unloading of cargo from ships,~~
20 ~~barques, vessels, or aircraft, whether or not the~~
21 ~~ships, barques, vessels, or aircraft travel~~



1 ~~between the State and other states or countries~~
2 ~~or between the islands of the State;~~

3 ~~(B) Tugboat services including pilotage fees~~
4 ~~performed within the State, and the towage of~~
5 ~~ships, barges, or vessels in and out of state~~
6 ~~harbors, or from one pier to another; and~~

7 ~~(C) The transportation of pilots or governmental~~
8 ~~officials to ships, barges, or vessels offshore;~~
9 ~~rigging gear; checking freight and similar~~
10 ~~services; standby charges; and use of moorings~~
11 ~~and running mooring lines;~~

12 ~~(5)]~~ (2) Amounts received by an employee benefit plan by
13 way of contributions, dividends, interest, and other
14 income; and amounts received by a nonprofit
15 organization or office, as payments for costs and
16 expenses incurred for the administration of an
17 employee benefit plan; provided that this exemption
18 shall not apply to any gross rental income or gross
19 rental proceeds received after June 30, 1994, as
20 income from investments in real property in this
21 State; and provided further that gross rental income
22 or gross rental proceeds from investments in real



1 property received by an employee benefit plan after
2 June 30, 1994, under written contracts executed prior
3 to July 1, 1994, shall not be taxed until the
4 contracts are renegotiated, renewed, or extended, or
5 until after December 31, 1998, whichever is earlier.
6 For the purposes of this paragraph, "employee benefit
7 plan" means any plan as defined in section 1002(3) of
8 title 29 of the United States Code, as amended;

9 ~~[(6)]~~ (3) Amounts received for purchases made with United
10 States Department of Agriculture food coupons under
11 the federal food stamp program, and amounts received
12 for purchases made with United States Department of
13 Agriculture food vouchers under the Special
14 Supplemental Foods Program for Women, Infants and
15 Children;

16 ~~[(7)]~~ ~~Amounts received by a hospital, infirmary, medical~~
17 ~~clinic, health care facility, pharmacy, or a~~
18 ~~practitioner licensed to administer the drug to an~~
19 ~~individual for selling prescription drugs or~~
20 ~~prosthetic devices to an individual; provided that~~
21 ~~this paragraph shall not apply to any amounts received~~



1 ~~for services provided in selling prescription drugs or~~
2 ~~prosthetic devices. As used in this paragraph:~~

3 ~~"Prescription drugs" are those drugs defined~~
4 ~~under section 328-1 and dispensed by filling or~~
5 ~~refilling a written or oral prescription by a~~
6 ~~practitioner licensed under law to administer the drug~~
7 ~~and sold by a licensed pharmacist under section 328-16~~
8 ~~or practitioners licensed to administer drugs; and~~

9 ~~"Prosthetic device" means any artificial device~~
10 ~~or appliance, instrument, apparatus, or contrivance,~~
11 ~~including their components, parts, accessories, and~~
12 ~~replacements thereof, used to replace a missing or~~
13 ~~surgically removed part of the human body, which is~~
14 ~~prescribed by a licensed practitioner of medicine,~~
15 ~~osteopathy, or podiatry and which is sold by the~~
16 ~~practitioner or which is dispensed and sold by a~~
17 ~~dealer of prosthetic devices; provided that~~
18 ~~"prosthetic device" shall not mean any auditory,~~
19 ~~ophthalmic, dental, or ocular device or appliance,~~
20 ~~instrument, apparatus, or contrivance;~~

21 ~~(8)]~~ (4) Taxes on transient accommodations imposed by
22 chapter 237D and passed on and collected by operators



1 holding certificates of registration under that
2 chapter; and
3 ~~[-9) Amounts received as dues by an unincorporated~~
4 ~~merchants association from its membership for~~
5 ~~advertising media, promotional, and advertising costs~~
6 ~~for the promotion of the association for the benefit~~
7 ~~of its members as a whole and not for the benefit of~~
8 ~~an individual member or group of members less than the~~
9 ~~entire membership;~~
10 ~~(10) Amounts received by a labor organization for real~~
11 ~~property leased to:~~
12 ~~(A) A labor organization; or~~
13 ~~(B) A trust fund established by a labor organization~~
14 ~~for the benefit of its members, families, and~~
15 ~~dependents for medical or hospital care, pensions~~
16 ~~on retirement or death of employees,~~
17 ~~apprenticeship and training, and other membership~~
18 ~~service programs.~~
19 ~~As used in this paragraph, "labor organization" means~~
20 ~~a labor organization exempt from federal income tax~~
21 ~~under section 501(c)(5) of the Internal Revenue Code,~~
22 ~~as amended;~~



1 ~~(11)~~ (5) Amounts received from foreign diplomats and
2 consular officials who are holding cards issued or
3 authorized by the United States Department of State
4 granting them an exemption from state taxes~~[,] and~~
5 ~~(12)~~ ~~Amounts received as rent for the rental or leasing of~~
6 ~~aircraft or aircraft engines used by the lessees or~~
7 ~~renters for interstate air transportation of~~
8 ~~passengers and goods. For purposes of this paragraph,~~
9 ~~payments made pursuant to a lease shall be considered~~
10 ~~rent regardless of whether the lease is an operating~~
11 ~~lease or a financing lease. The definition of~~
12 ~~"interstate air transportation" is the same as in 49~~
13 ~~U.S.C. 40102]."~~

14 SECTION 21. Section 237-24.7, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§237-24.7 Additional amounts not taxable.** In addition to
17 the amounts not taxable under section 237-24, this chapter shall
18 not apply to:

19 (1) Amounts received by the operator of a hotel from the
20 owner of the hotel or from a time share association,
21 and amounts received by the suboperator of a hotel
22 from the owner of the hotel, from a time share



1 association, or from the operator of the hotel, in
2 amounts equal to and which are disbursed by the
3 operator or suboperator for employee wages, salaries,
4 payroll taxes, insurance premiums, and benefits,
5 including retirement, vacation, sick pay, and health
6 benefits. As used in this paragraph:

7 "Employee" means employees directly engaged in
8 the day-to-day operation of the hotel and employed by
9 the operator or suboperator.

10 "Hotel" means an operation as defined in section
11 445-90 or a time share plan as defined in section
12 514E-1.

13 "Operator" means any person who, pursuant to a
14 written contract with the owner of a hotel or time
15 share association, operates or manages the hotel for
16 the owner or time share association.

17 "Owner" means the fee owner or lessee under a
18 recorded lease of a hotel.

19 "Suboperator" means any person who, pursuant to a
20 written contract with the operator, operates or
21 manages the hotel as a subcontractor of the operator.



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

3 (2) Amounts received by the operator of a county
4 transportation system operated under an operating
5 contract with a political subdivision, where the
6 political subdivision is the owner of the county
7 transportation system. As used in this paragraph:

8 "County transportation system" means a mass
9 transit system of motorized buses providing regularly
10 scheduled transportation within a county.

11 "Operating contract" or "contract" means a
12 contract to operate and manage a political
13 subdivision's county transportation system, which
14 provides that:

15 (A) The political subdivision shall exercise
16 substantial control over all aspects of the
17 operator's operation;

18 (B) The political subdivision controls the
19 development of transit policy, service
20 planning, routes, and fares; and

21 (C) The operator develops in advance a draft
22 budget in the same format as prescribed for



1 agencies of the political subdivision. The
2 budget must be subject to the same
3 constraints and controls regarding the
4 lawful expenditure of public funds as any
5 public sector agency, and deviations from
6 the budget must be subject to approval by
7 the appropriate political subdivision
8 officials involved in the budgetary process.

9 "Operator" means any person who, pursuant to an
10 operating contract with a political subdivision,
11 operates or manages a county transportation system.

12 "Owner" means a political subdivision that owns
13 or is the lessee of all the properties and facilities
14 of the county transportation system (including buses,
15 real estate, parking garages, fuel pumps, maintenance
16 equipment, office supplies, etc.), and that owns all
17 revenues derived therefrom;

18 (3) Surcharge taxes on rental motor vehicles imposed by
19 chapter 251 and passed on and collected by persons
20 holding certificates of registration under that
21 chapter;



1 (4) Amounts received by the operator of orchard properties
2 from the owner of the orchard property in amounts
3 equal to and which are disbursed by the operator for
4 employee wages, salaries, payroll taxes, insurance
5 premiums, and benefits, including retirement,
6 vacation, sick pay, and health benefits. As used in
7 this paragraph:

8 "Employee" means an employee directly engaged in
9 the day-to-day operations of the orchard properties
10 and employed by the operator.

11 "Operator" means a producer who, pursuant to a
12 written contract with the owner of the orchard
13 property, operates or manages the orchard property for
14 the owner where the property contains an area
15 sufficient to make the undertaking economically
16 feasible.

17 "Orchard property" means any real property that
18 is used to raise trees with a production life cycle of
19 fifteen years or more producing fruits or nuts having
20 a normal period of development from the initial
21 planting to the first commercially saleable harvest of
22 not less than three years.



1 "Owner" means a fee owner or lessee under a
2 recorded lease of orchard property;

3 (5) Taxes on nursing facility income imposed by chapter
4 346E and passed on and collected by operators of
5 nursing facilities;

6 (6) Amounts received under property and casualty insurance
7 policies for damage or loss of inventory used in the
8 conduct of a trade or business located within the
9 State or a portion thereof that is declared a natural
10 disaster area by the governor pursuant to section 209-
11 2;

12 ~~[(7) Amounts received as compensation by community~~
13 ~~organizations, school booster clubs, and nonprofit~~
14 ~~organizations under a contract with the chief election~~
15 ~~officer for the provision and compensation of precinct~~
16 ~~officials and other election-related personnel,~~
17 ~~services, and activities, pursuant to section 11-5,~~

18 ~~(8)]~~ (7) Interest received by a person domiciled outside
19 the State from a trust company (as defined in section
20 412:8-101) acting as payment agent or trustee on
21 behalf of the issuer or payees of an interest bearing
22 instrument or obligation, if the interest would not



1 have been subject to tax under this chapter if paid
2 directly to the person domiciled outside the State
3 without the use of a paying agent or trustee; provided
4 that if the interest would otherwise be taxable under
5 this chapter if paid directly to the person domiciled
6 outside the State, it shall not be exempt solely
7 because of the use of a Hawaii trust company as a
8 paying agent or trustee; and

9 ~~[-9-]~~ (8) Amounts received by a management company from
10 related entities engaged in the business of selling
11 interstate or foreign common carrier
12 telecommunications services in amounts equal to and
13 which are disbursed by the management company 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 employees directly engaged in
19 the day-to-day operation of related entities engaged
20 in the business of selling interstate or foreign
21 common carrier telecommunications services and
22 employed by the management company.



1 "Management company" means any person who,
2 pursuant to a written contract with a related entity
3 engaged in the business of selling interstate or
4 foreign common carrier telecommunications services,
5 provides managerial or operational services to that
6 entity.

7 "Related entities" means:

- 8 (A) An affiliated group of corporations within
9 the meaning of section 1504 (with respect to
10 affiliated group defined) of the federal
11 Internal Revenue Code of 1986, as amended;
- 12 (B) A controlled group of corporations within
13 the meaning of section 1563 (with respect to
14 definitions and special rules) of the
15 federal Internal Revenue Code of 1986, as
16 amended;
- 17 (C) Those entities connected through ownership
18 of at least eighty per cent of the total
19 value and at least eighty per cent of the
20 total voting power of each such entity (or
21 combination thereof), including
22 partnerships, associations, trusts, S



1 corporations, nonprofit corporations,
 2 limited liability partnerships, or limited
 3 liability companies; and

4 (D) Any group or combination of the entities
 5 described in paragraph (C) constituting a
 6 unitary business for income tax purposes;
 7 whether or not the entity is located within or without
 8 the State or licensed under this chapter[~~and~~

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

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

12 1. By amending its title to read:

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

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

15 "(b) ~~[There shall be excluded from the measure of the tax~~
 16 ~~on] When a refiner [such] sells part of the petroleum products~~
 17 ~~resultant from the refiner's business [as is] to [be further~~
 18 ~~refined by] another refiner[, to the extent that the petroleum~~
 19 ~~products resultant from such further refining will be (or but~~
 20 ~~for this subsection would be) included in the measure of the tax~~
 21 ~~on such other refiner, and where] for further refinement, the~~
 22 tax shall be imposed at the rate of one-half of one per cent on



1 the gross income derived from the sale of the petroleum
2 products. Where the petroleum products are to be used partly
3 for such refining and partly for other purposes, the proportion
4 used for each purpose shall be determined upon the basis of
5 weight or BTU content."

6 SECTION 23. Section 237-29.55, Hawaii Revised Statutes, is
7 amended as follows:

8 1. By amending its title to read:

9 "~~Exemption for sale~~ Sale of tangible personal property
10 for resale at wholesale."

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

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

20 SECTION 24. Section 237-44, Hawaii Revised Statutes, is
21 amended by amending subsection (b) to read as follows:



1 "(b) Every person receiving admissions for any circus,
2 carnival, or any other place whatsoever at which a transient
3 taxpayer is engaged in business (whether or not further
4 admissions are charged inside the place, such further
5 admissions, if any, being also subject to this section), shall
6 set aside from the admissions and hold in trust for the State
7 [~~five~~] _____ per cent of the admissions, or such lesser amount
8 as the department of taxation shall approve as sufficient, to
9 guarantee payment of the tax levied by this chapter on the
10 transient taxpayer. The amount so required to be set aside from
11 the admissions shall be deposited with the department promptly
12 upon collection thereof, from time to time, for deposit by it in
13 a special trust fund in the treasury of the State, there to
14 remain until refunded upon voucher of the department, or until
15 applied to the payment of the taxes guaranteed thereby with the
16 consent of the person making the deposit, or until deposited in
17 court pursuant to chapter 655 or the rules of court. The
18 department may bring an action to obtain an adjudication of its
19 right to apply the guarantee fund in payment of taxes and may
20 deposit the fund in court to await the results of the
21 adjudication, or may be sued by an interested person seeking to
22 obtain the adjudication and may be ordered to make such deposit



1 in court, notwithstanding that the department asserts a claim
2 against the fund."

3 SECTION 25. Section 238-1, Hawaii Revised Statutes, is
4 amended by amending the definition of "use" to read as follows:

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

- 19 (1) Temporary use of property, not of a perishable or
20 quickly consumable nature, where the property is
21 imported into the State for temporary use (not sale)
22 therein by the person importing the same and is not



1 intended to be, and is not, kept permanently in the
2 State. For example, without limiting the generality
3 of the foregoing language:

4 (A) In the case of a contractor importing permanent
5 equipment for the performance of a construction
6 contract, with intent to remove, and who does
7 remove, the equipment out of the State upon
8 completing the contract;

9 (B) In the case of moving picture films imported for
10 use in theaters in the State with intent or under
11 contract to transport the same out of the State
12 after completion of such use; and

13 (C) In the case of a transient visitor importing an
14 automobile or other belongings into the State to
15 be used by the transient visitor while therein
16 but which are to be used and are removed upon the
17 transient visitor's departure from the State;

18 (2) Use by the taxpayer of property acquired by the
19 taxpayer solely by way of gift;

20 (3) Use which is limited to the receipt of articles and
21 the return thereof, to the person from whom acquired,



1 immediately or within a reasonable time either after
2 temporary trial or without trial;

3 (4) Use of goods imported into the State by the owner of a
4 vessel or vessels engaged in interstate or foreign
5 commerce and held for and used only as ship stores for
6 the vessels;

7 (5) The use or keeping for use of household goods,
8 personal effects, and private automobiles imported
9 into the State for nonbusiness use by a person who:

10 (A) Acquired them in another state, territory,
11 district, or country;

12 (B) At the time of the acquisition was a bona fide
13 resident of another state, territory, district,
14 or country;

15 (C) Acquired the property for use outside the State;
16 and

17 (D) Made actual and substantial use thereof outside
18 this State;

19 provided that as to an article acquired less than
20 three months prior to the time of its importation into
21 the State it shall be presumed, until and unless
22 clearly proved to the contrary, that it was acquired



1 for use in the State and that its use outside the
2 State was not actual and substantial;
3 ~~[-(6) The leasing or renting of any aircraft or the keeping~~
4 ~~of any aircraft solely for leasing or renting to~~
5 ~~lessees or renters using the aircraft for commercial~~
6 ~~transportation of passengers and goods or the~~
7 ~~acquisition or importation of any such aircraft or~~
8 ~~aircraft engines by any lessee or renter engaged in~~
9 ~~interstate air transportation. For purposes of this~~
10 ~~paragraph, "leasing" includes all forms of lease,~~
11 ~~regardless of whether the lease is an operating lease~~
12 ~~or financing lease. The definition of "interstate air~~
13 ~~transportation" is the same as in 49 U.S.C. 40102;~~
14 ~~(7) The use of oceangoing vehicles for passenger or~~
15 ~~passenger and goods transportation from one point to~~
16 ~~another within the State as a public utility as~~
17 ~~defined in chapter 269;~~
18 ~~(8) The use of material, parts, or tools imported or~~
19 ~~purchased by a person licensed under chapter 237 which~~
20 ~~are used for aircraft service and maintenance, or the~~
21 ~~construction of an aircraft service and maintenance~~



1 ~~facility as those terms are defined in section 237-~~
2 ~~24.9;~~

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

7 ~~(10)]~~ (6) The use of contracting imported or purchased by a
8 contractor as defined in section 237-6 who is:

9 (A) Licensed under chapter 237;

10 (B) Engaged in business as a contractor; and

11 (C) Subject to the tax imposed under section 238-2.3;

12 and

13 ~~[(11)]~~ (7) The use of property, services, or contracting
14 imported by foreign diplomats and consular officials
15 who are holding cards issued or authorized by the
16 United States Department of State granting them an
17 exemption from state taxes.

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

21 SECTION 26. Section 238-2, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "§238-2 Imposition of tax on tangible personal property;
2 exemptions. There is hereby levied an excise tax on the use in
3 this State of tangible personal property which is imported by a
4 taxpayer in this State whether owned, purchased from an
5 unlicensed seller, or however acquired for use in this State.
6 The tax imposed by this chapter shall accrue when the property
7 is acquired by the importer or purchaser and becomes subject to
8 the taxing jurisdiction of the State. The rates of the tax
9 hereby imposed and the exemptions thereof are as follows:

- 10 (1) If the importer or purchaser is licensed under chapter
11 237 and is:
- 12 (A) A wholesaler or jobber importing or purchasing
 - 13 for purposes of sale or resale; or
 - 14 (B) A manufacturer importing or purchasing material
 - 15 or commodities which are to be incorporated by
 - 16 the manufacturer into a finished or saleable
 - 17 product (including the container or package in
 - 18 which the product is contained) wherein it will
 - 19 remain in such form as to be perceptible to the
 - 20 senses, and which finished or saleable product is
 - 21 to be sold in such manner as to result in a
 - 22 further tax on the activity of the manufacturer



1 as the manufacturer or as a wholesaler, and not
2 as a retailer,
3 there shall be no tax; provided that if the
4 wholesaler, jobber, or manufacturer is also engaged in
5 business as a retailer (so classed under chapter 237),
6 paragraph (2) shall apply to the wholesaler, jobber,
7 or manufacturer, but the director of taxation shall
8 refund to the wholesaler, jobber, or manufacturer, in
9 the manner provided under section 231-23(c) such
10 amount of tax as the wholesaler, jobber, or
11 manufacturer shall, to the satisfaction of the
12 director, establish to have been paid by the
13 wholesaler, jobber, or manufacturer to the director
14 with respect to property which has been used by the
15 wholesaler, jobber, or manufacturer for the purposes
16 stated in this paragraph;
17 (2) If the importer or purchaser is licensed under chapter
18 237 and is:
19 (A) A retailer or other person importing or
20 purchasing for purposes of sale or resale, not
21 exempted by paragraph (1);



- 1 (B) A manufacturer importing or purchasing material
2 or commodities which are to be incorporated by
3 the manufacturer into a finished or saleable
4 product (including the container or package in
5 which the product is contained) wherein it will
6 remain in such form as to be perceptible to the
7 senses, and which finished or saleable product is
8 to be sold at retail in this State, in such
9 manner as to result in a further tax on the
10 activity of the manufacturer in selling such
11 products at retail;
- 12 (C) A contractor importing or purchasing material or
13 commodities which are to be incorporated by the
14 contractor into the finished work or project
15 required by the contract and which will remain in
16 such finished work or project in such form as to
17 be perceptible to the senses;
- 18 (D) A person engaged in a service business or calling
19 as defined in section 237-7, or a person
20 furnishing transient accommodations subject to
21 the tax imposed by section 237D-2, in which the
22 import or purchase of tangible personal property



1 would have qualified as a sale at wholesale as
2 defined in section 237-4(a)(8) had the seller of
3 the property been subject to the tax in chapter
4 237; or

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

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

21 (3) In all other cases, [~~four~~] three and one-half per cent
22 of the value of the property.



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

6 SECTION 27. Section 238-2.3, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "§238-2.3 Imposition of tax on imported services or
9 contracting; exemptions. There is hereby levied an excise tax
10 on the value of services or contracting as defined in section
11 237-6 that are performed by an unlicensed seller at a point
12 outside the State and imported or purchased for use in this
13 State. The tax imposed by this chapter shall accrue when the
14 service or contracting as defined in section 237-6 is received
15 by the importer or purchaser and becomes subject to the taxing
16 jurisdiction of the State. The rates of the tax hereby imposed
17 and the exemptions from the tax are as follows:

18 (1) If the importer or purchaser is licensed under chapter
19 237 and is:

20 (A) Engaged in a service business or calling in which
21 the imported or purchased services or contracting
22 become identifiable elements, excluding overhead,



1 of the services rendered by the importer or
2 purchaser, and the gross income of the importer
3 or purchaser is subject to the tax imposed under
4 chapter 237 on services at the rate of one-half
5 of one per cent or the rate of tax imposed under
6 section 237-13.3; or

7 (B) A manufacturer importing or purchasing services
8 or contracting that become identifiable elements,
9 excluding overhead, of a finished or saleable
10 product (including the container or package in
11 which the product is contained) and the finished
12 or saleable product is to be sold in a manner
13 that results in a further tax on the manufacturer
14 as a wholesaler, and not a retailer;

15 there shall be no tax imposed on the value of the
16 imported or purchased services or contracting;
17 provided that if the manufacturer is also engaged in
18 business as a retailer as classified under chapter
19 237, paragraph (2) shall apply to the manufacturer,
20 but the director of taxation shall refund to the
21 manufacturer, in the manner provided under section
22 231-23(c), that amount of tax that the manufacturer,



1 to the satisfaction of the director, shall establish
2 to have been paid by the manufacturer to the director
3 with respect to services that have been used by the
4 manufacturer for the purposes stated in this
5 paragraph[-] ;

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

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

16 (B) A manufacturer importing or purchasing services
17 or contracting that become identifiable elements,
18 excluding overhead, of the finished or saleable
19 manufactured product (including the container or
20 package in which the product is contained) and
21 the finished or saleable product is to be sold in
22 a manner that results in a further tax under



1 chapter 237 on the activity of the manufacturer
2 as a retailer; or

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

10 the tax shall be one-half of one per cent of the value
11 of the imported or purchased services or contracting;
12 and

13 (3) In all other cases, the importer or purchaser is
14 subject to the tax at the rate of [~~four~~] three and
15 one-half per cent on the value of the imported or
16 purchased services or contracting."

17 SECTION 28. Section 238-3, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "§238-3 **Application of tax, etc.** (a) The tax imposed by
20 this chapter shall not apply to any property, services, or
21 contracting or to any use of the property, services, or
22 contracting that cannot legally be so taxed under the



1 Constitution or laws of the United States, but only so long
2 as [7] and only to the extent to which the State is without power
3 to impose the tax.

4 To the extent that any exemption, exclusion, or
5 apportionment is necessary to comply with the preceding
6 sentence, the director of taxation shall:

- 7 (1) Exempt or exclude from the tax under this chapter,
8 property, services, or contracting or the use of
9 property, services, or contracting exempted under
10 chapter 237; or
11 (2) Apportion the gross value of services or contracting
12 sold to customers within the State by persons engaged
13 in business both within and without the State to
14 determine the value of that portion of the services or
15 contracting that is subject to taxation under chapter
16 237 for the purposes of section 237-21.

17 Any provision of law to the contrary notwithstanding,
18 exemptions or exclusions from tax under this chapter allowed on
19 or before April 1, 1978, under the provisions of the
20 Constitution of the United States or an [aet] Act of the
21 Congress of the United States to persons or common carriers
22 engaged in interstate or foreign commerce, or both, whether



1 ocean-going or air, shall continue undiminished and be available
2 thereafter.

3 (b) The tax imposed by this chapter shall not apply to any
4 use of property, services, or contracting the transfer of which
5 property, services, or contracting to, or the acquisition of
6 which by, the person so using the same, has actually been or
7 actually is taxed under chapter 237.

8 (c) The tax imposed by this chapter shall be paid only
9 once upon or in respect of the same property, services, or
10 contracting; provided that nothing in this chapter contained
11 shall be construed to exempt any property, services, or
12 contracting, or the use thereof from taxation under any other
13 law of the State.

14 (d) The tax imposed by this chapter shall be in addition
15 to any other taxes imposed by any other laws of the State,
16 except as otherwise specifically provided herein; provided that
17 if it be finally held by any court of competent jurisdiction,
18 that the tax imposed by this chapter may not legally be imposed
19 in addition to any other tax or taxes imposed by any other law
20 or laws with respect to the same property, services, or
21 contracting, or the use thereof, then this chapter shall be
22 deemed not to apply to the property, services, or contracting,



1 or the use thereof under such specific circumstances, but such
2 other laws shall be given full effect with respect to the
3 property, services, [e] contracting, or use.

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

6 (f) The tax imposed by this chapter shall not apply to any
7 use or consumption of aircraft and vessels, the transfer of
8 which aircraft or vessel to, or the acquisition of which by, the
9 person so using or consuming the same, or the rental for the use
10 of the aircraft or vessel, has actually been or actually is
11 taxed under chapter 237.

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

19 ~~(h) The tax imposed by this chapter shall not apply to any~~
20 ~~use of vessels constructed under section 189-25 prior to July 1,~~
21 ~~1969.~~



1 ~~(i)~~ (g) Each taxpayer liable for the tax imposed by this
2 chapter on tangible personal property, services, or contracting
3 shall be entitled to full credit for the combined amount or
4 amounts of legally imposed sales or use taxes paid by the
5 taxpayer with respect to the same transaction and property,
6 services, or contracting to another state and any subdivision
7 thereof, but such credit shall not exceed the amount of the use
8 tax imposed under this chapter on account of the transaction and
9 property, services, or contracting. The director of taxation
10 may require the taxpayer to produce the necessary receipts or
11 vouchers indicating the payment of the sales or use tax to
12 another state or subdivision as a condition for the allowance of
13 the credit.

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

17 ~~(k) The tax imposed by this chapter shall not apply to~~
18 ~~any use of air pollution control facility exempted by section~~
19 ~~237-27.5.] "~~

20 SECTION 29. Section 239-5, Hawaii Revised Statutes, is
21 amended by amending subsections (a) and (b) to read as follows:



1 "(a) There shall be levied and assessed upon each public
2 utility [~~except airlines, motor carriers, common carriers by~~
3 ~~water, and contract carriers taxed by section 239-6,~~] a tax of
4 such rate per cent of its gross income each year from its public
5 utility business as shall be determined in the manner
6 hereinafter provided. The tax imposed by this section is in
7 lieu of all taxes other than those below set out, and is a means
8 of taxing the personal property of the public utility, tangible
9 and intangible, including going concern value. In addition to
10 the tax imposed by this chapter there also are imposed income
11 taxes, the specific taxes imposed by chapter 249, the fees
12 prescribed by chapter 269, any tax specifically imposed by the
13 terms of the public utility's franchise or under chapter 240,
14 the use or consumption tax imposed by chapter 238, and
15 employment taxes.

16 The rate of the tax upon the gross income of the public
17 utility shall be [~~four~~] ____ per cent; provided that if:

- 18 (1) A county provides by ordinance for a real property tax
19 exemption for real property used by a public utility
20 in its public utility business and owned by the public
21 utility (or leased to it by a lease under which the



1 public utility is required to pay the taxes upon the
2 property), and
3 (2) The county has not denied the exemption to the public
4 utility, but excluding a denial based upon a dispute
5 as to the ownership, lease, or use of a specific
6 parcel of real property,
7 then there shall be levied and assessed a tax in excess of the
8 [~~four~~] ____ per cent rate determined in the manner hereinafter
9 provided upon the gross income allocable to such county. The
10 revenues generated from the tax in excess of the [~~four~~] ____ per
11 cent rate hereinbefore established shall be paid by the public
12 utility directly to such county based upon the proportion of
13 gross income from its public utility business attributable to
14 such county, based upon the allocation made in the public
15 utility's filings with the State of Hawaii; provided that if the
16 gross income from the public utility business attributable to
17 such county is not so allocated in the public utility's State
18 filings, then the gross income from the public utility business
19 shall be equitably allocated to each county. The relative
20 number of access lines in each county shall be deemed an
21 acceptable basis of equitable allocation for telecommunication
22 companies.



1 The rate of the tax in excess of the [~~four~~] ____ per cent
 2 rate hereinbefore established upon the gross income from the
 3 public utility business shall be determined as follows:

4 If the ratio of the net income of the company to its gross
 5 income is fifteen per cent or less, the rate of tax in excess of
 6 the [~~four~~] ____ per cent rate on gross income shall be [~~1-885~~]
 7 ____ per cent; for all companies having net income in excess of
 8 fifteen per cent of the gross, the rate of the tax on gross
 9 income shall increase continuously in proportion to the increase
 10 in ratio of net income to gross, at such rate that for each
 11 increase of one per cent in the ratio of net income to gross,
 12 there shall be an increase of [~~2675~~] ____ per cent in the rate
 13 of the tax.

14 The following formula may be used to determine the rate, in
 15 which formula the term "R" is the ratio of net income to gross
 16 income, and "X" is the required rate of the tax on gross income
 17 for the utility in question:

18 $X = (26.75R - 2.1275)\%$;

19 provided that in no case governed by the formula shall "X" be
 20 less than [~~1-885~~] ____ per cent or more than [~~4-2~~] ____ per
 21 cent.



1 However, if the gross income is apportioned under section
2 239-8(b) or (c), there shall be no adjustment of the rate of tax
3 on the amount of gross income so apportioned to the State on
4 account of the ratio of the net income to the gross income being
5 in excess of fifteen per cent, and it shall be assumed in such
6 case that the ratio is fifteen per cent or less.

7 (b) Notwithstanding subsection (a), the rate of the tax
8 upon the portion of the gross income of a carrier of passengers
9 by land which consists in passenger fares for transportation
10 between points on a scheduled route, shall be [5-35] _____ per
11 cent. However, if the carrier has other public utility gross
12 income the fares nevertheless shall be included in applying
13 subsection (a) in determining the rate of tax upon the other
14 public utility gross income."

15 SECTION 30. Section 239-6, Hawaii Revised Statutes, is
16 amended to read as follows.

17 "**§239-6 Airlines, certain carriers.** [~~(a) There shall be~~
18 ~~levied and assessed upon each airline a tax of four per cent of~~
19 ~~its gross income each year from the airline business, provided~~
20 ~~that if an airline adopts a rate schedule for students in grade~~
21 ~~twelve or below traveling in school groups providing such~~
22 ~~students at reasonable hours a rate less than one half of the~~



1 ~~regular adult fare, the tax shall be three per cent of its gross~~
2 ~~income each year from the airline business.~~

3 ~~(b) There shall be levied and assessed upon each motor~~
4 ~~carrier, each common carrier by water, and upon each contract~~
5 ~~carrier other than a motor carrier, a tax of four per cent of~~
6 ~~its gross income each year from the motor carrier or contract~~
7 ~~carrier business.~~

8 ~~(c) The tax imposed by this section is a means of taxing~~
9 ~~the personal property of the airline or other carrier, tangible~~
10 ~~and intangible, including going concern value, and is in lieu of~~
11 ~~the tax imposed by chapter 237 but is not in lieu of any other~~
12 ~~tax.~~

13 ~~(d) Notwithstanding subsections (a), (b), and (c), the~~
14 ~~rate of tax upon the portion of the gross income of a motor~~
15 ~~carrier which consists of the receipts from the sale of its~~
16 ~~products or services to a contractor shall be as follows:~~

- 17 ~~(1) In calendar year 2000, 3.5 per cent,~~
- 18 ~~(2) In calendar year 2001, 3.0 per cent,~~
- 19 ~~(3) In calendar year 2002, 2.5 per cent,~~
- 20 ~~(4) In calendar year 2003, 2.0 per cent,~~
- 21 ~~(5) In calendar year 2004, 1.5 per cent,~~
- 22 ~~(6) In calendar year 2005, 1.0 per cent, and~~



1 ~~(7) In calendar year 2006, and thereafter, 0.5 per cent,~~
2 ~~provided that there is a resale of the products or services and~~
3 ~~the resale by the contractor is subject to taxation at the~~
4 ~~highest rate under section 237-13; the gross income of the motor~~
5 ~~carrier is not divided as provided in the definition of "gross~~
6 ~~income" in section 239-2 for the tax imposed under this chapter~~
7 ~~or chapter 237; and the gross income of the motor carrier from~~
8 ~~the sale of its products or services to the contractor is not~~
9 ~~subject to a deduction under chapter 237 by the contractor; and~~
10 ~~in the case of services provided by the motor carrier, the~~
11 ~~benefit of the service passes to the customer of the contractor~~
12 ~~as an identifiable element of the contracting or service~~
13 ~~provided by the contractor and does not constitute overhead as~~
14 ~~defined in section 237-1.~~

15 ~~The department shall have the authority to implement the~~
16 ~~tax rate changes in paragraphs (1) through (7) by prescribing~~
17 ~~tax forms and instructions that require tax reporting and~~
18 ~~payment by deduction, allocation, or any other method to~~
19 ~~determine tax liability with due regard to the tax rate changes.~~

20 ~~For purposes of this subsection, "contractor" has the same~~
21 ~~meaning as defined in section 237-6.~~



1 ~~(e) Notwithstanding subsections (a) through (d),~~
2 beginning] Beginning on October 1, 2001, the tax under this
3 chapter shall not apply to airlines, motor carriers, common
4 carriers by water, and contract carriers other than motor
5 carriers; provided that the gross income received on or after
6 October 1, 2001, by these carriers shall be subject to the tax
7 imposed under chapter 237. [~~For the taxable year in which~~
8 ~~October 1, 2001 occurs, the tax imposed and due under this~~
9 ~~chapter for the affected carriers shall be abated in an amount~~
10 ~~equal to:~~

- 11 ~~(1) The tax imposed on the first day of the taxpayer's~~
12 ~~taxable year in which October 1, 2001 occurs;~~
13 ~~(2) Divided by the number of months in the taxpayer's~~
14 ~~affected taxable year; and~~
15 ~~(3) Multiplied by the number of months in the taxpayer's~~
16 ~~taxable year remaining after September 30, 2001.] "~~

17 SECTION 31. Section 239-7, Hawaii Revised Statutes, is
18 amended as follows:

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

20 "(a) The tax imposed by this chapter shall be assessed
21 against each public service company in the manner provided by
22 this chapter, and shall be paid to the department of taxation at



1 the times and in the manner (in installments or otherwise)
2 provided by this section, except as provided in section 239-
3 5(a), where there is levied and assessed a tax in excess of
4 [~~four~~] ____ per cent upon gross income, the revenues generated
5 from the tax in excess of the [~~four~~] ____ per cent rate shall be
6 paid to the respective county director of finance at the times
7 and in the manner (in installments or otherwise) provided by
8 this section."

9 2. By amending subsection (c) to read:

10 "(c) The department shall prescribe the forms in which
11 returns shall be made so as to reflect clearly the liability of
12 each public service company subject to this tax, and may provide
13 in the forms for such additional information as it may deem
14 necessary. All provisions of the laws, not inapplicable and not
15 inconsistent with this chapter, relating to returns for income
16 tax purposes, the assessment (including additional assessments),
17 collection, and payment (in installments or otherwise) of income
18 taxes and the powers and duties of the department and the state
19 director of finance in connection therewith, and relating to
20 appeals from or other adjustments of such assessments,
21 limitation periods for assessments, enforcement of attendance of
22 witnesses, and the production of evidence, examination of



1 witnesses and records, the effect of assessments, tax books, and
2 lists and other official tax records as evidence, delinquent
3 dates and penalties, and the rights and liabilities (civil and
4 criminal) of taxpayers and other persons in connection with any
5 matters dealt with by chapter 235, are made applicable (1) to
6 the taxes and the assessment, payment, and collection thereof,
7 provided by this chapter, and (2) to the department and the
8 state director of finance in connection with the taxes and the
9 assessment, payment, or enforcement of payment and collection
10 thereof, and (3) to taxpayers and other persons affected by this
11 chapter, as the case may be. The provisions of chapter 235
12 regarding the limitation period for assessment and refunds shall
13 run from the filing of the return for the taxable year, or the
14 due date prescribed for the filing of the return, whichever is
15 later. With respect to payments due to a county of the revenues
16 generated from the tax in excess of the [~~four~~] _____ per cent
17 rate imposed under section 239-5(a), a county director of
18 finance shall be afforded such rights and procedures of the
19 department in the enforcement of payment and collection of the
20 taxes assessed and levied under this chapter."

21 SECTION 32. Section 239-9, Hawaii Revised Statutes, is
22 amended by amending subsections (c) and (d) to read as follows:



1 "(c) First year of doing business. The measure of the tax
 2 for the year in which the company begins business is an estimate
 3 of the gross income of the public service company for that year
 4 or for the part of that year in which it is in business.

5 The tax thereon for the year in which the company begins
 6 business shall be at the following rate:

7 (1) If subsection (a)(2) applies, at the rate of
 8 ~~[four]~~ _____ per cent, or

9 (2) If subsection (a)(1) applies but the company though in
 10 business at the commencement of the calendar year was
 11 not in business during any part of the preceding year,
 12 the tax shall be at the rate provided by ~~[sections]~~
 13 section 239-5 ~~[and 239-6]~~, except that there shall be
 14 no adjustment of the rate of tax on account of the
 15 ratio of the net income to the gross income being in
 16 excess of fifteen per cent and it shall be assumed for
 17 purposes of this subsection and subsection (e) that
 18 the ratio is fifteen per cent or less.

19 The estimate shall be made and the tax returned on or
 20 before the twentieth day of the third month after the month in
 21 which the company begins business and shall be subject to
 22 adjustment by the filing of an amended return as provided in



1 subsection (e). Payment of the tax shall accompany the return
2 unless time for payment is extended by the director of taxation.
3 The extension may be granted by the director in order to provide
4 for payment of the tax in installments during the remainder of
5 the taxable year.

6 (d) Second year of doing business. The measure of the tax
7 for the year following the year in which the company began
8 business is an estimate of the average gross income for a
9 taxable year, subject to adjustment by the filing of an amended
10 return as provided in subsection (e). The estimate shall be
11 made and the tax returned and paid at the times provided for
12 other companies which are in business at the commencement of the
13 calendar year. The tax thereon shall be at the rate provided by
14 [~~sections~~] section 239-5 [~~and 239-6~~], except that there shall be
15 no adjustment of the rate of tax on account of the ratio of the
16 net income to the gross income being in excess of fifteen per
17 cent and it shall be assumed for purposes of this subsection and
18 subsection (e) that the ratio is fifteen per cent or less."

19 SECTION 33. Section 239-10, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "**§239-10 Disposition of revenues.** All taxes collected
22 under this chapter shall be state realizations; provided that



1 where a tax in excess of the [four] _____ per cent rate upon
2 gross income is levied and assessed under section 239-5(a), such
3 tax revenues to be paid to the county shall be realizations of
4 such county."

5 SECTION 34. Section 246-34.5, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "[+]§246-34.5[+] Exemptions for air pollution control
8 facility. The value of all property in the State (not including
9 a building and its structural components, other than a building
10 which is exclusively a treatment facility) actually and solely
11 used or to be used as an air pollution control facility [~~as the~~
12 ~~term is defined in chapter 237~~] shall be exempted from the
13 measure of the taxes imposed by this chapter; provided, however,
14 the property exemption shall be applicable only with respect to
15 a certified facility which is property (1) the construction,
16 reconstruction or erection of which is completed by the taxpayer
17 after June 30, 1969, or, (2) acquired by the taxpayer after June
18 30, 1969, if the original use of the property commences with the
19 taxpayer after June 30, 1969; provided further the facility is
20 placed in service by the taxpayer before July 1, 1975.

21 Application for the exemption provided herein shall first
22 be made with the director of health who shall, if satisfied that



1 the facility meets the pollution emission criteria established
2 by the department of health, certify to that fact. Upon receipt
3 of the certification from the department of health, the director
4 of taxation shall exempt the facility from the tax imposed by
5 this chapter. A new certificate shall be obtained from the
6 director of health and filed with the director of taxation every
7 two years certifying that the pollution control facility
8 complies with the pollutant emission criteria established by the
9 department of health. The director of taxation shall furnish
10 all forms required by this section.

11 The director of taxation shall, pursuant to chapter 91,
12 promulgate rules and regulations necessary to administer this
13 section."

14 SECTION 35. Section 349-10, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§349-10 Annual senior citizen's fair.** Each county may
17 hold an annual senior citizen's fair in its respective county.
18 The county shall be responsible for the planning, organizing,
19 and coordinating of the fair in every respect. The state policy
20 advisory board for elder affairs may assist the county in any
21 aspect upon request. [~~Proceeds earned from this fair are deemed~~
22 ~~to be proceeds earned from casual sales as defined in chapter~~



1 ~~237.~~] The county shall distribute such proceeds to the various
2 senior citizen organizations and individuals who participate in
3 the fair in accordance with appropriate methods of distribution
4 as determined by the county."

5 SECTION 36. Section 356D-129, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "[~~f~~] §356D-129 [~~f~~] **Exemptions.** [~~(a)~~—Any compensation
8 received by a provider agency for services rendered to homeless
9 families or individuals, or in operating or managing a homeless
10 facility authorized by this part, is exempt from taxation under
11 chapter ~~237.~~

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

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



1 SECTION 37. Section 421H-4, Hawaii Revised Statutes, is
2 amended by amending subsection (c) to read as follows:

3 "(c) The membership shares and cooperative fees are
4 interests in real property for purposes of ~~+~~
5 ~~(1) Cooperative]~~ cooperative housing corporations under
6 section 216 of the federal Internal Revenue Code of
7 1954, as amended ~~+~~; and
8 ~~(2) Exemption from state general excise tax under section~~
9 ~~237-24(16)] ."~~

10 SECTION 38. Section 182-16, Hawaii Revised Statutes, is
11 repealed.

12 [~~"[§182-16] Levy and assessment of general excise tax.~~
13 ~~Notwithstanding any provision to the contrary, the levy and~~
14 ~~assessment of the general excise tax on the gross proceeds from~~
15 ~~any manner of sale of (1) geothermal resources or (2) electrical~~
16 ~~energy produced by the geothermal resources producer from such~~
17 ~~geothermal resources, shall be made only as a tax on the~~
18 ~~business of a producer, at the rate assessed producers, under~~
19 ~~section 237-13(2)(A)."~~]

20 SECTION 39. Section 201H-36, Hawaii Revised Statutes, is
21 repealed.



1 ~~["§201H-36] Exemption from general excise taxes. (a) In~~
2 ~~accordance with section 237-29, the corporation may approve and~~
3 ~~certify for exemption from general excise taxes any qualified~~
4 ~~person or firm involved with a newly constructed, or moderately~~
5 ~~or substantially rehabilitated project:~~

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

7 ~~(2) Developed under a government assistance program~~
8 ~~approved by the corporation, including but not limited~~
9 ~~to the United States Department of Agriculture 502~~
10 ~~program and Federal Housing Administration 235~~
11 ~~program;~~

12 ~~(3) Developed under the sponsorship of a private nonprofit~~
13 ~~organization providing home rehabilitation or new~~
14 ~~homes for qualified families in need of decent, low-~~
15 ~~cost housing; or~~

16 ~~(4) Developed by a qualified person or firm to provide~~
17 ~~affordable rental housing where at least fifty per~~
18 ~~cent of the available units are for households with~~
19 ~~incomes at or below eighty per cent of the area median~~
20 ~~family income as determined by the United States~~
21 ~~Department of Housing and Urban Development, of which~~
22 ~~at least twenty per cent of the available units are~~



1 ~~for households with incomes at or below sixty per cent~~
2 ~~of the area median family income as determined by the~~
3 ~~United States Department of Housing and Urban~~
4 ~~Development.~~

5 ~~(b) All claims for exemption under this section shall be~~
6 ~~filed with and certified by the corporation and forwarded to the~~
7 ~~department of taxation. Any claim for exemption that is filed~~
8 ~~and approved, shall not be considered a subsidy for the purpose~~
9 ~~of this part.~~

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

11 ~~"Moderate rehabilitation" means rehabilitation to upgrade a~~
12 ~~dwelling unit to a decent, safe, and sanitary condition, or to~~
13 ~~repair or replace major building systems or components in danger~~
14 ~~of failure.~~

15 ~~"Substantial rehabilitation":~~

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



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

5 ~~(d) The corporation may establish, revise, charge, and~~
 6 ~~collect a reasonable service fee, as necessary, in connection~~
 7 ~~with its approvals and certifications under this section. The~~
 8 ~~fees shall be deposited into the dwelling unit revolving fund."]~~

9 SECTION 40. Section 237-16.8, Hawaii Revised Statutes, is
 10 repealed.

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



1 ~~be subject to the imposition of the general excise tax under~~
2 ~~section 237-13."]~~

3 SECTION 41. Section 237-17, Hawaii Revised Statutes, is
4 repealed.

5 [~~"§237-17 Persons with impaired sight, hearing, or who are~~
6 ~~totally disabled. Anything in section 237-13 to the contrary~~
7 ~~notwithstanding, the privilege tax levied, assessed, and~~
8 ~~collected on account of the business or other activities of~~
9 ~~individuals who are blind, deaf, or totally disabled,~~
10 ~~corporations all of whose outstanding shares are owned by~~
11 ~~individuals who are blind, deaf, or totally disabled, general,~~
12 ~~limited, or limited liability partnerships, all of whose~~
13 ~~partners are blind, deaf, or totally disabled, or limited~~
14 ~~liability companies, all of whose members are blind, deaf, or~~
15 ~~totally disabled, shall not exceed one half of one per cent of~~
16 ~~the proceeds, sales, income, or other receipts subject to tax.~~
17 ~~For the purpose of this chapter "blind", "deaf", or "totally~~
18 ~~disabled" is defined as in section 235-1. The impairment of~~
19 ~~sight or hearing, or the disability, shall be certified to as~~
20 ~~provided in section 235-1."]~~

21 SECTION 42. Section 237-24.5, Hawaii Revised Statutes, is
22 repealed.



1 ~~["§237-24.5 Additional exemptions. (a) In addition to~~
2 ~~the amounts exempt under section 237-24, this chapter shall not~~
3 ~~apply to amounts received by:~~

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

5 ~~(A) Transaction fees charged exchange members by the~~
6 ~~exchange for:~~

7 ~~(i) The sale or purchase of securities or~~
8 ~~products, or both, bought or sold on an~~
9 ~~exchange by exchange members for their own~~
10 ~~account or an account for which they have~~
11 ~~responsibility as an agent, broker, or~~
12 ~~fiduciary;~~

13 ~~(ii) Order book executions made for purposes of~~
14 ~~effecting transactions; and~~

15 ~~(iii) Trade processing performed by an exchange in~~
16 ~~matching trades, keypunching, record~~
17 ~~keeping, post cashiering, and notarization;~~

18 ~~(B) Membership dues, fees, charges, assessments, and~~
19 ~~finer from individuals or firms, including~~
20 ~~charges for firm symbols (member identification),~~
21 ~~application processing, registration, initiation,~~
22 ~~membership transfers, floor or post privileges,~~



- 1 ~~transaction time extensions, expediting~~
2 ~~transactions, crossover trades (trading out of~~
3 ~~assigned functions) and rule infractions;~~
4 ~~(C) Service fees charged to members including fees~~
5 ~~for communications, badges, forms, documents, and~~
6 ~~reports;~~
7 ~~(D) Listing fees and listing maintenance fees charged~~
8 ~~to companies that wish to be listed and have~~
9 ~~their securities or products traded on the~~
10 ~~exchange; and~~
11 ~~(E) Participation in the communication network~~
12 ~~consortium operated collectively by United States~~
13 ~~exchanges or other markets recognized by the~~
14 ~~Securities and Exchange Commission, the~~
15 ~~Commodities Futures Trading Commission, or~~
16 ~~similar regulatory authorities outside the United~~
17 ~~States that provides last sale and quote~~
18 ~~securities information to subscribers or that~~
19 ~~connects such markets or exchanges for purposes~~
20 ~~of data transmission;~~
21 ~~(2) Exchange members by reason of executing a securities~~
22 ~~or product transaction on an exchange; provided that~~



1 ~~this exemption shall apply only to amounts received by~~
2 ~~exchange members from brokers or dealers registered~~
3 ~~with the Securities and Exchange Commission, from~~
4 ~~futures commission merchants, brokers, or associates~~
5 ~~registered with the Commodities Futures Trading~~
6 ~~Commission, or from similar individuals or firms~~
7 ~~registered with similar regulatory authorities outside~~
8 ~~the United States; and~~

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

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

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

19 ~~"Exchange member" means an individual or firm that is~~
20 ~~qualified by an exchange as a member and pays membership dues to~~
21 ~~an exchange in order to trade securities or products on an~~
22 ~~exchange.~~



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

7 SECTION 43. Section 237-24.9, Hawaii Revised Statutes, is
8 repealed.

9 ~~["§237-24.9 Aircraft service and maintenance facility.~~

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

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

14 ~~"Aircraft" means any craft or artificial contrivance of~~
15 ~~whatever description engaged in intrastate, interstate, or~~
16 ~~international scheduled commercial use as defined in chapter~~
17 ~~263, that operates with two or more jet engines.~~

18 ~~"Aircraft service and maintenance" means all scheduled and~~
19 ~~unscheduled tasks performed within an aircraft service and~~
20 ~~maintenance facility for the inspection, modification,~~
21 ~~maintenance, and repair of aircraft and related components~~



1 ~~including engines, hydraulic and electrical systems, and all~~
2 ~~other components which are an integral part of an aircraft.~~

3 ~~"Aircraft service and maintenance facility" means a~~
4 ~~facility for aircraft service and maintenance that is not less~~
5 ~~than thirty thousand square feet in area, and which may include~~
6 ~~ancillary space which is integral to the facility, such as parts~~
7 ~~and inventory warehouse space, tool rooms, and related~~
8 ~~administrative and employee space.~~

9 ~~"Construction of an aircraft service and maintenance~~
10 ~~facility" means all design, engineering, labor, and material~~
11 ~~costs associated with the construction of facilities the~~
12 ~~principle purpose of which is the provision of facilities for~~
13 ~~aircraft service and maintenance.~~

14 ~~"Maintenance" means the upkeep of aircraft engines,~~
15 ~~hydraulic and electrical systems, and all other components which~~
16 ~~are an integral part of an aircraft, but does not include~~
17 ~~refueling, janitorial services or cleaning, restocking of~~
18 ~~aircraft and passenger supplies, or loading or unloading of~~
19 ~~cargo and passenger baggage."]~~

20 SECTION 44. Section 237-26, Hawaii Revised Statutes, is
21 repealed.



1 ~~["§237-26 Exemption of certain scientific contracts with~~
2 ~~the United States. (a) Any provision of law to the contrary~~
3 ~~notwithstanding, there shall be exempted from the measure of the~~
4 ~~taxes imposed by chapter 237, all of the gross proceeds derived~~
5 ~~by a contractor or subcontractor arising from the performance of~~
6 ~~any scientific work as defined in subsection (b), under a~~
7 ~~contract or subcontract entered into with the United States~~
8 ~~(including any agency or instrumentality thereof but not~~
9 ~~including national banks), and all of the gross proceeds derived~~
10 ~~from the sale of tangible personal property by a seller of such~~
11 ~~tangible personal property to such contractor or subcontractor,~~
12 ~~provided the exemption herein shall apply only to such tangible~~
13 ~~personal property which is to be affixed to, or to become a~~
14 ~~physical, integral part of the scientific facility, or which is~~
15 ~~to be entirely consumed during the performance of the service~~
16 ~~required by the contract or subcontract.~~

17 ~~(b) For purposes of this section, "scientific work" is~~
18 ~~work involving primarily the research and development for, or~~
19 ~~the design, manufacture, instrumentation, installation,~~
20 ~~maintenance, or operation of aerospace, agricultural,~~
21 ~~astronomical, biomedical, electronic, geophysical,~~
22 ~~oceanographic, test range, or other scientific facilities.~~



1 ~~Maintenance or operation, for purposes of this section, shall~~
2 ~~include housekeeping functions in providing certain~~
3 ~~nonscientific logistic and support services."]~~

4 SECTION 45. Section 237-27.5, Hawaii Revised Statutes, is
5 repealed.

6 [~~§237-27.5 Air pollution control facility. (a) As used~~
7 ~~in this section, "air pollution control facility" shall mean a~~
8 ~~new identifiable treatment facility, equipment, device, or the~~
9 ~~like, which is used to abate or control atmospheric pollution or~~
10 ~~contamination by removing, reducing, or rendering less noxious~~
11 ~~air contaminants emitted into the atmosphere from a point~~
12 ~~immediately preceding the point of such removal, reduction, or~~
13 ~~rendering to the point of discharge of air, meeting emission~~
14 ~~standards as established by the department of health, excluding~~
15 ~~air conditioner, fan, or other similar facility for the comfort~~
16 ~~of persons at a place of business.~~

17 ~~(b) Any provision of law to the contrary notwithstanding,~~
18 ~~and upon receipt of the certification required by subsection~~
19 ~~(c), there shall be exempted from, and excluded from the measure~~
20 ~~of, the taxes imposed by this chapter, all of the gross proceeds~~
21 ~~arising from, and all of the amount of tangible personal~~
22 ~~property furnished in conjunction with, the construction,~~



1 ~~reconstruction, erection, operation, use, or maintenance of an~~
2 ~~air pollution control facility.~~

3 ~~(c) Application for the exemption provided by this section~~
4 ~~shall first be made with the director of health who, if~~
5 ~~satisfied that the facility meets the pollution emission~~
6 ~~criteria established by the department of health, shall certify~~
7 ~~to that fact. A new certificate shall be obtained from the~~
8 ~~director of health and filed with the director of taxation every~~
9 ~~five years certifying that the pollution control facility~~
10 ~~complies with the pollutant emission criteria established by the~~
11 ~~department of health."]~~

12 SECTION 46. Section 237-28.1, Hawaii Revised Statutes, is
13 repealed.

14 [~~["§237-28.1] Exemption of certain shipbuilding and ship~~
15 ~~repair business. There shall be exempted from, and excluded~~
16 ~~from the measure of, the taxes imposed by this chapter all of~~
17 ~~the gross proceeds arising from shipbuilding and ship repairs~~
18 ~~rendered to surface vessels federally owned or engaged in~~
19 ~~interstate or international trade."]~~

20 SECTION 47. Section 237-29, Hawaii Revised Statutes, is
21 repealed.



1 ~~["§237-29 Exemptions for certified or approved housing~~
 2 ~~projects. (a) All gross income received by any qualified~~
 3 ~~person or firm for the planning, design, financing,~~
 4 ~~construction, sale, or lease in the State of a housing project~~
 5 ~~that has been certified or approved under section 201H-36 shall~~
 6 ~~be exempt from general excise taxes.~~

7 ~~(b) All gross income received by a nonprofit or a limited~~
 8 ~~distribution mortgagor for a low and moderate income housing~~
 9 ~~project certified or approved under section 201H-36 shall be~~
 10 ~~exempt from general excise taxes.~~

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

15 SECTION 48. Section 237-29.5, Hawaii Revised Statutes, is
 16 repealed.

17 ~~["§237-29.5 Exemption for sales of tangible personal~~
 18 ~~property shipped out of the State. (a) There shall be exempted~~
 19 ~~from, and excluded from the measure of, the taxes imposed by~~
 20 ~~this chapter all of the value or gross proceeds arising from the~~
 21 ~~manufacture, production, or sale of tangible personal property:~~



1 ~~(1) Shipped by the manufacturer, producer, or seller to a~~
2 ~~point outside the State where the property is resold~~
3 ~~or otherwise consumed or used outside the State; or~~
4 ~~(2) The sale of which is exempt under section 237-24.3(2).~~
5 ~~(b) For the purposes of this section, the manufacturer,~~
6 ~~producer, or seller shall take from the purchaser, a~~
7 ~~certificate, in such form as the department shall prescribe,~~
8 ~~certifying that the tangible personal property purchased is to~~
9 ~~be resold or otherwise consumed or used outside the State. Any~~
10 ~~purchaser who shall furnish such a certificate shall be~~
11 ~~obligated to pay to the seller, upon demand, if the property~~
12 ~~purchased is not resold or otherwise consumed or used outside~~
13 ~~the State, the amount of the additional tax which by reason~~
14 ~~thereof is imposed upon the seller."]~~

15 SECTION 49. Section 237-29.53, Hawaii Revised Statutes, is
16 repealed.

17 ["~~§237-29.53 Exemption for contracting or services~~
18 ~~exported out of State.~~ (a) There shall be exempted from, and
19 ~~excluded from the measure of, taxes imposed by this chapter, all~~
20 ~~of the value or gross income derived from contracting (as~~
21 ~~defined under section 237-6) or services performed by a person~~



1 ~~engaged in a service business or calling in the State for use~~
2 ~~outside the State where:~~

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

5 ~~(2) The value or gross income derived from the contracting~~
6 ~~or services performed would otherwise be subject to~~
7 ~~the tax imposed under this chapter on contracting or~~
8 ~~services at the highest rate.~~

9 ~~For the purposes of this subsection, the seller or person~~
10 ~~rendering the contracting or services exported and resold,~~
11 ~~consumed, or used outside the State shall take from the~~
12 ~~customer, a certificate or an equivalent, in a form the~~
13 ~~department prescribes, certifying that the contracting or~~
14 ~~service purchased is to be otherwise resold, consumed, or used~~
15 ~~outside the State. Any customer who furnishes this certificate~~
16 ~~or an equivalent shall be obligated to pay the seller or person~~
17 ~~rendering the contracting or services, upon demand, if the~~
18 ~~contracting or service purchased is not resold or otherwise~~
19 ~~consumed or used outside the State, the amount of the additional~~
20 ~~tax which by reason thereof is imposed upon the seller or person~~
21 ~~rendering the contracting or service.~~



1 ~~(b) There shall be exempted from, and excluded from the~~
2 ~~measure of, taxes imposed by this chapter, all of the value or~~
3 ~~gross income derived from contracting (as defined in section~~
4 ~~237-6) or services performed by a person engaged in a service~~
5 ~~business or calling in the State for a purchaser who resells all~~
6 ~~of the contracting or services for resale, consumption, or use~~
7 ~~outside the State pursuant to subsection (a). For the purposes~~
8 ~~of this subsection, the seller or person rendering the~~
9 ~~contracting or services for a purchaser who resells the~~
10 ~~contracting or services for resale, consumption, or use outside~~
11 ~~the State shall take from the purchaser, a certificate or an~~
12 ~~equivalent, in a form that the department prescribes, certifying~~
13 ~~that the contracting or services purchased is to be for resale,~~
14 ~~consumption, or use outside the State pursuant to subsection~~
15 ~~(a). Any purchaser who furnishes this certificate or an~~
16 ~~equivalent shall be obligated to pay the seller or person~~
17 ~~rendering the contracting or services, upon demand, if the~~
18 ~~contracting or services purchased is not resold in its entirety~~
19 ~~to a customer of the purchaser who has complied with subsection~~
20 ~~(a), the amount of the additional tax which by reason thereof is~~
21 ~~imposed upon the seller or the person rendering the contracting~~
22 ~~or service."]~~



1 SECTION 50. Section 237-29.8, Hawaii Revised Statutes, is
2 repealed.

3 ~~["§237-29.8] Call centers; exemption; engaging in~~
4 ~~business; definitions.~~ (a) ~~This chapter shall not apply to~~
5 ~~amounts received from a person operating a call center by a~~
6 ~~person engaged in business as a telecommunications common~~
7 ~~carrier for interstate or foreign telecommunications services,~~
8 ~~including toll free telecommunications, telecommunications~~
9 ~~capabilities for electronic mail, voice, and data~~
10 ~~telecommunications, computerized telephone support, facsimile,~~
11 ~~wide area telecommunications services, or computer to computer~~
12 ~~communication.~~

13 ~~(b) The establishment of a call center in this State by~~
14 ~~any person shall not be used by itself by the State to find that~~
15 ~~any other part of the person's business is engaged in business~~
16 ~~in this State for the purposes of this chapter. Gross income or~~
17 ~~gross proceeds received by a call center for customer service~~
18 ~~and support shall be exempt from the measure of taxes imposed by~~
19 ~~this chapter.~~

20 ~~(c) The department, by rule, may provide that the person~~
21 ~~providing the telecommunications service may take from the~~
22 ~~person operating a call center a certificate, in a form that the~~



1 ~~department shall prescribe, certifying that the amounts received~~
2 ~~for telecommunications services are for operating a call center.~~
3 ~~If the certificate is required by rule of the department, the~~
4 ~~absence of the certificate in itself shall give rise to the~~
5 ~~presumption that the amounts received from the sale of~~
6 ~~telecommunications services are not for operating a call center.~~

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

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

17 ~~"Customer service and support" means product support,~~
18 ~~technical assistance, sales support, phone or computer based~~
19 ~~configuration assistance, software upgrade help lines, and~~
20 ~~traditional help desk services.~~

21 ~~"Telecommunications common carrier" means any person that~~
22 ~~owns, operates, manages, or controls any facility used to~~



1 ~~furnish telecommunications services for profit to the public, or~~
2 ~~to classes of users as to be effectively available to the~~
3 ~~public, engaged in the provision of services, such as voice,~~
4 ~~data, image, graphics, and video services, that make use of all~~
5 ~~or part of their transmission facilities, switches, broadcast~~
6 ~~equipment, signalling, or control devices.~~

7 ~~"Telecommunications service" or "telecommunications" means~~
8 ~~the offering of transmission between or among points specified~~
9 ~~by a user, of information of the user's choosing, including~~
10 ~~voice, data, image, graphics, and video without change in the~~
11 ~~form or content of the information, as sent and received, by~~
12 ~~means of electromagnetic transmission, or other similarly~~
13 ~~capable means of transmission, with or without benefit of any~~
14 ~~closed transmission medium.~~

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

17 SECTION 51. Section 239-6.5, Hawaii Revised Statutes, is
18 repealed.

19 ~~["**[§239-6.5] Tax credit for lifeline telephone service**~~
20 ~~**subsidy.** A telephone public utility subject to this chapter~~
21 ~~that has been authorized to establish lifeline telephone service~~
22 ~~rates by the public utilities commission shall be allowed a tax~~



1 ~~credit, equal to the lifeline telephone service costs incurred~~
2 ~~by the utility, to be applied against the utility's tax imposed~~
3 ~~by this chapter. The amount of this credit shall be determined~~
4 ~~and certified annually by the public utilities commission. The~~
5 ~~tax liability for a telephone public utility claiming the credit~~
6 ~~shall be calculated in the manner prescribed in section 239-5,~~
7 ~~provided that the amount of tax due from the utility shall be~~
8 ~~net of the lifeline service credit."]~~

9 SECTION 52. Section 239-11, Hawaii Revised Statutes, is
10 repealed.

11 [~~§239-11 Exemption of certain contract carriers. (a)~~
12 ~~There shall be exempted and excluded from the measure of the tax~~
13 ~~imposed by this chapter the gross income from any contract~~
14 ~~carrier by water which is engaged primarily in the business of~~
15 ~~transporting persons between harbors or wharves of the various~~
16 ~~counties for interisland cruises within the State; provided that~~
17 ~~such exemption shall be applicable for the period July 1, 1981,~~
18 ~~to June 30, 1996.~~

19 ~~(b) Any contract carrier and related partners, if any,~~
20 ~~claiming an exemption under subsection (a) shall submit an~~
21 ~~annual financial report, prepared by an independent certified~~
22 ~~public accountant, to the department of taxation and to the~~



1 ~~department of business, economic development, and tourism on or~~
2 ~~before the fifteenth day of the fifth month following the close~~
3 ~~of each taxable year for which the exemption is being claimed,~~
4 ~~provided that in addition to reports in 1992, 1993, 1994, and~~
5 ~~1995, an annual financial report shall be due on or before March~~
6 ~~1, 1996. The annual financial report, prepared in a form~~
7 ~~approved by the director of taxation, shall include but not be~~
8 ~~limited to:~~

- 9 ~~(1) A balance sheet of assets and liabilities;~~
- 10 ~~(2) A statement of income and expenses;~~
- 11 ~~(3) Supplementary information to financial statements;~~
- 12 ~~(4) A summary of financial condition; and~~
- 13 ~~(5) An apportionment of income and expenses of the~~
14 ~~contract carrier and related partners, if any, within~~
15 ~~and without the State.~~

16 ~~Within thirty days of the receipt of the financial report~~
17 ~~from the contract carrier and related partners, if any, the~~
18 ~~director of taxation shall submit relevant financial data to the~~
19 ~~legislature. Failure to comply with this subsection by the~~
20 ~~contract carrier or related partners, if any, as determined by~~
21 ~~the director of taxation, shall constitute a waiver of the right~~
22 ~~to claim the exemption."]~~



1 SECTION 53. Section 239-12, Hawaii Revised Statutes, is
2 repealed.

3 ~~["§239-12]—Call centers, exemption, engaging in business,~~
4 ~~definitions.~~ (a) ~~This chapter shall not apply to amounts~~
5 ~~received from a person operating a call center by a person~~
6 ~~engaged in business as a telecommunications common carrier for~~
7 ~~interstate or foreign telecommunications services, including~~
8 ~~toll-free telecommunications, telecommunications capabilities~~
9 ~~for electronic mail, voice and data telecommunications,~~
10 ~~computerized telephone support, facsimile, wide area~~
11 ~~telecommunications services, or computer to computer~~
12 ~~communication.~~

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

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



1 ~~"Call center" means a physical or electronic operation that~~
2 ~~focuses on providing customer service and support for computer~~
3 ~~hardware and software companies, manufacturing companies,~~
4 ~~software service organizations, and telecommunications support~~
5 ~~services, within an organization in which a managed group of~~
6 ~~individuals spend most of their time engaging in business by~~
7 ~~telephone, usually working in a computer-automated environment,~~
8 ~~provided that the operation shall not include telemarketing or~~
9 ~~sales.~~

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

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

16 SECTION 54. The revisor of statutes shall not include
17 section 237-27.1, Hawaii Revised Statutes, in any replacement
18 volume of the Hawaii Revised Statutes published after June 30,
19 2009.

20 SECTION 55. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 56. This Act shall take effect on January 1, 2010
2 and shall be repealed on December 31, 2015; provided that:

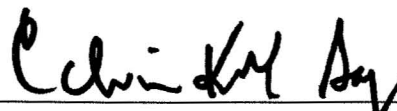
3 (1) The amendments made to sections 237-24.3 and 237-24.7,
4 Hawaii Revised Statutes, by sections 20 and 21 of this
5 Act shall not be repealed when those sections are
6 reenacted on December 31, 2009, pursuant to section 4
7 of Act 239, Session Laws of Hawaii 2007;

8 (2) With the exception of sections 237-24.3 and 237-24.7,
9 Hawaii Revised Statutes, all sections of the Hawaii
10 Revised Statutes amended by this Act shall be
11 reenacted on January 1, 2016, in the form in which
12 they read on the day prior to the effective day of
13 this Act; and

14 (3) Sections 237-24.3 and 237-24.7, Hawaii Revised
15 Statutes, shall be reenacted on January 1, 2016, in
16 the form in which they read on December 31, 2007,
17 pursuant to section 4 of Act 239, Session Laws of
18 Hawaii 2007.

19

INTRODUCED BY:



JAN 28 2009



Report Title:

General Excise And Use Tax Reform

Description:

Repeals certain general excise and use tax excise exemptions and exclusions, but retains the exemption for nonprofit religious organizations. Reduces the tax rate on sales to the final consumer from 4% to 3.5%. Reduces also the public service company tax rate and repeals certain public service company tax exemptions. Subjects to the general excise tax certain sales of real property and sales of securities, commodity futures, and bonds. Makes conforming amendments to other laws.

