
A BILL FOR AN ACT

RELATING TO TAX EXEMPTIONS.

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

1 SECTION 1. Chapter 237, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:
4 "§237- Exemption for certain machinery and equipment
5 used directly in the generation of electricity. (a) The tax
6 imposed under this chapter shall not apply to sales of machinery
7 and equipment used directly in the generation of electricity
8 using fuel cells, hydrogen, biomass, wind, the sun, the ocean,
9 geothermal energy, waste heat, hydroelectric power, or landfill
10 gas as the principal source of power, or to sales of or charges
11 made for labor and services rendered with respect to the
12 installation of such machinery and equipment; provided that the
13 purchaser develops with such machinery, equipment, and labor a
14 facility capable of generating not less than two hundred watts
15 per day of electricity and provides the seller with an exemption
16 certificate in a form and manner prescribed by the department.
17 The seller shall retain a copy of the certificate for the
18 seller's files.



1 (b) Machinery and equipment shall be considered to be used
2 directly in the generation of electricity using fuel cells,
3 hydrogen, biomass, wind, the sun, the ocean, geothermal energy,
4 waste heat, hydroelectric power, or landfill gas, provided that
5 it:

6 (1) Provides any part of the process that captures the
7 energy of fuel cells, hydrogen, biomass, wind, the
8 sun, the ocean, geothermal energy, waste heat,
9 hydroelectric power, or landfill gas;

10 (2) Converts that energy to electricity; and

11 (3) Stores, transforms, or transmits that electricity for
12 entry into or operation in parallel with electric
13 transmission and distribution systems.

14 (c) As used in this section:

15 "Fuel cell" means a device that uses an electrochemical
16 reaction that generates electricity by combining atoms of
17 hydrogen and oxygen in the presence of a catalyst.

18 "Landfill gas" means biomass fuel of the type qualified for
19 federal tax credits under 26 United States Code Section 29
20 collected from a landfill.

21 "Machinery and equipment" means industrial fixtures,
22 devices, and support facilities that are integral and necessary



1 to the generation of electricity using fuel cells, hydrogen,
2 biomass, wind, the sun, the ocean, geothermal energy, waste
3 heat, hydroelectric power, or landfill gas as the principal
4 source of power.

5 "Machinery and equipment" does not include:

- 6 (1) Hand-powered tools;
- 7 (2) Property with a useful life of less than one year;
- 8 (3) Repair parts required to restore machinery and
9 equipment to normal working order;
- 10 (4) Replacement parts that do not increase productivity,
11 improve efficiency, or extend the useful life of
12 machinery and equipment;
- 13 (5) Buildings; or
- 14 (6) Building fixtures that are not integral and necessary
15 to the generation of electricity that are permanently
16 affixed to and become a physical part of a building."

17 SECTION 2. Chapter 238, Hawaii Revised Statutes, is
18 amended by adding a new section to be appropriately designated
19 and to read as follows:

20 "§238- Exemption for certain machinery and equipment
21 used directly in the generation of electricity. (a) The tax
22 imposed under this chapter shall not apply to sales of machinery



1 and equipment used directly in the generation of electricity
2 using fuel cells, hydrogen, biomass, wind, the sun, the ocean,
3 geothermal energy, waste heat, hydroelectric power, or landfill
4 gas as the principal source of power, or to sales of or charges
5 made for labor and services rendered with respect to the
6 installation of such machinery and equipment; provided that the
7 purchaser develops with such machinery, equipment, and labor a
8 facility capable of generating not less than two hundred watts
9 of electricity and provides the seller with an exemption
10 certificate in a form and manner prescribed by the department.
11 The seller shall retain a copy of the certificate for the
12 seller's files.

13 (b) Machinery and equipment shall be considered to be used
14 directly in the generation of electricity using fuel cells,
15 hydrogen, biomass, wind, the sun, the ocean, geothermal energy,
16 waste heat, hydroelectric power, or landfill gas, provided that
17 it:

18 (1) Provides any part of the process that captures the
19 energy of fuel cells, hydrogen, biomass, wind, the
20 sun, the ocean, geothermal energy, waste heat,
21 hydroelectric power, or landfill gas;

22 (2) Converts that energy to electricity; and



1 (3) Stores, transforms, or transmits that electricity for
2 entry into or operation in parallel with electric
3 transmission and distribution systems.

4 (c) As used in this section:

5 "Fuel cell" means a device that uses an electrochemical
6 reaction that generates electricity by combining atoms of
7 hydrogen and oxygen in the presence of a catalyst.

8 "Landfill gas" means biomass fuel of the type qualified for
9 federal tax credits under 26 United States Code Section 29
10 collected from a landfill.

11 "Machinery and equipment" means industrial fixtures,
12 devices, and support facilities that are integral and necessary
13 to the generation of electricity using fuel cells, hydrogen,
14 biomass, wind, the sun, the ocean, geothermal energy, waste
15 heat, hydroelectric power, or landfill gas as the principal
16 source of power.

17 "Machinery and equipment" does not include:

- 18 (1) Hand-powered tools;
19 (2) Property with a useful life of less than one year;
20 (3) Repair parts required to restore machinery and
21 equipment to normal working order;



- 1 (4) Replacement parts that do not increase productivity,
- 2 improve efficiency, or extend the useful life of
- 3 machinery and equipment;
- 4 (5) Buildings; or
- 5 (6) Building fixtures that are not integral and necessary
- 6 to the generation of electricity that are permanently
- 7 affixed to and become a physical part of a building."

8 SECTION 3. New statutory material is underscored.

9 SECTION 4. This Act shall take effect on January 1, 2010;
10 provided that it shall be repealed on December 31, 2014.

11

INTRODUCED BY:

John M. Marino
Guthrie Hicks

Mele Canall

Rida Cabanilla

[Signature]
[Signature]

JAN 23 2009



Report Title:

Tax exemptions; Direct generation of electricity using fuel cells, hydrogen, biomass, wind, the sun, the ocean, geothermal energy, waste heat, hydroelectric power, or landfill gas

Description:

Exempts from the general excise tax and use tax all equipment used directly in the generation of electricity using fuel cells, hydrogen, biomass, wind, the sun, the ocean, geothermal energy, waste heat, hydroelectric power, or landfill gas.

