

JAN 20 2010

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# A BILL FOR AN ACT

RELATING TO GENERAL EXCISE TAX.

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

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

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

6           (1)   Amounts received by the operator of a hotel from the  
7               owner of the hotel or from a time share association,  
8               and amounts received by the suboperator of a hotel  
9               from the owner of the hotel, from a time share  
10              association, or from the operator of the hotel, in  
11              amounts equal to and which are disbursed by the  
12              operator or suboperator for employee wages, salaries,  
13              payroll taxes, insurance premiums, and benefits,  
14              including retirement, vacation, sick pay, and health  
15              benefits[-]; provided that the aggregate tax exemption  
16              for a time share association shall not exceed \$400,000  
17              for the taxable year beginning after December 31, 2009



1           and ending before January 1, 2011. As used in this  
2 paragraph:

3           "Employee" means employees directly engaged in  
4 the day-to-day operation of the hotel and employed by  
5 the operator or suboperator.

6           "Hotel" means an operation as defined in section  
7 445-90 or a time share plan as defined in section  
8 514E-1.

9           "Operator" means any person who, pursuant to a  
10 written contract with the owner of a hotel or time  
11 share association, operates or manages the hotel for  
12 the owner or time share association.

13           "Owner" means the fee owner or lessee under a  
14 recorded lease of a hotel.

15           "Suboperator" means any person who, pursuant to a  
16 written contract with the operator, operates or  
17 manages the hotel as a subcontractor of the operator.

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

20       (2) Amounts received by the operator of a county  
21 transportation system operated under an operating  
22 contract with a political subdivision, where the



1 political subdivision is the owner of the county  
2 transportation system. As used in this paragraph:

3 "County transportation system" means a mass  
4 transit system of motorized buses providing regularly  
5 scheduled transportation within a county.

6 "Operating contract" or "contract" means a  
7 contract to operate and manage a political  
8 subdivision's county transportation system, which  
9 provides that:

10 (A) The political subdivision shall exercise  
11 substantial control over all aspects of the  
12 operator's operation;

13 (B) The political subdivision controls the  
14 development of transit policy, service  
15 planning, routes, and fares; and

16 (C) The operator develops in advance a draft  
17 budget in the same format as prescribed for  
18 agencies of the political subdivision. The  
19 budget must be subject to the same  
20 constraints and controls regarding the  
21 lawful expenditure of public funds as any  
22 public sector agency, and deviations from



1                   the budget must be subject to approval by  
2                   the appropriate political subdivision  
3                   officials involved in the budgetary process.

4                   "Operator" means any person who, pursuant to an  
5                   operating contract with a political subdivision,  
6                   operates or manages a county transportation system.

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

13               (3) Surcharge taxes on rental motor vehicles imposed by  
14               chapter 251 and passed on and collected by persons  
15               holding certificates of registration under that  
16               chapter;

17               (4) Amounts received by the operator of orchard properties  
18               from the owner of the orchard property in amounts  
19               equal to and which are disbursed by the operator for  
20               employee wages, salaries, payroll taxes, insurance  
21               premiums, and benefits, including retirement,



1 vacation, sick pay, and health benefits. As used in  
2 this paragraph:

3 "Employee" means an employee directly engaged in  
4 the day-to-day operations of the orchard properties  
5 and employed by the operator.

6 "Operator" means a producer who, pursuant to a  
7 written contract with the owner of the orchard  
8 property, operates or manages the orchard property for  
9 the owner where the property contains an area  
10 sufficient to make the undertaking economically  
11 feasible.

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

18 "Owner" means a fee owner or lessee under a  
19 recorded lease of orchard property;

20 (5) Taxes on nursing facility income imposed by chapter  
21 346E and passed on and collected by operators of  
22 nursing facilities;



- 1           (6) Amounts received under property and casualty insurance  
2           policies for damage or loss of inventory used in the  
3           conduct of a trade or business located within the  
4           State or a portion thereof that is declared a natural  
5           disaster area by the governor pursuant to section 209-  
6           2;
- 7           (7) Amounts received as compensation by community  
8           organizations, school booster clubs, and nonprofit  
9           organizations under a contract with the chief election  
10          officer for the provision and compensation of precinct  
11          officials and other election-related personnel,  
12          services, and activities, pursuant to section 11-5;
- 13          (8) Interest received by a person domiciled outside the  
14          State from a trust company (as defined in section  
15          412:8-101) acting as payment agent or trustee on  
16          behalf of the issuer or payees of an interest bearing  
17          instrument or obligation, if the interest would not  
18          have been subject to tax under this chapter if paid  
19          directly to the person domiciled outside the State  
20          without the use of a paying agent or trustee; provided  
21          that if the interest would otherwise be taxable under  
22          this chapter if paid directly to the person domiciled



1 outside the State, it shall not be exempt solely  
2 because of the use of a Hawaii trust company as a  
3 paying agent or trustee;

4 (9) Amounts received by a management company from related  
5 entities engaged in the business of selling interstate  
6 or foreign common carrier telecommunications services  
7 in amounts equal to and which are disbursed by the  
8 management company for employee wages, salaries,  
9 payroll taxes, insurance premiums, and benefits,  
10 including retirement, vacation, sick pay, and health  
11 benefits. As used in this paragraph:

12 "Employee" means employees directly engaged in  
13 the day-to-day operation of related entities engaged  
14 in the business of selling interstate or foreign  
15 common carrier telecommunications services and  
16 employed by the management company.

17 "Management company" means any person who,  
18 pursuant to a written contract with a related entity  
19 engaged in the business of selling interstate or  
20 foreign common carrier telecommunications services,  
21 provides managerial or operational services to that  
22 entity.



- 1 "Related entities" means:
- 2 (A) An affiliated group of corporations within
- 3 the meaning of section 1504 (with respect to
- 4 affiliated group defined) of the federal
- 5 Internal Revenue Code of 1986, as amended;
- 6 (B) A controlled group of corporations within
- 7 the meaning of section 1563 (with respect to
- 8 definitions and special rules) of the
- 9 federal Internal Revenue Code of 1986, as
- 10 amended;
- 11 (C) Those entities connected through ownership
- 12 of at least eighty per cent of the total
- 13 value and at least eighty per cent of the
- 14 total voting power of each such entity (or
- 15 combination thereof), including
- 16 partnerships, associations, trusts, S
- 17 corporations, nonprofit corporations,
- 18 limited liability partnerships, or limited
- 19 liability companies; and
- 20 (D) Any group or combination of the entities
- 21 described in paragraph (C) constituting a
- 22 unitary business for income tax purposes;





1 whether or not the entity is located within or without  
2 the State or licensed under this chapter; and

3 (10) Amounts received as grants under section 206M-15."

4 SECTION 2. Act 239, Session Laws of Hawaii 2007, section  
5 4, as amended by Act 196, Session Laws of Hawaii 2009, section  
6 5, is amended to read as follows:

7 "SECTION 4. This Act shall take effect on January 1, 2008;  
8 provided that:

9 (1) Section 1 shall take effect retroactive to July 1,  
10 2006; and

11 (2) Section 2 [this Act] shall be repealed on December 31,  
12 2010, and section [237-24.3, Hawaii Revised Statutes,  
13 and section] 237-24.7, Hawaii Revised Statutes, shall  
14 be reenacted in the form in which it read on December  
15 31, 2007."

16 SECTION 3. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18 SECTION 4. This Act shall take effect upon its approval  
19 and apply to taxable years beginning after December 31, 2009.

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INTRODUCED BY:

R. O. O. J.  
by request



**Report Title:**

General Excise Tax; Condominium Property Regimes; Timeshare

**Description:**

Temporarily restricts the general excise tax exemption for timeshare associations to \$400,000. Removes sunset for GET exemption for a submanager of an association of apartment owners and a reference to chapter 514A, HRS in the same exemption and changes the effective date of the provision to 7/1/06.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

