
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. The purpose of this Act is to temporarily
2 suspend the general excise and use tax exemptions for certain
3 amounts received by certain persons and, instead, require those
4 persons to pay the applicable tax on those amounts at a one per
5 cent rate. The suspension and imposition of the tax commences
6 on July 1, 2010, and ends on June 30, 2015.

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

10 "§237-A Temporary suspension of exemption of certain
11 amounts; levy of tax at one per cent rate. (a) Notwithstanding
12 any other law to the contrary, the exemption of the following
13 amounts from taxation under this chapter shall be suspended from
14 July 1, 2010, through June 30, 2015:

15 (1) Amounts deducted from the gross income received by
16 contractors as described under section 237-13(3)(B);

17 (2) Reimbursements received by federal cost-plus
18 contractors for the costs of purchased materials,



- 1 plant, and equipment as described under section 237-
- 2 13(3)(C);
- 3 (3) Gross receipts of home service providers acting as
- 4 service carriers providing mobile telecommunication
- 5 services to other home service providers as described
- 6 under section 237-13(6)(D);
- 7 (4) Amounts deducted from the gross income of real
- 8 property lessees because of receipt from sublessees as
- 9 described under section 237-16.5;
- 10 (5) The value or gross income received by nonprofit
- 11 organizations from certain conventions, conferences,
- 12 trade shows, or display spaces as described under
- 13 section 237-16.8;
- 14 (6) Amounts received, charged, or attributable to services
- 15 furnished by related entities or the imputed or stated
- 16 interests of related entities as described under
- 17 section 237-23.5(a);
- 18 (7) Amounts received by common paymasters and disbursed as
- 19 employee compensation or benefits as described under
- 20 section 237-23.5(b);
- 21 (8) Amounts received by sugarcane producers as described
- 22 under section 237-24(14);



- 1 (9) Amounts received by cooperative housing corporations
2 from shareholders as reimbursement for expenses as
3 described under section 237-24(16);
- 4 (10) Amounts received from the loading, transportation, and
5 unloading of agricultural commodities shipped
6 interisland as described under section 237-24.3(1);
- 7 (11) Amounts received from the sale of intoxicating liquor,
8 cigarettes and tobacco products, and agricultural,
9 meat, or fish products to persons or common carriers
10 engaged in interstate or foreign commerce as described
11 under section 237-24.3(2);
- 12 (12) Amounts received by managers, submanagers, or boards
13 of directors of condominium property regime owner,
14 nonprofit homeowner, or nonprofit community
15 associations as described under section 237-24.3(3) in
16 the form in which it exists on July 1, 2010;
- 17 (13) Amounts received or accrued from the loading or
18 unloading of cargo as described under section 237-
19 24.3(4)(A);
- 20 (14) Amounts received or accrued from tugboat and towage
21 services as described under section 237-24.3(4)(B);



- 1 (15) Amounts received or accrued from the transportation of
- 2 pilots or government officials and other maritime-
- 3 related services as described under section 237-
- 4 24.3(4)(C);
- 5 (16) Amounts received by labor organizations for real
- 6 property leases as described under section 237-
- 7 24.3(10);
- 8 (17) Amounts received as rent for aircraft or aircraft
- 9 engines used for interstate air transportation as
- 10 described under section 237-24.3(12);
- 11 (18) Amounts received by exchanges and exchange members as
- 12 described under section 237-24.5;
- 13 (19) Amounts received by hotel operators or suboperators
- 14 and disbursed for employee compensation and benefits
- 15 as described under section 237-24.7(1) in the form in
- 16 which it exists on July 1, 2010;
- 17 (20) Amounts received by operators of orchard properties
- 18 and disbursed for employee compensation and benefits
- 19 as described under section 237-24.7(4);
- 20 (21) Amounts received by management companies from related
- 21 telecommunications services common carriers and

- 1 disbursed for employee compensation and benefits as
- 2 described under section 237-24.7(9);
- 3 (22) Amounts received as high technology development grants
- 4 as described under section 237-24.7(10);
- 5 (23) Amounts received by the Hawaii convention center
- 6 operator as reimbursements of costs or advances as
- 7 described under section 237-24.75(2);
- 8 (24) Amounts received by professional employment
- 9 organizations from client companies and disbursed for
- 10 employee benefits and compensation as described under
- 11 section 237-24.75(3);
- 12 (25) Amounts received from the servicing and maintenance of
- 13 aircrafts or construction of aircraft service and
- 14 maintenance facilities as described under section 237-
- 15 24.9;
- 16 (26) Gross proceeds received from the sale of tangible
- 17 personal property to the United States and state-
- 18 chartered credit unions as described under section
- 19 237-25(a)(3);
- 20 (27) Gross proceeds, including any proceeds or income from
- 21 scientific contracts, as more fully described under
- 22 section 237-26;

- 1 (28) Amounts received by petroleum product refiners from
2 other refiners for further refining of petroleum
3 products as described under section 237-27;
- 4 (29) Gross proceeds received from the construction,
5 reconstruction, erection, operation, use, maintenance,
6 or furnishing of air pollution control facilities, as
7 described under section 237-27.5, that do not have
8 valid certificates of exemption on July 1, 2010;
- 9 (30) Gross proceeds received from shipbuilding and ship
10 repairs as described under section 237-28.1;
- 11 (31) Gross income received from the planning, design,
12 financing, construction, sale, or lease of affordable
13 housing projects, as described under section 237-
14 29(a), that do not have valid certificates of
15 exemption or approval under section 46-15.1 or 201H-36
16 on July 1, 2010;
- 17 (32) Gross income received by nonprofit or limited
18 distribution mortgagors for low- and moderate-income
19 housing projects, as described under section 237-
20 29(b), that were not certified or approved under
21 section 46-15.1 or 201H-36 on or before July 1, 2010;



- 1 (33) The value of or gross proceeds received from tangible
2 personal property shipped out of the state as
3 described under section 237-29.5;
- 4 (34) The value of or gross income received from contracting
5 or services performed for use outside the state as
6 described under section 237-29.53;
- 7 (35) Gross proceeds or gross income received from the sale
8 of tangible personal property imported for subsequent
9 resale at wholesale as described under section 237-
10 29.55;
- 11 (36) Amounts received by telecommunications common carriers
12 from call center operators for interstate or foreign
13 telecommunications services as described under section
14 237-29.8; and
- 15 (37) Gross proceeds received by qualified businesses in
16 enterprise zones, as described under section 209E-11,
17 that do not have valid certificates of qualification
18 from the department of business, economic development,
19 and tourism on July 1, 2010.
- 20 (b) Except as otherwise provided under subsection (d),
21 there is levied, assessed, and collected annually against the



1 persons under subsection (a), a tax at the rate of one per cent
2 on the previously exempt gross income or gross proceeds of sale.

3 As used in this section, "previously exempt gross income or
4 gross proceeds of sale" means the amount of the gross income or
5 gross proceeds of sale, the exemption for which is suspended
6 under subsection (a). The term also includes the following:

- 7 (1) The value received by a nonprofit organization from
8 conventions, conferences, trade show exhibits, and
9 display spaces, the exemption for which is suspended
10 under subsection (a) (5);
- 11 (2) The value of tangible personal property shipped out of
12 the state, the exemption for which is suspended under
13 subsection (a) (33); and
- 14 (3) The value of contracting or services performed for use
15 outside the state, the exemption for which is
16 suspended under subsection (a) (34).

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

20 (c) Notwithstanding section 237-8.6, no county surcharge
21 shall be levied, assessed, or collected on any previously exempt

1 gross income or gross proceeds of sale that is subject to
2 taxation under subsection (b).

3 (d) This section shall not apply to gross income or gross
4 proceeds from binding written contracts entered into prior to
5 July 1, 2010, that do not permit the passing on of increased
6 rates of taxes.

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

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

13 §237-B Information reporting. The director shall require
14 information reporting on all exclusions or exemptions of all
15 amounts, persons, or transactions from this chapter, except for
16 the following:

17 (1) Amounts received that are exempt under section 237-
18 24(1) through (7);

19 (2) Amounts received by persons exempt under section 237-
20 23(a)(3) through (6); provided that such person is
21 exempt from filing federal Internal Revenue Service
22 Form 990 or Form 990-EZ; and



1 (3) Any other amounts, persons, or transactions as
2 determined by the director in the best interest of tax
3 administration and made by official pronouncement."

4 SECTION 3. Chapter 238, Hawaii Revised Statutes, is
5 amended by adding two new sections to be appropriately
6 designated and to read as follows:

7 "§238-A Temporary suspension of exemption of certain
8 amounts; levy of tax at one per cent rate. (a) Notwithstanding
9 any other law to the contrary, including but not limited to
10 section 238-3(j), the exemption of the following from taxation
11 under this chapter shall be suspended from July 1, 2010, through
12 June 30, 2015:

13 (1) The leasing or renting of aircraft or keeping of
14 aircraft solely for leasing or renting for commercial
15 transportation of passengers and goods or the
16 acquisition or importation of aircraft or aircraft
17 engines by a lessee or renter engaged in interstate
18 air transportation, as described under paragraph (6)
19 of the definition of "use" in section 238-1;

20 (2) The use of oceangoing vehicles for passenger or
21 passenger and goods transportation from one point to
22 another within the state as a public utility, as



1 described under paragraph (7) of the definition of
2 "use" in section 238-1;

3 (3) The use of material, parts, or tools imported or
4 purchased by a person licensed under chapter 237 which
5 are used for aircraft service and maintenance or the
6 construction of an aircraft service and maintenance
7 facility, as described under paragraph (8) of the
8 definition of "use" in section 238-1;

9 (4) The use of services or contracting imported for resale
10 where the contracting or services are for resale,
11 consumption, or use outside the state, as described
12 under paragraph (9) of the definition of "use" in
13 section 238-1;

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



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

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

7 (8) The use of any air pollution control facility subject
8 to section 237-27.5 as described under section 238-
9 3(k).

10 (b) Except as otherwise provided under subsection (c) or
11 (e), there is levied, assessed, and collected annually against
12 the persons under subsection (a), a tax at the rate of one per
13 cent on the previously exempt value of property, services, or
14 contracting.

15 As used in this section, "previously exempt value of
16 property, services, or contracting" means the value of property,
17 services, or contracting, the exemption for which is suspended
18 under subsection (a).

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



1 (c) The tax imposed under subsection (b) shall not apply
2 to any property, services, or contracting or to any use of the
3 property, services, or contracting that cannot legally be so
4 taxed under the Constitution or laws of the United States, but
5 only so long as, and only to the extent to which the State is
6 without power to impose the tax.

7 To the extent that any exemption, exclusion, or
8 apportionment is necessary to comply with the preceding
9 sentence, the director of taxation shall:

10 (1) Exempt or exclude the property, services, or
11 contracting or the use of the property, services, or
12 contracting, from the tax under subsection (b); or

13 (2) Apportion the gross value of services or contracting
14 sold to customers within the state by persons engaged
15 in business both within and without the state to
16 determine the value of that portion of the services or
17 contracting that is subject to taxation under chapter
18 237 for the purposes of section 237-21.

19 (d) Notwithstanding section 238-2.6, no county surcharge
20 shall be levied, assessed, or collected on any previously exempt
21 value of property, services, or contracting that is subject to
22 taxation under subsection (b).



1 (e) This section shall not apply to the value of property,
2 services, or contracting from binding written contracts entered
3 into prior to July 1, 2010, that do not permit the passing on of
4 increased rates of taxes.

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

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

11 §238-B Information reporting. The director shall require
12 information reporting on all exclusions or exemptions of all
13 amounts, persons, or transactions from this chapter, except for
14 any amounts, persons, or transactions as determined by the
15 director in the best interest of tax administration and made by
16 official pronouncement."

17 SECTION 4. In codifying the new sections added by sections
18 2 and 3 of this Act, the revisor of statutes shall substitute
19 appropriate section numbers for the letters used in designating
20 the new sections in this Act.

21 SECTION 5. New statutory material is underscored.



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

3 (1) The department of taxation shall have the authority to
4 postpone the payment of the tax imposed under this Act
5 until the deadline to file the general excise or use
6 tax annual return and reconciliation form, as
7 applicable, without regard to any extension;

8 (2) Section 2 of this Act suspending certain exemptions of
9 section 237-24, Hawaii Revised Statutes, shall not be
10 repealed when that section is reenacted on December
11 31, 2013, pursuant to Act 70, Session Laws of Hawaii
12 2009; and

13 (3) Section 2 of this Act suspending certain exemptions of
14 sections 237-24.3 and 237-24.7, Hawaii Revised
15 Statutes, shall not be repealed when those sections
16 are reenacted on December 31, 2010, pursuant to Act
17 196, Session Laws of Hawaii 2009.

Report Title:

General Excise and Use Taxes; Temporary Suspension; Exemption for Certain Persons and Gross Amounts

Description:

Suspends temporarily the exemptions for certain persons and certain amounts of gross income or proceeds from the general excise and use tax and requires the payment of the tax at a 1 percent rate. Effective July 1, 2010, and sunsets on June 30, 2015. (SB2402 HD1)

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

