

# HOUSE OF REPRESENTATIVES

AMENDMENT TO: S.B. No. 2402, S.D. 1, H.D. 1, RELATING TO TAXATIONOFFERED BY: Tom BunnDATE: 4.6.10

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SECTION 1. S.B. No. 2402, S.D. 1, H.D. 1, RELATING TO TAXATION, is amended by amending section 2 to read as follows:

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

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

- (1) Amounts deducted from the gross income received by contractors as described under section 237-13(3)(B);
- (2) Reimbursements received by federal cost-plus contractors for the costs of purchased materials, plant, and equipment as described under section 237-13(3)(C);

- (3) Gross receipts of home service providers acting as service carriers providing mobile telecommunication services to other home service providers as described under section 237-13(6)(D);
- (4) Amounts deducted from the gross income of real property lessees because of receipt from sublessees as described under section 237-16.5;
- (5) The value or gross income received by nonprofit organizations from certain conventions, conferences, trade shows, or display spaces as described under section 237-16.8;
- (6) Amounts received, charged, or attributable to services furnished by related entities or the imputed or stated interests of related entities as described under section 237-23.5(a);
- (7) Amounts received by common paymasters and disbursed as employee compensation or benefits as described under section 237-23.5(b);
- (8) Amounts received by sugarcane producers as described under section 237-24(14);
- (9) Amounts received by cooperative housing corporations from shareholders as reimbursement for expenses as described under section 237-24(16);

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- (10) Amounts received from the loading, transportation, and unloading of agricultural commodities shipped interisland as described under section 237-24.3(1);
- (11) Amounts received from the sale of intoxicating liquor, cigarettes and tobacco products, and agricultural, meat, or fish products to persons or common carriers engaged in interstate or foreign commerce as described under section 237-24.3(2);
- (12) Amounts received or accrued from the loading or unloading of cargo as described under section 237-24.3(4)(A);
- (13) Amounts received or accrued from tugboat and towage services as described under section 237-24.3(4)(B);
- (14) Amounts received or accrued from the transportation of pilots or government officials and other maritime-related services as described under section 237-24.3(4)(C);
- (15) Amounts received by labor organizations for real property leases as described under section 237-24.3(10);
- (16) Amounts received as rent for aircraft or aircraft engines used for interstate air transportation as described under section 237-24.3(12);

- (17) Amounts received by exchanges and exchange members as described under section 237-24.5;
- (18) Amounts received by hotel operators or suboperators and disbursed for employee compensation and benefits as described under section 237-24.7(1) in the form in which it exists on July 1, 2010;
- (19) Amounts received by operators of orchard properties and disbursed for employee compensation and benefits as described under section 237-24.7(4);
- (20) Amounts received by management companies from related telecommunications services common carriers and disbursed for employee compensation and benefits as described under section 237-24.7(9);
- (21) Amounts received as high technology development grants as described under section 237-24.7(10);
- (22) Amounts received by the Hawaii convention center operator as reimbursements of costs or advances as described under section 237-24.75(2);
- (23) Amounts received by professional employment organizations from client companies and disbursed for employee benefits and compensation as described under section 237-24.75(3);
- (24) Amounts received from the servicing and maintenance of aircraft or construction of aircraft service and

maintenance facilities as described under section 237-24.9;

- (25) Gross proceeds received from the sale of tangible personal property to the United States and state-chartered credit unions as described under section 237-25(a)(3);
- (26) Gross proceeds, including any proceeds or income from scientific contracts, as more fully described under section 237-26;
- (27) Amounts received by petroleum product refiners from other refiners for further refining of petroleum products as described under section 237-27;
- (28) Gross proceeds received from the construction, reconstruction, erection, operation, use, maintenance, or furnishing of air pollution control facilities, as described under section 237-27.5, that do not have valid certificates of exemption on July 1, 2010;
- (29) Gross proceeds received from shipbuilding and ship repairs as described under section 237-28.1;
- (30) Gross income received from the planning, design, financing, construction, sale, or lease of affordable housing projects, as described under section 237-29(a), that do not have valid certificates of

exemption or approval under section 46-15.1 or 201H-36 on July 1, 2010;

- (31) Gross income received by nonprofit or limited distribution mortgagors for low- and moderate-income housing projects, as described under section 237-29(b), that were not certified or approved under section 46-15.1 or 201H-36 on or before July 1, 2010;
- (32) The value of or gross proceeds received from tangible personal property shipped out of the state as described under section 237-29.5;
- (33) The value of or gross income received from contracting or services performed for use outside the state as described under section 237-29.53;
- (34) Gross proceeds or gross income received from the sale of tangible personal property imported for subsequent resale at wholesale as described under section 237-29.55;
- (35) Amounts received by telecommunications common carriers from call center operators for interstate or foreign telecommunications services as described under section 237-29.8; and
- (36) Gross proceeds received by qualified businesses in enterprise zones, as described under section 209E-11, that do not have valid certificates of qualification

from the department of business, economic development, and tourism on July 1, 2010.

(b) Except as otherwise provided under subsection (d), there is levied, assessed, and collected annually against the persons under subsection (a), a tax at the rate of one per cent on the previously exempt gross income or gross proceeds of sale.

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

- (1) The value received by a nonprofit organization from conventions, conferences, trade show exhibits, and display spaces, the exemption for which is suspended under subsection (a) (5);
- (2) The value of tangible personal property shipped out of the state, the exemption for which is suspended under subsection (a) (32); and
- (3) The value of contracting or services performed for use outside the state, the exemption for which is suspended under subsection (a) (33).

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

(c) Notwithstanding section 237-8.6, no county surcharge shall be levied, assessed, or collected on any previously exempt gross income or gross proceeds of sale that is subject to taxation under subsection (b).

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

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

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

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

- (1) Amounts received that are exempt under section 237-24(1) through (7);
- (2) Amounts received by persons exempt under section 237-23(a)(3) through (6); provided that such person is exempt from filing federal Internal Revenue Service Form 990 or Form 990-EZ; and



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

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