
A BILL FOR AN ACT

RELATING TO USE TAX.

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

1 SECTION 1. Act 74, Session Laws of Hawaii 1979, amended
2 the tax law to prevent the application of Hawaii general excise
3 or use tax to certain interstate commerce activities of common
4 carriers, which legislative history identifies as primarily
5 those involved in stevedoring and other similar activities.
6 Adopted in response to a United States Supreme Court opinion
7 that expanded the State's ability to tax interstate commerce,
8 Act 74 was intended to prevent the State from taxing stevedoring
9 and other similar activities.

10 Since the enactment of Act 74, the tax laws have been
11 amended to expressly exempt the particular stevedoring and other
12 interstate commerce activities originally intended to be
13 exempted by Act 74. Because other provisions now expressly
14 exempt these activities, language in the use tax law referencing
15 Act 74 is now redundant and unnecessary.

16 The purpose of this Act is to clarify the current
17 application of the use tax by eliminating overbroad and



1 redundant language in a provision relating to interstate
2 commerce activities.

3 SECTION 2. Section 238-3, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) The tax imposed by this chapter shall not apply to
6 any property, services, or contracting or to any use of the
7 property, services, or contracting that cannot legally be so
8 taxed under the Constitution or laws of the United States, but
9 only so long as, and only to the extent to which the State is
10 without power to impose the tax.

11 To the extent that any exemption, exclusion, or
12 apportionment is necessary to comply with the preceding
13 sentence, the director of taxation shall:

- 14 (1) Exempt or exclude from the tax under this chapter,
15 property, services, or contracting or the use of
16 property, services, or contracting exempted under
17 chapter 237; or
- 18 (2) Apportion the gross value of services or contracting
19 sold to customers within the State by persons engaged
20 in business both within and without the State to
21 determine the value of that portion of the services or



1 contracting that is subject to taxation under chapter
2 237 for the purposes of section 237-21.

3 ~~[Any provision of law to the contrary notwithstanding,~~
4 ~~exemptions or exclusions from tax under this chapter allowed on~~
5 ~~or before April 1, 1978, under the provisions of the~~
6 ~~Constitution of the United States or an act of the Congress of~~
7 ~~the United States to persons or common carriers engaged in~~
8 ~~interstate or foreign commerce, or both, whether ocean going or~~
9 ~~air, shall continue undiminished and be available thereafter.]"~~

10 SECTION 3. Statutory material to be repealed is bracketed
11 and stricken.

12 SECTION 4. This Act shall take effect upon its approval.



Report Title:

Use Tax; Stevedoring Exemption

Description:

Clarifies the current application of the use tax exemption for certain interstate commerce activities by repealing overbroad and redundant language in the use tax law. (HB1091 HD1)

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