
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 impose the general
2 excise tax on the death benefit or other gross income derived
3 from life settlement contracts.

4 SECTION 2. Chapter 237, Hawaii Revised Statutes, is amended
5 by adding a new section to be appropriately designated and to
6 read as follows:

7 "§237- Tax on gross income from life settlement contract.

8 (a) Except as otherwise provided under subsection (b), there is
9 hereby levied, and shall be assessed and collected annually, a
10 general excise tax against the gross income derived from a life
11 settlement contract by a person unrelated to the insured. The
12 tax shall be equal to four per cent of the gross income.

13 (b) In no instance shall the tax under this section be
14 levied, assessed, or collected on any death benefit paid under a
15 life insurance policy upon the death of the insured to a person
16 related to the insured.

17 (c) For purposes of this section, a life settlement
18 contract shall include:



- 1 (1) A written agreement entered into between an insurance
2 provider and a policy owner, establishing the terms
3 under which compensation or any thing of value that is
4 valued at less than the expected death benefit of the
5 owner's policy or certificate will be paid in return
6 for the policy owner's assignment, transfer, sale,
7 devise, or bequest of the death benefit or of any
8 portion of the policy or certificate; provided that the
9 minimum value of the contract is greater than a cash
10 surrender value or accelerated death benefit available
11 under the policy or certificate at the time of
12 application for a life settlement contract;
- 13 (2) The transfer for compensation or value of ownership or
14 beneficial interest in a trust or other entity that
15 owns a life insurance policy or certificate if the
16 trust or other entity was formed or availed of for the
17 principal purpose of acquiring one or more life
18 insurance policies that insure the life of a person
19 residing in this State;
- 20 (3) A written agreement for a loan or other lending
21 transaction that is secured primarily by an individual
22 or group life insurance policy; or



1 (4) A premium finance loan made for a life insurance policy
2 on or before the date of issuance of the policy;
3 provided that loan proceeds are not used solely to pay
4 premiums for the policy and any costs or expenses
5 incurred by the lender or the borrower in connection
6 with the financing, the owner receives on the date of
7 the premium finance loan a guarantee of the future life
8 settlement value of the policy, or the owner agrees on
9 the date of the premium finance loan to sell the policy
10 or any portion of its death benefit on any date
11 following the issuance of the policy.

12 (d) For purposes of this section, a life settlement
13 contract shall not include:

14 (1) A policy loan issued by a life insurance company
15 pursuant to the terms of the life insurance policy or
16 accelerated death provisions contained in a life
17 insurance policy, whether issued with the original
18 policy or as a rider;

19 (2) A premium finance loan or any other loan made by a bank
20 or other licensed financial institution; provided that
21 neither default on the loan nor transfer of the life
22 insurance policy in connection with the default is



1 provided for in an agreement or understanding with any
2 other person for the purpose of evading taxation under
3 this chapter;

4 (3) A collateral assignment of a life insurance policy by
5 an owner;

6 (4) A loan made by a lender that does not violate any
7 insurance premium finance law of this State; provided
8 that the loan does not qualify as a life settlement
9 contract;

10 (5) An agreement where all the parties:

11 (A) Are immediate family members as defined in section
12 454F-1; or

13 (B) Have a lawful substantial economic interest in the
14 continued life, health, and bodily safety of the
15 person insured, or are trusts established
16 primarily for the benefit of persons subject to
17 this paragraph;

18 (6) Any designation, consent, or agreement between an
19 employee and an employer in connection with the
20 purchase by the employer or a trust established by the
21 employer of life insurance on the life of the employee;

22 (7) A bona fide business succession planning arrangement:



1 (A) Between one or more shareholders in a corporation
2 or between a corporation and one or more of its
3 shareholders or one or more trusts established by
4 its shareholders;

5 (B) Between one or more partners in a partnership or
6 between a partnership and one or more of its
7 partners or one or more trusts established by its
8 partners; or

9 (C) Between one or more members in a limited liability
10 company or between a limited liability company and
11 one or more of its members or one or more trusts
12 established by its members; or

13 (8) An agreement entered into by a service recipient or a
14 trust established by the service recipient and a
15 service provider who performs significant services for
16 the service recipient's trade or business or a trust
17 established by the service provider.

18 (e) For the purpose of this section:

19 "Gross income derived from a life settlement contract"

20 means:



- 1 (1) The value of the death benefit or other benefit paid
2 upon the passing of the insured to a person unrelated
3 to the insured under a life settlement contract; and
4 (2) Any compensation received by a person, other than the
5 insured, from the transfer of a life settlement
6 contract to another person.

7 "Owner" means the owner of the insurance policy that is the
8 subject of the life settlement contract.

9 "Provider" means the person offering the owner the life
10 settlement contract.

11 "Transfer" includes assignment, sale, gift, devise, or
12 bequest."

13 SECTION 3. Section 237-24, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§237-24 Amounts not taxable.** This chapter shall not apply
16 to the following amounts:

17 (1) ~~[Amounts]~~ Except as otherwise provided under section
18 237- , amounts received under life insurance policies
19 and contracts paid by reason of the death of the
20 insured;

21 (2) ~~[Amounts received-]~~ Except as otherwise provided under
22 section 237- , amounts other than amounts paid by



1 reason of death of the insured[+] received under life
2 insurance, endowment, or annuity contracts, either
3 during the term or at maturity or upon surrender of the
4 contract;

- 5 (3) Amounts received under any accident insurance or health
6 insurance policy or contract or under workers'
7 compensation acts or employers' liability acts, as
8 compensation for personal injuries, death, or sickness,
9 including also the amount of any damages or other
10 compensation received, whether as a result of action or
11 by private agreement between the parties on account of
12 the personal injuries, death, or sickness;

- 13 (4) [~~The~~] Except as otherwise provided under section
14 237- , the value of all property of every kind and
15 sort acquired by gift, bequest, or devise, and the
16 value of all property acquired by descent or
17 inheritance;

- 18 (5) Amounts received by any person as compensatory damages
19 for any tort injury to the person, or to the person's
20 character reputation, or received as compensatory
21 damages for any tort injury to or destruction of
22 property, whether as the result of action or by private



- 1 agreement between the parties [~~+~~]; provided that
2 amounts received as punitive damages for tort injury or
3 breach of contract injury shall be included in gross
4 income [~~+~~];
- 5 (6) Amounts received as salaries or wages for services
6 rendered by an employee to an employer;
- 7 (7) Amounts received as alimony and other similar payments
8 and settlements;
- 9 (8) Amounts collected by distributors as fuel taxes on
10 [~~±~~]liquid fuel [~~±~~] imposed by chapter 243, and the
11 amounts collected by [~~such~~] distributors as a fuel tax
12 imposed by any Act of the Congress of the United
13 States;
- 14 (9) Taxes on liquor imposed by chapter 244D on dealers
15 holding permits under that chapter;
- 16 (10) The amounts of taxes on cigarettes and tobacco products
17 imposed by chapter 245 on wholesalers or dealers
18 holding licenses under that chapter and selling the
19 products at wholesale;
- 20 (11) Federal excise taxes imposed on articles sold at retail
21 [~~and~~] that are collected from [~~the~~] purchasers



- 1 [thereof] and paid to the federal government by the
2 retailer;
- 3 (12) The amounts of any federal taxes [~~under chapter 37 of~~
4 ~~the Internal Revenue Code, or similar federal taxes,~~
5 imposed on sugar manufactured in the State[7] and paid
6 by the manufacturer to the federal government;
- 7 (13) An amount up to[7] but not in excess of[7] \$2,000 a
8 year of gross income received by any blind, deaf, or
9 totally disabled person engaging[7] or continuing[7] in
10 any business, trade, activity, occupation, or calling
11 within the State; a corporation all of whose
12 outstanding shares are owned by an individual or
13 individuals who are blind, deaf, or totally disabled; a
14 general, limited, or limited liability partnership, all
15 of whose partners are blind, deaf, or totally disabled;
16 or a limited liability company, all of whose members
17 are blind, deaf, or totally disabled;
- 18 (14) Amounts received by a producer of sugarcane from the
19 manufacturer to whom the producer sells the sugarcane,
20 where:
- 21 (A) The producer is an independent cane farmer[~~se~~
22 ~~classified by the Secretary of Agriculture under the~~



1 ~~Sugar Act of 1948 (61 Stat. 922, Chapter 519) as~~
2 ~~the Act may be amended or supplemented];~~

3 (B) The value or gross proceeds of the sale of the
4 sugar, and other products manufactured from the
5 sugarcane, are included in the measure of the tax
6 levied on the manufacturer under section 237-13(1)
7 or (2);

8 (C) The producer's gross proceeds of sales are
9 dependent upon the actual value of the products
10 manufactured [~~therefrom~~] or the average value of
11 all similar products manufactured by the
12 manufacturer; and

13 (D) The producer's gross proceeds of sales are reduced
14 by reason of the tax on the value or sale of the
15 manufactured products;

16 (15) Money paid by the State or eleemosynary child-placing
17 organizations to foster parents for their care of
18 children in foster homes;

19 (16) Amounts received by a cooperative housing corporation
20 from its shareholders in reimbursement of funds paid by
21 the corporation for lease rental, real property taxes,
22 and other expenses of operating and maintaining the



1 cooperative land and improvements; provided that the
2 cooperative corporation is a corporation:

3 (A) Having one and only one class of stock
4 outstanding;

5 (B) Each of the stockholders of which is entitled
6 solely by reason of the stockholder's ownership of
7 stock in the corporation, to occupy for dwelling
8 purposes a house[7] or an apartment in a building
9 owned or leased by the corporation; and

10 (C) No stockholder of which is entitled [~~+~~]either
11 conditionally or unconditionally[+] to receive any
12 distribution not out of earnings and profits of
13 the corporation except in a complete or partial
14 liquidation of the corporation; and

15 (17) Amounts received by a managed care support contractor
16 of the TRICARE program that is established under Title
17 10 United States Code [~~chapter~~] Chapter 55, as amended,
18 for the actual cost or advancement to third party
19 health care providers pursuant to a contract with the
20 United States."

21 SECTION 4. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.



1 SECTION 5. This Act shall take effect on July 1, 2011;
2 provided that the amendments made by this Act to section 237-24,
3 Hawaii Revised Statutes, shall not be repealed when that section
4 is repealed and reenacted on December 31, 2013, pursuant to
5 section 4 of Act 70, Session Laws of Hawaii 2009.

6



Report Title:

General Excise Tax; Life Settlement Contract

Description:

Imposes the general excise tax on the gross income derived from a life settlement contract by a person unrelated to the insured. Effective July 1, 2011. (SD1)

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