
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, 2011, 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, 2011, 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 by sugarcane producers as described
15 under section 237-24(14);
- 16 (7) Amounts received from the loading, transportation, and
17 unloading of agricultural commodities shipped
18 interisland as described under section 237-24.3(1);
- 19 (8) Amounts received from the sale of intoxicating liquor,
20 cigarettes and tobacco products, and agricultural,
21 meat, or fish products to persons or common carriers



- 1 engaged in interstate or foreign commerce as described
2 under section 237-24.3(2);
- 3 (9) Amounts received or accrued from the loading or
4 unloading of cargo as described under section 237-
5 24.3(4)(A);
- 6 (10) Amounts received or accrued from tugboat and towage
7 services as described under section 237-24.3(4)(B);
- 8 (11) Amounts received or accrued from the transportation of
9 pilots or government officials and other maritime-
10 related services as described under section 237-
11 24.3(4)(C);
- 12 (12) Amounts received by labor organizations for real
13 property leases as described under section 237-
14 24.3(10);
- 15 (13) Amounts received as rent for aircraft or aircraft
16 engines used for interstate air transportation as
17 described under section 237-24.3(12);
- 18 (14) Amounts received by exchanges and exchange members as
19 described under section 237-24.5;
- 20 (15) Amounts received as high technology development grants
21 under section 206M-15 as described under section 237-
22 24.7(10);



- 1 (16) Amounts received from the servicing and maintenance of
2 aircrafts or construction of aircraft service and
3 maintenance facilities as described under section 237-
4 24.9;
- 5 (17) Gross proceeds received from the sale of tangible
6 personal property to the United States and state-
7 chartered credit unions as described under section
8 237-25(a)(3);
- 9 (18) Amounts received by petroleum product refiners from
10 other refiners for further refining of petroleum
11 products as described under section 237-27;
- 12 (19) Gross proceeds received from the construction,
13 reconstruction, erection, operation, use, maintenance,
14 or furnishing of air pollution control facilities, as
15 described under section 237-27.5, that do not have
16 valid certificates of exemption on July 1, 2011;
- 17 (20) Gross proceeds received from shipbuilding and ship
18 repairs as described under section 237-28.1;
- 19 (21) The value of or gross proceeds received from tangible
20 personal property shipped out of the State as
21 described under section 237-29.5;



1 (22) The value of or gross income received from contracting
2 or services performed for use outside the State as
3 described under section 237-29.53;

4 (23) Gross proceeds or gross income received from the sale
5 of tangible personal property imported for subsequent
6 resale at wholesale as described under section 237-
7 29.55;

8 (24) Amounts received by telecommunications common carriers
9 from call center operators for interstate or foreign
10 telecommunications services as described under section
11 237-29.8; and .

12 (25) Gross proceeds received by qualified businesses in
13 enterprise zones, as described under section 209E-11,
14 that do not have valid certificates of qualification
15 from the department of business, economic development,
16 and tourism on July 1, 2011.

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

21 As used in this section, "previously exempt gross income or
22 gross proceeds of sale" means the amount of the gross income or



1 gross proceeds of sale, the exemption for which is suspended
2 under subsection (a). The term also includes the following:

3 (1) The value received by a nonprofit organization from
4 conventions, conferences, trade show exhibits, and
5 display spaces, the exemption for which is suspended
6 under subsection (a) (5);

7 (2) The value of tangible personal property shipped out of
8 the State, the exemption for which is suspended under
9 subsection (a) (21); and

10 (3) The value of contracting or services performed for use
11 outside the State, the exemption for which is
12 suspended under subsection (a) (22).

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

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

20 (d) This section shall not apply to gross income or gross
21 proceeds from binding written contracts entered into prior to



1 July 1, 2011, that do not permit the passing on of increased
2 rates of taxes.

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

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

8 §237-B Information reporting. The director shall require
9 information reporting on all exclusions or exemptions of all
10 amounts, persons, or transactions from this chapter, except for
11 the following:

12 (1) Amounts received that are exempt under section 237-
13 24(1) through (7);

14 (2) Amounts received by persons exempt under section 237-
15 23(a)(3) through (6); provided that the person is
16 exempt from filing federal Internal Revenue Service
17 Form 990 or Form 990-EZ; and

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



1 SECTION 3. Chapter 238, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§238-A Temporary suspension of exemption of certain
5 amounts; levy of tax at one per cent rate. (a) Notwithstanding
6 any other law to the contrary, the exemption of the following
7 from taxation under this chapter shall be suspended from July 1,
8 2011, through June 30, 2015:

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

16 (2) The use of oceangoing vehicles for passenger or
17 passenger and goods transportation from one point to
18 another within the State as a public utility, as
19 described under paragraph (7) of the definition of
20 "use" in section 238-1;

21 (3) The use of material, parts, or tools imported or
22 purchased by a person licensed under chapter 237 which



1 are used for aircraft service and maintenance or the
2 construction of an aircraft service and maintenance
3 facility, as described under paragraph (8) of the
4 definition of "use" in section 238-1;

5 (4) The use of services or contracting imported for resale
6 where the contracting or services are for resale,
7 consumption, or use outside the State, as described
8 under paragraph (9) of the definition of "use" in
9 section 238-1;

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

17 (6) The use of any vessel constructed under section 189-25
18 prior to July 1, 1969, as described under section
19 238-3(h);

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



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

4 (b) Except as otherwise provided under subsection (c) or
5 (e), there is levied, assessed, and collected annually against
6 the persons under subsection (a), a tax at the rate of one per
7 cent on the previously exempt value of property, services, or
8 contracting.

9 As used in this section, "previously exempt value of
10 property, services, or contracting" means the value of property,
11 services, or contracting, the exemption for which is suspended
12 under subsection (a).

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

16 (c) The tax imposed under subsection (b) shall not apply
17 to any property, services, or contracting or to any use of the
18 property, services, or contracting that cannot legally be so
19 taxed under the Constitution or laws of the United States, but
20 only so long as, and only to the extent to which the State is
21 without power to impose the tax.



1 To the extent that any exemption, exclusion, or
2 apportionment is necessary to comply with the preceding
3 sentence, the director of taxation shall:

4 (1) Exempt or exclude the property, services, or
5 contracting or the use of the property, services, or
6 contracting, from the tax under subsection (b); or

7 (2) Apportion the gross value of services or contracting
8 sold to customers within the State by persons engaged
9 in business both within and without the State to
10 determine the value of that portion of the services or
11 contracting that is subject to taxation under chapter
12 237 for the purposes of section 237-21.

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

17 (e) This section shall not apply to the value of property,
18 services, or contracting from binding written contracts entered
19 into prior to July 1, 2011, that do not permit the passing on of
20 increased rates of taxes.

21 (f) This chapter shall apply to the payment, collection,
22 enforcement, and appeal of the tax levied under this section.



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

4 §238-B Information reporting. The director shall require
5 information reporting on all exclusions or exemptions of all
6 amounts, persons, or transactions from this chapter, except for
7 any amounts, persons, or transactions as determined by the
8 director in the best interest of tax administration and made by
9 official pronouncement."

10 SECTION 4. In codifying the new sections added by sections
11 2 and 3 of this Act, the revisor of statutes shall substitute
12 appropriate section numbers for the letters used in designating
13 the new sections in this Act.

14 SECTION 5. New statutory material is underscored.

15 SECTION 6. This Act shall take effect on July 1, 2011, and
16 shall be repealed on June 30, 2015; provided that:

17 (1) The department of taxation shall have the authority to
18 postpone the payment of the tax imposed under this Act
19 until the deadline to file the general excise or use
20 tax annual return and reconciliation form, as
21 applicable, without regard to any extension;



- 1 (2) Section 2 of this Act suspending an exemption of
2 section 237-24, Hawaii Revised Statutes, shall not be
3 affected by the repeal and reenactment of that section
4 on December 31, 2013, pursuant to Act 70, Session Laws
5 of Hawaii 2009; and
- 6 (3) Section 2 of this Act suspending certain exemptions of
7 sections 237-24.3 and 237-24.7, Hawaii Revised
8 Statutes, shall not be affected by the repeal and
9 reenactment of those sections on December 31, 2014,
10 pursuant to Act 91, Session Laws of Hawaii 2010.

11

INTRODUCED BY:

Calvin K. King

JAN 21 2011



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% rate. Effective 07/01/11 and sunsets on 06/30/15.

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

