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# 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  
5 specified rate. The suspension and imposition of the tax  
6 commences on January 1, 2012, and ends on June 30, 2015.

7           This Act does not suspend the existing general excise tax  
8 exemption for nonprofit organizations with the exception of the  
9 value or gross income received by nonprofit organizations from  
10 certain conventions, conferences, trade shows, or display  
11 spaces.

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

15           "§237-A Temporary suspension of exemption of certain  
16 amounts; levy of tax. (a) Notwithstanding any other law to the  
17 contrary, the exemption of the following amounts from taxation



1 under this chapter shall be suspended from January 1, 2012,  
2 through June 30, 2015:

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

5 (2) Reimbursements received by federal cost-plus  
6 contractors for the costs of purchased materials,  
7 plant, and equipment as described under section 237-  
8 13(3)(C);

9 (3) Gross receipts of home service providers acting as  
10 service carriers providing mobile telecommunications  
11 services to other home service providers as described  
12 under section 237-13(6)(D);

13 (4) Amounts deducted from the gross income of real  
14 property lessees because of receipt from sublessees as  
15 described under section 237-16.5;

16 (5) The value or gross income received by nonprofit  
17 organizations from certain conventions, conferences,  
18 trade shows, or display spaces as described under  
19 section 237-16.8;

20 (6) Amounts received by sugarcane producers as described  
21 under section 237-24(14);



- 1        (7) Amounts received from the loading, transportation, and  
2        unloading of agricultural commodities shipped  
3        interisland as described under section 237-24.3(1);
- 4        (8) Amounts received from the sale of intoxicating liquor,  
5        cigarettes and tobacco products, and agricultural,  
6        meat, or fish products to persons or common carriers  
7        engaged in interstate or foreign commerce as described  
8        under section 237-24.3(2);
- 9        (9) Amounts received or accrued from the loading or  
10       unloading of cargo as described under section 237-  
11       24.3(4)(A);
- 12       (10) Amounts received or accrued from tugboat and towage  
13       services as described under section 237-24.3(4)(B);
- 14       (11) Amounts received or accrued from the transportation of  
15       pilots or government officials and other maritime-  
16       related services as described under section 237-  
17       24.3(4)(C);
- 18       (12) Amounts received by labor organizations for real  
19       property leases as described under section 237-  
20       24.3(10);



- 1        (13) Amounts received as rent for aircraft or aircraft  
2        engines used for interstate air transportation as  
3        described under section 237-24.3(12);
- 4        (14) Amounts received by exchanges and exchange members as  
5        described under section 237-24.5;
- 6        (15) Amounts received as high technology development grants  
7        under section 206M-15 as described under section 237-  
8        24.7(10);
- 9        (16) Amounts received from the servicing and maintenance of  
10       aircraft or construction of aircraft service and  
11       maintenance facilities as described under section 237-  
12       24.9;
- 13       (17) Amounts received by petroleum product refiners from  
14       other refiners for further refining of petroleum  
15       products as described under section 237-27;
- 16       (18) Gross proceeds received from the construction,  
17       reconstruction, erection, operation, use, maintenance,  
18       or furnishing of air pollution control facilities, as  
19       described under section 237-27.5, that do not have  
20       valid certificates of exemption on January 1, 2012;
- 21       (19) Gross proceeds received from shipbuilding and ship  
22       repairs as described under section 237-28.1;



1       (20) Amounts received by telecommunications common carriers  
2       from call center operators for interstate or foreign  
3       telecommunications services as described under section  
4       237-29.8;

5       (21) Gross proceeds received by qualified businesses in  
6       enterprise zones, as described under section 209E-11,  
7       that do not have valid certificates of qualification  
8       from the department of business, economic development,  
9       and tourism on January 1, 2012; and

10       (22) Gross proceeds received by contractors licensed under  
11       chapter 444 for construction within enterprise zones  
12       performed for qualified businesses within the  
13       enterprise zones or businesses approved by the  
14       department of business, economic development, and  
15       tourism to enroll into the enterprise zone program, as  
16       described under section 209E-11.

17       (b) Except as otherwise provided under subsection (f) or  
18       (g), there is levied, assessed, and collected annually against  
19       the persons under subsection (a), a tax at the rate of:

20       (1) Two per cent on the previously exempt gross income or  
21       gross proceeds of sale derived from January 1, 2012,  
22       to December 31, 2012;



1       (2) Three per cent on the previously exempt gross income  
2       or gross proceeds of sale derived from January 1,  
3       2013, to December 31, 2013; and

4       (3) Four per cent on the previously exempt gross income or  
5       gross proceeds of sale derived from January 1, 2014,  
6       to June 30, 2015.

7       (c) As used in this section, "previously exempt gross  
8       income or gross proceeds of sale" means the amount of the gross  
9       income or gross proceeds of sale, the exemption for which is  
10       suspended under subsection (a). The term also includes the  
11       value received by a nonprofit organization from conventions,  
12       conferences, trade show exhibits, and display spaces, the  
13       exemption for which is suspended under subsection (a)(5).

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

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

21       (f) This section shall not apply to gross income or gross  
22       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 (g) The tax imposed under subsection (b) shall not apply  
4 to any gross income or gross proceeds of sale that cannot  
5 legally be so taxed under the Constitution or laws of the United  
6 States, but only so long as, and only to the extent to which the  
7 State is without power to impose the tax.

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

11 (1) Exempt or exclude the gross income or gross proceeds  
12 of sale from the tax under subsection (b); or

13 (2) Apportion the gross income or gross proceeds of sale  
14 derived within the State by persons engaged in  
15 business both within and without the State to  
16 determine the gross income or gross proceeds of sale  
17 that is subject to taxation under this chapter for the  
18 purposes of section 237-21.

19 (h) This chapter shall apply to the payment, collection,  
20 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       §237-B Information reporting. From January 1, 2012, the  
5 director shall require information reporting on all exclusions  
6 or exemptions of all amounts, persons, or transactions from this  
7 chapter, except for the following:

- 8       (1) Amounts received that are exempt under section 237-  
9       24(1) through (7); and
- 10       (2) Any other amounts, persons, or transactions as  
11       determined by the director to be in the best interest  
12       of tax administration and made by official  
13       pronouncement."

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

17       "§238-A Temporary suspension of exemption of certain  
18 amounts; levy of tax. (a) Notwithstanding any other law to the  
19 contrary, the exemption of the following from taxation under  
20 this chapter shall be suspended from January 1, 2012, through  
21 June 30, 2015:





- 1       (1) The leasing or renting of aircraft or keeping of  
2       aircraft solely for leasing or renting for commercial  
3       transportation of passengers and goods or the  
4       acquisition or importation of aircraft or aircraft  
5       engines by a lessee or renter engaged in interstate  
6       air transportation, as described under paragraph (6)  
7       of the definition of "use" in section 238-1;
- 8       (2) The use of oceangoing vehicles for passenger or  
9       passenger and goods transportation from one point to  
10       another within the State as a public utility, as  
11       described under paragraph (7) of the definition of  
12       "use" in section 238-1;
- 13       (3) The use of material, parts, or tools imported or  
14       purchased by a person licensed under chapter 237 which  
15       are used for aircraft service and maintenance or the  
16       construction of an aircraft service and maintenance  
17       facility, as described under paragraph (8) of the  
18       definition of "use" in section 238-1;
- 19       (4) The use or sale of intoxicating liquor and cigarette  
20       and tobacco products imported into the State and sold  
21       to any person or common carrier in interstate  
22       commerce, whether ocean-going or air, for consumption



1 out of State by the person, crew, or passengers on the  
2 shipper's vessels or airplanes, as described under  
3 section 238-3(g);

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

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

10 (b) Except as otherwise provided under subsection (f) or  
11 (g), there is levied, assessed, and collected annually against  
12 the persons under subsection (a), a tax at the rate of:

13 (1) Two per cent on the previously exempt value of  
14 property, services, or contracting that becomes  
15 subject to the State's taxing jurisdiction from  
16 January 1, 2012, to December 31, 2012;

17 (2) Three per cent on the previously exempt value of  
18 property, services, or contracting that becomes  
19 subject to the State's taxing jurisdiction from  
20 January 1, 2013, to December 31, 2013; and

21 (3) Four per cent on the previously exempt value of  
22 property, services, or contracting that becomes



1           subject to the State's taxing jurisdiction from  
2           January 1, 2014, to June 30, 2015.

3           (c) As used in this section, "previously exempt value of  
4 property, services, or contracting" means the value of property,  
5 services, or contracting, the exemption for which is suspended  
6 under subsection (a).

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

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

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

18          (g) The tax imposed under subsection (b) shall not apply  
19 to any property, services, or contracting or to any use of the  
20 property, services, or contracting that cannot legally be so  
21 taxed under the Constitution or laws of the United States, but



1 only so long as, and only to the extent to which the State is  
2 without power to impose the tax.

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

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

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

15 (h) This chapter shall apply to the payment, collection,  
16 enforcement, and appeal of the tax levied under this section.

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

20 §238-B Information reporting. From January 1, 2012, the  
21 director shall require information reporting on all exclusions  
22 or exemptions of all amounts, persons, or transactions from this



1 chapter, except for any amounts, persons, or transactions as  
2 determined by the director to be in the best interest of tax  
3 administration and made by official pronouncement."

4 SECTION 4. In codifying the new sections added by sections  
5 2 and 3 of this Act, the revisor of statutes shall substitute  
6 appropriate section numbers for the letters used in designating  
7 the new sections in this Act.

8 SECTION 5. New statutory material is underscored.

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

11 (1) The department of taxation shall have the authority to  
12 postpone the payment of the tax imposed under this Act  
13 until the deadline to file the general excise or use  
14 tax annual return and reconciliation form, as  
15 applicable, without regard to any extension;

16 (2) The suspension of the exemption of section 237-24(14),  
17 Hawaii Revised Statutes, pursuant to section 2 of this  
18 Act, shall not be affected by the repeal and  
19 reenactment of that section on December 31, 2013,  
20 pursuant to Act 70, Session Laws of Hawaii 2009; and

21 (3) The suspension of certain exemptions of sections 237-  
22 24.3 and 237-24.7, Hawaii Revised Statutes, pursuant



1 to section 2 of this Act, shall not be affected by the  
2 repeal and reenactment of those sections on December  
3 31, 2014, pursuant to Act 91, Session Laws of Hawaii  
4 2010.



**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  
graduated rate. Effective July 1, 2011, and sunsets on June 30,  
2015. (HB799 HD1)

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not legislation or evidence of legislative intent.*

