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# A BILL FOR AN ACT

RELATING TO THE GENERAL EXCISE TAX.

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

1           SECTION 1. The purpose of this Act is to expand the  
2 general excise exemption for a common paymaster.

3           SECTION 2. Section 237-24.7, Hawaii Revised Statutes, is  
4 amended to read as follows:

5           "§237-24.7 Additional amounts not taxable. In addition to  
6 the amounts not taxable under section 237-24, this chapter shall  
7 not apply to:

8           (1) Amounts received by the operator of a hotel from the  
9 owner of the hotel or from a time share association,  
10 and amounts received by the suboperator of a hotel  
11 from the owner of the hotel, from a time share  
12 association, or from the operator of the hotel, in  
13 amounts equal to and which are disbursed by the  
14 operator or suboperator for employee wages, salaries,  
15 payroll taxes, insurance premiums, and benefits,  
16 including retirement, vacation, sick pay, and health  
17 benefits. As used in this paragraph:



1 "Employee" means employees directly engaged in  
2 the day-to-day operation of the hotel and employed by  
3 the operator or suboperator.

4 "Hotel" means an operation as defined in section  
5 445-90 or a time share plan as defined in section  
6 514E-1.

7 "Operator" means any person who, pursuant to a  
8 written contract with the owner of a hotel or time  
9 share association, operates or manages the hotel for  
10 the owner or time share association.

11 "Owner" means the fee owner or lessee under a  
12 recorded lease of a hotel.

13 "Suboperator" means any person who, pursuant to a  
14 written contract with the operator, operates or  
15 manages the hotel as a subcontractor of the operator.

16 "Time share association" means an "association"  
17 as that term is defined in section 514E-1;

18 (2) Amounts received by the operator of a county  
19 transportation system operated under an operating  
20 contract with a political subdivision, where the  
21 political subdivision is the owner of the county  
22 transportation system. As used in this paragraph:



1 "County transportation system" means a mass  
2 transit system of motorized buses providing regularly  
3 scheduled transportation within a county.

4 "Operating contract" or "contract" means a  
5 contract to operate and manage a political  
6 subdivision's county transportation system, which  
7 provides that:

8 (A) The political subdivision shall exercise  
9 substantial control over all aspects of the  
10 operator's operation;

11 (B) The political subdivision controls the  
12 development of transit policy, service  
13 planning, routes, and fares; and

14 (C) The operator develops in advance a draft  
15 budget in the same format as prescribed for  
16 agencies of the political subdivision. The  
17 budget must be subject to the same  
18 constraints and controls regarding the  
19 lawful expenditure of public funds as any  
20 public sector agency, and deviations from  
21 the budget must be subject to approval by



1 the appropriate political subdivision  
2 officials involved in the budgetary process.

3 "Operator" means any person who, pursuant to an  
4 operating contract with a political subdivision,  
5 operates or manages a county transportation system.

6 "Owner" means a political subdivision that owns  
7 or is the lessee of all the properties and facilities  
8 of the county transportation system (including buses,  
9 real estate, parking garages, fuel pumps, maintenance  
10 equipment, office supplies, etc.), and that owns all  
11 revenues derived therefrom;

12 (3) Surcharge taxes on rental motor vehicles imposed by  
13 chapter 251 and passed on and collected by persons  
14 holding certificates of registration under that  
15 chapter;

16 (4) Amounts received by the operator of orchard properties  
17 from the owner of the orchard property in amounts  
18 equal to and which are disbursed by the operator for  
19 employee wages, salaries, payroll taxes, insurance  
20 premiums, and benefits, including retirement,  
21 vacation, sick pay, and health benefits. As used in  
22 this paragraph:



1 "Employee" means an employee directly engaged in  
2 the day-to-day operations of the orchard properties  
3 and employed by the operator.

4 "Operator" means a producer who, pursuant to a  
5 written contract with the owner of the orchard  
6 property, operates or manages the orchard property for  
7 the owner where the property contains an area  
8 sufficient to make the undertaking economically  
9 feasible.

10 "Orchard property" means any real property that  
11 is used to raise trees with a production life cycle of  
12 fifteen years or more producing fruits or nuts having  
13 a normal period of development from the initial  
14 planting to the first commercially saleable harvest of  
15 not less than three years.

16 "Owner" means a fee owner or lessee under a  
17 recorded lease of orchard property;

18 (5) Taxes on nursing facility income imposed by chapter  
19 346E and passed on and collected by operators of  
20 nursing facilities;

21 (6) Amounts received under property and casualty insurance  
22 policies for damage or loss of inventory used in the



1           conduct of a trade or business located within the  
2           State or a portion thereof that is declared a natural  
3           disaster area by the governor pursuant to section 209-  
4           2;

5       (7) Amounts received as compensation by community  
6       organizations, school booster clubs, and nonprofit  
7       organizations under a contract with the chief election  
8       officer for the provision and compensation of precinct  
9       officials and other election-related personnel,  
10      services, and activities, pursuant to section 11-5;

11      (8) Interest received by a person domiciled outside the  
12      State from a trust company (as defined in section  
13      412:8-101) acting as payment agent or trustee on  
14      behalf of the issuer or payees of an interest bearing  
15      instrument or obligation, if the interest would not  
16      have been subject to tax under this chapter if paid  
17      directly to the person domiciled outside the State  
18      without the use of a paying agent or trustee; provided  
19      that if the interest would otherwise be taxable under  
20      this chapter if paid directly to the person domiciled  
21      outside the State, it shall not be exempt solely



1 because of the use of a Hawaii trust company as a  
2 paying agent or trustee;

3 (9) Amounts received by a management company from related  
4 entities engaged in the business of selling interstate  
5 or foreign common carrier telecommunications services  
6 in amounts equal to and which are disbursed by the  
7 management company for employee wages, salaries,  
8 payroll taxes, insurance premiums, and benefits,  
9 including retirement, vacation, sick pay, and health  
10 benefits. As used in this paragraph:

11 "Employee" means employees directly engaged in  
12 the day-to-day operation of related entities engaged  
13 in the business of selling interstate or foreign  
14 common carrier telecommunications services and  
15 employed by the management company.

16 "Management company" means any person who,  
17 pursuant to a written contract with a related entity  
18 engaged in the business of selling interstate or  
19 foreign common carrier telecommunications services,  
20 provides managerial or operational services to that  
21 entity.

22 "Related entities" means:



- 1 (A) An affiliated group of corporations within  
2 the meaning of section 1504 (with respect to  
3 affiliated group defined) of the federal  
4 Internal Revenue Code of 1986, as amended;
- 5 (B) A controlled group of corporations within  
6 the meaning of section 1563 (with respect to  
7 definitions and special rules) of the  
8 federal Internal Revenue Code of 1986, as  
9 amended;
- 10 (C) Those entities connected through ownership  
11 of at least eighty per cent of the total  
12 value and at least eighty per cent of the  
13 total voting power of each such entity (or  
14 combination thereof), including  
15 partnerships, associations, trusts, S  
16 corporations, nonprofit corporations,  
17 limited liability partnerships, or limited  
18 liability companies; and
- 19 (D) Any group or combination of the entities  
20 described in paragraph (C) constituting a  
21 unitary business for income tax purposes;





1           whether or not the entity is located within or without  
2           the State or licensed under this chapter; [and]

3       (10) Amounts received by a related or indirectly related  
4       management entity, taking into account the attribution  
5       rules under section 267, Internal Revenue Code, as  
6       amended, managing the business of the affiliates,  
7       including salaries, wages and related taxes, vacation  
8       pay, sick pay, and pensions and insurance paid out to  
9       or on behalf of employees of the related management  
10       company and reimbursed by the related company for  
11       those operating expenses; and

12       ~~[(10)]~~ (11) Amounts received as grants under section 206M-  
13       15."

14       SECTION 3. Statutory material to be repealed is bracketed  
15       and stricken. New statutory material is underscored.

16       SECTION 4. This Act shall take effect on July 1, 2050;  
17       provided that the amendment made to section 237-24.7, Hawaii  
18       Revised Statutes, by section 2 of this Act shall not be repealed  
19       when that section is reenacted on December 31, 2014, by section  
20       1 of Act 91, Session Laws of Hawaii 2010.



**Report Title:**

Related Management Entities; GET Exemption

**Description:**

Exempts from the GET the amounts received by a related or indirectly related management entity managing the business of the affiliates. Effective 7/1/2050. (SD1)

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

