
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Section 237-9.3, Hawaii Revised Statutes, is
2 amended by amending subsections (a), (b), and (c) to read as
3 follows:

4 "(a) Notwithstanding any other law to the contrary, a
5 person shall not be entitled to any general excise tax benefit
6 under this chapter unless the person claiming the general excise
7 tax benefit:

8 (1) Obtains a license to engage in and conduct business as
9 required under section 237-9; [~~and~~]

10 (2) Files the annual general excise tax reconciliation tax
11 return as provided under this chapter or chapter 231
12 not later than twelve months from the due date
13 prescribed for the return[~~-~~]; and

14 (3) Owes taxes in an amount less than fifty per cent of
15 total general excise tax liability owed for the
16 taxable year.

17 (b) The director may require any taxpayer to furnish
18 information to determine the validity of any general excise tax



1 benefit and may adopt rules pursuant to chapter 91 necessary to
2 effectuate the purposes of this section.

3 (c) The director may waive the denial of the general
4 excise tax benefit under subsection (a) if the failure to comply
5 is due to reasonable cause and not to the wilful neglect of the
6 taxpayer. For purposes of this subsection, "reasonable cause"
7 means situations where:

8 (1) The provisions of the United States Constitution or
9 laws of the United States prohibit the department from
10 imposing the tax;

11 (2) The person is not "engaging" in "business" within the
12 meaning of section 237-2;

13 (3) The amounts involved are not "gross income" or "gross
14 proceeds of sale" as defined in section 237-3(b);

15 (4) The person is a public service company and the gross
16 income or gross proceeds are included in the measure
17 of the tax imposed by chapter 239;

18 (5) Amounts are received by persons exempt under section
19 237-23(a)(3) to (6); provided that the person is
20 exempt from filing federal Form 990, Return of
21 Organization Exempt from Income Tax, or Form 990-EZ,



1 Short Form-Return of Organization Exempt from Income
2 Tax;

3 (6) Amounts received are exempt under section 237-24(1) to
4 (7), with respect to certain insurance proceeds,
5 gifts, bequests, compensatory tort damages, salaries
6 or wages, and alimony;

7 (7) Amounts received are exempt under section 237-24.8(a),
8 with respect to certain amounts not taxable for
9 financial institutions;

10 (8) Amounts received are exempt under section 237-29.7,
11 with respect to certain amounts not taxable for
12 insurance companies; and

13 (9) Credit unions chartered under chapter 412, and exempt
14 from tax as provided in section 412:10-122."

15 SECTION 2. Section 237-41.5, Hawaii Revised Statutes, is
16 amended by amending subsections (a), (b), and (c) to read as
17 follows:

18 "(a) There shall be personal liability for the taxes
19 imposed under this chapter as provided in this section for the
20 following amounts of gross income or gross proceeds:

21 (1) Any amount collected as a recovery of the taxpayer's
22 liability under this chapter, where the amount is



1 passed on as the tax owed by the taxpayer under this
2 chapter for the transaction and is separately stated
3 or accounted for in a receipt, contract, invoice,
4 billing, or other evidence of the business activity;
5 [~~or~~]

6 (2) An amount equal to the tax liability under this
7 chapter on a transaction where a taxpayer does not
8 separately state or account for the amount as a tax
9 recovery as provided in paragraph (1). For purposes
10 of this paragraph, the amount of the imputed tax
11 liability is the result of multiplying the gross
12 income or gross proceeds received in the transaction
13 by the tax rate[-]; or

14 (3) Any amount of gross excise tax liability not paid.

15 The amounts under paragraphs (1) [~~and~~], (2), and (3) shall be
16 held in trust for the benefit of the State and for payment to
17 the State in the manner and at the time required by this
18 chapter.

19 (b) The personal liability under this section applies to
20 any officer, member, manager, or other person having control or
21 supervision over amounts of gross proceeds or gross income
22 collected to pay the general excise tax and held in trust under



1 subsection (a), or who is charged with the responsibility for
2 the filing of returns or the payment of general excise tax on
3 gross income or gross proceeds collected and held in trust under
4 subsection (a). The person shall be personally liable for any
5 unpaid taxes [~~and interest and penalties on those taxes,~~] if
6 [~~such~~] the officer or other person wilfully fails to pay or to
7 cause to be paid any taxes due from the taxpayer pursuant to
8 this chapter.

9 For purposes of this subsection, "wilfully fails to pay or
10 to cause to be paid" shall be construed in accordance with
11 judicial interpretations given to similar provisions of the
12 Internal Revenue Code; consistent therewith, the term "wilfully"
13 shall mean a voluntary, intentional violation of a known legal
14 duty.

15 (c) An officer, member, manager, or other responsible
16 person shall be liable only for general excise taxes on gross
17 income or gross proceeds collected[~~, plus interest and penalties~~
18 ~~on those taxes,~~] that became due during the period the person
19 had control, supervision, responsibility, or a duty to act for
20 the taxpayer as described in subsection (b) of this section."



1 SECTION 3. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun, before its effective date.

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

6 SECTION 5. This Act shall take effect on July 1, 2030, and
7 shall apply to gross income or gross proceeds received by
8 applicable taxpayers on or after its effective date.



Report Title:

General Excise Tax; Exemption Requirement; Trust Fund Liability

Description:

Includes an additional requirement for a taxpayer to qualify for general excise tax (GET) benefits, to provide that the taxpayer claiming a GET benefit must owe less than fifty per cent of the taxpayer's total GET liability. Defines "reasonable cause" with respect to the Director of Taxation's authority to waive denial of the GET benefit if failure to comply is due to reasonable cause and not to the wilful neglect of the taxpayer. Specifies that there shall be personal liability for general excise taxes imposed for gross income or gross proceeds for gross excise tax liability not paid. Deletes provisions under section 237-41.5, Hawaii Revised Statutes, that make a person personally liable for interest and penalties on general excise taxes. Effective July 1, 2030. (SB778 HD1)

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

