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

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

18 (c) For the purpose of this section:



1 "Gross income derived from a life settlement contract"

2 means:

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

9 "Life settlement contract":

10 (1) Means:

- 11 (A) A written agreement entered into between a
- 12 provider and an owner, establishing the terms
- 13 under which compensation or any thing of
- 14 value will be paid, which compensation or
- 15 thing of value is less than the expected
- 16 death benefit of the owner's policy or
- 17 certificate, in return for the owner's
- 18 assignment, transfer, sale, devise, or
- 19 bequest of the death benefit or any portion
- 20 of the policy or certificate for
- 21 compensation, where the minimum value of the
- 22 contract is greater than a cash surrender



1 value or accelerated death benefit available
2 under the policy or certificate at the time
3 of an application for a life settlement
4 contract;

5 (B) The transfer for compensation or value of
6 ownership or beneficial interest in a trust
7 or other entity that owns such policy or
8 certificate if the trust or other entity was
9 formed or availed of for the principal
10 purpose of acquiring one or more life
11 insurance policies, which life insurance
12 policy insures the life of a person residing
13 in this State; or

14 (C) (i) A written agreement for a loan or other
15 lending transaction, secured primarily
16 by an individual or group policy; or
17 (ii) A premium finance loan made for a policy
18 on or before the date of issuance of the
19 policy where loan proceeds are not used
20 solely to pay premiums for the policy
21 and any costs or expenses incurred by
22 the lender or the borrower in connection



1 with the financing; the owner receives
2 on the date of the premium finance loan
3 a guarantee of the future life
4 settlement value of the policy; or the
5 owner agrees on the date of the premium
6 finance loan to sell the policy or any
7 portion of its death benefit on any date
8 following the issuance of the policy;

9 (2) Does not include:

10 (A) A policy loan by a life insurance company
11 pursuant to the terms of the policy or
12 accelerated death provisions contained in the
13 policy, whether issued with the original
14 policy or as a rider;

15 (B) A premium finance loan or any loan made by a
16 bank, or other licensed financial
17 institution, so long as neither default on
18 such loan nor the transfer of the policy in
19 connection with such default is pursuant to
20 an agreement or understanding with any other
21 person for the purpose of evading taxation
22 under this chapter;



- 1 (C) A collateral assignment of a policy by an
2 owner;
- 3 (D) A loan made by a lender that does not violate
4 any insurance premium finance law of this
5 State; provided that the loan does not
6 qualify as a life settlement contract;
- 7 (E) An agreement where all the parties:
8 (i) Are closely related to the insured by
9 blood or law; or
10 (ii) Have a lawful substantial economic
11 interest in the continued life, health,
12 and bodily safety of the person insured,
13 or are trusts established primarily for
14 the benefit of such parties;
- 15 (F) Any designation, consent, or agreement by an
16 insured who is an employee of an employer in
17 connection with the purchase by the employer,
18 or trust established by the employer, of life
19 insurance on the life of the employee;
- 20 (G) A bona fide business succession planning
21 arrangement:



- 1 (i) Between one or more shareholders in a
2 corporation or between a corporation and
3 one or more of its shareholders or one
4 or more trusts established by its
5 shareholders;
- 6 (ii) Between one or more partners in a
7 partnership or between a partnership and
8 one or more of its partners or one or
9 more trusts established by its partners;
10 or
- 11 (iii) Between one or more members in a limited
12 liability company or between a limited
13 liability company and one or more of its
14 members or one or more trusts
15 established by its members;
- 16 or
- 17 (H) An agreement entered into by a service
18 recipient, or a trust established by the
19 service recipient, and a service provider, or
20 a trust established by the service provider,
21 who performs significant services for the
22 service recipient's trade or business.



1 "Owner" means the owner of the insurance policy that is the
2 subject of the life settlement contract.

3 "Provider" means the person offering the owner the life
4 settlement contract.

5 "Transfer" includes assignment, sale, gift, devise, or
6 bequest."

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

9 "**§237-24 Amounts not taxable.** This chapter shall not apply
10 to the following amounts:

11 (1) [~~Amounts~~] Except as otherwise provided under section
12 237-_____ , amounts received under life insurance
13 policies and contracts paid by reason of the death of
14 the insured;

15 (2) [~~Amounts~~] Except as otherwise provided under section
16 237-_____ , amounts received (other than amounts paid by
17 reason of death of the insured) under life insurance,
18 endowment, or annuity contracts, either during the term
19 or at maturity or upon surrender of the contract;

20 (3) Amounts received under any accident insurance or health
21 insurance policy or contract or under workers'
22 compensation acts or employers' liability acts, as



1 compensation for personal injuries, death, or sickness,
2 including also the amount of any damages or other
3 compensation received, whether as a result of action or
4 by private agreement between the parties on account of
5 the personal injuries, death, or sickness;

6 (4) [~~The~~] Except as otherwise provided under section
7 237- , the value of all property of every kind and
8 sort acquired by gift, bequest, or devise, and the value
9 of all property acquired by descent or inheritance;

10 (5) Amounts received by any person as compensatory damages
11 for any tort injury to the person, or to the person's
12 character reputation, or received as compensatory
13 damages for any tort injury to or destruction of
14 property, whether as the result of action or by private
15 agreement between the parties (provided that amounts
16 received as punitive damages for tort injury or breach
17 of contract injury shall be included in gross income);

18 (6) Amounts received as salaries or wages for services
19 rendered by an employee to an employer;

20 (7) Amounts received as alimony and other similar payments
21 and settlements;



- 1 (8) Amounts collected by distributors as fuel taxes on
2 "liquid fuel" imposed by chapter 243, and the amounts
3 collected by such distributors as a fuel tax imposed by
4 any Act of the Congress of the United States;
- 5 (9) Taxes on liquor imposed by chapter 244D on dealers
6 holding permits under that chapter;
- 7 (10) The amounts of taxes on cigarettes and tobacco products
8 imposed by chapter 245 on wholesalers or dealers
9 holding licenses under that chapter and selling the
10 products at wholesale;
- 11 (11) Federal excise taxes imposed on articles sold at retail
12 and collected from the purchasers thereof and paid to
13 the federal government by the retailer;
- 14 (12) The amounts of federal taxes under chapter 37 of the
15 Internal Revenue Code, or similar federal taxes,
16 imposed on sugar manufactured in the State, paid by the
17 manufacturer to the federal government;
- 18 (13) An amount up to, but not in excess of, \$2,000 a year of
19 gross income received by any blind, deaf, or totally
20 disabled person engaging, or continuing, in any
21 business, trade, activity, occupation, or calling
22 within the State; a corporation all of whose



1 outstanding shares are owned by an individual or
2 individuals who are blind, deaf, or totally disabled; a
3 general, limited, or limited liability partnership, all
4 of whose partners are blind, deaf, or totally disabled;
5 or a limited liability company, all of whose members
6 are blind, deaf, or totally disabled;

7 (14) Amounts received by a producer of sugarcane from the
8 manufacturer to whom the producer sells the sugarcane,
9 where:

10 (A) The producer is an independent cane farmer, so
11 classed by the Secretary of Agriculture under the
12 Sugar Act of 1948 (61 Stat. 922, Chapter 519) as
13 the Act may be amended or supplemented;

14 (B) The value or gross proceeds of the sale of the
15 sugar, and other products manufactured from the
16 sugarcane, are included in the measure of the tax
17 levied on the manufacturer under section 237-13(1)
18 or (2);

19 (C) The producer's gross proceeds of sales are
20 dependent upon the actual value of the products
21 manufactured therefrom or the average value of all



1 similar products manufactured by the manufacturer;

2 and

3 (D) The producer's gross proceeds of sales are reduced

4 by reason of the tax on the value or sale of the

5 manufactured products;

6 (15) Money paid by the State or eleemosynary child-placing

7 organizations to foster parents for their care of

8 children in foster homes;

9 (16) Amounts received by a cooperative housing corporation

10 from its shareholders in reimbursement of funds paid by

11 the corporation for lease rental, real property taxes,

12 and other expenses of operating and maintaining the

13 cooperative land and improvements; provided that the

14 cooperative corporation is a corporation:

15 (A) Having one and only one class of stock

16 outstanding;

17 (B) Each of the stockholders of which is entitled

18 solely by reason of the stockholder's ownership of

19 stock in the corporation, to occupy for dwelling

20 purposes a house, or an apartment in a building

21 owned or leased by the corporation; and



1 (C) No stockholder of which is entitled (either
 2 conditionally or unconditionally) to receive any
 3 distribution not out of earnings and profits of
 4 the corporation except in a complete or partial
 5 liquidation of the corporation;

6 and

7 (17) Amounts received by a managed care support contractor
 8 of the TRICARE program that is established under Title
 9 10 United States Code [~~chapter~~] Chapter 55, as amended,
 10 for the actual cost or advancement to third party
 11 health care providers pursuant to a contract with the
 12 United States."

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

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



Report Title:

General Excise Tax; Life Settlement Contract

Description:

Imposes the general excise tax on the gross income derived from a life settlement contract. Effective July 1, 2011. (HB798 HD1)

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