
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Section 235-2.3, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) The following Internal Revenue Code subchapters,
4 parts of subchapters, sections, subsections, and parts of
5 subsections shall not be operative for the purposes of this
6 chapter, unless otherwise provided:

7 (1) Subchapter A (sections 1 to 59A) (with respect to
8 determination of tax liability), except section
9 1(h) (2) (relating to net capital gain reduced by the
10 amount taken into account as investment income),
11 except sections 2(a), 2(b), and 2(c) (with respect to
12 the definition of "surviving spouse" and "head of
13 household"), except section 41 (with respect to the
14 credit for increasing research activities), except
15 section 42 (with respect to low-income housing
16 credit), except sections 47 and 48, as amended, as of
17 December 31, 1984 (with respect to certain depreciable
18 tangible personal property), and except section



1 48(d)(3), as amended, as of February 17, 2009 (with
2 respect to the treatment of United States Department
3 of Treasury grants made under section 1603 of the
4 American Recovery and Reinvestment Tax Act of 2009).
5 For treatment, see sections 235-110.91, 235-110.7, and
6 235-110.8;

7 (2) Section 78 (with respect to dividends received from
8 certain foreign corporations by domestic corporations
9 choosing foreign tax credit);

10 (3) Section 86 (with respect to social security and tier 1
11 railroad retirement benefits);

12 (4) Section 103 (with respect to interest on state and
13 local bonds). For treatment, see section 235-7(b);

14 (5) Section 114 (with respect to extraterritorial income).

15 For treatment, any transaction as specified in the
16 transitional rule for 2005 and 2006 as specified in
17 the American Jobs Creation Act of 2004 section 101(d)
18 and any transaction that has occurred pursuant to a
19 binding contract as specified in the American Jobs
20 Creation Act of 2004 section 101(f) are inoperative;



- 1 (6) Section 120 (with respect to amounts received under
2 qualified group legal services plans). For treatment,
3 see section 235-7(a) (9) to (11);
- 4 (7) Section 122 (with respect to certain reduced uniformed
5 services retirement pay). For treatment, see section
6 235-7(a) (3);
- 7 (8) Section 135 (with respect to income from United States
8 savings bonds used to pay higher education tuition and
9 fees). For treatment, see section 235-7(a) (1);
- 10 (9) Section 139C (with respect to COBRA premium
11 assistance);
- 12 (10) Subchapter B (sections 141 to 150) (with respect to
13 tax exemption requirements for state and local bonds);
- 14 (11) Section 151 (with respect to allowance of deductions
15 for personal exemptions). For treatment, see section
16 235-54;
- 17 (12) Section 179B (with respect to expensing of capital
18 costs incurred in complying with Environmental
19 Protection Agency sulphur regulations);
- 20 (13) Section 181 (with respect to special rules for certain
21 film and television productions);



- 1 (14) Section 196 (with respect to deduction for certain
2 unused investment credits);
- 3 (15) Section 199 (with respect to the U.S. production
4 activities deduction);
- 5 (16) Section 222 (with respect to qualified tuition and
6 related expenses);
- 7 (17) Sections 241 to 247 (with respect to special
8 deductions for corporations). For treatment, see
9 section 235-7(c);
- 10 (18) Section 280C (with respect to certain expenses for
11 which credits are allowable). For treatment, see
12 section 235-110.91;
- 13 (19) Section 291 (with respect to special rules relating to
14 corporate preference items);
- 15 (20) Section 367 (with respect to foreign corporations);
- 16 (21) Section 501(c)(12), (15), (16) (with respect to exempt
17 organizations); except that section 501(c)(12) shall
18 be operative for companies that provide potable water;
- 19 (22) Section 515 (with respect to taxes of foreign
20 countries and possessions of the United States);



- 1 (23) Subchapter G (sections 531 to 565) (with respect to
2 corporations used to avoid income tax on
3 shareholders);
- 4 (24) Subchapter H (sections 581 to 597) (with respect to
5 banking institutions), except section 584 (with
6 respect to common trust funds). For treatment, see
7 chapter 241;
- 8 (25) Section 642(a) and (b) (with respect to special rules
9 for credits and deductions applicable to trusts). For
10 treatment, see sections 235-54(b) and 235-55;
- 11 (26) Section 646 (with respect to tax treatment of electing
12 Alaska Native settlement trusts);
- 13 (27) Section 668 (with respect to interest charge on
14 accumulation distributions from foreign trusts);
- 15 (28) Subchapter L (sections 801 to 848) (with respect to
16 insurance companies). For treatment, see sections
17 431:7-202 and 431:7-204;
- 18 (29) Section 853 (with respect to foreign tax credit
19 allowed to shareholders). For treatment, see section
20 235-55;
- 21 (30) Section 853A (with respect to credits from tax credit
22 bonds allowed to shareholders);



- 1 (31) Subchapter N (sections 861 to 999) (with respect to
2 tax based on income from sources within or without the
3 United States), except sections 985 to 989 (with
4 respect to foreign currency transactions). For
5 treatment, see sections 235-4, 235-5, and 235-7(b),
6 and 235-55;
- 7 (32) Section 1042(g) (with respect to sales of stock in
8 agricultural refiners and processors to eligible farm
9 cooperatives);
- 10 (33) Section 1055 (with respect to redeemable ground
11 rents);
- 12 (34) Section 1057 (with respect to election to treat
13 transfer to foreign trust, etc., as taxable exchange);
- 14 (35) Sections 1291 to 1298 (with respect to treatment of
15 passive foreign investment companies);
- 16 (36) Subchapter Q (sections 1311 to 1351) (with respect to
17 readjustment of tax between years and special
18 limitations);
- 19 (37) Subchapter R (sections 1352 to 1359) (with respect to
20 election to determine corporate tax on certain
21 international shipping activities using per ton rate);



- 1 (38) Subchapter U (sections 1391 to 1397F) (with respect to
2 designation and treatment of empowerment zones,
3 enterprise communities, and rural development
4 investment areas). For treatment, see chapter 209E;
- 5 (39) Subchapter W (sections 1400 to 1400C) (with respect to
6 District of Columbia enterprise zone);
- 7 (40) Section 1400O (with respect to education tax
8 benefits);
- 9 (41) Section 1400P (with respect to housing tax benefits);
- 10 (42) Section 1400R (with respect to employment relief);
- 11 (43) Section 1400T (with respect to special rules for
12 mortgage revenue bonds);
- 13 (44) Section 1400U-1 (with respect to allocation of
14 recovery zone bonds);
- 15 (45) Section 1400U-2 (with respect to recovery zone
16 economic development bonds); and
- 17 (46) Section 1400U-3 (with respect to recovery zone
18 facility bonds)."

19 SECTION 2. Section 237-23, Hawaii Revised Statutes, is
20 amended by amending subsections (a), (b), and (c) to read as
21 follows:



1 "(a) This chapter shall not apply to the following
2 persons:

3 (1) Public service companies as that term is defined in
4 section 239-2, with respect to the gross income,
5 either actual gross income or gross income estimated
6 and adjusted, that is included in the measure of the
7 tax imposed by chapter 239;

8 (2) Public utilities owned and operated by the State or
9 any county, or other political subdivision thereof;

10 (3) Fraternal benefit societies, orders, or associations,
11 operating under the lodge system, or for the exclusive
12 benefit of the members of the fraternity itself,
13 operating under the lodge system, and providing for
14 the payment of death, sick, accident, prepaid legal
15 services, or other benefits to the members of the
16 societies, orders, or associations, and to their
17 dependents;

18 (4) Corporations, associations, trusts, or societies
19 organized and operated exclusively for religious,
20 charitable, scientific, or educational purposes, as
21 well as that of operating senior citizens housing
22 facilities qualifying for a loan under the laws of the



1 United States as authorized by section 202 of the
2 Housing Act of 1959, as amended, as well as that of
3 operating a prepaid legal services plan, as well as
4 that of operating or managing a homeless facility, or
5 any other program for the homeless authorized under
6 part XVII of chapter 346;

7 (5) Business leagues, chambers of commerce, boards of
8 trade, civic leagues, agricultural and horticultural
9 organizations, and organizations operated exclusively
10 for the benefit of the community and for the promotion
11 of social welfare that shall include the operation of
12 a prepaid legal service plan, and from which no profit
13 inures to the benefit of any private stockholder or
14 individual;

15 (6) Hospitals, infirmaries, and sanitararia;

16 (7) Companies that provide potable water and are tax
17 exempt under section 501(c)(12) of the Internal
18 Revenue Code of 1986, as amended;

19 ~~[-(7)]~~ (8) Cooperative associations incorporated under
20 chapter 421 or Code section 521 cooperatives which
21 fully meet the requirements of section 421-23, except



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1 Code section 521 cooperatives need not be organized in
2 Hawaii; provided that:

3 (A) The exemption shall apply only to the gross
4 income derived from activities that are pursuant
5 to purposes and powers authorized by chapter 421,
6 except those provisions pertaining to or
7 requiring corporate organization in Hawaii do not
8 apply to Code section 521 cooperatives;

9 (B) The exemption shall not relieve any person who
10 receives any proceeds of sale from the
11 association of the duty of returning and paying
12 the tax on the total gross proceeds of the sales
13 on account of which the payment was made, in the
14 same amount and at the same rate as would apply
15 thereto had the sales been made directly by the
16 person, and all those persons shall be so
17 taxable; and

18 (C) As used in this paragraph, "section 521
19 cooperatives" mean associations that qualify as a
20 cooperative under section 521 (with respect to
21 exemption of farmers' cooperatives from tax) of
22 the Internal Revenue Code of 1986, as amended;



1 [~~8~~] (9) Persons affected with Hansen's disease and
2 kokuas, with respect to business within the county of
3 Kalawao;

4 [~~9~~] (10) Corporations, companies, associations, or trusts
5 organized for the establishment and conduct of
6 cemeteries no part of the net earnings of which inures
7 to the financial benefit of any private stockholder or
8 individual; provided that the exemption shall apply
9 only to the activities of those persons in the conduct
10 of cemeteries and shall not apply to any activity the
11 primary purpose of which is to produce income, even
12 though the income is to be used for or in the
13 furtherance of the exempt activities of those persons;
14 and

15 [~~10~~] (11) Nonprofit shippers associations operating under
16 part 296 of the Civil Aeronautics Board Economic
17 Regulations.

18 (b) The exemptions enumerated in subsection (a) (3) to
19 [~~6~~] (7) shall apply only:

20 (1) To those persons who shall have registered with the
21 department of taxation by filing a written application
22 for registration in such form as the department shall



1 prescribe, shall have paid the registration fee of
2 \$20, and shall have had the exemption allowed by the
3 department or by a court or tribunal of competent
4 jurisdiction upon appeal from any assessment resulting
5 from disallowance of the exemption by the department;

6 (2) To activities from which no profit inures to the
7 benefit of any private stockholder or individual,
8 except for death or other benefits to the members of
9 fraternal societies; and

10 (3) To the fraternal, religious, charitable, scientific,
11 educational, communal, or social welfare activities of
12 such persons, or to the activities of [~~such~~]
13 hospitals, infirmaries, [~~and~~] sanitarium [~~as such~~], and
14 potable water companies, and not to any activity the
15 primary purpose of which is to produce income even
16 though the income is to be used for or in furtherance
17 of the exempt activities of such persons.

18 (c) To obtain allowance of an exemption:

19 (1) A person under subsection (a) (3) to [~~(6)~~] (7), who
20 has received or applied for recognition of tax exempt
21 status under section 501(c) (3), (4), (6), [~~or~~] (8), or
22 12 of the Internal Revenue Code of 1986, as amended,



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1 or who is a subordinate person of a person who has
 2 received a group exemption letter under section
 3 501(c)(3), (4), (6), [~~or~~] (8), or 12 of the Internal
 4 Revenue Code of 1986, as amended, shall register with
 5 the department by filing a statement attaching a copy
 6 of the exemption or application for recognition of
 7 exempt status and any particular facts that the
 8 department may require; and

9 (2) All other persons under subsection (a)(3) to (6) shall
 10 file an application for exemption in the form of an
 11 affidavit or affidavits setting forth in general all
 12 facts affecting the right to the exemption and such
 13 particular facts as the department may require, to
 14 which shall be attached such records, papers, and
 15 other information as the department may prescribe."

16 SECTION 3. Statutory material to be repealed is bracketed
 17 and stricken. New statutory material is underscored.

18 SECTION 4. This Act, upon its approval, shall apply to
 19 taxable years beginning after December 31, 2010.

20

INTRODUCED BY: Cindy Evans

JAN 24 2011



Report Title:

Taxation; Potable Water

Description:

Exempts federally tax exempt companies that supply potable water from the state income and general excise taxes.

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