
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Act 105, Session Laws of Hawaii 2011,
2 temporarily suspended certain exemptions from the general excise
3 tax for a period of two years, and these exemptions are scheduled
4 to sunset on June 30, 2013. One of the suspended exemptions is
5 for the general excise tax imposed on tangible personal property,
6 including computer hardware, computer software, and
7 telecommunications equipment, that is sold by a person licensed
8 under chapter 237, Hawaii Revised Statutes, to the United States
9 and to any state-chartered credit union, pursuant to section 237-
10 25(a)(3), Hawaii Revised Statutes. The legislature finds that a
11 consequence of not providing the exemption is that Hawaii
12 businesses that sell computer hardware, computer software, and
13 telecommunications equipment to the federal government must pay
14 the general excise tax on those goods but cannot pass the amount
15 of the tax on to the federal government, which in effect creates
16 a financial burden for state businesses and puts them at a
17 disadvantage when competing with out-of-state businesses.



1 Rather than crippling local businesses, the legislature
2 finds that Hawaii needs to promote the growth of local
3 businesses, including businesses that sell goods to the federal
4 government, which tends to make large purchases from local
5 vendors.

6 The purpose of this Act is to restore the general excise tax
7 exemption for sales of computer hardware, computer software, and
8 telecommunications equipment to the United States and state-
9 chartered credit unions, pursuant to section 237-25(a)(3).

10 SECTION 2. Act 105, Session Laws of Hawaii 2011, is amended
11 by amending section 2 to read as follows:

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

15 "**§237- 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
18 under this chapter shall be suspended from July 1, 2011, through
19 June 30, 2013:

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



- 1 (2) Reimbursements received by federal cost-plus
2 contractors for the costs of purchased materials,
3 plant, and equipment as described under section 237-
4 13(3)(C);
- 5 (3) Gross receipts of home service providers acting as
6 service carriers providing mobile telecommunications
7 services to other home service providers as described
8 under section 237-13(6)(D);
- 9 (4) Amounts deducted from the gross income of real property
10 lessees because of receipt from sublessees as described
11 under section 237-16.5;
- 12 (5) The value or gross income received by nonprofit
13 organizations from certain conventions, conferences,
14 trade show exhibits, or display spaces as described
15 under section 237-16.8;
- 16 (6) Amounts received by sugarcane producers as described
17 under section 237-24(14);
- 18 (7) Amounts received from the loading, transportation, and
19 unloading of agricultural commodities shipped
20 interisland as described under section 237-24.3(1);
- 21 (8) Amounts received from the sale of intoxicating liquor,
22 cigarettes and tobacco products, and agricultural,



- 1 meat, or fish products to persons or common carriers
2 engaged in interstate or foreign commerce as described
3 under section 237-24.3(2);
- 4 (9) Amounts received or accrued from the loading or
5 unloading of cargo as described under section 237-
6 24.3(4)(A);
- 7 (10) Amounts received or accrued from tugboat and towage
8 services as described under section 237-24.3(4)(B);
- 9 (11) Amounts received or accrued from the transportation of
10 pilots or government officials and other maritime-
11 related services as described under section 237-
12 24.3(4)(C);
- 13 (12) Amounts received by labor organizations for real
14 property leases as described under section 237-
15 24.3(10);
- 16 (13) Amounts received as rent for aircraft or aircraft
17 engines used for interstate air transportation as
18 described under section 237-24.3(12);
- 19 (14) Amounts received by exchanges and exchange members as
20 described under section 237-24.5;



- 1 (15) Amounts received as high technology research and
- 2 development grants under section 206M-15 as described
- 3 under section 237-24.7(10);

- 4 (16) Amounts received from the servicing and maintenance of
- 5 aircraft or construction of aircraft service and
- 6 maintenance facilities as described under section 237-
- 7 24.9;

- 8 (17) Gross proceeds from the sale of the following:
- 9 (A) Intoxicating liquor to the United States
- 10 (including any agency or instrumentality of the
- 11 United States that is wholly owned or otherwise so
- 12 constituted as to be immune from the levy of a tax
- 13 under chapter 238 or 244D, but not including
- 14 national banks) or any organization to which the
- 15 sale is permitted by the proviso of "Class 3" of
- 16 section 281-31 that is located on any Army, Navy,
- 17 or Air Force reservation as described under
- 18 section 237-25(a)(1);

- 19 (B) Tobacco products and cigarettes to the United
- 20 States (including any agency or instrumentality
- 21 thereof that is wholly owned or otherwise so
- 22 constituted as to be immune from the levy of tax

- 1 under chapter 238 or 245, but not including
2 national banks) as described under section 237-
3 25(a)(2); and
- 4 (C) "Other tangible personal property" to the United
5 States (including any agency, instrumentality, or
6 federal credit union thereof, but not including
7 national banks) and any state-chartered credit
8 union as described under section 237-25(a)(3);
9 provided that this subparagraph shall not apply to
10 the sale of computer hardware, computer software,
11 or telecommunications equipment to the United
12 States and any state-chartered credit union;
- 13 (18) Amounts received by petroleum product refiners from
14 other refiners for further refining of petroleum
15 products as described under section 237-27;
- 16 (19) 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 July 1, 2011;
- 21 (20) Gross proceeds received from shipbuilding and ship
22 repairs as described under section 237-28.1;



1 (21) 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 (22) 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 July 1, 2011; and

10 (23) 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), (g),
18 or (h), there is levied, assessed, and collected annually against
19 a taxpayer receiving or deriving previously exempt gross income
20 or gross proceeds of sale from July 1, 2011, to June 30, 2013, a
21 tax at the rate of four per cent on that previously exempt gross
22 income or gross proceeds of sale.



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

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

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

15 (f) This section shall not apply to gross income or gross
16 proceeds from binding written contracts entered into prior to
17 July 1, 2011, that do not permit the passing on of increased
18 rates of taxes.

19 (g) This section shall not apply to gross income or gross
20 proceeds from stevedoring services and related services, as
21 defined in section 382-1, furnished to a company by its wholly
22 owned subsidiary.



1 (h) The tax imposed under subsection (b) shall not apply to
2 any gross income or gross proceeds of sale that cannot legally be
3 so taxed under the Constitution or laws of the United States, but
4 only so long as, and only to the extent to which the State is
5 without power to impose the tax.

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

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

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

17 (i) This chapter shall apply to the payment, collection,
18 enforcement, and appeal of the tax levied under this section.

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



1 §237- **Information reporting.** Beginning July 1, 2011, the
2 director of taxation shall require information reporting on all
3 exclusions or exemptions of all amounts, persons, or transactions
4 from this chapter, except for the following:

- 5 (1) Amounts received that are exempt under section 237-
6 24(1) through (7); and
7 (2) Any other amounts, persons, or transactions as
8 determined by the director to be in the best interest
9 of tax administration and made by official
10 pronouncement."

11 SECTION 3. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 4. This Act shall take effect upon its approval;
14 provided that this Act shall apply to gross income or gross
15 proceeds received after June 30, 2012.



Report Title:

Taxation; General Excise Tax; Exemptions; Repeal

Description:

Repeals the temporary suspension under Act 105, SLH 2011, on the general excise tax exemption on sales of computer hardware, computer software, and telecommunications equipment sold to the federal government and state-chartered credit unions. (SD2 Proposed)

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