
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 temporarily
2 suspend the general excise and use tax exemptions for certain
3 amounts received by certain persons and, instead, require those
4 persons to pay the applicable tax on those amounts at a four per
5 cent rate. The suspension and imposition of the tax commences
6 on July 1, 2011, and ends on June 30, 2015.

7 This Act does not suspend the existing general excise tax
8 exemption for nonprofit religious organizations.

9 SECTION 2. Chapter 237, Hawaii Revised Statutes, is
10 amended by adding two new sections to be appropriately
11 designated and to read as follows:

12 "§237-A Temporary suspension of exemption of certain
13 amounts; levy of tax at four per cent rate. (a)

14 Notwithstanding any other law to the contrary, the exemption of
15 the following amounts from taxation under this chapter shall be
16 suspended from July 1, 2011, through June 30, 2015:

17 (1) Amounts deducted from the gross income received by
18 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 telecommunication
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
10 property lessees because of receipt from sublessees as
11 described under section 237-16.5;
- 12 (5) The value or gross income received by nonprofit
13 organizations from certain conventions, conferences,
14 trade shows, or display spaces as described under
15 section 237-16.8;
- 16 (6) Gross income or gross proceeds of sale, but not
17 donations or gifts, received by persons listed under
18 section 237-23(a)(3) to (10); except that amounts
19 received by corporations, associations, trusts, or
20 societies organized and operated exclusively for
21 religious purposes that were exempt from taxation



1 under this chapter on June 30, 2011, shall continue to
2 be fully exempt after that date;

3 (7) Amounts collected by distributors as fuel taxes on
4 "liquid fuel" imposed by chapter 243 and fuel taxes
5 imposed by any Act of the United States Congress as
6 described under section 237-24(8);

7 (8) Taxes on liquor imposed by chapter 244D on dealers
8 holding permits under that chapter as described under
9 section 237-24(9);

10 (9) Amounts of taxes on cigarettes and tobacco products
11 imposed by chapter 245 on wholesalers or dealers
12 holding licenses under that chapter and selling the
13 products at wholesale as described under section 237-
14 24(10);

15 (10) Federal excise taxes imposed on articles sold at
16 retail and collected from the purchasers and paid to
17 the federal government by the retailers as described
18 under section 237-24(11);

19 (11) Amounts of federal taxes under chapter 37 of the
20 Internal Revenue Code or similar federal taxes imposed
21 on sugar manufactured in the State and paid by the



- 1 manufacturers to the federal government as described
2 under section 237-24(12);
3 as described under section 237-24(13);
4 (12) Amounts received by sugarcane producers as described
5 under section 237-24(14);
6 (13) Amounts received from the loading, transportation, and
7 unloading of agricultural commodities shipped
8 interisland as described under section 237-24.3(1);
9 (14) Amounts received from the sale of intoxicating liquor,
10 cigarettes and tobacco products, and agricultural,
11 meat, or fish products to persons or common carriers
12 engaged in interstate or foreign commerce as described
13 under section 237-24.3(2);
14 (15) Amounts received or accrued from the loading or
15 unloading of cargo as described under section 237-
16 24.3(4) (A);
17 (16) Amounts received or accrued from tugboat and towage
18 services as described under section 237-24.3(4) (B);
19 (17) Amounts received or accrued from the transportation of
20 pilots or government officials and other maritime-
21 related services as described under section 237-
22 24.3(4) (C);



- 1 (18) Amounts received by hospitals, infirmaries, medical
2 clinics, health care facilities, pharmacies, or
3 practitioners licensed to sell prescription drugs and
4 prosthetic devices to individuals as described under
5 section 237-24.3(7);
- 6 (19) Taxes on transient accommodations imposed by chapter
7 237D and passed on and collected by operators holding
8 certificates of registration under that chapter as
9 described under section 237-24.3(8);
- 10 (20) Amounts received as dues by unincorporated merchants
11 associations from their membership as described under
12 section 237-24.3(9);
- 13 (21) Amounts received by labor organizations for real
14 property leases as described under section 237-
15 24.3(10);
- 16 (22) 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 (23) Amounts received by exchanges and exchange members as
20 described under section 237-24.5;
- 21 (24) Surcharge taxes on rental motor vehicles imposed by
22 chapter 251 and passed on and collected by persons



- 1 holding certificates of registration under that
2 chapter as described under section 237-24.7(3);
- 3 (25) Amounts received as high technology development grants
4 under section 206M-15 as described under section 237-
5 24.7(10);
- 6 (26) Amounts received as beverage container deposits
7 collected under chapter 342G, part VIII, as described
8 under section 237-24.75(1);
- 9 (27) Amounts received from the servicing and maintenance of
10 aircrafts or construction of aircraft service and
11 maintenance facilities as described under section 237-
12 24.9;
- 13 (28) Gross proceeds received from the sale of tangible
14 personal property to the United States and state-
15 chartered credit unions as described under section
16 237-25(a)(3);
- 17 (29) Amounts received by petroleum product refiners from
18 other refiners for further refining of petroleum
19 products as described under section 237-27;
- 20 (30) Gross proceeds received from the construction,
21 reconstruction, erection, operation, use, maintenance,
22 or furnishing of air pollution control facilities, as



- 1 described under section 237-27.5, that do not have
2 valid certificates of exemption on July 1, 2011;
- 3 (31) Gross proceeds received from shipbuilding and ship
4 repairs as described under section 237-28.1;
- 5 (32) The value of or gross proceeds received from tangible
6 personal property shipped out of the State as
7 described under section 237-29.5;
- 8 (33) The value of or gross income received from contracting
9 or services performed for use outside the State as
10 described under section 237-29.53;
- 11 (34) Gross proceeds or gross income received from the sale
12 of tangible personal property imported for subsequent
13 resale at wholesale as described under section 237-
14 29.55;
- 15 (35) Amounts received by telecommunications common carriers
16 from call center operators for interstate or foreign
17 telecommunications services as described under section
18 237-29.8;
- 19 (36) Gross proceeds received by qualified businesses in
20 enterprise zones, as described under section 209E-11,
21 that do not have valid certificates of qualification



1 from the department of business, economic development,
2 and tourism on July 1, 2011; and

3 (37) Gross proceeds received by contractors licensed under
4 chapter 444 for construction within enterprise zones
5 performed for qualified businesses within the
6 enterprise zones or businesses approved by the
7 department of business, economic development, and
8 tourism to enroll into the enterprise zone program, as
9 described under section 209E-11.

10 (b) Except as otherwise provided under subsection (d),
11 there is levied, assessed, and collected annually against the
12 persons under subsection (a), a tax at the rate of four per cent
13 on the previously exempt gross income or gross proceeds of sale.

14 As used in this section, "previously exempt gross income or
15 gross proceeds of sale" means the amount of the gross income or
16 gross proceeds of sale, the exemption for which is suspended
17 under subsection (a). The term also includes the following:

18 (1) The value received by a nonprofit organization from
19 conventions, conferences, trade show exhibits, and
20 display spaces, the exemption for which is suspended
21 under subsection (a) (5);



1 (2) The value of tangible personal property shipped out of
2 the State, the exemption for which is suspended under
3 subsection (a) (32);

4 (3) The value of contracting or services performed for use
5 outside the State, the exemption for which is
6 suspended under subsection (a) (33); and

7 (4) Taxes and surcharge taxes listed under subsection
8 (a) (7), (8), (9), (10), (11), (19), and (24).

9 The persons exempted under subsection (a), against whom the
10 tax is levied and assessed under this section, shall be
11 responsible for payment of the tax to the director of taxation.

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

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

20 (e) This chapter shall apply to the payment, collection,
21 enforcement, and appeal of the tax levied under this section.



1 The director of taxation may establish additional
2 requirements, procedures, and forms pursuant to rules adopted
3 under chapter 91, to effectuate this section.

4 §237-B Information reporting. The director shall require
5 information reporting on all exclusions or exemptions of all
6 amounts, persons, or transactions from this chapter, except for
7 the following:

8 (1) Amounts received that are exempt under section 237-
9 24(1) through (7); and

10 (2) Any other amounts, persons, or transactions as
11 determined by the director in the best interest of tax
12 administration and made by official pronouncement."

13 SECTION 3. Chapter 238, Hawaii Revised Statutes, is
14 amended by adding two new sections to be appropriately
15 designated and to read as follows:

16 "§238-A Temporary suspension of exemption of certain
17 amounts; levy of tax at four per cent rate. (a)

18 Notwithstanding any other law to the contrary, the exemption of
19 the following from taxation under this chapter shall be
20 suspended from July 1, 2011, through June 30, 2015:

21 (1) The leasing or renting of aircraft or keeping of
22 aircraft solely for leasing or renting for commercial



1 transportation of passengers and goods or the
2 acquisition or importation of aircraft or aircraft
3 engines by a lessee or renter engaged in interstate
4 air transportation, as described under paragraph (6)
5 of the definition of "use" in section 238-1;

6 (2) The use of oceangoing vehicles for passenger or
7 passenger and goods transportation from one point to
8 another within the State as a public utility, as
9 described under paragraph (7) of the definition of
10 "use" in section 238-1;

11 (3) The use of material, parts, or tools imported or
12 purchased by a person licensed under chapter 237 which
13 are used for aircraft service and maintenance or the
14 construction of an aircraft service and maintenance
15 facility, as described under paragraph (8) of the
16 definition of "use" in section 238-1;

17 (4) The use of services or contracting imported for resale
18 where the contracting or services are for resale,
19 consumption, or use outside the State, as described
20 under paragraph (9) of the definition of "use" in
21 section 238-1;



- 1 (5) The use or sale of intoxicating liquor and cigarette
2 and tobacco products imported into the State and sold
3 to any person or common carrier in interstate
4 commerce, whether ocean-going or air, for consumption
5 out of State by the person, crew, or passengers on the
6 shipper's vessels or airplanes, as described under
7 section 238-3(g);
- 8 (6) The use of any vessel constructed under section 189-25
9 prior to July 1, 1969, as described under section
10 238-3(h);
- 11 (7) The use of property, services, or contracting subject
12 to section 237-26 or section 237-29 as described under
13 section 238-3(j); and
- 14 (8) The use of any air pollution control facility subject
15 to section 237-27.5 as described under section
16 238-3(k).
- 17 (b) Except as otherwise provided under subsection (c) or
18 (e), there is levied, assessed, and collected annually against
19 the persons under subsection (a), a tax at the rate of four per
20 cent on the previously exempt value of property, services, or
21 contracting.



1 As used in this section, "previously exempt value of
2 property, services, or contracting" means the value of property,
3 services, or contracting, the exemption for which is suspended
4 under subsection (a).

5 The persons exempted under subsection (a), against whom the
6 tax is levied and assessed under this section, shall be
7 responsible for payment of the tax to the director of taxation.

8 (c) The tax imposed under subsection (b) shall not apply
9 to any property, services, or contracting or to any use of the
10 property, services, or contracting that cannot legally be so
11 taxed under the Constitution or laws of the United States, but
12 only so long as, and only to the extent to which the State is
13 without power to impose the tax.

14 To the extent that any exemption, exclusion, or
15 apportionment is necessary to comply with the preceding
16 sentence, the director of taxation shall:

- 17 (1) Exempt or exclude the property, services, or
18 contracting or the use of the property, services, or
19 contracting, from the tax under subsection (b); or
20 (2) Apportion the gross value of services or contracting
21 sold to customers within the State by persons engaged
22 in business both within and without the State to



1 determine the value of that portion of the services or
2 contracting that is subject to taxation under chapter
3 237 for the purposes of section 237-21.

4 (d) Notwithstanding section 238-2.6, no county surcharge
5 shall be levied, assessed, or collected on any previously exempt
6 value of property, services, or contracting that is subject to
7 taxation under subsection (b).

8 (e) This section shall not apply to the value of property,
9 services, or contracting from binding written contracts entered
10 into prior to July 1, 2011, that do not permit the passing on of
11 increased rates of taxes.

12 (f) This chapter shall apply to the payment, collection,
13 enforcement, and appeal of the tax levied under this section.

14 The director of taxation may establish additional
15 requirements, procedures, and forms pursuant to rules adopted
16 under chapter 91, to effectuate this section.

17 **§238-B Information reporting.** The director shall require
18 information reporting on all exclusions or exemptions of all
19 amounts, persons, or transactions from this chapter, except for
20 any amounts, persons, or transactions as determined by the
21 director in the best interest of tax administration and made by
22 official pronouncement."



1 SECTION 4. In codifying the new sections added by sections
2 2 and 3 of this Act, the revisor of statutes shall substitute
3 appropriate section numbers for the letters used in designating
4 the new sections in this Act.

5 SECTION 5. New statutory material is underscored.

6 SECTION 6. This Act shall take effect on July 1, 2011, and
7 shall be repealed on June 30, 2015; provided that:

- 8 (1) The department of taxation shall have the authority to
9 postpone the payment of the tax imposed under this Act
10 until the deadline to file the general excise or use
11 tax annual return and reconciliation form, as
12 applicable, without regard to any extension;
- 13 (2) The suspension of certain exemptions of section 237-
14 24, Hawaii Revised Statutes, pursuant to section 2 of
15 this Act, shall not be affected by the repeal and
16 reenactment of that section on December 31, 2013,
17 pursuant to Act 70, Session Laws of Hawaii 2009; and
- 18 (3) The suspension of certain exemptions of sections 237-
19 24.3 and 237-24.7, Hawaii Revised Statutes, pursuant
20 to section 2 of this Act, shall not be affected by the
21 repeal and reenactment of those sections on December



1 31, 2014, pursuant to Act 91, Session Laws of Hawaii
2 2010.



Report Title:

General Excise and Use Taxes; Temporary Suspension; Exemption for Certain Persons and Gross Amounts

Description:

Suspends temporarily the exemptions for certain persons and certain amounts of gross income or proceeds from the general excise and use tax and requires the payment of the tax at a 4% rate. Effective 07/01/11 and sunsets on 06/30/15. (HD1 Proposed)

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