

JAN 20 2012

S.B. NO. 2191

A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Section 237-24.75, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§237-24.75 Additional exemptions.** In addition to the
4 amounts exempt under section 237-24, this chapter shall not
5 apply to:

6 (1) Amounts received as a beverage container deposit
7 collected under chapter 342G, part VIII;

8 (2) Amounts received by the operator of the Hawaii
9 convention center for reimbursement of costs or
10 advances made pursuant to a contract with the Hawaii
11 tourism authority under section 201B-7 ~~[+; and+]~~;

12 ~~[+]~~ (3) Amounts received~~[+]~~ by a professional employment
13 organization from a client company equal to amounts
14 that are disbursed by the professional employment
15 organization for employee wages, salaries, payroll
16 taxes, insurance premiums, and benefits, including
17 retirement, vacation, sick leave, health benefits, and
18 similar employment benefits with respect to assigned



1 employees at a client company; provided that this
2 exemption shall not apply to a professional employment
3 organization upon failure of the professional
4 employment organization to collect, account for, and
5 pay over any income tax withholding for assigned
6 employees or any federal or state taxes for which the
7 professional employment organization is responsible.
8 As used in this paragraph, "professional employment
9 organization", "client company", and "assigned
10 employee" shall have the meanings provided in section
11 373K-1 [-]; and

12 (4) Amounts received by a transferor as proceeds from the
13 sale of a non-new motor vehicle currently registered
14 in the State of Hawaii; provided that the sale:

15 (A) Is not an open title transaction and more than
16 one hundred eighty days have elapsed from the
17 date of issuance of the certificate of ownership
18 to the prior registered owner to the date of
19 application for registration in the name of the
20 new registered owner;

21 (B) Involves a casual seller; or

22 (C) Occurs through a licensed motor vehicle auction.



1 As used in this paragraph:

2 "Casual seller" means a person that is not required to have
3 a license under section 237-9 and who in any calendar year
4 transfers fewer than three motor vehicles for consideration.

5 The establishment of casual seller status as to any transaction
6 shall require the transferor and transferee to appear at the
7 same time before the department of taxation.

8 "Non-new motor vehicle" means a motor vehicle that has at
9 least one newer model year in operation or has been in regular
10 use for the past one hundred eighty days and is currently
11 registered to an individual owner.

12 "Open title transaction" means any transfer of an ownership
13 interest in a motor vehicle where the transferor is neither the
14 registered owner nor the legal owner of the motor vehicle as
15 shown on the certificate of title.

16 "Transferor" means the person or entity who receives
17 consideration for the transfer of ownership of a motor vehicle,
18 regardless of whether the person or entity appears on the
19 certificate of title for the motor vehicle as the registered or
20 legal owner."

21 SECTION 2. Section 237-31, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "§237-31 **Remittances.** All remittances of taxes imposed by
2 this chapter shall be made by money, bank draft, check,
3 cashier's check, money order, or certificate of deposit to the
4 office of the department of taxation to which the return was
5 transmitted. The department shall issue its receipts therefor
6 to the taxpayer and shall pay the moneys into the state treasury
7 as a state realization, to be kept and accounted for as provided
8 by law; provided that:

9 (1) The sum from all general excise tax revenues realized
10 by the State that represents the difference between
11 \$45,000,000 and the proceeds from the sale of any
12 general obligation bonds authorized for that fiscal
13 year for the purposes of the state educational
14 facilities improvement special fund shall be deposited
15 in the state treasury in each fiscal year to the
16 credit of the state educational facilities improvement
17 special fund;

18 (2) A sum, not to exceed \$5,000,000, from all general
19 excise tax revenues realized by the State shall be
20 deposited in the state treasury in each fiscal year to
21 the credit of the compound interest bond reserve fund;
22 [and]



1 (3) A sum from all general excise tax revenues realized by
 2 the State that is equal to one-half of the total
 3 amount of funds appropriated or transferred out of the
 4 hurricane reserve trust fund under sections 4 and 5 of
 5 Act 62, Session Laws of Hawaii 2011, shall be
 6 deposited into the hurricane reserve trust fund in
 7 fiscal year 2013-2014 and in fiscal year 2014-2015;
 8 provided that the deposit required in each fiscal year
 9 shall be made by October 1 of that fiscal year[-]; and

10 (4) The sum from all general excise tax revenues realized
 11 by the State as a result of non-new motor vehicle
 12 sales, other than sales exempt from the tax pursuant
 13 to section 237-24.75(a)(4), shall be deposited as
 14 follows:

- 15 (A) _____ per cent to the credit of the department of
- 16 taxation;
- 17 (B) _____ per cent to the county treasury of the
- 18 county where the transaction occurs; and
- 19 (C) Any excess balance to the state treasury as a
- 20 state realization."

21 SECTION 3. Section 286-52, Hawaii Revised Statutes, is
 22 amended as follows:



1 1. By amending subsection (a) to read:

2 "(a) Upon a transfer of the title or interest of a legal
3 owner in or to a vehicle registered under this part, the person
4 whose title or interest is to be transferred and the transferee
5 shall write their signatures with pen and ink upon the
6 certificate of ownership issued for the vehicle, together with
7 the address of the transferee in the appropriate space provided
8 upon the certificate. As a condition of the transfer of title
9 or interest of a legal owner, payment of the tax imposed by
10 section 237-13(2)(A) shall be required. Notwithstanding section
11 237-13(2)(A) to the contrary, the tax shall be levied on the
12 greater of the amount of:

13 (1) The consideration exchanged for ownership of the
14 vehicle as shown on the notice described in section
15 subsection (j); or

16 (2) The retail value of the motor vehicle as shown in the
17 Kelley Blue Book or similar authority for valuation of
18 motor vehicles.

19 In lieu of payment of the tax imposed by section 237-13(2)(A),
20 an applicant for transfer of ownership of a motor vehicle may
21 present a certificate from the department of taxation showing
22 that the transaction is exempt pursuant to section 237-



1 24.75(a)(4). The department of motor vehicles shall maintain
2 the certificate as part of the documentation of the
3 registration."

4 2. By amending subsection (j) to read:

5 "(j) Every person, other than a dealer, upon transferring
6 a motor vehicle, whether by sale, lease, or otherwise, shall
7 within ten days give notice of the transfer to the director of
8 finance upon the official form provided by the director of
9 finance. Every notice shall contain the date of transfer, the
10 names and addresses of the transferor and transferee, the
11 purchase price of the vehicle, and such description of the
12 vehicle as may be called for in the official form. Any person
13 who violates this subsection shall be fined not more than \$100.
14 For purposes of verification of general excise tax return
15 filings, including the applicability of any exemption pursuant
16 to section 237-24.75(a)(4), the department of motor vehicles of
17 a county that receives a notice pursuant to this subsection
18 shall provide the transferor's name and address to the
19 department of taxation."

20 SECTION 4. This Act does not affect rights and duties that
21 matured, penalties that were incurred, and proceedings that were
22 begun before its effective date.

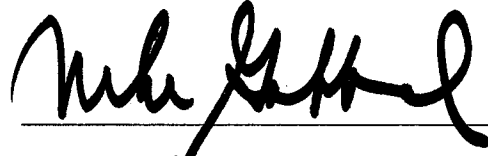



1 SECTION 5. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 6. This Act shall take effect upon its approval.

4

INTRODUCED BY:



S.B. NO. 2191

Report Title:

Motor Vehicle Excise Tax; Exemption; Motor Vehicle Registration;
Counties

Description:

Exempts certain sales of non-new motor vehicles currently registered in the State from the general excise tax. Requires an unspecified percentage of the sum of all general excise tax revenues from non-exempt motor vehicle sales to be deposited with the county where the motor vehicle sale occurred. Requires a county DMV to collect the general excise tax on vehicle sales. Requires the county DMV to provide the transferor's name and address to DOTAX.

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

