

JAN 20 2012

A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. In 2009, the legislature faced an unprecedented
2 budget challenge - a shortfall of approximately \$2,100,000,000
3 through the end of the fiscal biennium. Despite adoption of a
4 balanced budget and financial plan in 2009, in 2010 the
5 legislature was confronted with an additional budget shortfall
6 of approximately \$1,200,000,000 through the end of the fiscal
7 biennium. As the economy continued the struggle toward
8 recovery, the legislature in 2011 was again faced with a large
9 shortfall, estimated at \$1,300,000,000. The council on revenues
10 is forecasting state revenue to grow at a rate of 11.5 per cent
11 during the fiscal year ending in June 2011. The forecast is
12 lower than the 14.5 per cent increase the council on revenues
13 predicted earlier.

14 The guiding principles for the biennium budget are to first
15 identify and support the State's core functions - those programs
16 and services that the State should be providing - and secondly
17 to make strategic investments in people and programs that
18 encourage economic growth, lower long-term future costs, and



1 provide meaningful public services. The governor implemented
2 across-the-board spending restrictions equivalent to the savings
3 that three furlough days per month would yield. Departments met
4 these required savings targets most notably through the
5 implementation of two furlough days per month. A reduction in
6 force of approximately one thousand state workers, the reduction
7 of vacant positions, and a number of other measures were
8 implemented to further reduce state spending. Clearly,
9 increased state revenues are a necessity in order for Hawaii to
10 pay its obligations and avoid program and personnel reductions,
11 and in Hawaii taxes are the chief source of revenues.

12 Advocates of tax cuts argue that reducing taxes improves
13 the economy by boosting spending. Those who oppose them say
14 that tax cuts only help the rich because it can lead to a
15 reduction in government services upon which lower income people
16 rely. In other words, there are two distinct sides to this
17 economic balancing scale.

18 In Hawaii, income taxes account for roughly a quarter of
19 general fund realizations, and general excise taxes produce
20 about fifty per cent of revenues. Non-tax revenues comprise the
21 remainder.



1 The legislature finds that there is a potential to increase
2 state tax revenues by repealing the income tax and making up for
3 the revenue loss by increasing the excise and use taxes and
4 repealing exemptions on the state excise and use taxes. The
5 legislature believes that such tax initiatives and fundamental
6 restructuring of the tax code would elevate the financial
7 stability of Hawaii's hard working low income and middle income
8 families.

9 The purpose of this Act is to repeal the income tax,
10 increase the excise and use taxes, and repeal various exemptions
11 on the state excise and use taxes.

12 **PART I. GENERAL EXCISE AND USE TAX RATES**

13 SECTION 2. Section 237-13, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§237-13 Imposition of tax.** There is hereby levied and
16 shall be assessed and collected annually privilege taxes against
17 persons on account of their business and other activities in the
18 State measured by the application of rates against values of
19 products, gross proceeds of sales, or gross income, whichever is
20 specified, as follows:

21 (1) Tax on manufacturers.



1 (A) Upon every person engaging or continuing within
2 the State in the business of manufacturing,
3 including compounding, canning, preserving,
4 packing, printing, publishing, milling,
5 processing, refining, or preparing for sale,
6 profit, or commercial use, either directly or
7 through the activity of others, in whole or in
8 part, any article or articles, substance or
9 substances, commodity or commodities, the amount
10 of the tax to be equal to the value of the
11 articles, substances, or commodities,
12 manufactured, compounded, canned, preserved,
13 packed, printed, milled, processed, refined, or
14 prepared for sale, as shown by the gross proceeds
15 derived from the sale thereof by the manufacturer
16 or person compounding, preparing, or printing
17 them, multiplied by [~~one-half of one~~] _____ per
18 cent.

19 (B) The measure of the tax on manufacturers is the
20 value of the entire product for sale, regardless
21 of the place of sale or the fact that deliveries
22 may be made to points outside the State.



1 (C) If any person liable for the tax on manufacturers
2 ships or transports the person's product, or any
3 part thereof, out of the State, whether in a
4 finished or unfinished condition, or sells the
5 same for delivery to points outside the State
6 (for example, consigned to a mainland purchaser
7 via common carrier f.o.b. Honolulu), the value of
8 the products in the condition or form in which
9 they exist immediately before entering interstate
10 or foreign commerce, determined as hereinafter
11 provided, shall be the basis for the assessment
12 of the tax imposed by this paragraph. This tax
13 shall be due and payable as of the date of entry
14 of the products into interstate or foreign
15 commerce, whether the products are then sold or
16 not. The department shall determine the basis
17 for assessment, as provided by this paragraph, as
18 follows:

19 (i) If the products at the time of their entry
20 into interstate or foreign commerce already
21 have been sold, the gross proceeds of sale,
22 less the transportation expenses, if any,



1 incurred in realizing the gross proceeds for
2 transportation from the time of entry of the
3 products into interstate or foreign
4 commerce, including insurance and storage in
5 transit, shall be the measure of the value
6 of the products;

7 (ii) If the products have not been sold at the
8 time of their entry into interstate or
9 foreign commerce, and in cases governed by
10 clause (i) in which the products are sold
11 under circumstances such that the gross
12 proceeds of sale are not indicative of the
13 true value of the products, the value of the
14 products constituting the basis for
15 assessment shall correspond as nearly as
16 possible to the gross proceeds of sales for
17 delivery outside the State, adjusted as
18 provided in clause (i), or if sufficient
19 data are not available, sales in the State,
20 of similar products of like quality and
21 character and in similar quantities, made by
22 the taxpayer (unless not indicative of the



1 true value) or by others. Sales outside the
2 State, adjusted as provided in clause (i),
3 may be considered when they constitute the
4 best available data. The department shall
5 prescribe uniform and equitable rules for
6 ascertaining the values;

7 (iii) At the election of the taxpayer and with the
8 approval of the department, the taxpayer may
9 make the taxpayer's returns under clause (i)
10 even though the products have not been sold
11 at the time of their entry into interstate
12 or foreign commerce; and

13 (iv) In all cases in which products leave the
14 State in an unfinished condition, the basis
15 for assessment shall be adjusted so as to
16 deduct the portion of the value as is
17 attributable to the finishing of the goods
18 outside the State.

19 (2) Tax on business of selling tangible personal property;
20 producing.

21 (A) Upon every person engaging or continuing in the
22 business of selling any tangible personal



1 property whatsoever (not including, however,
2 bonds or other evidence of indebtedness, or
3 stocks), there is likewise hereby levied, and
4 shall be assessed and collected, a tax equivalent
5 to [~~four~~] _____ per cent of the gross proceeds of
6 sales of the business; provided that insofar as
7 the sale of tangible personal property is a
8 wholesale sale under section [~~+~~]237-4(a)(8)[~~+~~],
9 the sale shall be subject to section 237-13.3.

10 Upon every person engaging or continuing within
11 this State in the business of a producer, the tax
12 shall be equal to [~~one half of one~~] _____ per
13 cent of the gross proceeds of sales of the
14 business, or the value of the products, for sale,
15 if sold for delivery outside the State or shipped
16 or transported out of the State, and the value of
17 the products shall be determined in the same
18 manner as the value of manufactured products
19 covered in the cases under paragraph (1)(C).

20 (B) Gross proceeds of sales of tangible property in
21 interstate and foreign commerce shall constitute
22 a part of the measure of the tax imposed on



1 persons in the business of selling tangible
2 personal property, to the extent, under the
3 conditions, and in accordance with the provisions
4 of the Constitution of the United States and the
5 Acts of the Congress of the United States which
6 may be now in force or may be hereafter adopted,
7 and whenever there occurs in the State an
8 activity to which, under the Constitution and
9 Acts of Congress, there may be attributed gross
10 proceeds of sales, the gross proceeds shall be so
11 attributed.

12 (C) No manufacturer or producer, engaged in such
13 business in the State and selling the
14 manufacturer's or producer's products for
15 delivery outside of the State (for example,
16 consigned to a mainland purchaser via common
17 carrier f.o.b. Honolulu), shall be required to
18 pay the tax imposed in this chapter for the
19 privilege of so selling the products, and the
20 value or gross proceeds of sales of the products
21 shall be included only in determining the measure



1 of the tax imposed upon the manufacturer or
2 producer.

3 (D) When a manufacturer or producer, engaged in such
4 business in the State, also is engaged in selling
5 the manufacturer's or producer's products in the
6 State at wholesale, retail, or in any other
7 manner, the tax for the privilege of engaging in
8 the business of selling the products in the State
9 shall apply to the manufacturer or producer as
10 well as the tax for the privilege of
11 manufacturing or producing in the State, and the
12 manufacturer or producer shall make the returns
13 of the gross proceeds of the wholesale, retail,
14 or other sales required for the privilege of
15 selling in the State, as well as making the
16 returns of the value or gross proceeds of sales
17 of the products required for the privilege of
18 manufacturing or producing in the State. The
19 manufacturer or producer shall pay the tax
20 imposed in this chapter for the privilege of
21 selling its products in the State, and the value
22 or gross proceeds of sales of the products, thus



1 subjected to tax, may be deducted insofar as
2 duplicated as to the same products by the measure
3 of the tax upon the manufacturer or producer for
4 the privilege of manufacturing or producing in
5 the State; provided that no producer of
6 agricultural products who sells the products to a
7 purchaser who will process the products outside
8 the State shall be required to pay the tax
9 imposed in this chapter for the privilege of
10 producing or selling those products.

11 (E) A taxpayer selling to a federal cost-plus
12 contractor may make the election provided for by
13 paragraph (3) (C), and in that case the tax shall
14 be computed pursuant to the election,
15 notwithstanding this paragraph or paragraph (1)
16 to the contrary.

17 (F) The department, by rule, may require that a
18 seller take from the purchaser of tangible
19 personal property a certificate, in a form
20 prescribed by the department, certifying that the
21 sale is a sale at wholesale; provided that:



- 1 (i) Any purchaser who furnishes a certificate
2 shall be obligated to pay to the seller,
3 upon demand, the amount of the additional
4 tax that is imposed upon the seller whenever
5 the sale in fact is not at wholesale; and
6 (ii) The absence of a certificate in itself shall
7 give rise to the presumption that the sale
8 is not at wholesale unless the sales of the
9 business are exclusively at wholesale.
- 10 (3) Tax upon contractors.
- 11 (A) Upon every person engaging or continuing within
12 the State in the business of contracting, the tax
13 shall be equal to [~~four~~] _____ per cent of the
14 gross income of the business.
- 15 (B) In computing the tax levied under this paragraph,
16 there shall be deducted from the gross income of
17 the taxpayer so much thereof as has been included
18 in the measure of the tax levied under
19 subparagraph (A), on:
- 20 (i) Another taxpayer who is a contractor, as
21 defined in section 237-6;



1 (ii) A specialty contractor, duly licensed by the
2 department of commerce and consumer affairs
3 pursuant to section 444-9, in respect of the
4 specialty contractor's business; or

5 (iii) A specialty contractor who is not licensed
6 by the department of commerce and consumer
7 affairs pursuant to section 444-9, but who
8 performs contracting activities on federal
9 military installations and nowhere else in
10 this State;

11 provided that any person claiming a deduction
12 under this paragraph shall be required to show in
13 the person's return the name and general excise
14 number of the person paying the tax on the amount
15 deducted by the person.

16 (C) In computing the tax levied under this paragraph
17 against any federal cost-plus contractor, there
18 shall be excluded from the gross income of the
19 contractor so much thereof as fulfills the
20 following requirements:

21 (i) The gross income exempted shall constitute
22 reimbursement of costs incurred for



1 materials, plant, or equipment purchased
2 from a taxpayer licensed under this chapter,
3 not exceeding the gross proceeds of sale of
4 the taxpayer on account of the transaction;
5 and

6 (ii) The taxpayer making the sale shall have
7 certified to the department that the
8 taxpayer is taxable with respect to the
9 gross proceeds of the sale, and that the
10 taxpayer elects to have the tax on gross
11 income computed the same as upon a sale to
12 the state government.

13 (D) A person who, as a business or as a part of a
14 business in which the person is engaged, erects,
15 constructs, or improves any building or
16 structure, of any kind or description, or makes,
17 constructs, or improves any road, street,
18 sidewalk, sewer, or water system, or other
19 improvements on land held by the person (whether
20 held as a leasehold, fee simple, or otherwise),
21 upon the sale or other disposition of the land or
22 improvements, even if the work was not done



1 pursuant to a contract, shall be liable to the
2 same tax as if engaged in the business of
3 contracting, unless the person shows that at the
4 time the person was engaged in making the
5 improvements the person intended, and for the
6 period of at least one year after completion of
7 the building, structure, or other improvements
8 the person continued to intend to hold and not
9 sell or otherwise dispose of the land or
10 improvements. The tax in respect of the
11 improvements shall be measured by the amount of
12 the proceeds of the sale or other disposition
13 that is attributable to the erection,
14 construction, or improvement of such building or
15 structure, or the making, constructing, or
16 improving of the road, street, sidewalk, sewer,
17 or water system, or other improvements. The
18 measure of tax in respect of the improvements
19 shall not exceed the amount which would have been
20 taxable had the work been performed by another,
21 subject as in other cases to the deductions
22 allowed by subparagraph (B). Upon the election



1 of the taxpayer, this paragraph may be applied
2 notwithstanding that the improvements were not
3 made by the taxpayer, or were not made as a
4 business or as a part of a business, or were made
5 with the intention of holding the same. However,
6 this paragraph shall not apply in respect of any
7 proceeds that constitute or are in the nature of
8 rent; all such gross income shall be taxable
9 under paragraph (9); provided that insofar as the
10 business of renting or leasing real property
11 under a lease is taxed under section 237-16.5,
12 the tax shall be levied by section 237-16.5.

13 (4) Tax upon theaters, amusements, radio broadcasting
14 stations, etc.

15 (A) Upon every person engaging or continuing within
16 the State in the business of operating a theater,
17 opera house, moving picture show, vaudeville,
18 amusement park, dance hall, skating rink, radio
19 broadcasting station, or any other place at which
20 amusements are offered to the public, the tax
21 shall be equal to [~~four~~] _____ per cent of the
22 gross income of the business, and in the case of



1 a sale of an amusement at wholesale under section
2 237-4(a)(13), the tax shall be subject to section
3 237-13.3.

4 (B) The department may require that the person
5 rendering an amusement at wholesale take from the
6 licensed seller a certificate, in a form
7 prescribed by the department, certifying that the
8 sale is a sale at wholesale; provided that:

9 (i) Any licensed seller who furnishes a
10 certificate shall be obligated to pay to the
11 person rendering the amusement, upon demand,
12 the amount of additional tax that is imposed
13 upon the seller whenever the sale is not at
14 wholesale; and

15 (ii) The absence of a certificate in itself shall
16 give rise to the presumption that the sale
17 is not at wholesale unless the person
18 rendering the sale is exclusively rendering
19 the amusement at wholesale.

20 (5) Tax upon sales representatives, etc. Upon every
21 person classified as a representative or purchasing
22 agent under section 237-1, engaging or continuing



1 within the State in the business of performing
2 services for another, other than as an employee, there
3 is likewise hereby levied and shall be assessed and
4 collected a tax equal to [~~four~~] _____ per cent of the
5 commissions and other compensation attributable to the
6 services so rendered by the person.

7 (6) Tax on service business.

8 (A) Upon every person engaging or continuing within
9 the State in any service business or calling
10 including professional services not otherwise
11 specifically taxed under this chapter, there is
12 likewise hereby levied and shall be assessed and
13 collected a tax equal to [~~four~~] _____ per cent of
14 the gross income of the business, and in the case
15 of a wholesaler under section 237-4(a)(10), the
16 tax shall be equal to [~~one-half of one~~] _____ per
17 cent of the gross income of the business.

18 Notwithstanding the foregoing, a wholesaler under
19 section 237-4(a)(10) shall be subject to section
20 237-13.3.

21 (B) The department may require that the person
22 rendering a service at wholesale take from the



1 licensed seller a certificate, in a form
2 prescribed by the department, certifying that the
3 sale is a sale at wholesale; provided that:

4 (i) Any licensed seller who furnishes a
5 certificate shall be obligated to pay to the
6 person rendering the service, upon demand,
7 the amount of additional tax that is imposed
8 upon the seller whenever the sale is not at
9 wholesale; and

10 (ii) The absence of a certificate in itself shall
11 give rise to the presumption that the sale
12 is not at wholesale unless the person
13 rendering the sale is exclusively rendering
14 services at wholesale.

15 (C) Where any person is engaged in the business of
16 selling interstate or foreign common carrier
17 telecommunication services within and without the
18 State, other than as a home service provider, the
19 tax shall be imposed on that portion of gross
20 income received by a person from service which is
21 originated or terminated in this State and is
22 charged to a telephone number, customer, or



1 account in this State notwithstanding any other
2 state law (except for the exemption under section
3 237-23(a)(1)) to the contrary. If, under the
4 Constitution and laws of the United States, the
5 entire gross income as determined under this
6 paragraph of a business selling interstate or
7 foreign common carrier telecommunication services
8 cannot be included in the measure of the tax, the
9 gross income shall be apportioned as provided in
10 section 237-21; provided that the apportionment
11 factor and formula shall be the same for all
12 persons providing those services in the State.

13 (D) Where any person is engaged in the business of a
14 home service provider, the tax shall be imposed
15 on the gross income received or derived from
16 providing interstate or foreign mobile
17 telecommunications services to a customer with a
18 place of primary use in this State when such
19 services originate in one state and terminate in
20 another state, territory, or foreign country;
21 provided that all charges for mobile
22 telecommunications services which are billed by



1 or for the home service provider are deemed to be
2 provided by the home service provider at the
3 customer's place of primary use, regardless of
4 where the mobile telecommunications originate,
5 terminate, or pass through; provided further that
6 the income from charges specifically derived from
7 interstate or foreign mobile telecommunications
8 services, as determined by books and records that
9 are kept in the regular course of business by the
10 home service provider in accordance with section
11 239-24, shall be apportioned under any
12 apportionment factor or formula adopted under
13 subparagraph (C). Gross income shall not
14 include:

- 15 (i) Gross receipts from mobile
16 telecommunications services provided to a
17 customer with a place of primary use outside
18 this State;
- 19 (ii) Gross receipts from mobile
20 telecommunications services that are subject
21 to the tax imposed by chapter 239;



- 1 (iii) Gross receipts from mobile
2 telecommunications services taxed under
3 section 237-13.8; and
4 (iv) Gross receipts of a home service provider
5 acting as a serving carrier providing mobile
6 telecommunications services to another home
7 service provider's customer.

8 For the purposes of this paragraph, "charges for
9 mobile telecommunications services", "customer",
10 "home service provider", "mobile
11 telecommunications services", "place of primary
12 use", and "serving carrier" have the same meaning
13 as in section 239-22.

14 (7) Tax on insurance producers. Upon every person engaged
15 as a licensed producer pursuant to chapter 431, there
16 is hereby levied and shall be assessed and collected a
17 tax equal to [~~0.15~~] _____ per cent of the commissions
18 due to that activity.

19 (8) Tax on receipts of sugar benefit payments. Upon the
20 amounts received from the United States government by
21 any producer of sugar (or the producer's legal
22 representative or heirs), as defined under and by



1 virtue of the Sugar Act of 1948, as amended, or other
2 Acts of the Congress of the United States relating
3 thereto, there is hereby levied a tax of [~~one-half of~~
4 ~~one~~] _____ per cent of the gross amount received;
5 provided that the tax levied hereunder on any amount
6 so received and actually disbursed to another by a
7 producer in the form of a benefit payment shall be
8 paid by the person or persons to whom the amount is
9 actually disbursed, and the producer actually making a
10 benefit payment to another shall be entitled to claim
11 on the producer's return a deduction from the gross
12 amount taxable hereunder in the sum of the amount so
13 disbursed. The amounts taxed under this paragraph
14 shall not be taxable under any other paragraph,
15 subsection, or section of this chapter.

- 16 (9) Tax on other business. Upon every person engaging or
17 continuing within the State in any business, trade,
18 activity, occupation, or calling not included in the
19 preceding paragraphs or any other provisions of this
20 chapter, there is likewise hereby levied and shall be
21 assessed and collected, a tax equal to [~~four~~] _____
22 per cent of the gross income thereof. In addition,



1 the rate prescribed by this paragraph shall apply to a
2 business taxable under one or more of the preceding
3 paragraphs or other provisions of this chapter, as to
4 any gross income thereof not taxed thereunder as gross
5 income or gross proceeds of sales or by taxing an
6 equivalent value of products, unless specifically
7 exempted."

8 SECTION 3. Section 237-13.3, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

10 "(a) Sections 237-4(a)(8), 237-4(a)(10), 237-4(a)(13),
11 237-13(2)(A), 237-13(4)(A), and 237-13(6)(A) to the contrary
12 notwithstanding, instead of the tax levied under section
13 237-13(2)(A) on wholesale sales subject to section
14 237-4(a)(8)(B), under section 237-13(4)(A) on a wholesaler
15 subject to section 237-4(a)(13), and under section 237-13(6)(A)
16 on a wholesaler subject to section 237-4(a)(10) at one-half of
17 one per cent, during the period January 1, 2000, to December 31,
18 2005, the tax shall be as follows:

19 (1) In calendar year 2000, 3.5 per cent;

20 (2) In calendar year 2001, 3.0 per cent;

21 (3) In calendar year 2002, 2.5 per cent;

22 (4) In calendar year 2003, 2.0 per cent;



- 1 (5) In calendar year 2004, 1.5 per cent;
- 2 (6) In calendar year 2005, 1.0 per cent; [~~and~~]
- 3 (7) In calendar year 2006 [~~and thereafter, the tax shall~~
- 4 be] through June 30, 2013, 0.5 per cent[-]; and
- 5 (8) On July 1, 2013, and thereafter, the tax shall be
- 6 per cent."

7 SECTION 4. Section 237-16.5, Hawaii Revised Statutes, is
8 amended as follows:

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

10 "(a) This section relates to the leasing of real property
11 by a lessor to a lessee. There is hereby levied, and shall be
12 assessed and collected annually, a privilege tax against persons
13 engaging or continuing within the State in the business of
14 leasing real property to another, equal to [~~four~~] _____ per cent
15 of the gross proceeds or gross income received or derived from
16 the leasing; provided that where real property is subleased by a
17 lessee to a sublessee, the lessee, as provided in this section,
18 shall be allowed a deduction from the amount of gross proceeds
19 or gross income received from its sublease of the real property.
20 The deduction shall be in the amount allowed under this section.

21 All deductions under this section and the name and general
22 excise tax number of the lessee's lessor shall be reported on



1 the general excise tax return. Any deduction allowed under this
2 section shall only be allowed with respect to leases and
3 subleases in writing and relating to the same real property."

4 2. By amending subsections (f) and (g) to read:

5 "(f) This section shall not cause the tax upon a lessor,
6 with respect to any item of the lessor's gross proceeds or gross
7 income, to exceed [~~four~~] _____ per cent.

8 (g) After allocation under subsection (c), if necessary,
9 the deduction under this section shall be allowed from the gross
10 proceeds or gross income of the lessee received from its
11 sublease in an amount calculated by multiplying the gross
12 proceeds or gross income paid by the lessee to its lessor for
13 the lease of the real property by the following amount:

14 (1) In calendar year 1998, .125;

15 (2) In calendar year 1999, .25;

16 (3) In calendar year 2000, .375;

17 (4) In calendar year 2001, .50;

18 (5) In calendar year 2002, .625;

19 (6) In calendar year 2003, .75; [~~and~~]

20 (7) In calendar year 2004 [~~, and thereafter,~~] through June
21 30, 2013, .875 [-]; and

22 (8) On July 1, 2013, and thereafter, _____.



1 The amount calculated under paragraphs (1) to (7) shall be
2 deducted by the lessee from the lessee's total reported gross
3 proceeds or gross income. The deduction allowed by this
4 subsection may be taken by the fiscal and calendar year
5 lessees."

6 SECTION 5. Section 237-17, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§237-17 Persons with impaired sight, hearing, or who are**
9 **totally disabled.** Anything in section 237-13 to the contrary
10 notwithstanding, the privilege tax levied, assessed, and
11 collected on account of the business or other activities of
12 individuals who are blind, deaf, or totally disabled,
13 corporations all of whose outstanding shares are owned by
14 individuals who are blind, deaf, or totally disabled, general,
15 limited, or limited liability partnerships, all of whose
16 partners are blind, deaf, or totally disabled, or limited
17 liability companies, all of whose members are blind, deaf, or
18 totally disabled, shall not exceed [~~one half of one~~] _____ per
19 cent of the proceeds, sales, income, or other receipts subject
20 to tax. For the purpose of this chapter "blind", "deaf", or
21 "totally disabled" is defined as in section 235-1. The



1 impairment of sight or hearing, or the disability, shall be
2 certified to as provided in section 235-1."

3 SECTION 6. Section 237-18, Hawaii Revised Statutes, is
4 amended by amending subsection (c) to read as follows:

5 "(c) Where, through the activity of a person taxable under
6 section 237-13(6), a product has been milled, processed, or
7 otherwise manufactured upon the order of another taxpayer who is
8 a manufacturer taxable upon the value of the entire manufactured
9 products, which consists in part of the value of the services
10 taxable under section 237-13(6), so much gross income as is
11 derived from the rendering of the services shall be subjected to
12 tax on the person rendering the services at the rate of
13 [~~one half of one~~] _____ per cent, and the value of the entire
14 product shall be included in the measure of the tax imposed on
15 the other taxpayer as elsewhere provided."

16 SECTION 7. Section 238-2, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§238-2 Imposition of tax on tangible personal property;**
19 **exemptions.** There is hereby levied an excise tax on the use in
20 this State of tangible personal property which is imported by a
21 taxpayer in this State whether owned, purchased from an
22 unlicensed seller, or however acquired for use in this State.



1 The tax imposed by this chapter shall accrue when the property
2 is acquired by the importer or purchaser and becomes subject to
3 the taxing jurisdiction of the State. The rates of the tax
4 hereby imposed and the exemptions thereof are as follows:

5 (1) If the importer or purchaser is licensed under chapter
6 237 and is:

7 (A) A wholesaler or jobber importing or purchasing
8 for purposes of sale or resale; or

9 (B) A manufacturer importing or purchasing material
10 or commodities which are to be incorporated by
11 the manufacturer into a finished or saleable
12 product (including the container or package in
13 which the product is contained) wherein it will
14 remain in such form as to be perceptible to the
15 senses, and which finished or saleable product is
16 to be sold in such manner as to result in a
17 further tax on the activity of the manufacturer
18 as the manufacturer or as a wholesaler, and not
19 as a retailer,

20 there shall be no tax; provided that if the
21 wholesaler, jobber, or manufacturer is also engaged in
22 business as a retailer (so classed under chapter 237),



1 paragraph (2) shall apply to the wholesaler, jobber,
2 or manufacturer, but the director of taxation shall
3 refund to the wholesaler, jobber, or manufacturer, in
4 the manner provided under section 231-23(c) such
5 amount of tax as the wholesaler, jobber, or
6 manufacturer shall, to the satisfaction of the
7 director, establish to have been paid by the
8 wholesaler, jobber, or manufacturer to the director
9 with respect to property which has been used by the
10 wholesaler, jobber, or manufacturer for the purposes
11 stated in this paragraph;

12 (2) If the importer or purchaser is licensed under chapter
13 237 and is:

14 (A) A retailer or other person importing or
15 purchasing for purposes of sale or resale, not
16 exempted by paragraph (1);

17 (B) A manufacturer importing or purchasing material
18 or commodities which are to be incorporated by
19 the manufacturer into a finished or saleable
20 product (including the container or package in
21 which the product is contained) wherein it will
22 remain in such form as to be perceptible to the



1 senses, and which finished or saleable product is
2 to be sold at retail in this State, in such
3 manner as to result in a further tax on the
4 activity of the manufacturer in selling such
5 products at retail;

6 (C) A contractor importing or purchasing material or
7 commodities which are to be incorporated by the
8 contractor into the finished work or project
9 required by the contract and which will remain in
10 such finished work or project in such form as to
11 be perceptible to the senses;

12 (D) A person engaged in a service business or calling
13 as defined in section 237-7, or a person
14 furnishing transient accommodations subject to
15 the tax imposed by section 237D-2, in which the
16 import or purchase of tangible personal property
17 would have qualified as a sale at wholesale as
18 defined in section 237-4(a)(8) had the seller of
19 the property been subject to the tax in chapter
20 237; or

21 (E) A publisher of magazines or similar printed
22 materials containing advertisements, when the



1 publisher is under contract with the advertisers
2 to distribute a minimum number of magazines or
3 similar printed materials to the public or
4 defined segment of the public, whether or not
5 there is a charge to the persons who actually
6 receive the magazines or similar printed
7 materials,

8 the tax shall be [~~one-half of one~~] _____ per cent of
9 the purchase price of the property, if the purchase
10 and sale are consummated in Hawaii; or, if there is no
11 purchase price applicable thereto, or if the purchase
12 or sale is consummated outside of Hawaii, then
13 [~~one-half of one~~] _____ per cent of the value of such
14 property; and

15 (3) In all other cases, [~~four~~] _____ per cent of the value
16 of the property.

17 For purposes of this section, tangible personal property is
18 property that is imported by the taxpayer for use in this State,
19 notwithstanding the fact that title to the property, or the risk
20 of loss to the property, passes to the purchaser of the property
21 at a location outside this State."



1 SECTION 8. Section 238-2.3, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§238-2.3 Imposition of tax on imported services or
4 contracting; exemptions. There is hereby levied an excise tax
5 on the value of services or contracting as defined in section
6 237-6 that are performed by an unlicensed seller at a point
7 outside the State and imported or purchased for use in this
8 State. The tax imposed by this chapter shall accrue when the
9 service or contracting as defined in section 237-6 is received
10 by the importer or purchaser and becomes subject to the taxing
11 jurisdiction of the State. The rates of the tax hereby imposed
12 and the exemptions from the tax are as follows:

13 (1) If the importer or purchaser is licensed under chapter
14 237 and is:

15 (A) Engaged in a service business or calling in which
16 the imported or purchased services or contracting
17 become identifiable elements, excluding overhead,
18 of the services rendered by the importer or
19 purchaser, and the gross income of the importer
20 or purchaser is subject to the tax imposed under
21 chapter 237 on services at the rate of ~~one-half~~



1 ~~of one]~~ _____ per cent or the rate of tax imposed
2 under section 237-13.3; or
3 (B) A manufacturer importing or purchasing services
4 or contracting that become identifiable elements,
5 excluding overhead, of a finished or saleable
6 product (including the container or package in
7 which the product is contained) and the finished
8 or saleable product is to be sold in a manner
9 that results in a further tax on the manufacturer
10 as a wholesaler, and not a retailer;
11 there shall be no tax imposed on the value of the
12 imported or purchased services or contracting;
13 provided that if the manufacturer is also engaged in
14 business as a retailer as classified under chapter
15 237, paragraph (2) shall apply to the manufacturer,
16 but the director of taxation shall refund to the
17 manufacturer, in the manner provided under section
18 231-23(c), that amount of tax that the manufacturer,
19 to the satisfaction of the director, shall establish
20 to have been paid by the manufacturer to the director
21 with respect to services that have been used by the



1 manufacturer for the purposes stated in this
2 paragraph.

3 (2) If the importer or purchaser is a person licensed
4 under chapter 237 and is:

5 (A) Engaged in a service business or calling in which
6 the imported or purchased services or contracting
7 become identifiable elements, excluding overhead,
8 of the services rendered by the importer or
9 purchaser, and the gross income from those
10 services when sold by the importer or purchaser
11 is subject to the tax imposed under chapter 237
12 at the highest rate;

13 (B) A manufacturer importing or purchasing services
14 or contracting that become identifiable elements,
15 excluding overhead, of the finished or saleable
16 manufactured product (including the container or
17 package in which the product is contained) and
18 the finished or saleable product is to be sold in
19 a manner that results in a further tax under
20 chapter 237 on the activity of the manufacturer
21 as a retailer; or



1 (C) A contractor importing or purchasing services or
 2 contracting that become identifiable elements,
 3 excluding overhead, of the finished work or
 4 project required, under the contract, and where
 5 the gross proceeds derived by the contractor are
 6 subject to the tax under section 237-13(3) as a
 7 contractor,

8 the tax shall be [~~one-half-of-one~~] _____ per cent of
 9 the value of the imported or purchased services or
 10 contracting; and

11 (3) In all other cases, the importer or purchaser is
 12 subject to the tax at the rate of [~~four~~] _____ per
 13 cent on the value of the imported or purchased
 14 services or contracting."

15 **PART II. GENERAL EXCISE TAX EXEMPTIONS**

16 SECTION 9. Section 346-369, Hawaii Revised Statutes, is
 17 amended to read as follows:

18 "[~~§~~346-369~~§~~] **Exemptions.** (a) [~~Any compensation~~
 19 ~~received by a provider agency for services rendered to homeless~~
 20 ~~families or individuals, or in operating or managing a homeless~~
 21 ~~facility authorized by this part, is exempt from taxation under~~
 22 ~~chapter 237.~~



1 ~~(b)~~] Any county mayor may exempt, by executive order,
2 donors and provider agencies from real property taxes, water and
3 sewer development fees, rates collected for water supplied to
4 consumers and for use of sewers, and any other county taxes,
5 charges, or fees; provided that any county may enact ordinances
6 to regulate the exemptions granted by this subsection.

7 ~~(e)~~ (b) Any provider agency operating or managing a
8 homeless facility or any other program for the homeless
9 authorized by this part is exempt, for purposes of those
10 facilities or programs, from any requirements contained in part
11 VIII of chapter 346 and chapters 467 and 521."

12 SECTION 10. Section 373K-2, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "~~{}~~§373K-2~~{}~~ Professional employment organization;
15 employee rights~~[; payroll cost exemption]~~. (a) Where any
16 client company uses the services of assigned employees and co-
17 employs assigned employees with a professional employment
18 organization, the client company and the professional employment
19 organization, with respect to the assigned employees, shall not
20 be exempt from the requirements of any federal, state, or county
21 law, including labor or employment laws, collective bargaining
22 rights, anti-discrimination provisions, or other laws with



1 respect to the protection and rights of employees, including
2 chapters 377 and 378, that would apply to the assigned employees
3 if the assigned employees were employees of the client company
4 alone, and were not co-employees of the professional employment
5 organization.

6 These employee rights shall not be abrogated by any
7 contract or agreement between the client company and the
8 professional employment organization, or the professional
9 employment organization and the assigned employee, which
10 contains terms or conditions that could not be lawfully
11 contained in a contract or agreement directly between the client
12 company and the assigned employee in which no professional
13 employment organization is involved. Notwithstanding any
14 statute, local ordinance, executive order, rule, or regulation
15 to the contrary, where the laws, rights, and protections
16 referred to in this section define or require a determination of
17 the "employer", the employer shall be deemed to be the client
18 company and not the professional employment organization. The
19 department of labor and industrial relations shall notify the
20 department of taxation in writing of any violation of this
21 subsection.



1 (b) The client company shall be deemed to have satisfied
2 its obligations with respect to any assigned employee under any
3 applicable law, including, without limitation, workers'
4 compensation laws including chapter 386, employee insurance
5 coverage laws including chapters 383, 385, 392, and 393, and tax
6 withholding and reporting laws, if and to the extent that those
7 obligations are satisfied by the professional employment
8 organization acting in its capacity as co-employer of such
9 assigned employee.

10 ~~[(c) Amounts received by a professional employment~~
11 ~~organization from a client company in amounts equal to and that~~
12 ~~are disbursed by the professional employment organization for~~
13 ~~employee wages, salaries, payroll taxes, insurance premiums, and~~
14 ~~benefits, including retirement, vacation, sick leave, health~~
15 ~~benefits, and similar employment benefits with respect to~~
16 ~~assigned employees at a client company shall not be subject to~~
17 ~~the general excise tax as provided by section 237-24.75.~~

18 ~~(d) The general excise tax exemption under section~~
19 ~~237-24.75 shall not apply to the professional employment~~
20 ~~organization if:~~

21 ~~(1) By or through any contract between the client company~~
22 ~~and any professional employment organization, or~~



1 otherwise, employees are excluded from any employee
2 rights or employee benefits required by law to be
3 provided to employees of the client company by the
4 client company; or

5 (2) The professional employment organization fails to pay
6 any tax withholding for assigned employees or any
7 federal or state taxes for which the professional
8 employment organization is responsible.] "

9 SECTION 11. Section 237-16.8, Hawaii Revised Statutes, is
10 repealed.

11 [~~§237-16.8 Exemption of certain convention, conference,~~
12 ~~and trade show fees.~~ In addition to any other applicable
13 exemption provided under this chapter, there shall be exempted
14 from the measure of taxes imposed by this chapter all of the
15 value or gross income derived by a fraternal benefit, religious,
16 charitable, scientific, educational, or other nonprofit
17 organization under section 501(c) of the Internal Revenue Code
18 of 1986, as amended, from fees for convention, conference, or
19 trade show exhibit or display spaces; provided that the gross
20 proceeds of sales by a vendor through the use of exhibit or
21 display space at a conference, convention, or trade show shall



1 ~~be subject to the imposition of the general excise tax under~~
2 ~~section 237-13."]~~

3 SECTION 12. Section 237-23, Hawaii Revised Statutes, is
4 repealed.

5 [~~"§237-23 Exemptions, persons exempt, applications for~~
6 ~~exemption. (a) This chapter shall not apply to the following~~
7 ~~persons:~~

8 (1) ~~Public service companies as that term is defined in~~
9 ~~section 239-2, with respect to the gross income,~~
10 ~~either actual gross income or gross income estimated~~
11 ~~and adjusted, that is included in the measure of the~~
12 ~~tax imposed by chapter 239;~~

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

15 (3) ~~Fraternal benefit societies, orders, or associations,~~
16 ~~operating under the lodge system, or for the exclusive~~
17 ~~benefit of the members of the fraternity itself,~~
18 ~~operating under the lodge system, and providing for~~
19 ~~the payment of death, sick, accident, prepaid legal~~
20 ~~services, or other benefits to the members of the~~
21 ~~societies, orders, or associations, and to their~~
22 ~~dependents;~~



- 1 ~~(4) Corporations, associations, trusts, or societies~~
2 ~~organized and operated exclusively for religious,~~
3 ~~charitable, scientific, or educational purposes, as~~
4 ~~well as that of operating senior citizens housing~~
5 ~~facilities qualifying for a loan under the laws of the~~
6 ~~United States as authorized by section 202 of the~~
7 ~~Housing Act of 1959, as amended, as well as that of~~
8 ~~operating a prepaid legal services plan, as well as~~
9 ~~that of operating or managing a homeless facility, or~~
10 ~~any other program for the homeless authorized under~~
11 ~~part XVII of chapter 346;~~
- 12 ~~(5) Business leagues, chambers of commerce, boards of~~
13 ~~trade, civic leagues, agricultural and horticultural~~
14 ~~organizations, and organizations operated exclusively~~
15 ~~for the benefit of the community and for the promotion~~
16 ~~of social welfare that shall include the operation of~~
17 ~~a prepaid legal service plan, and from which no profit~~
18 ~~inures to the benefit of any private stockholder or~~
19 ~~individual;~~
- 20 ~~(6) Hospitals, infirmaries, and sanitarium;~~
- 21 ~~(7) Cooperative associations incorporated under chapter~~
22 ~~421 or Code section 521 cooperatives which fully meet~~



1 ~~the requirements of section 421-23, except Code~~
2 ~~section 521 cooperatives need not be organized in~~
3 ~~Hawaii; provided that:~~

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

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

19 ~~(C) As used in this paragraph, "section 521~~
20 ~~cooperatives" mean associations that qualify as a~~
21 ~~cooperative under section 521 (with respect to~~



- 1 ~~exemption of farmers' cooperatives from tax) of~~
2 ~~the Internal Revenue Code of 1986, as amended;~~
- 3 ~~(8) Persons affected with Hansen's disease and kokuas,~~
4 ~~with respect to business within the county of Kalawao;~~
- 5 ~~(9) Corporations, companies, associations, or trusts~~
6 ~~organized for the establishment and conduct of~~
7 ~~cemeteries no part of the net earnings of which inures~~
8 ~~to the financial benefit of any private stockholder or~~
9 ~~individual; provided that the exemption shall apply~~
10 ~~only to the activities of those persons in the conduct~~
11 ~~of cemeteries and shall not apply to any activity the~~
12 ~~primary purpose of which is to produce income, even~~
13 ~~though the income is to be used for or in the~~
14 ~~furtherance of the exempt activities of those persons;~~
15 ~~and~~
- 16 ~~(10) Nonprofit shippers associations operating under part~~
17 ~~296 of the Civil Aeronautics Board Economic~~
18 ~~Regulations.~~
- 19 ~~(b) The exemptions enumerated in subsection (a) (3) to (6)~~
20 ~~shall apply only:~~
- 21 ~~(1) To those persons who shall have registered with the~~
22 ~~department of taxation by filing a written application~~



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

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

11 ~~(3) To the fraternal, religious, charitable, scientific,~~
12 ~~educational, communal, or social welfare activities of~~
13 ~~such persons, or to the activities of such hospitals,~~
14 ~~infirmaries, and sanitarium as such, and not to any~~
15 ~~activity the primary purpose of which is to produce~~
16 ~~income even though the income is to be used for or in~~
17 ~~furtherance 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), who has~~
20 ~~received or applied for recognition of tax exempt~~
21 ~~status under section 501(c) (3), (4), (6), or (8) of~~
22 ~~the Internal Revenue Code of 1986, as amended, or who~~



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

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

15 ~~(d) For all persons, the statement registering the person~~
16 ~~with the department or application for exemption shall be filed~~
17 ~~on or before March 31 of the first year of registration or~~
18 ~~within three months after the commencement of business. In the~~
19 ~~event of allowance of the exemption, no further statement or~~
20 ~~application therefor need be filed unless there is a material~~
21 ~~change in the facts. In the event of disallowance of the~~
22 ~~exemption, a license may be obtained upon payment of the~~



1 ~~required fee as provided by section 237-9, less the \$20 already~~
2 ~~paid under this section, which shall be credited thereon. In~~
3 ~~the event the registrant has a license under this chapter, no~~
4 ~~further fee shall be required for registration under this~~
5 ~~section.~~

6 ~~(c) The department for good cause may extend the time for~~
7 ~~registration or the time for filing an application for~~
8 ~~exemption."]~~

9 SECTION 13. Section 237-23.5, Hawaii Revised Statutes, is
10 repealed.

11 ~~["§237-23.5 Related entities; common paymaster; certain~~
12 ~~exempt transactions. (a) This chapter shall not apply to~~
13 ~~amounts received, charged, or attributable to services furnished~~
14 ~~by one related entity to another related entity or to imputed or~~
15 ~~stated interest attributable to loans, advances, or use of~~
16 ~~capital between related entities.~~

17 ~~As used in this subsection:~~

18 ~~"Related entities" means:~~

19 ~~(1) An affiliated group of corporations within the meaning~~
20 ~~of section 1504 (with respect to affiliated group~~
21 ~~defined) of the federal Internal Revenue Code of 1986,~~
22 ~~as amended;~~



1 ~~(2) A controlled group of corporations within the meaning~~
2 ~~of section 1563 (with respect to definitions and~~
3 ~~special rules) of the federal Internal Revenue Code of~~
4 ~~1986, as amended;~~

5 ~~(3) Those entities connected through ownership of at least~~
6 ~~eighty per cent of the total value and at least eighty~~
7 ~~per cent of the total voting power of each such entity~~
8 ~~(or combination thereof), including partnerships,~~
9 ~~associations, trusts, S corporations, nonprofit~~
10 ~~corporations, limited liability partnerships, or~~
11 ~~limited liability companies; and~~

12 ~~(4) Any group or combination of the entities described in~~
13 ~~paragraph (3) constituting a unitary business for~~
14 ~~income tax purposes;~~

15 ~~whether or not the entity is located within or without the State~~
16 ~~or licensed under this chapter.~~

17 ~~"Services" means legal and accounting services, the use of~~
18 ~~computer software and hardware, information technology services,~~
19 ~~database management, and those managerial and administrative~~
20 ~~services performed by an employee, officer, partner, trustee,~~
21 ~~sole proprietor, member, or manager in the person's capacity as~~
22 ~~an employee, officer, partner, trustee, sole proprietor, member,~~



1 ~~or manager of one of the related entities and shall include~~
2 ~~overhead costs attributable to those services.~~

3 ~~(b) This chapter shall not apply to amounts received by~~
4 ~~common paymasters which are disbursed as remuneration to~~
5 ~~employees of two or more related corporations where the common~~
6 ~~paymaster is making such remunerations on behalf of such~~
7 ~~corporations. Such amounts received or disbursed by the common~~
8 ~~paymaster shall include payments of payroll taxes and employee~~
9 ~~benefits which the common paymaster is making on behalf of~~
10 ~~related corporations and which payments are related to the~~
11 ~~employees being remunerated. The definitions of related~~
12 ~~corporations, common paymaster, multiple common paymasters, and~~
13 ~~concurrent employment contained in 26 Code of Federal~~
14 ~~Regulations, section 31.3121(s) 1(b) are incorporated and made a~~
15 ~~part of this subsection.~~

16 ~~To the extent not covered by subsection (a), the exemption~~
17 ~~allowed by this subsection shall not apply to the cost of~~
18 ~~services, or reimbursements of such cost by one corporation to~~
19 ~~another corporation, of an employee disbursing the amounts~~
20 ~~exempted under this subsection. Each related corporation using~~
21 ~~a common paymaster or multiple common paymaster shall keep~~
22 ~~separate payroll records and other documentation required to~~



1 ~~prove the existence of concurrent employment. Such records and~~
2 ~~documents shall be available for inspection by the director of~~
3 ~~taxation during normal business hours."]~~

4 SECTION 14. Section 237-24, Hawaii Revised Statutes, is
5 repealed.

6 [~~§237-24 Amounts not taxable. This chapter shall not~~
7 ~~apply to the following amounts:~~

- 8 ~~(1) Amounts received under life insurance policies and~~
9 ~~contracts paid by reason of the death of the insured;~~
10 ~~(2) Amounts received (other than amounts paid by reason of~~
11 ~~death of the insured) under life insurance, endowment,~~
12 ~~or annuity contracts, either during the term or at~~
13 ~~maturity or upon surrender of the contract;~~
14 ~~(3) Amounts received under any accident insurance or~~
15 ~~health insurance policy or contract or under workers'~~
16 ~~compensation acts or employers' liability acts, as~~
17 ~~compensation for personal injuries, death, or~~
18 ~~sickness, including also the amount of any damages or~~
19 ~~other compensation received, whether as a result of~~
20 ~~action or by private agreement between the parties on~~
21 ~~account of the personal injuries, death, or sickness;~~



- 1 ~~(4) The value of all property of every kind and sort~~
2 ~~acquired by gift, bequest, or devise, and the value of~~
3 ~~all property acquired by descent or inheritance;~~
- 4 ~~(5) Amounts received by any person as compensatory damages~~
5 ~~for any tort injury to the person, or to the person's~~
6 ~~character reputation, or received as compensatory~~
7 ~~damages for any tort injury to or destruction of~~
8 ~~property, whether as the result of action or by~~
9 ~~private agreement between the parties (provided that~~
10 ~~amounts received as punitive damages for tort injury~~
11 ~~or breach of contract injury shall be included in~~
12 ~~gross income);~~
- 13 ~~(6) Amounts received as salaries or wages for services~~
14 ~~rendered by an employee to an employer;~~
- 15 ~~(7) Amounts received as alimony and other similar payments~~
16 ~~and settlements;~~
- 17 ~~(8) Amounts collected by distributors as fuel taxes on~~
18 ~~"liquid fuel" imposed by chapter 243, and the amounts~~
19 ~~collected by such distributors as a fuel tax imposed~~
20 ~~by any Act of the Congress of the United States;~~
- 21 ~~(9) Taxes on liquor imposed by chapter 244D on dealers~~
22 ~~holding permits under that chapter;~~



- 1 ~~(10) The amounts of taxes on cigarettes and tobacco~~
2 ~~products imposed by chapter 245 on wholesalers or~~
3 ~~dealers holding licenses under that chapter and~~
4 ~~selling the products at wholesale;~~
- 5 ~~(11) Federal excise taxes imposed on articles sold at~~
6 ~~retail and collected from the purchasers thereof and~~
7 ~~paid to the federal government by the retailer;~~
- 8 ~~(12) The amounts of federal taxes under chapter 37 of the~~
9 ~~Internal Revenue Code, or similar federal taxes,~~
10 ~~imposed on sugar manufactured in the State, paid by~~
11 ~~the manufacturer to the federal government;~~
- 12 ~~(13) An amount up to, but not in excess of, \$2,000 a year~~
13 ~~of gross income received by any blind, deaf, or~~
14 ~~totally disabled person engaging, or continuing, in~~
15 ~~any business, trade, activity, occupation, or calling~~
16 ~~within the State; a corporation all of whose~~
17 ~~outstanding shares are owned by an individual or~~
18 ~~individuals who are blind, deaf, or totally disabled;~~
19 ~~a general, limited, or limited liability partnership,~~
20 ~~all of whose partners are blind, deaf, or totally~~
21 ~~disabled; or a limited liability company, all of whose~~
22 ~~members are blind, deaf, or totally disabled;~~



- 1 ~~(14) Amounts received by a producer of sugarcane from the~~
2 ~~manufacturer to whom the producer sells the sugarcane,~~
3 ~~where:~~
- 4 ~~(A) The producer is an independent cane farmer, so~~
5 ~~classified by the Secretary of Agriculture under the~~
6 ~~Sugar Act of 1948 (61 Stat. 922, Chapter 519) as~~
7 ~~the Act may be amended or supplemented;~~
- 8 ~~(B) The value or gross proceeds of the sale of the~~
9 ~~sugar, and other products manufactured from the~~
10 ~~sugarcane, are included in the measure of the tax~~
11 ~~levied on the manufacturer under section~~
12 ~~237-13(1) or (2);~~
- 13 ~~(C) The producer's gross proceeds of sales are~~
14 ~~dependent upon the actual value of the products~~
15 ~~manufactured therefrom or the average value of~~
16 ~~all similar products manufactured by the~~
17 ~~manufacturer; and~~
- 18 ~~(D) The producer's gross proceeds of sales are~~
19 ~~reduced by reason of the tax on the value or sale~~
20 ~~of the manufactured products;~~



- 1 ~~(15) Money paid by the State or eleemosynary child placing~~
2 ~~organizations to foster parents for their care of~~
3 ~~children in foster homes;~~
- 4 ~~(16) Amounts received by a cooperative housing corporation~~
5 ~~from its shareholders in reimbursement of funds paid~~
6 ~~by the corporation for lease rental, real property~~
7 ~~taxes, and other expenses of operating and maintaining~~
8 ~~the cooperative land and improvements; provided that~~
9 ~~the cooperative corporation is a corporation:~~
- 10 ~~(A) Having one and only one class of stock~~
11 ~~outstanding;~~
- 12 ~~(B) Each of the stockholders of which is entitled~~
13 ~~solely by reason of the stockholder's ownership~~
14 ~~of stock in the corporation, to occupy for~~
15 ~~dwelling purposes a house, or an apartment in a~~
16 ~~building owned or leased by the corporation; and~~
- 17 ~~(C) No stockholder of which is entitled (either~~
18 ~~conditionally or unconditionally) to receive any~~
19 ~~distribution not out of earnings and profits of~~
20 ~~the corporation except in a complete or partial~~
21 ~~liquidation of the corporation; and~~



1 ~~(17) Amounts received by a managed care support contractor~~
2 ~~of the TRICARE program that is established under Title~~
3 ~~10 United States Code chapter 55, as amended, for the~~
4 ~~actual cost or advancement to third party health care~~
5 ~~providers pursuant to a contract with the United~~
6 ~~States."]~~

7 SECTION 15. Section 237-24.3, Hawaii Revised Statutes, is
8 repealed.

9 ~~["§237-24.3 Additional amounts not taxable. In addition~~
10 ~~to the amounts not taxable under section 237-24, this chapter~~
11 ~~shall not apply to:~~

12 ~~(1) Amounts received from the loading, transportation, and~~
13 ~~unloading of agricultural commodities shipped for a~~
14 ~~producer or produce dealer on one island of this State~~
15 ~~to a person, firm, or organization on another island~~
16 ~~of this State. The terms "agricultural commodity",~~
17 ~~"producer", and "produce dealer" shall be defined in~~
18 ~~the same manner as they are defined in section 147-1,~~
19 ~~provided that agricultural commodities need not have~~
20 ~~been produced in the State;~~

21 ~~(2) Amounts received from sales of:~~



- 1 ~~(A) Intoxicating liquor as the term "liquor" is~~
2 ~~defined in chapter 244D;~~
- 3 ~~(B) Cigarettes and tobacco products as defined in~~
4 ~~chapter 245; and~~
- 5 ~~(C) Agricultural, meat, or fish products;~~
6 ~~to any person or common carrier in interstate or~~
7 ~~foreign commerce, or both, whether ocean going or air,~~
8 ~~for consumption out of state on the shipper's vessels~~
9 ~~or airplanes;~~
- 10 ~~(3) Amounts received by the manager, submanager, or board~~
11 ~~of directors of:~~
- 12 ~~(A) An association of owners of a condominium~~
13 ~~property regime established in accordance with~~
14 ~~chapter 514A or 514B; or~~
- 15 ~~(B) A nonprofit homeowners or community association~~
16 ~~incorporated in accordance with chapter 414D or~~
17 ~~any predecessor thereto and existing pursuant to~~
18 ~~covenants running with the land,~~
19 ~~in reimbursement of sums paid for common expenses;~~
- 20 ~~(4) Amounts received or accrued from:~~
- 21 ~~(A) The loading or unloading of cargo from ships,~~
22 ~~barges, vessels, or aircraft, whether or not the~~



1 ~~ships, barges, vessels, or aircraft travel~~
2 ~~between the State and other states or countries~~
3 ~~or between the islands of the State;~~
4 ~~(B) Tugboat services including pilotage fees~~
5 ~~performed within the State, and the towage of~~
6 ~~ships, barges, or vessels in and out of state~~
7 ~~harbors, or from one pier to another; and~~
8 ~~(C) The transportation of pilots or governmental~~
9 ~~officials to ships, barges, or vessels offshore;~~
10 ~~rigging gear; checking freight and similar~~
11 ~~services; standby charges; and use of moorings~~
12 ~~and running mooring lines;~~
13 ~~(5) Amounts received by an employee benefit plan by way of~~
14 ~~contributions, dividends, interest, and other income;~~
15 ~~and amounts received by a nonprofit organization or~~
16 ~~office, as payments for costs and expenses incurred~~
17 ~~for the administration of an employee benefit plan;~~
18 ~~provided that this exemption shall not apply to any~~
19 ~~gross rental income or gross rental proceeds received~~
20 ~~after June 30, 1994, as income from investments in~~
21 ~~real property in this State; and provided further that~~
22 ~~gross rental income or gross rental proceeds from~~



1 ~~investments in real property received by an employee~~
2 ~~benefit plan after June 30, 1994, under written~~
3 ~~contracts executed prior to July 1, 1994, shall not be~~
4 ~~taxed until the contracts are renegotiated, renewed,~~
5 ~~or extended, or until after December 31, 1998,~~
6 ~~whichever is earlier. For the purposes of this~~
7 ~~paragraph, "employee benefit plan" means any plan as~~
8 ~~defined in section 1002(3) of title 29 of the United~~
9 ~~States Code, as amended;~~

10 ~~(6) Amounts received for purchases made with United States~~
11 ~~Department of Agriculture food coupons under the~~
12 ~~federal food stamp program, and amounts received for~~
13 ~~purchases made with United States Department of~~
14 ~~Agriculture food vouchers under the Special~~
15 ~~Supplemental Foods Program for Women, Infants and~~
16 ~~Children;~~

17 ~~(7) Amounts received by a hospital, infirmary, medical~~
18 ~~clinic, health care facility, pharmacy, or a~~
19 ~~practitioner licensed to administer the drug to an~~
20 ~~individual for selling prescription drugs or~~
21 ~~prosthetic devices to an individual; provided that~~
22 ~~this paragraph shall not apply to any amounts received~~



1 ~~for services provided in selling prescription drugs or~~
2 ~~prosthetic devices. As used in this paragraph:~~

3 ~~"Prescription drugs" are those drugs defined~~
4 ~~under section 328-1 and dispensed by filling or~~
5 ~~refilling a written or oral prescription by a~~
6 ~~practitioner licensed under law to administer the drug~~
7 ~~and sold by a licensed pharmacist under section 328-16~~
8 ~~or practitioners licensed to administer drugs; and~~

9 ~~"Prosthetic device" means any artificial device~~
10 ~~or appliance, instrument, apparatus, or contrivance,~~
11 ~~including their components, parts, accessories, and~~
12 ~~replacements thereof, used to replace a missing or~~
13 ~~surgically removed part of the human body, which is~~
14 ~~prescribed by a licensed practitioner of medicine,~~
15 ~~osteopathy, or podiatry and which is sold by the~~
16 ~~practitioner or which is dispensed and sold by a~~
17 ~~dealer of prosthetic devices; provided that~~
18 ~~"prosthetic device" shall not mean any auditory,~~
19 ~~ophthalmic, dental, or ocular device or appliance,~~
20 ~~instrument, apparatus, or contrivance;~~



- 1 ~~(8) Taxes on transient accommodations imposed by chapter~~
- 2 ~~237D and passed on and collected by operators holding~~
- 3 ~~certificates of registration under that chapter;~~
- 4 ~~(9) Amounts received as dues by an unincorporated~~
- 5 ~~merchants association from its membership for~~
- 6 ~~advertising media, promotional, and advertising costs~~
- 7 ~~for the promotion of the association for the benefit~~
- 8 ~~of its members as a whole and not for the benefit of~~
- 9 ~~an individual member or group of members less than the~~
- 10 ~~entire membership;~~
- 11 ~~(10) Amounts received by a labor organization for real~~
- 12 ~~property leased to:~~
- 13 ~~(A) A labor organization; or~~
- 14 ~~(B) A trust fund established by a labor organization~~
- 15 ~~for the benefit of its members, families, and~~
- 16 ~~dependents for medical or hospital care, pensions~~
- 17 ~~on retirement or death of employees,~~
- 18 ~~apprenticeship and training, and other membership~~
- 19 ~~service programs.~~
- 20 ~~As used in this paragraph, "labor organization" means~~
- 21 ~~a labor organization exempt from federal income tax~~



1 under section 501(c)(5) of the Internal Revenue Code,
2 as amended;
3 ~~(11) Amounts received from foreign diplomats and consular~~
4 ~~officials who are holding cards issued or authorized~~
5 ~~by the United States Department of State granting them~~
6 ~~an exemption from state taxes; and~~
7 ~~(12) Amounts received as rent for the rental or leasing of~~
8 ~~aircraft or aircraft engines used by the lessees or~~
9 ~~renters for interstate air transportation of~~
10 ~~passengers and goods. For purposes of this paragraph,~~
11 ~~payments made pursuant to a lease shall be considered~~
12 ~~rent regardless of whether the lease is an operating~~
13 ~~lease or a financing lease. The definition of~~
14 ~~"interstate air transportation" is the same as in 49~~
15 ~~U.S.C. 40102."]~~

16 SECTION 16. Section 237-24.5, Hawaii Revised Statutes, is
17 repealed.

18 [~~§237-24.5 Additional exemptions. (a) In addition to~~
19 ~~the amounts exempt under section 237-24, this chapter shall not~~
20 ~~apply to amounts received by:~~

21 ~~(1) An exchange from:~~



- 1 ~~(A) Transaction fees charged exchange members by the~~
2 ~~exchange for:~~
- 3 ~~(i) The sale or purchase of securities or~~
4 ~~products, or both, bought or sold on an~~
5 ~~exchange by exchange members for their own~~
6 ~~account or an account for which they have~~
7 ~~responsibility as an agent, broker, or~~
8 ~~fiduciary;~~
- 9 ~~(ii) Order book executions made for purposes of~~
10 ~~effecting transactions; and~~
- 11 ~~(iii) Trade processing performed by an exchange in~~
12 ~~matching trades, keypunching, record~~
13 ~~keeping, post cashiering, and notarization;~~
- 14 ~~(B) Membership dues, fees, charges, assessments, and~~
15 ~~finer from individuals or firms, including~~
16 ~~charges for firm symbols (member identification),~~
17 ~~application processing, registration, initiation,~~
18 ~~membership transfers, floor or post privileges,~~
19 ~~transaction time extensions, expediting~~
20 ~~transactions, crossover trades (trading out of~~
21 ~~assigned functions) and rule infractions;~~



- 1 ~~(C) Service fees charged to members including fees~~
2 ~~for communications, badges, forms, documents, and~~
3 ~~reports;~~
- 4 ~~(D) Listing fees and listing maintenance fees charged~~
5 ~~to companies that wish to be listed and have~~
6 ~~their securities or products traded on the~~
7 ~~exchange; and~~
- 8 ~~(E) Participation in the communication network~~
9 ~~consortium operated collectively by United States~~
10 ~~exchanges or other markets recognized by the~~
11 ~~Securities and Exchange Commission, the~~
12 ~~Commodities Futures Trading Commission, or~~
13 ~~similar regulatory authorities outside the United~~
14 ~~States that provides last sale and quote~~
15 ~~securities information to subscribers or that~~
16 ~~connects such markets or exchanges for purposes~~
17 ~~of data transmission;~~
- 18 ~~(2) Exchange members by reason of executing a securities~~
19 ~~or product transaction on an exchange; provided that~~
20 ~~this exemption shall apply only to amounts received by~~
21 ~~exchange members from brokers or dealers registered~~
22 ~~with the Securities and Exchange Commission, from~~



1 ~~futures commission merchants, brokers, or associates~~
2 ~~registered with the Commodities Futures Trading~~
3 ~~Commission, or from similar individuals or firms~~
4 ~~registered with similar regulatory authorities outside~~
5 ~~the United States; and~~

6 ~~(3) Exchange members as proceeds from the sale of their~~
7 ~~exchange memberships.~~

8 ~~(b) As used in this section:~~

9 ~~"Exchange" means an exchange or board of trade as defined~~
10 ~~in 15 United States Code section 78c(a)(1) or in 7 United States~~
11 ~~Code section 7, respectively, which is subject to regulation by~~
12 ~~the Securities and Exchange Commission or the Commodities~~
13 ~~Futures Trading Commission or an organization subject to similar~~
14 ~~regulation under the laws of a jurisdiction outside the United~~
15 ~~States.~~

16 ~~"Exchange member" means an individual or firm that is~~
17 ~~qualified by an exchange as a member and pays membership dues to~~
18 ~~an exchange in order to trade securities or products on an~~
19 ~~exchange.~~

20 ~~"Securities" means securities as defined in 15 United~~
21 ~~States Code section 78c and "products" means contracts of sale~~
22 ~~of commodities for future delivery, futures contracts, options,~~



1 ~~calls, puts, and similar rights as defined in 7 United States~~
2 ~~Code section 2, which securities or products are permitted to be~~
3 ~~traded on an exchange."]~~

4 SECTION 17. Section 237-24.7, Hawaii Revised Statutes, is
5 repealed.

6 [~~§237-24.7 Additional amounts not taxable. In addition to~~
7 ~~the amounts not taxable under section 237-24, this chapter shall~~
8 ~~not apply to:~~

9 (1) ~~Amounts received by the operator of a hotel from the~~
10 ~~owner of the hotel or from a time share association,~~
11 ~~and amounts received by the suboperator of a hotel~~
12 ~~from the owner of the hotel, from a time share~~
13 ~~association, or from the operator of the hotel, in~~
14 ~~amounts equal to and which are disbursed by the~~
15 ~~operator or suboperator for employee wages, salaries,~~
16 ~~payroll taxes, insurance premiums, and benefits,~~
17 ~~including retirement, vacation, sick pay, and health~~
18 ~~benefits. As used in this paragraph:~~

19 "Employee" ~~means employees directly engaged in~~
20 ~~the day to day operation of the hotel and employed by~~
21 ~~the operator or suboperator.~~



1 ~~"Hotel" means an operation as defined in section~~
2 ~~445-90 or a time share plan as defined in section~~
3 ~~514E-1.~~

4 ~~"Operator" means any person who, pursuant to a~~
5 ~~written contract with the owner of a hotel or time~~
6 ~~share association, operates or manages the hotel for~~
7 ~~the owner or time share association.~~

8 ~~"Owner" means the fee owner or lessee under a~~
9 ~~recorded lease of a hotel.~~

10 ~~"Suboperator" means any person who, pursuant to a~~
11 ~~written contract with the operator, operates or~~
12 ~~manages the hotel as a subcontractor of the operator.~~

13 ~~"Time share association" means an "association"~~
14 ~~as that term is defined in section 514E-1,~~

15 ~~(2) Amounts received by the operator of a county~~
16 ~~transportation system operated under an operating~~
17 ~~contract with a political subdivision, where the~~
18 ~~political subdivision is the owner of the county~~
19 ~~transportation system. As used in this paragraph:~~

20 ~~"County transportation system" means a mass~~
21 ~~transit system of motorized buses providing regularly~~
22 ~~scheduled transportation within a county.~~



1 ~~"Operating contract" or "contract" means a~~
2 ~~contract to operate and manage a political~~
3 ~~subdivision's county transportation system, which~~
4 ~~provides that:~~

5 ~~(A) The political subdivision shall exercise~~
6 ~~substantial control over all aspects of the~~
7 ~~operator's operation;~~

8 ~~(B) The political subdivision controls the~~
9 ~~development of transit policy, service~~
10 ~~planning, routes, and fares; and~~

11 ~~(C) The operator develops in advance a draft~~
12 ~~budget in the same format as prescribed for~~
13 ~~agencies of the political subdivision. The~~
14 ~~budget must be subject to the same~~
15 ~~constraints and controls regarding the~~
16 ~~lawful expenditure of public funds as any~~
17 ~~public sector agency, and deviations from~~
18 ~~the budget must be subject to approval by~~
19 ~~the appropriate political subdivision~~
20 ~~officials involved in the budgetary process.~~



S.B. NO. 2329

1 ~~"Operator" means any person who, pursuant to an~~
2 ~~operating contract with a political subdivision,~~
3 ~~operates or manages a county transportation system.~~

4 ~~"Owner" means a political subdivision that owns~~
5 ~~or is the lessee of all the properties and facilities~~
6 ~~of the county transportation system (including buses,~~
7 ~~real estate, parking garages, fuel pumps, maintenance~~
8 ~~equipment, office supplies, etc.), and that owns all~~
9 ~~revenues derived therefrom.~~

10 ~~(3) Surcharge taxes on rental motor vehicles imposed by~~
11 ~~chapter 251 and passed on and collected by persons~~
12 ~~holding certificates of registration under that~~
13 ~~chapter;~~

14 ~~(4) Amounts received by the operator of orchard properties~~
15 ~~from the owner of the orchard property in amounts~~
16 ~~equal to and which are disbursed by the operator for~~
17 ~~employee wages, salaries, payroll taxes, insurance~~
18 ~~premiums, and benefits, including retirement,~~
19 ~~vacation, sick pay, and health benefits. As used in~~
20 ~~this paragraph:~~



1 ~~"Employee" means an employee directly engaged in~~
2 ~~the day to day operations of the orchard properties~~
3 ~~and employed by the operator.~~

4 ~~"Operator" means a producer who, pursuant to a~~
5 ~~written contract with the owner of the orchard~~
6 ~~property, operates or manages the orchard property for~~
7 ~~the owner where the property contains an area~~
8 ~~sufficient to make the undertaking economically~~
9 ~~feasible.~~

10 ~~"Orchard property" means any real property that~~
11 ~~is used to raise trees with a production life cycle of~~
12 ~~fifteen years or more producing fruits or nuts having~~
13 ~~a normal period of development from the initial~~
14 ~~planting to the first commercially saleable harvest of~~
15 ~~not less than three years.~~

16 ~~"Owner" means a fee owner or lessee under a~~
17 ~~recorded lease of orchard property;~~

18 ~~(5) Taxes on nursing facility income imposed by chapter~~
19 ~~346E and passed on and collected by operators of~~
20 ~~nursing facilities;~~

21 ~~(6) Amounts received under property and casualty insurance~~
22 ~~policies for damage or loss of inventory used in the~~



1 ~~conduct of a trade or business located within the~~
2 ~~State or a portion thereof that is declared a natural~~
3 ~~disaster area by the governor pursuant to section~~
4 ~~209-2;~~

5 ~~(7) Amounts received as compensation by community~~
6 ~~organizations, school booster clubs, and nonprofit~~
7 ~~organizations under a contract with the chief election~~
8 ~~officer for the provision and compensation of precinct~~
9 ~~officials and other election related personnel,~~
10 ~~services, and activities, pursuant to section 11-5;~~

11 ~~(8) Interest received by a person domiciled outside the~~
12 ~~State from a trust company (as defined in section~~
13 ~~412:8-101) acting as payment agent or trustee on~~
14 ~~behalf of the issuer or payees of an interest bearing~~
15 ~~instrument or obligation, if the interest would not~~
16 ~~have been subject to tax under this chapter if paid~~
17 ~~directly to the person domiciled outside the State~~
18 ~~without the use of a paying agent or trustee; provided~~
19 ~~that if the interest would otherwise be taxable under~~
20 ~~this chapter if paid directly to the person domiciled~~
21 ~~outside the State, it shall not be exempt solely~~



1 ~~because of the use of a Hawaii trust company as a~~
2 ~~paying agent or trustee,~~
3 ~~(9) Amounts received by a management company from related~~
4 ~~entities engaged in the business of selling interstate~~
5 ~~or foreign common carrier telecommunications services~~
6 ~~in amounts equal to and which are disbursed by the~~
7 ~~management company for employee wages, salaries,~~
8 ~~payroll taxes, insurance premiums, and benefits,~~
9 ~~including retirement, vacation, sick pay, and health~~
10 ~~benefits. As used in this paragraph:~~

11 ~~"Employee" means employees directly engaged in~~
12 ~~the day to day operation of related entities engaged~~
13 ~~in the business of selling interstate or foreign~~
14 ~~common carrier telecommunications services and~~
15 ~~employed by the management company.~~

16 ~~"Management company" means any person who,~~
17 ~~pursuant to a written contract with a related entity~~
18 ~~engaged in the business of selling interstate or~~
19 ~~foreign common carrier telecommunications services,~~
20 ~~provides managerial or operational services to that~~
21 ~~entity.~~

22 ~~"Related entities" means:~~



- 1 ~~(A) An affiliated group of corporations within~~
2 ~~the meaning of section 1504 (with respect to~~
3 ~~affiliated group defined) of the federal~~
4 ~~Internal Revenue Code of 1986, as amended;~~
- 5 ~~(B) A controlled group of corporations within~~
6 ~~the meaning of section 1563 (with respect to~~
7 ~~definitions and special rules) of the~~
8 ~~federal Internal Revenue Code of 1986, as~~
9 ~~amended;~~
- 10 ~~(C) Those entities connected through ownership~~
11 ~~of at least eighty per cent of the total~~
12 ~~value and at least eighty per cent of the~~
13 ~~total voting power of each such entity (or~~
14 ~~combination thereof), including~~
15 ~~partnerships, associations, trusts, S~~
16 ~~corporations, nonprofit corporations,~~
17 ~~limited liability partnerships, or limited~~
18 ~~liability companies; and~~
- 19 ~~(D) Any group or combination of the entities~~
20 ~~described in paragraph (C) constituting a~~
21 ~~unitary business for income tax purposes;~~



1 ~~whether or not the entity is located within or without~~
2 ~~the State or licensed under this chapter; and~~

3 ~~(10) Amounts received as grants under section 206M-15."~~]

4 SECTION 18. Section 237-24.75, Hawaii Revised Statutes, is
5 repealed.

6 ~~["§237-24.75 Additional exemptions. In addition to the~~
7 ~~amounts exempt under section 237-24, this chapter shall not~~
8 ~~apply to:~~

9 ~~(1) Amounts received as a beverage container deposit~~
10 ~~collected under chapter 342G, part VIII;~~

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

15 ~~[(3) Amounts received] by a professional employment~~
16 ~~organization from a client company equal to amounts~~
17 ~~that are disbursed by the professional employment~~
18 ~~organization for employee wages, salaries, payroll~~
19 ~~taxes, insurance premiums, and benefits, including~~
20 ~~retirement, vacation, sick leave, health benefits, and~~
21 ~~similar employment benefits with respect to assigned~~
22 ~~employees at a client company; provided that this~~



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

11 SECTION 19. Section 237-24.8, Hawaii Revised Statutes, is
12 repealed.

13 ~~["§237-24.8 Amounts not taxable for financial~~
14 ~~institutions. (a) In addition to the amounts not taxable under~~
15 ~~section 237-24, this chapter shall not apply to amounts received~~
16 ~~by:~~

17 ~~(1) Financial institutions from:~~

18 ~~(A) Interest, discount, points, commitment fees, loan~~
19 ~~fees, loan origination charges, and finance~~
20 ~~charges which are part of the computed annual~~
21 ~~percentage rate of interest and which are~~
22 ~~contracted and received for the use of money;~~



- 1 ~~(B) Leasing of personal property;~~
- 2 ~~(C) Fees or charges relating to the administration of~~
3 ~~deposits;~~
- 4 ~~(D) Gains resulting from changes in foreign currency~~
5 ~~exchange rates but not including commissions or~~
6 ~~compensation derived from the purchase or sale of~~
7 ~~foreign currency or numismatic currency whether~~
8 ~~legal tender or not;~~
- 9 ~~(E) The servicing and sale of loans contracted for~~
10 ~~and received by the financial institution; and~~
- 11 ~~(F) Interest received from the investment of deposits~~
12 ~~received by the financial institution from~~
13 ~~financial or debt instruments;~~
- 14 ~~(2) Trust companies or trust departments of financial~~
15 ~~institutions from:~~
- 16 ~~(A) Trust agreements and retirement plans where the~~
17 ~~trust companies or trust departments are acting~~
18 ~~as fiduciaries;~~
- 19 ~~(B) Custodial agreements; and~~
- 20 ~~(C) Activities relating to the general servicing of~~
21 ~~fiduciary/custodial accounts held by the trust~~
22 ~~companies or trust departments; and~~



1 ~~(3) Financial corporations acting as interbank brokers as~~
2 ~~defined by chapter 241 from brokerage services.~~

3 ~~(b) As used in this section:~~

4 ~~"Activities relating to the general servicing of fiduciary~~
5 ~~or custodial accounts" means those activities performed by trust~~
6 ~~companies that are directly or indirectly performed within the~~
7 ~~fiduciary or custodial relationship between the trust company or~~
8 ~~trust department of a financial institution and its client and~~
9 ~~that are not offered to any person outside of the fiduciary or~~
10 ~~custodial relationship.~~

11 ~~"Annual percentage rate" and "finance charge" have the same~~
12 ~~meanings as defined in the federal Truth in Lending Act (15~~
13 ~~United States Code Sections 1605(a) to (c) and 1606).~~

14 ~~"Deposit" means:~~

15 ~~(1) Money or its equivalent received or held by a~~
16 ~~financial institution in the usual course of business~~
17 ~~and for which it has given or is obligated to give~~
18 ~~credit to:~~

19 ~~(A) A commercial (including public deposits),~~
20 ~~checking, savings, time, or thrift account;~~

21 ~~(B) A check or draft drawn against a deposit account~~
22 ~~and certified by the financial institution;~~



- 1 ~~(C) A letter of credit, or~~
- 2 ~~(D) A traveler's check, on which the financial~~
- 3 ~~institution is primarily liable,~~
- 4 ~~(2) Trust funds received or held by a financial~~
- 5 ~~institution, whether held in the trust department or~~
- 6 ~~held or deposited in any other department of the~~
- 7 ~~financial institution,~~
- 8 ~~(3) Money received or held by a financial institution, or~~
- 9 ~~the credit given for money or its equivalent received~~
- 10 ~~or held by a financial institution in the usual course~~
- 11 ~~of business for a special or specific purpose,~~
- 12 ~~regardless of the legal relationship thereby~~
- 13 ~~established, including without being limited to,~~
- 14 ~~escrow funds, funds held as security for an obligation~~
- 15 ~~due the financial institution or others (including~~
- 16 ~~funds held as dealers' reserves) or for securities~~
- 17 ~~loaned by the financial institution, funds deposited~~
- 18 ~~by a debtor to meet maturing obligations, funds~~
- 19 ~~deposited as advance payment on subscriptions to~~
- 20 ~~United States government securities, funds held for~~
- 21 ~~distribution or purchase of securities, funds held to~~



- 1 ~~meet the financial institution's acceptances or~~
2 ~~letters of credit, and withheld taxes;~~
- 3 ~~(4) Outstanding drafts, cashier's checks, money orders, or~~
4 ~~other officer's checks issued in the usual course of~~
5 ~~business for any purpose; or~~
- 6 ~~(5) Money or its equivalent held as a credit balance by a~~
7 ~~financial institution on behalf of its customer if the~~
8 ~~financial institution is engaged in soliciting and~~
9 ~~holding the balances in the regular course of its~~
10 ~~business.~~

11 ~~"Financial institution" means banks, building and loan~~
12 ~~associations, development companies, financial corporations,~~
13 ~~financial services loan companies, small business investment~~
14 ~~companies, financial holding companies, and trust companies all~~
15 ~~as defined in chapter 241, and mortgage loan originator~~
16 ~~companies as defined in chapter 454F.~~

17 ~~"Leasing of personal property" occurs if:~~

- 18 ~~(1) The lease is to serve as the functional equivalent of~~
19 ~~an extension of credit to the lessee of the property;~~
- 20 ~~(2) The property to be leased is acquired specifically for~~
21 ~~the leasing transaction under consideration, or was~~



- 1 ~~acquired specifically for an earlier leasing~~
2 ~~transaction;~~
- 3 ~~(3) The lease is on a nonoperating basis where the~~
4 ~~financial institution may not, directly or indirectly:~~
- 5 ~~(A) Provide for the maintenance, repair, replacement,~~
6 ~~or servicing of the leased property during the~~
7 ~~lease term;~~
- 8 ~~(B) Purchase parts and accessories in bulk or for an~~
9 ~~individual property after the lessee has taken~~
10 ~~delivery of the property; or~~
- 11 ~~(C) Purchase insurance for the lessee;~~
- 12 ~~(4) At the inception of the lease, the effect of the~~
13 ~~transaction will yield a return that will compensate~~
14 ~~the lessor financial institution for not less than the~~
15 ~~lessor's full investment in the property plus the~~
16 ~~estimated total cost of financing the property over~~
17 ~~the term of the lease, from:~~
- 18 ~~(A) Rentals;~~
- 19 ~~(B) Estimated tax benefits, including capital goods~~
20 ~~excise tax credit, net economic gain from tax~~
21 ~~deferral from accelerated depreciation, and other~~



1 ~~tax benefits with a substantially similar effect,~~

2 ~~and~~

3 ~~(C) The estimated residual value of the property at~~

4 ~~the expiration of the initial term of the lease,~~

5 ~~(5) The maximum lease term during which the lessor~~

6 ~~financial institution shall recover the lessor's full~~

7 ~~investment in the property, plus the estimated total~~

8 ~~cost of financing the property, shall be forty years,~~

9 ~~and~~

10 ~~(6) At the expiration of the lease, including any renewals~~

11 ~~or extensions with the same lessee, all interest in~~

12 ~~the property shall be either liquidated or leased~~

13 ~~again on a nonoperating basis as soon as practicable~~

14 ~~but in no event later than two years from the~~

15 ~~expiration of the lease; provided that in no case~~

16 ~~shall the lessor retain any interest in the property~~

17 ~~beyond fifty years after the lessor's acquisition of~~

18 ~~the property."]~~

19 SECTION 20. Section 237-24.9, Hawaii Revised Statutes, is
20 repealed.

21 ~~["§237-24.9 Aircraft service and maintenance facility.~~

22 ~~(a) This chapter shall not apply to amounts received from the~~



1 ~~servicing and maintenance of aircraft or from the construction~~
2 ~~of an aircraft service and maintenance facility in the State.~~

3 ~~(b) As used in this section:~~

4 ~~"Aircraft" means any craft or artificial contrivance of~~
5 ~~whatever description engaged in intrastate, interstate, or~~
6 ~~international scheduled commercial use as defined in chapter~~
7 ~~263, that operates with two or more jet engines.~~

8 ~~"Aircraft service and maintenance" means all scheduled and~~
9 ~~unscheduled tasks performed within an aircraft service and~~
10 ~~maintenance facility for the inspection, modification,~~
11 ~~maintenance, and repair of aircraft and related components~~
12 ~~including engines, hydraulic and electrical systems, and all~~
13 ~~other components which are an integral part of an aircraft.~~

14 ~~"Aircraft service and maintenance facility" means a~~
15 ~~facility for aircraft service and maintenance that is not less~~
16 ~~than thirty thousand square feet in area, and which may include~~
17 ~~ancillary space which is integral to the facility, such as parts~~
18 ~~and inventory warehouse space, tool rooms, and related~~
19 ~~administrative and employee space.~~

20 ~~"Construction of an aircraft service and maintenance~~
21 ~~facility" means all design, engineering, labor, and material~~
22 ~~costs associated with the construction of facilities the~~



1 ~~principle purpose of which is the provision of facilities for~~
2 ~~aircraft service and maintenance.~~

3 ~~"Maintenance" means the upkeep of aircraft engines,~~
4 ~~hydraulic and electrical systems, and all other components which~~
5 ~~are an integral part of an aircraft, but does not include~~
6 ~~refueling, janitorial services or cleaning, restocking of~~
7 ~~aircraft and passenger supplies, or loading or unloading of~~
8 ~~cargo and passenger baggage."]~~

9 SECTION 21. Section 237-25, Hawaii Revised Statutes, is
10 repealed.

11 [~~"§237-25 Exemptions of sales and gross proceeds of sales~~
12 ~~to federal government, and credit unions. (a) Any provision of~~
13 ~~law to the contrary notwithstanding, there shall be exempted~~
14 ~~from, and excluded from the measures of, the tax imposed by~~
15 ~~chapter 237 all sales, and the gross proceeds of all sales, of:~~

16 ~~(1) Intoxicating liquor, as defined in chapter 281,~~
17 ~~hereafter sold by any person licensed under chapter~~
18 ~~281 to the United States (including any agency or~~
19 ~~instrumentality of the United States that is wholly~~
20 ~~owned or otherwise so constituted as to be immune from~~
21 ~~the levy of a tax under chapter 238 or 244D but not~~
22 ~~including national banks), or to any organization to~~



1 ~~which that sale is permitted by the proviso of "Class~~
2 ~~3" of section 281 31, located on any Army, Navy, or~~
3 ~~Air Force reservation, but the person making the sale~~
4 ~~shall nevertheless, within the meaning of chapters~~
5 ~~237, 244D, and 281 be deemed to be a licensed seller;~~
6 ~~(2) Tobacco products and cigarettes, as defined in chapter~~
7 ~~245, sold by any person licensed under the chapter to~~
8 ~~the United States (including any agency or~~
9 ~~instrumentality thereof that is wholly owned or~~
10 ~~otherwise so constituted as to be immune from the levy~~
11 ~~of a tax under chapter 238 or 245 but not including~~
12 ~~national banks), but the person making the sale shall~~
13 ~~nevertheless, within the meaning of chapters 237 and~~
14 ~~245, be deemed to be a licensed seller;~~
15 ~~(3) Other tangible personal property sold by any person~~
16 ~~licensed under this chapter to the United States~~
17 ~~(including any agency, instrumentality, or federal~~
18 ~~credit union thereof but not including national~~
19 ~~banks), and to any state chartered credit union, but~~
20 ~~the person making such sale shall nevertheless, within~~
21 ~~the meaning of this chapter, be deemed a licensed~~
22 ~~seller; and~~



1 ~~(4) When the amount of property sold by a licensee turns~~
2 ~~upon the amount of the property sold through a vending~~
3 ~~machine or similar device to the customer using the~~
4 ~~device, there shall not be deemed to have occurred any~~
5 ~~sale covered by an exemption under paragraph (1), (2),~~
6 ~~or (3).~~

7 ~~(b) Nothing in this section shall be deemed to exempt any~~
8 ~~sales to or by a federal cost plus contractor, as defined in~~
9 ~~chapter 237, or the gross proceeds thereof, with respect to all~~
10 ~~such activities and transactions, taxes shall be levied,~~
11 ~~returned, computed, and assessed the same as if this section had~~
12 ~~not been enacted, and in the case of an election made under~~
13 ~~sections 237-13(2)(F) and 237-13(3)(C)(ii), the tax shall be~~
14 ~~computed the same as upon a sale to the state government.~~

15 ~~(c) Nothing in this section shall be deemed to exempt any~~
16 ~~person engaging or continuing in a service business or calling~~
17 ~~from any part of the tax imposed upon the person for such~~
18 ~~activity, and the person shall not be entitled to deduct any~~
19 ~~amount for tangible personal property furnished in conjunction~~
20 ~~therewith even though the person separately bills or otherwise~~
21 ~~shows the amount of the gross income of the business derived~~
22 ~~from the furnishing of the property.~~



1 ~~(d) The exemption granted by this section shall apply to~~
2 ~~the seller of products sold in the State as provided in~~
3 ~~subsection (a) in respect of the privilege of manufacturing or~~
4 ~~producing, as well as the privilege of selling, and the value or~~
5 ~~gross proceeds of sales of the products so sold shall be~~
6 ~~excluded from the measure of the tax imposed by chapter 237 upon~~
7 ~~the seller as a manufacturer or producer."]~~

8 SECTION 22. Section 237-26, Hawaii Revised Statutes, is
9 repealed.

10 ~~["~~§237-26 Exemption of certain scientific contracts with~~~~
11 ~~the United States. (a) Any provision of law to the contrary~~
12 ~~notwithstanding, there shall be exempted from the measure of the~~
13 ~~taxes imposed by chapter 237, all of the gross proceeds derived~~
14 ~~by a contractor or subcontractor arising from the performance of~~
15 ~~any scientific work as defined in subsection (b), under a~~
16 ~~contract or subcontract entered into with the United States~~
17 ~~(including any agency or instrumentality thereof but not~~
18 ~~including national banks), and all of the gross proceeds derived~~
19 ~~from the sale of tangible personal property by a seller of such~~
20 ~~tangible personal property to such contractor or subcontractor,~~
21 ~~provided the exemption herein shall apply only to such tangible~~
22 ~~personal property which is to be affixed to, or to become a~~



1 ~~physical, integral part of the scientific facility, or which is~~
2 ~~to be entirely consumed during the performance of the service~~
3 ~~required by the contract or subcontract.~~

4 ~~(b) For purposes of this section, "scientific work" is~~
5 ~~work involving primarily the research and development for, or~~
6 ~~the design, manufacture, instrumentation, installation,~~
7 ~~maintenance, or operation of aerospace, agricultural,~~
8 ~~astronomical, biomedical, electronic, geophysical,~~
9 ~~oceanographic, test range, or other scientific facilities.~~
10 ~~Maintenance or operation, for purposes of this section, shall~~
11 ~~include housekeeping functions in providing certain~~
12 ~~nonscientific logistic and support services."]~~

13 SECTION 23. Section 237-27, Hawaii Revised Statutes, is
14 repealed.

15 [~~"§237-27 Exemption of certain petroleum refiners. (a)~~
16 ~~As used in this section:~~

17 ~~(1) "Petroleum products" means petroleum, any distillate,~~
18 ~~fraction, or derivative of petroleum, natural gas or~~
19 ~~its components, gas manufactured from a petroleum~~
20 ~~product, and any product derived from the gas or from~~
21 ~~the manufacture thereof, such as benzene, xylene,~~



1 ~~toluene, acetylene, tars, components of tars, and~~
2 ~~ammonia.~~

3 ~~(2) "Refiner" means any person who, in the State, engages~~
4 ~~in the business of refining petroleum products and is~~
5 ~~taxable under this chapter, upon the value or gross~~
6 ~~proceeds of sales of the petroleum products resultant~~
7 ~~from the business. A person who is engaged in~~
8 ~~business as a refiner and also in other business shall~~
9 ~~be deemed a refiner only in respect of the business~~
10 ~~that produces the products included in the measure of~~
11 ~~the tax imposed by this chapter.~~

12 ~~(3) "Refining" means:~~

13 ~~(A) Any process performed by a refiner that includes~~
14 ~~a change in the character or properties of a~~
15 ~~petroleum product through the application of~~
16 ~~heat, or~~

17 ~~(B) The compounding by a refiner of a petroleum~~
18 ~~product with a product that has been refined by~~
19 ~~the refiner by the process stated in clause (A).~~

20 ~~(b) There shall be excluded from the measure of the tax on~~
21 ~~a refiner such part of the petroleum products resultant from the~~
22 ~~refiner's business as is to be further refined by another~~



1 ~~refiner, to the extent that the petroleum products resultant~~
2 ~~from such further refining will be (or but for this subsection~~
3 ~~would be) included in the measure of the tax on such other~~
4 ~~refiner, and where petroleum products are to be used partly for~~
5 ~~such refining and partly for other purposes, the proportion used~~
6 ~~for each purpose shall be determined upon the basis of weight or~~
7 ~~BTU content."]~~

8 SECTION 24. Section 237-27.5, Hawaii Revised Statutes, is
9 repealed.

10 [~~§237-27.5 Air pollution control facility. (a) As used~~
11 ~~in this section, "air pollution control facility" shall mean a~~
12 ~~new identifiable treatment facility, equipment, device, or the~~
13 ~~like, which is used to abate or control atmospheric pollution or~~
14 ~~contamination by removing, reducing, or rendering less noxious~~
15 ~~air contaminants emitted into the atmosphere from a point~~
16 ~~immediately preceding the point of such removal, reduction, or~~
17 ~~rendering to the point of discharge of air, meeting emission~~
18 ~~standards as established by the department of health, excluding~~
19 ~~air conditioner, fan, or other similar facility for the comfort~~
20 ~~of persons at a place of business.~~

21 ~~(b) Any provision of law to the contrary notwithstanding,~~
22 ~~and upon receipt of the certification required by subsection~~



1 ~~(c), there shall be exempted from, and excluded from the measure~~
2 ~~of, the taxes imposed by this chapter, all of the gross proceeds~~
3 ~~arising from, and all of the amount of tangible personal~~
4 ~~property furnished in conjunction with, the construction,~~
5 ~~reconstruction, erection, operation, use, or maintenance of an~~
6 ~~air pollution control facility.~~

7 ~~(c) Application for the exemption provided by this section~~
8 ~~shall first be made with the director of health who, if~~
9 ~~satisfied that the facility meets the pollution emission~~
10 ~~criteria established by the department of health, shall certify~~
11 ~~to that fact. A new certificate shall be obtained from the~~
12 ~~director of health and filed with the director of taxation every~~
13 ~~five years certifying that the pollution control facility~~
14 ~~complies with the pollutant emission criteria established by the~~
15 ~~department of health."]~~

16 SECTION 25. Section 237-27.6, Hawaii Revised Statutes, is
17 repealed.

18 [~~§237-27.6 Solid waste processing, disposal, and electric~~
19 ~~generating facility; certain amounts exempt.~~ (a) Any provision
20 ~~of the law to the contrary notwithstanding, there shall be~~
21 ~~exempted from, and excluded from the measure of, the taxes~~
22 ~~imposed by this chapter all of the amounts enumerated in~~



1 ~~subsection (b) arising from a transaction involving a sale and~~
2 ~~leaseback of a solid waste processing, disposal, and electric~~
3 ~~generating facility entered into by a political subdivision of~~
4 ~~the State under section 46-19.1 where the facility is owned or~~
5 ~~under construction by the subdivision before May 10, 1988.~~

6 ~~(b) Amounts are exempted or excluded from taxation under~~
7 ~~this chapter only to the extent that they:~~

8 ~~(1) Are received by an operator of a facility under an~~
9 ~~operating contract with a political subdivision, where~~
10 ~~the:~~

11 ~~(A) Operator, or its successor, entered into an~~
12 ~~operating contract prior to May 10, 1988;~~

13 ~~(B) Operator enters into a lease of the facility from~~
14 ~~the owner at a time that coincides with the time~~
15 ~~the owner and the political subdivision entering~~
16 ~~into a sale and leaseback transaction; and~~

17 ~~(C) Amounts are used by the operator to make rental~~
18 ~~payments to the owner;~~

19 ~~(2) Are received as rental payments by the owner of the~~
20 ~~facility from the operator of the facility;~~



1 ~~(3) Do not exceed the payments made by the owner of the~~
2 ~~facility under the sale and leaseback transaction to~~
3 ~~the political subdivision; and~~

4 ~~(4) In no case exceed debt service costs incurred by the~~
5 ~~political subdivision for the construction of the~~
6 ~~facility.~~

7 ~~(c) For the purposes of this section:~~

8 ~~"Debt service costs" means payments of principal and~~
9 ~~interest on general obligation bonds issued at any time by a~~
10 ~~political subdivision for the construction of the facility.~~

11 ~~"Sale and leaseback" means a transaction in which a~~
12 ~~facility is sold by a political subdivision to a private entity~~
13 ~~for cash, under an installment sale, a financing lease, or~~
14 ~~similar arrangement, or any combination thereof, where the~~
15 ~~political subdivision has the right to repurchase the facility~~
16 ~~at a later date, and where the facility is leased to an operator~~
17 ~~of the facility.~~

18 ~~"Solid waste processing, disposal, and electric generating~~
19 ~~facility" or "facility" means a facility for the processing and~~
20 ~~disposal of solid waste or the generation of electric energy, or~~
21 ~~both, the construction of which has been financed pursuant to~~



1 ~~section 47-4 and constitutes an undertaking as defined in~~
2 ~~section 49-1.~~

3 ~~"Operator" means a private entity who enters into an~~
4 ~~agreement or other arrangement with the owner of a solid waste~~
5 ~~processing, disposal, and electric generating facility for the~~
6 ~~purpose of operating such facility for a political subdivision~~
7 ~~of the State.~~

8 ~~"Owner" means any person who purchases a solid waste~~
9 ~~processing, disposal, and electric generating facility under~~
10 ~~section 46-19.1."~~]

11 SECTION 26. Section 237-28.1, Hawaii Revised Statutes, is
12 repealed.

13 ~~["§237-28.1] Exemption of certain shipbuilding and ship~~
14 ~~repair business.~~ There shall be exempted from, and excluded
15 from the measure of, the taxes imposed by this chapter all of
16 the gross proceeds arising from shipbuilding and ship repairs
17 rendered to surface vessels federally owned or engaged in
18 interstate or international trade."]

19 SECTION 27. Section 237-29, Hawaii Revised Statutes, is
20 repealed.

21 ~~["§237-29 Exemptions for certified or approved housing~~
22 ~~projects.~~ (a) All gross income received by any qualified



1 ~~person or firm for the planning, design, financing,~~
2 ~~construction, sale, or lease in the State of a housing project~~
3 ~~that has been certified or approved under section 201H-36 shall~~
4 ~~be exempt from general excise taxes.~~

5 ~~(b) All gross income received by a nonprofit or a limited~~
6 ~~distribution mortgagor for a low and moderate income housing~~
7 ~~project certified or approved under section 201H-36 shall be~~
8 ~~exempt from general excise taxes.~~

9 ~~(c) The director of taxation and the Hawaii housing~~
10 ~~finance and development corporation shall adopt rules pursuant~~
11 ~~to chapter 91 for the purpose of this section, including any~~
12 ~~time limitation for the exemptions."]~~

13 SECTION 28. Section 237-29.5, Hawaii Revised Statutes, is
14 repealed.

15 ~~["§237-29.5 Exemption for sales of tangible personal~~
16 ~~property shipped out of the State. (a) There shall be exempted~~
17 ~~from, and excluded from the measure of, the taxes imposed by~~
18 ~~this chapter all of the value or gross proceeds arising from the~~
19 ~~manufacture, production, or sale of tangible personal property:~~

20 ~~(1) Shipped by the manufacturer, producer, or seller to a~~
21 ~~point outside the State where the property is resold~~
22 ~~or otherwise consumed or used outside the State; or~~



1 ~~(2) The sale of which is exempt under section 237-24.3(2).~~
2 ~~(b) For the purposes of this section, the manufacturer,~~
3 ~~producer, or seller shall take from the purchaser, a~~
4 ~~certificate, in such form as the department shall prescribe,~~
5 ~~certifying that the tangible personal property purchased is to~~
6 ~~be resold or otherwise consumed or used outside the State. Any~~
7 ~~purchaser who shall furnish such a certificate shall be~~
8 ~~obligated to pay to the seller, upon demand, if the property~~
9 ~~purchased is not resold or otherwise consumed or used outside~~
10 ~~the State, the amount of the additional tax which by reason~~
11 ~~thereof is imposed upon the seller."]~~

12 SECTION 29. Section 237-29.53, Hawaii Revised Statutes, is
13 repealed.

14 ~~[**"§237-29.53 Exemption for contracting or services**~~
15 ~~**exported out of State.** (a) There shall be exempted from, and~~
16 ~~excluded from the measure of, taxes imposed by this chapter, all~~
17 ~~of the value or gross income derived from contracting (as~~
18 ~~defined under section 237-6) or services performed by a person~~
19 ~~engaged in a service business or calling in the State for use~~
20 ~~outside the State where:~~

21 ~~(1) The contracting or services are for resale,~~
22 ~~consumption, or use outside the State; and~~



1 ~~(2) The value or gross income derived from the contracting~~
2 ~~or services performed would otherwise be subject to~~
3 ~~the tax imposed under this chapter on contracting or~~
4 ~~services at the highest rate.~~

5 ~~For the purposes of this subsection, the seller or person~~
6 ~~rendering the contracting or services exported and resold,~~
7 ~~consumed, or used outside the State shall take from the~~
8 ~~customer, a certificate or an equivalent, in a form the~~
9 ~~department prescribes, certifying that the contracting or~~
10 ~~service purchased is to be otherwise resold, consumed, or used~~
11 ~~outside the State. Any customer who furnishes this certificate~~
12 ~~or an equivalent shall be obligated to pay the seller or person~~
13 ~~rendering the contracting or services, upon demand, if the~~
14 ~~contracting or service purchased is not resold or otherwise~~
15 ~~consumed or used outside the State, the amount of the additional~~
16 ~~tax which by reason thereof is imposed upon the seller or person~~
17 ~~rendering the contracting or service.~~

18 ~~(b) There shall be exempted from, and excluded from the~~
19 ~~measure of, taxes imposed by this chapter, all of the value or~~
20 ~~gross income derived from contracting (as defined in section~~
21 ~~237-6) or services performed by a person engaged in a service~~
22 ~~business or calling in the State for a purchaser who resells all~~



1 ~~of the contracting or services for resale, consumption, or use~~
2 ~~outside the State pursuant to subsection (a). For the purposes~~
3 ~~of this subsection, the seller or person rendering the~~
4 ~~contracting or services for a purchaser who resells the~~
5 ~~contracting or services for resale, consumption, or use outside~~
6 ~~the State shall take from the purchaser, a certificate or an~~
7 ~~equivalent, in a form that the department prescribes, certifying~~
8 ~~that the contracting or services purchased is to be for resale,~~
9 ~~consumption, or use outside the State pursuant to subsection~~
10 ~~(a). Any purchaser who furnishes this certificate or an~~
11 ~~equivalent shall be obligated to pay the seller or person~~
12 ~~rendering the contracting or services, upon demand, if the~~
13 ~~contracting or services purchased is not resold in its entirety~~
14 ~~to a customer of the purchaser who has complied with subsection~~
15 ~~(a), the amount of the additional tax which by reason thereof is~~
16 ~~imposed upon the seller or the person rendering the contracting~~
17 ~~or service."]~~

18 SECTION 30. Section 237-29.55, Hawaii Revised Statutes, is
19 repealed.

20 ~~["~~§237-29.55~~ Exemption for sale of tangible personal~~
21 ~~property for resale at wholesale. (a) There shall be exempted~~
22 ~~from, and excluded from the measure of, the taxes imposed by~~



1 ~~this chapter all of the gross proceeds or gross income arising~~
2 ~~from the sale of tangible personal property imported to Hawaii~~
3 ~~from a foreign or domestic source to a licensed taxpayer for~~
4 ~~subsequent resale for the purpose of wholesale as defined under~~
5 ~~section 237-4.~~

6 ~~(b) The department, by rule, may provide that a seller may~~
7 ~~take from the purchaser of imported tangible personal property,~~
8 ~~a certificate, in a form that the department shall prescribe,~~
9 ~~certifying that the purchaser of the imported tangible personal~~
10 ~~property shall resell the imported tangible personal property at~~
11 ~~wholesale as defined under section 237-4. Any purchaser who~~
12 ~~furnishes a certificate shall be obligated to pay to the seller,~~
13 ~~upon demand, if the sale in fact is not a sale for the purpose~~
14 ~~of resale at wholesale, the amount of the additional tax which~~
15 ~~by reason thereof is imposed upon the seller. The absence of a~~
16 ~~certificate, unless the sales of the business are exclusively a~~
17 ~~sale for the purpose of resale at wholesale, in itself, shall~~
18 ~~give rise to the presumption that the sale is not a sale for the~~
19 ~~purpose of resale at wholesale."]~~

20 SECTION 31. Section 237-29.7, Hawaii Revised Statutes, is
21 repealed.



1 ~~["§237-29.7] Exemption of insurance companies. This~~
2 ~~chapter shall not apply to the gross income or gross proceeds of~~
3 ~~insurance companies authorized to do business under chapter 431;~~
4 ~~except this exemption shall not apply to any gross income or~~
5 ~~gross proceeds received after December 31, 1991, as rents from~~
6 ~~investments in real property in this State; provided that gross~~
7 ~~income or gross proceeds from investments in real property~~
8 ~~received by insurance companies after December 31, 1991, under~~
9 ~~written contracts entered into before January 1, 1992, that do~~
10 ~~not provide for the passing on of taxes or tax increases shall~~
11 ~~not be taxed until the contracts are renegotiated, renewed, or~~
12 ~~extended."]~~

13 SECTION 32. Section 237-29.8, Hawaii Revised Statutes, is
14 repealed.

15 ~~["§237-29.8] Call centers; exemption; engaging in~~
16 ~~business; definitions. (a) This chapter shall not apply to~~
17 ~~amounts received from a person operating a call center by a~~
18 ~~person engaged in business as a telecommunications common~~
19 ~~carrier for interstate or foreign telecommunications services,~~
20 ~~including toll free telecommunications, telecommunications~~
21 ~~capabilities for electronic mail, voice, and data~~
22 ~~telecommunications, computerized telephone support, facsimile,~~



1 ~~wide area telecommunications services, or computer to computer~~
2 ~~communication.~~

3 ~~(b) The establishment of a call center in this State by~~
4 ~~any person shall not be used by itself by the State to find that~~
5 ~~any other part of the person's business is engaged in business~~
6 ~~in this State for the purposes of this chapter. Gross income or~~
7 ~~gross proceeds received by a call center for customer service~~
8 ~~and support shall be exempt from the measure of taxes imposed by~~
9 ~~this chapter.~~

10 ~~(c) The department, by rule, may provide that the person~~
11 ~~providing the telecommunications service may take from the~~
12 ~~person operating a call center a certificate, in a form that the~~
13 ~~department shall prescribe, certifying that the amounts received~~
14 ~~for telecommunications services are for operating a call center.~~
15 ~~If the certificate is required by rule of the department, the~~
16 ~~absence of the certificate in itself shall give rise to the~~
17 ~~presumption that the amounts received from the sale of~~
18 ~~telecommunications services are not for operating a call center.~~

19 ~~(d) As used in this section:~~

20 ~~"Call center" means a physical or electronic operation that~~
21 ~~focuses on providing customer service and support for computer~~
22 ~~hardware and software companies, manufacturing companies,~~



1 ~~software service organizations, and telecommunications support~~
2 ~~services, within an organization in which a managed group of~~
3 ~~individuals spend most of their time engaging in business by~~
4 ~~telephone, usually working in a computer automated environment,~~
5 ~~provided that the operation shall not include telemarketing or~~
6 ~~sales.~~

7 ~~"Customer service and support" means product support,~~
8 ~~technical assistance, sales support, phone or computer based~~
9 ~~configuration assistance, software upgrade help lines, and~~
10 ~~traditional help desk services.~~

11 ~~"Telecommunications common carrier" means any person that~~
12 ~~owns, operates, manages, or controls any facility used to~~
13 ~~furnish telecommunications services for profit to the public, or~~
14 ~~to classes of users as to be effectively available to the~~
15 ~~public, engaged in the provision of services, such as voice,~~
16 ~~data, image, graphics, and video services, that make use of all~~
17 ~~or part of their transmission facilities, switches, broadcast~~
18 ~~equipment, signalling, or control devices.~~

19 ~~"Telecommunications service" or "telecommunications" means~~
20 ~~the offering of transmission between or among points specified~~
21 ~~by a user, of information of the user's choosing, including~~
22 ~~voice, data, image, graphics, and video without change in the~~



1 ~~form or content of the information, as sent and received, by~~
2 ~~means of electromagnetic transmission, or other similarly~~
3 ~~capable means of transmission, with or without benefit of any~~
4 ~~closed transmission medium.~~

5 ~~(c) This section shall not apply to gross proceeds or~~
6 ~~gross income received after June 30, 2010."]~~

7 **PART III. USE TAX EXEMPTIONS**

8 SECTION 33. Section 238-1, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "Use" (and any nounal, verbal, adjectival, adverbial, and
11 other equivalent form of the term) herein used interchangeably
12 means any use, whether the use is of such nature as to cause the
13 property, services, or contracting to be appreciably consumed or
14 not, or the keeping of the property or services for such use or
15 for sale, the exercise of any right or power over tangible or
16 intangible personal property incident to the ownership of that
17 property, and shall include control over tangible or intangible
18 property by a seller who is licensed or who should be licensed
19 under chapter 237, who directs the importation of the property
20 into the State for sale and delivery to a purchaser in the
21 State, liability and free on board (FOB) to the contrary



1 notwithstanding, regardless of where title passes, but the term
2 "use" shall not include:

3 (1) Temporary use of property, not of a perishable or
4 quickly consumable nature, where the property is
5 imported into the State for temporary use (not sale)
6 therein by the person importing the same and is not
7 intended to be, and is not, kept permanently in the
8 State. For example, without limiting the generality
9 of the foregoing language:

10 (A) In the case of a contractor importing permanent
11 equipment for the performance of a construction
12 contract, with intent to remove, and who does
13 remove, the equipment out of the State upon
14 completing the contract;

15 (B) In the case of moving picture films imported for
16 use in theaters in the State with intent or under
17 contract to transport the same out of the State
18 after completion of such use; and

19 (C) In the case of a transient visitor importing an
20 automobile or other belongings into the State to
21 be used by the transient visitor while therein



1 but which are to be used and are removed upon the
2 transient visitor's departure from the State;

3 (2) Use by the taxpayer of property acquired by the
4 taxpayer solely by way of gift;

5 (3) Use which is limited to the receipt of articles and
6 the return thereof, to the person from whom acquired,
7 immediately or within a reasonable time either after
8 temporary trial or without trial;

9 (4) Use of goods imported into the State by the owner of a
10 vessel or vessels engaged in interstate or foreign
11 commerce and held for and used only as ship stores for
12 the vessels;

13 (5) The use or keeping for use of household goods,
14 personal effects, and private automobiles imported
15 into the State for nonbusiness use by a person who:

16 (A) Acquired them in another state, territory,
17 district, or country;

18 (B) At the time of the acquisition was a bona fide
19 resident of another state, territory, district,
20 or country;

21 (C) Acquired the property for use outside the State;
22 and



1 (D) Made actual and substantial use thereof outside
2 this State;

3 provided that as to an article acquired less than
4 three months prior to the time of its importation into
5 the State it shall be presumed, until and unless
6 clearly proved to the contrary, that it was acquired
7 for use in the State and that its use outside the
8 State was not actual and substantial;

9 ~~[(6) The leasing or renting of any aircraft or the keeping
10 of any aircraft solely for leasing or renting to
11 lessees or renters using the aircraft for commercial
12 transportation of passengers and goods or the
13 acquisition or importation of any such aircraft or
14 aircraft engines by any lessee or renter engaged in
15 interstate air transportation. For purposes of this
16 paragraph, "leasing" includes all forms of lease,
17 regardless of whether the lease is an operating lease
18 or financing lease. The definition of "interstate air
19 transportation" is the same as in 49 U.S.C. 40102;~~

20 ~~(7) The use of oceangoing vehicles for passenger or
21 passenger and goods transportation from one point to~~



1 ~~another within the State as a public utility as~~
2 ~~defined in chapter 269;~~
3 ~~(8) The use of material, parts, or tools imported or~~
4 ~~purchased by a person licensed under chapter 237 which~~
5 ~~are used for aircraft service and maintenance, or the~~
6 ~~construction of an aircraft service and maintenance~~
7 ~~facility as those terms are defined in section~~
8 ~~237-24.9;~~

9 ~~(9)]~~ (6) The use of services or contracting imported for
10 resale where the contracting or services are for
11 resale, consumption, or use outside the State pursuant
12 to section 237-29.53(a);

13 ~~[(10)]~~ (7) The use of contracting imported or purchased by a
14 contractor as defined in section 237-6 who is:

- 15 (A) Licensed under chapter 237;
- 16 (B) Engaged in business as a contractor; and
- 17 (C) Subject to the tax imposed under section 238-2.3;
- 18 and

19 ~~[(11)]~~ (8) The use of property, services, or contracting
20 imported by foreign diplomats and consular officials
21 who are holding cards issued or authorized by the



1 United States Department of State granting them an
2 exemption from state taxes.

3 With regard to purchases made and distributed under the
4 authority of chapter 421, a cooperative association shall be
5 deemed the user thereof."

6 SECTION 34. Section 238-3, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§238-3 Application of tax, etc.** (a) The tax imposed by
9 this chapter shall not apply to any property, services, or
10 contracting or to any use of the property, services, or
11 contracting that cannot legally be so taxed under the
12 Constitution or laws of the United States, but only so long as,
13 and only to the extent to which the State is without power to
14 impose the tax.

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

18 (1) Exempt or exclude from the tax under this chapter,
19 property, services, or contracting or the use of
20 property, services, or contracting exempted under
21 chapter 237; or



1 (2) Apportion the gross value of services or contracting
2 sold to customers within the State by persons engaged
3 in business both within and without the State to
4 determine the value of that portion of the services or
5 contracting that is subject to taxation under chapter
6 237 for the purposes of section 237-21.

7 (b) The tax imposed by this chapter shall not apply to any
8 use of property, services, or contracting the transfer of which
9 property, services, or contracting to, or the acquisition of
10 which by, the person so using the same, has actually been or
11 actually is taxed under chapter 237.

12 (c) The tax imposed by this chapter shall be paid only
13 once upon or in respect of the same property, services, or
14 contracting; provided that nothing in this chapter contained
15 shall be construed to exempt any property, services, or
16 contracting, or the use thereof from taxation under any other
17 law of the State.

18 (d) The tax imposed by this chapter shall be in addition
19 to any other taxes imposed by any other laws of the State,
20 except as otherwise specifically provided herein; provided that
21 if it be finally held by any court of competent jurisdiction,
22 that the tax imposed by this chapter may not legally be imposed



1 in addition to any other tax or taxes imposed by any other law
2 or laws with respect to the same property, services, or
3 contracting, or the use thereof, then this chapter shall be
4 deemed not to apply to the property, services, or contracting,
5 or the use thereof under such specific circumstances, but such
6 other laws shall be given full effect with respect to the
7 property, services, or contracting, or use.

8 (e) The tax imposed by this chapter shall not apply to any
9 use of property exempted by section 238-4.

10 (f) The tax imposed by this chapter shall not apply to any
11 use or consumption of aircraft and vessels, the transfer of
12 which aircraft or vessel to, or the acquisition of which by, the
13 person so using or consuming the same, or the rental for the use
14 of the aircraft or vessel, has actually been or actually is
15 taxed under chapter 237.

16 ~~[(g) The tax imposed by this chapter shall not apply to~~
17 ~~any intoxicating liquor as defined in chapter 244D and~~
18 ~~cigarettes and tobacco products as defined in chapter 245,~~
19 ~~imported into the State and sold to any person or common carrier~~
20 ~~in interstate commerce, whether ocean going or air, for~~
21 ~~consumption out of state by the person, crew, or passengers on~~
22 ~~the shipper's vessels or airplanes.~~



1 ~~(h) The tax imposed by this chapter shall not apply to any~~
2 ~~use of vessels constructed under section 189-25 prior to July 1,~~
3 ~~1969.~~

4 ~~(i)]~~ (g) Each taxpayer liable for the tax imposed by this
5 chapter on tangible personal property, services, or contracting
6 shall be entitled to full credit for the combined amount or
7 amounts of legally imposed sales or use taxes paid by the
8 taxpayer with respect to the same transaction and property,
9 services, or contracting to another state and any subdivision
10 thereof, but such credit shall not exceed the amount of the use
11 tax imposed under this chapter on account of the transaction and
12 property, services, or contracting. The director of taxation
13 may require the taxpayer to produce the necessary receipts or
14 vouchers indicating the payment of the sales or use tax to
15 another state or subdivision as a condition for the allowance of
16 the credit.

17 ~~[(j)]~~ (h) The tax imposed by this chapter shall not apply
18 to any use of property, services, or contracting exempted by
19 section 237-26 or section 237-29.

20 ~~[(k) The tax imposed by this chapter shall not apply to~~
21 ~~any use of air pollution control facility exempted by section~~
22 ~~237-27.5.] "~~



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

PART IV

SECTION 35. Chapter 235, Hawaii Revised Statutes, is repealed; provided that section 235-93.4, Hawaii Revised Statutes, as enacted by Act 1, Session Laws of Hawaii 2011, shall not be repealed and shall be reenacted into chapter 572B, Hawaii Revised Statutes.

PART V

SECTION 36. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 37. This Act shall take effect upon its approval; provided that:

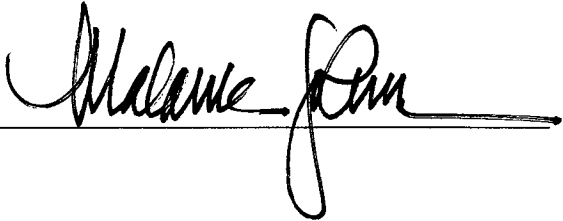
- (1) Sections 2, 3, 4, 5, and 6 of this Act shall apply to gross income, gross proceeds, or value received after June 30, 2013;
- (2) Sections 7 and 8 of this Act shall apply to the value accruing after June 30, 2013;
- (3) Sections 9 through 32 of this Act shall apply to gross income, gross proceeds, or value received after June 30, 2012;
- (4) Sections 33 and 34 of this Act shall apply to the value accruing after June 30, 2012; and



1 (5) Section 35 of this Act shall apply to taxable years
2 beginning after December 31, 2012.

3

INTRODUCED BY:

A handwritten signature in black ink, appearing to read "Malanne J. Smith", is written over a horizontal line. The signature is cursive and extends to the right of the line.



S.B. NO. 2329

Report Title:

Income Tax; General Excise Tax; Use Tax; Exemptions

Description:

Amends the rate of imposition of the general excise and use taxes for gross income, gross proceeds, or value received after June 30, 2013, to an unspecified percentage; repeals various general excise and use tax exemptions for gross income, gross proceeds, or value received after June 30, 2013; repeals income tax code for taxable years beginning after December 31, 2012.

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

