

JAN 25 2012

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# A BILL FOR AN ACT

RELATING TO TAXATION.

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

1           SECTION 1. Chapter 237, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "§237- Sales of specified digital goods. (a) For the  
5 purposes of this section:

6           "Additional digital good" means greeting cards or finished  
7 artwork, if transmitted electronically.

8           "Digital audio work":

9           (1) Means a work that results from the fixation of a  
10 series of musical, spoken, or other sounds that are  
11 transferred electronically;

12           (2) Includes prerecorded or live music, prerecorded or  
13 live readings of books or other written materials, and  
14 prerecorded or live speeches, ringtones, or other  
15 sound recordings; and

16           (3) Does not include audio greeting cards sent by  
17 electronic mail.

18           "Digital audiovisual work":



1        (1) Means a series of related images that, when shown in  
2        succession, impart an impression of motion, along with  
3        accompanying sounds, if any, and that are transferred  
4        electronically;

5        (2) Includes motion pictures, musical videos, news and  
6        entertainment programs, and live events; and

7        (3) Does not include video greeting cards or video or  
8        electronic games.

9        "Digital book":

10       (1) Means a work that is generally recognized in the  
11       ordinary and usual sense as a book and is transferred  
12       electronically;

13       (2) Includes any literary work, other than a digital audio  
14       work or digital audiovisual work, that is expressed in  
15       words, numbers, or other verbal or numerical symbols  
16       or indicia, if the literary work is generally  
17       recognized in the ordinary and usual sense as a book,  
18       work of fiction or nonfiction, or a short story; and

19       (3) Does not include a newspaper or other news or  
20       information product, periodical, chat room discussion,  
21       or blog.

22       "Digital code":



1       (1) Means a code that provides the person who holds the  
2       code a right to obtain an additional digital good, a  
3       digital audiovisual work, digital audio work, or  
4       digital book and that may be obtained by any means,  
5       including tangible forms and electronic mail,  
6       regardless of whether the code is designated as song  
7       code, video code, or book code;

8       (2) Includes codes used to access or obtain any specified  
9       digital goods, including any additional digital goods  
10       that have been previously purchased, and promotion  
11       cards or codes that are purchased by a retailer or  
12       other business entity for use by the retailer's or  
13       entity's customers; and

14       (3) Does not include a code that represents any redeemable  
15       card, gift card, or gift certificate that entitles the  
16       holder of the card or certificate to select any  
17       specified digital goods or at the cash value indicated  
18       by the card or certificate, or digital cash that  
19       represents a monetary value that a customer may use to  
20       pay for a future purchase.

21       "Specified digital good" means a digital audio work,  
22       digital audiovisual work, digital book, additional digital good,



1 or specified prewritten computer software; provided that the  
2 sale of, or the storage, use, or other consumption of, a digital  
3 code shall be treated in the same manner as the sale of, or the  
4 storage, use, or other consumption of, a specified digital good  
5 for which the digital code relates.

6 "Specified prewritten computer software" means prewritten  
7 computer software, including prewritten upgrades, that are  
8 transferred electronically.

9 (b) If the sale of a specified digital good does not take  
10 place at the vendor's place of business, it shall be  
11 conclusively determined to take place at the customer's shipping  
12 address; or if there is no item shipped, then it shall be  
13 determined to take place at the customer's billing address.

14 (c) When a person licensed under this chapter sells  
15 specified digital goods to a licensed retail merchant, jobber,  
16 or other licensed seller for purposes of resale, the person  
17 shall be taxed as a wholesaler selling tangible personal  
18 property. All other sales of specified digital goods shall be  
19 taxed as retail sales of tangible personal property."

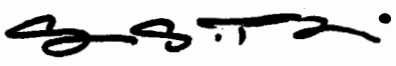
20 SECTION 2. New statutory material is underscored.



# S.B. NO. 2884

1 SECTION 3. This Act shall take effect on July 1, 2012.

2

INTRODUCED BY: 

By Request



# S.B. NO. 2884

**Report Title:**

General Excise Tax; Specified Digital Goods

**Description:**

Requires the sale of specified digital goods to be subject to the general excise tax; defines terms included as specified digital goods.

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