

TAXBILLSERVICE

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SUBJECT: GENERAL EXCISE, USE, Exempt aviation fuel

BILL NUMBER: HB 123, HD-1

INTRODUCED BY: House Committees on Transportation and Economic Revitalization and Business

BRIEF SUMMARY: Adds a new section to HRS chapter 237 and HRS section 238-1 to provide that amounts received from the sale or use of aviation fuel categorized as privileged foreign merchandise, non-privileged foreign merchandise, domestic merchandise, or zone-restricted merchandise that is admitted into a foreign trade zone and purchased by a common carrier for consumption or use in air transportation between two points of the state shall be exempt from the state's general excise and use tax laws, respectively.

EFFECTIVE DATE: July 1, 2011

STAFF COMMENTS: Currently aviation fuel is imported and stored in Hawaii Fueling Facilities Corporation (HFFC) storage tanks. HFFC was established in 1969 to provide fuel storage and distribution to its member airlines. On September 1, 1997, the HFFC began operating under the foreign trade zone (FTZ) at the Honolulu International Airport. Fuel purchased from HFFC for use in aircraft of HFFC members is exempt from the imposition of the general excise, use, and fuel taxes since they are operating in the FTZ. When the fuel is then pumped through the HFFC's bonded fuel lines and provided to the aircraft, the fuel remains in interstate commerce and technically is outside the jurisdiction of the state and the imposition of state taxes. The current exemption from taxes for product within the FTZ but sold for consumption outside the state applies only when the consumption of such product occurs out of state when sales are made to any common carrier in interstate or foreign commerce. This proposal would extend the exemption from general excise and use taxes to fuel purchased through the FTZ which is consumed in intrastate commerce.

The purpose clause of the measure notes that fuel sold from a FTZ for use by airlines traveling out of state is exempt from general excise and use taxes while interisland flights are not exempt. Given the fact that air carriers are currently flying directly to the neighbor islands, they are in direct competition with interisland air carriers. Exempting common carriers from the general excise and use taxes for sales of fuel from a FTZ for interisland flights would level the playing field and create a fairer market for all airlines.

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