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GOV. MSG. NO. 1152

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

April 25, 2013

The Honorable Donna Mercado Kim,
President
and Members of the Senate
Twenty-Seventh State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

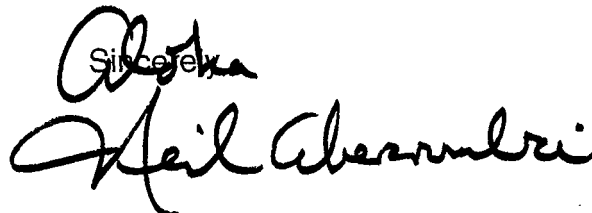
The Honorable Joseph M. Souki,
Speaker and Members of the
House of Representatives
Twenty-Seventh State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kim, Speaker Souki, and Members of the Legislature:

This is to inform you that on April 25, 2013, the following bill was signed into law:

SB1185 SD1

RELATING TO DENIAL OF GENERAL EXCISE
TAX BENEFITS
ACT 052 (13)

Sincerely,


NEIL ABERCROMBIE
Governor, State of Hawaii

A BILL FOR AN ACT

RELATING TO DENIAL OF GENERAL EXCISE TAX BENEFITS.

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

1 SECTION 1. Section 237-9.3, Hawaii Revised Statutes, is
2 amended by amending subsection (e) to read as follows:

3 "(e) For purposes of this section:

4 "General excise tax benefit" means any tax exemption,
5 exclusion of a taxable amount, a reduction from the measure of a
6 tax imposed, a tax deduction, a tax credit, a lower rate of tax,
7 a segregation or division of taxable amounts between multiple
8 taxpayers involved in the same transaction, or any income
9 splitting allowed under this chapter.

10 "Nonprofit organization" means a corporate entity,
11 association, or other duly chartered entity that is registered
12 with the State [~~and has received a written determination from~~
13 ~~the Internal Revenue Service that it is exempt under section~~
14 ~~501(c)(3), section 501(e)(4), section 501(e)(8), or so much of~~
15 ~~section 501(c)(2) as applied to title holding entities that turn~~
16 ~~over their income to organizations that are exempt under section~~
17 ~~501(c)(3), section 501(e)(4), or section 501(e)(8) of the~~
18 ~~Internal Revenue Code.] and is exempt from the application of~~



1 this chapter pursuant to section 237-23(a)(3), (4), (5), (6), or
2 (7)."

3 SECTION 2. Section 237-41.5, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 "(b) The personal liability under this section applies to
6 any officer, member, manager, or other person having control or
7 supervision over amounts of gross proceeds or gross income
8 collected to pay the general excise tax and held in trust under
9 subsection (a), or who is charged with the responsibility for
10 the filing of returns or the payment of general excise tax on
11 gross income or gross proceeds collected and held in trust under
12 subsection (a). The person shall be personally liable for any
13 unpaid taxes and interest and penalties on those taxes, if such
14 officer or other person wilfully fails to pay or to cause to be
15 paid any taxes due from the taxpayer pursuant to this chapter.

16 This subsection shall not apply to any officer, manager, or
17 other person having control or supervision over amounts of gross
18 proceeds or gross income collected to pay the general excise tax
19 and held in trust under subsection (a), or who is charged with
20 the responsibility for the filing of returns or the payment of
21 general excise tax on gross income or gross proceeds collected



1 and held in trust under subsection (a) for a nonprofit
2 organization.

3 For purposes of this subsection:

4 "Nonprofit organization" means a corporate entity,
5 association, or other duly chartered entity that is registered
6 with the State [~~and has received a written determination from~~
7 ~~the Internal Revenue Service that it is exempt under section~~
8 ~~501(c)(3), section 501(c)(4), section 501(c)(8), or so much of~~
9 ~~section 501(c)(2) as applied to title holding entities that turn~~
10 ~~over their income to organizations that are exempt under section~~
11 ~~501(c)(3), section 501(c)(4), or section 501(c)(8) of the~~
12 ~~Internal Revenue Code.] and is exempt from the application of
13 this chapter pursuant to section 237-23(a)(3), (4), (5), (6), or
14 (7).~~

15 "Wilfully fails to pay or to cause to be paid" shall be
16 construed in accordance with judicial interpretations given to
17 similar provisions of the Internal Revenue Code; consistent
18 therewith, the term "wilfully" shall mean a voluntary,
19 intentional violation of a known legal duty."

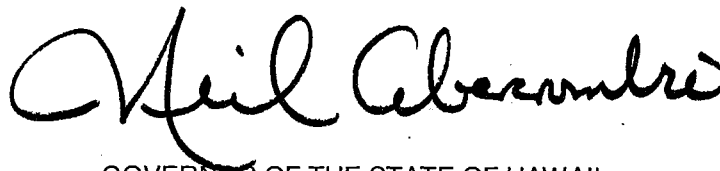
20 SECTION 3. This Act does not affect rights and duties that
21 matured, penalties that were incurred, and proceedings that were
22 begun before its effective date.



1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect on July 1, 2013.

APPROVED this 25 day of APR, 2013

A handwritten signature in black ink, reading "Neil Abernethy". The signature is written in a cursive style with a large initial "N".

GOVERNOR OF THE STATE OF HAWAII