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# A BILL FOR AN ACT

RELATING TO SUBCONTRACTORS.

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

1 SECTION 1. Act 105, Session Laws of Hawaii 2011, is  
2 amended by amending section 2 to read as follows:

3 "SECTION 2. Chapter 237, Hawaii Revised Statutes, is  
4 amended by adding two new sections to be appropriately  
5 designated and to read as follows:

6 "§237- Temporary suspension of exemption of certain  
7 amounts; levy of tax. (a) Notwithstanding any other law to the  
8 contrary, the exemption of the following amounts from taxation  
9 under this chapter shall be suspended from July 1, 2011, through  
10 June 30, 2013:

11 [~~(1)~~] ~~Amounts deducted from the gross income received by~~  
12 ~~contractors as described under section 237-13(3)(B);~~

13 ~~(2)]~~ (1) Reimbursements received by federal cost-plus  
14 contractors for the costs of purchased materials,  
15 plant, and equipment as described under section 237-  
16 13(3)(C);

17 [~~(3)~~] (2) Gross receipts of home service providers acting  
18 as service carriers providing mobile



1 telecommunications services to other home service  
2 providers as described under section 237-13(6)(D);  
3 ~~[(4)]~~ (3) Amounts deducted from the gross income of real  
4 property lessees because of receipt from sublessees as  
5 described under section 237-16.5;  
6 ~~[(5)]~~ (4) The value or gross income received by nonprofit  
7 organizations from certain conventions, conferences,  
8 trade show exhibits, or display spaces as described  
9 under section 237-16.8;  
10 ~~[(6)]~~ (5) Amounts received by sugarcane producers as  
11 described under section 237-24(14);  
12 ~~[(7)]~~ (6) Amounts received from the loading,  
13 transportation, and unloading of agricultural  
14 commodities shipped interisland as described under  
15 section 237-24.3(1);  
16 ~~[(8)]~~ (7) Amounts received from the sale of intoxicating  
17 liquor, cigarettes and tobacco products, and  
18 agricultural, meat, or fish products to persons or  
19 common carriers engaged in interstate or foreign  
20 commerce as described under section 237-24.3(2);



- 1        ~~[(9)]~~ (8) Amounts received or accrued from the loading or  
2                    unloading of cargo as described under section 237-  
3                    24.3(4) (A);
- 4        ~~[(10)]~~ (9) Amounts received or accrued from tugboat and  
5                    towage services as described under section 237-  
6                    24.3(4) (B);
- 7        ~~[(11)]~~ (10) Amounts received or accrued from the  
8                    transportation of pilots or government officials and  
9                    other maritime-related services as described under  
10                   section 237-24.3(4) (C);
- 11       ~~[(12)]~~ (11) Amounts received by labor organizations for real  
12                   property leases as described under section 237-  
13                   24.3(10);
- 14       ~~[(13)]~~ (12) Amounts received as rent for aircraft or  
15                   aircraft engines used for interstate air  
16                   transportation as described under section 237-  
17                   24.3(12);
- 18       ~~[(14)]~~ (13) Amounts received by exchanges and exchange  
19                   members as described under section 237-24.5;
- 20       ~~[(15)]~~ (14) Amounts received as high technology research and  
21                   development grants under section 206M-15 as described  
22                   under section 237-24.7(10);



1        [~~(16)~~] (15) Amounts received from the servicing and  
2                    maintenance of aircraft or construction of aircraft  
3                    service and maintenance facilities as described under  
4                    section 237-24.9;

5        [~~(17)~~] (16) Gross proceeds from the sale of the following:

6                    (A) Intoxicating liquor to the United States  
7                                (including any agency or instrumentality of the  
8                                United States that is wholly owned or otherwise  
9                                so constituted as to be immune from the levy of a  
10                              tax under chapter 238 or 244D, but not including  
11                              national banks) or any organization to which the  
12                              sale is permitted by the proviso of "Class 3" of  
13                              section 281-31 that is located on any Army, Navy,  
14                              or Air Force reservation as described under  
15                              section 237-25(a)(1);

16                    (B) Tobacco products and cigarettes to the United  
17                                States (including any agency or instrumentality  
18                                thereof that is wholly owned or otherwise so  
19                                constituted as to be immune from the levy of tax  
20                                under chapter 238 or 245, but not including  
21                                national banks) as described under section 237-  
22                                25(a)(2); and



1 (C) "Other tangible personal property" to the United  
2 States (including any agency, instrumentality, or  
3 federal credit union thereof, but not including  
4 national banks) and any state-chartered credit  
5 union as described under section 237-25(a)(3);  
6 ~~(18)~~ (17) Amounts received by petroleum product refiners  
7 from other refiners for further refining of petroleum  
8 products as described under section 237-27;  
9 ~~(19)~~ (18) Gross proceeds received from the construction,  
10 reconstruction, erection, operation, use, maintenance,  
11 or furnishing of air pollution control facilities, as  
12 described under section 237-27.5, that do not have  
13 valid certificates of exemption on July 1, 2011;  
14 ~~(20)~~ (19) Gross proceeds received from shipbuilding and  
15 ship repairs as described under section 237-28.1;  
16 ~~(21)~~ (20) Amounts received by telecommunications common  
17 carriers from call center operators for interstate or  
18 foreign telecommunications services as described under  
19 section 237-29.8;  
20 ~~(22)~~ (21) Gross proceeds received by qualified businesses  
21 in enterprise zones, as described under section 209E-  
22 11, that do not have valid certificates of



1 qualification from the department of business,  
2 economic development, and tourism on July 1, 2011; and  
3 ~~[+23+]~~ (22) Gross proceeds received by contractors licensed  
4 under chapter 444 for construction within enterprise  
5 zones performed for qualified businesses within the  
6 enterprise zones or businesses approved by the  
7 department of business, economic development, and  
8 tourism to enroll into the enterprise zone program, as  
9 described under section 209E-11.

10 (b) Except as otherwise provided under subsection (f),  
11 (g), or (h), there is levied, assessed, and collected annually  
12 against a taxpayer receiving or deriving previously exempt gross  
13 income or gross proceeds of sale from July 1, 2011, to June 30,  
14 2013, a tax at the rate of four per cent on that previously  
15 exempt gross income or gross proceeds of sale.

16 (c) As used in this section, "previously exempt gross  
17 income or gross proceeds of sale" means the amount of the gross  
18 income or gross proceeds of sale, the exemption for which is  
19 suspended under subsection (a). The term also includes the  
20 value received by a nonprofit organization from conventions,  
21 conferences, trade show exhibits, and display spaces, the



1 exemption for which is suspended under subsection [~~(a)(5)~~]

2 (a)(4).

3 (d) The taxpayer, against whom the tax is levied and  
4 assessed under this section, shall be responsible for payment of  
5 the tax to the director of taxation.

6 (e) Notwithstanding section 237-8.6, no county surcharge  
7 shall be levied, assessed, or collected on any previously exempt  
8 gross income or gross proceeds of sale that is subject to  
9 taxation under subsection (b).

10 (f) This section shall not apply to gross income or gross  
11 proceeds from binding written contracts entered into prior to  
12 July 1, 2011, that do not permit the passing on of increased  
13 rates of taxes.

14 (g) This section shall not apply to gross income or gross  
15 proceeds from stevedoring services and related services, as  
16 defined in section 382-1, furnished to a company by its wholly  
17 owned subsidiary.

18 (h) The tax imposed under subsection (b) shall not apply  
19 to any gross income or gross proceeds of sale that cannot  
20 legally be so taxed under the Constitution or laws of the United  
21 States, but only so long as, and only to the extent to which the  
22 State is without power to impose the tax.



1 To the extent that any exemption, exclusion, or  
2 apportionment is necessary to comply with the preceding  
3 sentence, the director of taxation shall:

4 (1) Exempt or exclude the gross income or gross proceeds  
5 of sale from the tax under subsection (b); or

6 (2) Apportion the gross income or gross proceeds of sale  
7 derived within the State by persons engaged in  
8 business both within and without the State to  
9 determine the gross income or gross proceeds of sale  
10 that is subject to taxation under this chapter for the  
11 purposes of section 237-21.

12 (i) This chapter shall apply to the payment, collection,  
13 enforcement, and appeal of the tax levied under this section.

14 The director of taxation may establish additional  
15 requirements, procedures, and forms pursuant to rules adopted  
16 under chapter 91, to effectuate this section.

17 **§237- Information reporting.** Beginning July 1, 2011,  
18 the director of taxation shall require information reporting on  
19 all exclusions or exemptions of all amounts, persons, or  
20 transactions from this chapter, except for the following:

21 (1) Amounts received that are exempt under section 237-  
22 24(1) through (7); and





1           (2) Any other amounts, persons, or transactions as  
2           determined by the director to be in the best interest  
3           of tax administration and made by official  
4           pronouncement.""

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

7           SECTION 3. This Act shall take effect on January 1, 2112,  
8 and shall apply to gross income or gross proceeds received after  
9 December 31, 2012.



**Report Title:**

Taxation; General Excise Tax; Subcontractors; Exemption; Repeal

**Description:**

Repeals the temporary suspension under Act 105, SLH 2011, on the general excise tax exemption on amounts deducted from the gross income of subcontractors. Effective 01/01/2112. (HD1)

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

