
A BILL FOR AN ACT

RELATING TO STATE FINANCES.

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

1 SECTION 1. The legislature finds that the State derives a
2 substantial portion of its total revenues from the general
3 excise tax. These revenues support a wide array of increasingly
4 expensive government services in categories including health,
5 highways, and public safety. For example, in the ten years from
6 2002 to 2011, the cost of providing services in those categories
7 has increased 151 per cent, 160 per cent, and 176 per cent,
8 respectively. In contrast, the share of total state revenues
9 derived from the general excise tax, which has not been
10 increased since 1965, fell from 32 per cent in 2002 to 30 per
11 cent in 2011, requiring the legislature to make up the shortfall
12 with reductions in services and increases in other state
13 revenues, including taxes and fees. As a result, many programs
14 are underfunded and the State's aging infrastructure is in
15 urgent need of major repairs.

16 The legislature believes that, after nearly fifty years,
17 the time has come to increase the general excise tax and use tax
18 rates in order to address the rising costs of government



1 services and to provide for the critical needs of our
2 communities.

3 The purpose of this Act is to increase the general excise
4 tax and use tax rates from four per cent to 4.5 per cent.

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

7 "**§237-13 Imposition of tax.** There is hereby levied and
8 shall be assessed and collected annually privilege taxes against
9 persons on account of their business and other activities in the
10 State measured by the application of rates against values of
11 products, gross proceeds of sales, or gross income, whichever is
12 specified, as follows:

13 (1) Tax on manufacturers.

14 (A) Upon every person engaging or continuing within
15 the State in the business of manufacturing,
16 including compounding, canning, preserving,
17 packing, printing, publishing, milling,
18 processing, refining, or preparing for sale,
19 profit, or commercial use, either directly or
20 through the activity of others, in whole or in
21 part, any article or articles, substance or
22 substances, commodity or commodities, the amount



1 of the tax to be equal to the value of the
2 articles, substances, or commodities,
3 manufactured, compounded, canned, preserved,
4 packed, printed, milled, processed, refined, or
5 prepared for sale, as shown by the gross proceeds
6 derived from the sale thereof by the manufacturer
7 or person compounding, preparing, or printing
8 them, multiplied by one-half of one per cent.

9 (B) The measure of the tax on manufacturers is the
10 value of the entire product for sale, regardless
11 of the place of sale or the fact that deliveries
12 may be made to points outside the State.

13 (C) If any person liable for the tax on manufacturers
14 ships or transports the person's product, or any
15 part thereof, out of the State, whether in a
16 finished or unfinished condition, or sells the
17 same for delivery to points outside the State
18 (for example, consigned to a mainland purchaser
19 via common carrier f.o.b. Honolulu), the value of
20 the products in the condition or form in which
21 they exist immediately before entering interstate
22 or foreign commerce, determined as hereinafter



1 provided, shall be the basis for the assessment
2 of the tax imposed by this paragraph. This tax
3 shall be due and payable as of the date of entry
4 of the products into interstate or foreign
5 commerce, whether the products are then sold or
6 not. The department shall determine the basis
7 for assessment, as provided by this paragraph, as
8 follows:

- 9 (i) If the products at the time of their entry
10 into interstate or foreign commerce already
11 have been sold, the gross proceeds of sale,
12 less the transportation expenses, if any,
13 incurred in realizing the gross proceeds for
14 transportation from the time of entry of the
15 products into interstate or foreign
16 commerce, including insurance and storage in
17 transit, shall be the measure of the value
18 of the products;
- 19 (ii) If the products have not been sold at the
20 time of their entry into interstate or
21 foreign commerce, and in cases governed by
22 clause (i) in which the products are sold



1 under circumstances such that the gross
2 proceeds of sale are not indicative of the
3 true value of the products, the value of the
4 products constituting the basis for
5 assessment shall correspond as nearly as
6 possible to the gross proceeds of sales for
7 delivery outside the State, adjusted as
8 provided in clause (i), or if sufficient
9 data are not available, sales in the State,
10 of similar products of like quality and
11 character and in similar quantities, made by
12 the taxpayer (unless not indicative of the
13 true value) or by others. Sales outside the
14 State, adjusted as provided in clause (i),
15 may be considered when they constitute the
16 best available data. The department shall
17 prescribe uniform and equitable rules for
18 ascertaining the values;

19 (iii) At the election of the taxpayer and with the
20 approval of the department, the taxpayer may
21 make the taxpayer's returns under clause (i)
22 even though the products have not been sold



1 at the time of their entry into interstate
2 or foreign commerce; and

3 (iv) In all cases in which products leave the
4 State in an unfinished condition, the basis
5 for assessment shall be adjusted so as to
6 deduct the portion of the value as is
7 attributable to the finishing of the goods
8 outside the State.

9 (2) Tax on business of selling tangible personal property;
10 producing.

11 (A) Upon every person engaging or continuing in the
12 business of selling any tangible personal
13 property whatsoever (not including, however,
14 bonds or other evidence of indebtedness, or
15 stocks), there is likewise hereby levied, and
16 shall be assessed and collected, a tax equivalent
17 to [~~four~~] 4.5 per cent of the gross proceeds of
18 sales of the business; provided that insofar as
19 the sale of tangible personal property is a
20 wholesale sale under section [†]237-4(a)(8)[†],
21 the sale shall be subject to section 237-13.3.

22 Upon every person engaging or continuing within



1 this State in the business of a producer, the tax
2 shall be equal to one-half of one per cent of the
3 gross proceeds of sales of the business, or the
4 value of the products, for sale, if sold for
5 delivery outside the State or shipped or
6 transported out of the State, and the value of
7 the products shall be determined in the same
8 manner as the value of manufactured products
9 covered in the cases under paragraph (1)(C).

10 (B) Gross proceeds of sales of tangible property in
11 interstate and foreign commerce shall constitute
12 a part of the measure of the tax imposed on
13 persons in the business of selling tangible
14 personal property, to the extent, under the
15 conditions, and in accordance with the provisions
16 of the Constitution of the United States and the
17 Acts of the Congress of the United States which
18 may be now in force or may be hereafter adopted,
19 and whenever there occurs in the State an
20 activity to which, under the Constitution and
21 Acts of Congress, there may be attributed gross



1 proceeds of sales, the gross proceeds shall be so
2 attributed.

3 (C) No manufacturer or producer, engaged in such
4 business in the State and selling the
5 manufacturer's or producer's products for
6 delivery outside of the State (for example,
7 consigned to a mainland purchaser via common
8 carrier f.o.b. Honolulu), shall be required to
9 pay the tax imposed in this chapter for the
10 privilege of so selling the products, and the
11 value or gross proceeds of sales of the products
12 shall be included only in determining the measure
13 of the tax imposed upon the manufacturer or
14 producer.

15 (D) When a manufacturer or producer, engaged in such
16 business in the State, also is engaged in selling
17 the manufacturer's or producer's products in the
18 State at wholesale, retail, or in any other
19 manner, the tax for the privilege of engaging in
20 the business of selling the products in the State
21 shall apply to the manufacturer or producer as
22 well as the tax for the privilege of



1 manufacturing or producing in the State, and the
2 manufacturer or producer shall make the returns
3 of the gross proceeds of the wholesale, retail,
4 or other sales required for the privilege of
5 selling in the State, as well as making the
6 returns of the value or gross proceeds of sales
7 of the products required for the privilege of
8 manufacturing or producing in the State. The
9 manufacturer or producer shall pay the tax
10 imposed in this chapter for the privilege of
11 selling its products in the State, and the value
12 or gross proceeds of sales of the products, thus
13 subjected to tax, may be deducted insofar as
14 duplicated as to the same products by the measure
15 of the tax upon the manufacturer or producer for
16 the privilege of manufacturing or producing in
17 the State; provided that no producer of
18 agricultural products who sells the products to a
19 purchaser who will process the products outside
20 the State shall be required to pay the tax
21 imposed in this chapter for the privilege of
22 producing or selling those products.



1 (E) A taxpayer selling to a federal cost-plus
2 contractor may make the election provided for by
3 paragraph (3)(C), and in that case the tax shall
4 be computed pursuant to the election,
5 notwithstanding this paragraph or paragraph (1)
6 to the contrary.

7 (F) The department, by rule, may require that a
8 seller take from the purchaser of tangible
9 personal property a certificate, in a form
10 prescribed by the department, certifying that the
11 sale is a sale at wholesale; provided that:

12 (i) Any purchaser who furnishes a certificate
13 shall be obligated to pay to the seller,
14 upon demand, the amount of the additional
15 tax that is imposed upon the seller whenever
16 the sale in fact is not at wholesale; and

17 (ii) The absence of a certificate in itself shall
18 give rise to the presumption that the sale
19 is not at wholesale unless the sales of the
20 business are exclusively at wholesale.

21 (3) Tax upon contractors.



- 1 (A) Upon every person engaging or continuing within
- 2 the State in the business of contracting, the tax
- 3 shall be equal to [~~four~~] 4.5 per cent of the
- 4 gross income of the business.

- 5 (B) In computing the tax levied under this paragraph,
- 6 there shall be deducted from the gross income of
- 7 the taxpayer so much thereof as has been included
- 8 in the measure of the tax levied under
- 9 subparagraph (A), on:
 - 10 (i) Another taxpayer who is a contractor, as
 - 11 defined in section 237-6;
 - 12 (ii) A specialty contractor, duly licensed by the
 - 13 department of commerce and consumer affairs
 - 14 pursuant to section 444-9, in respect of the
 - 15 specialty contractor's business; or
 - 16 (iii) A specialty contractor who is not licensed
 - 17 by the department of commerce and consumer
 - 18 affairs pursuant to section 444-9, but who
 - 19 performs contracting activities on federal
 - 20 military installations and nowhere else in
 - 21 this State;



1 provided that any person claiming a deduction
2 under this paragraph shall be required to show in
3 the person's return the name and general excise
4 number of the person paying the tax on the amount
5 deducted by the person.

6 (C) In computing the tax levied under this paragraph
7 against any federal cost-plus contractor, there
8 shall be excluded from the gross income of the
9 contractor so much thereof as fulfills the
10 following requirements:

11 (i) The gross income exempted shall constitute
12 reimbursement of costs incurred for
13 materials, plant, or equipment purchased
14 from a taxpayer licensed under this chapter,
15 not exceeding the gross proceeds of sale of
16 the taxpayer on account of the transaction;
17 and

18 (ii) The taxpayer making the sale shall have
19 certified to the department that the
20 taxpayer is taxable with respect to the
21 gross proceeds of the sale, and that the
22 taxpayer elects to have the tax on gross



1 income computed the same as upon a sale to
2 the state government.

3 (D) A person who, as a business or as a part of a
4 business in which the person is engaged, erects,
5 constructs, or improves any building or
6 structure, of any kind or description, or makes,
7 constructs, or improves any road, street,
8 sidewalk, sewer, or water system, or other
9 improvements on land held by the person (whether
10 held as a leasehold, fee simple, or otherwise),
11 upon the sale or other disposition of the land or
12 improvements, even if the work was not done
13 pursuant to a contract, shall be liable to the
14 same tax as if engaged in the business of
15 contracting, unless the person shows that at the
16 time the person was engaged in making the
17 improvements the person intended, and for the
18 period of at least one year after completion of
19 the building, structure, or other improvements
20 the person continued to intend to hold and not
21 sell or otherwise dispose of the land or
22 improvements. The tax in respect of the



1 improvements shall be measured by the amount of
2 the proceeds of the sale or other disposition
3 that is attributable to the erection,
4 construction, or improvement of such building or
5 structure, or the making, constructing, or
6 improving of the road, street, sidewalk, sewer,
7 or water system, or other improvements. The
8 measure of tax in respect of the improvements
9 shall not exceed the amount which would have been
10 taxable had the work been performed by another,
11 subject as in other cases to the deductions
12 allowed by subparagraph (B). Upon the election
13 of the taxpayer, this paragraph may be applied
14 notwithstanding that the improvements were not
15 made by the taxpayer, or were not made as a
16 business or as a part of a business, or were made
17 with the intention of holding the same. However,
18 this paragraph shall not apply in respect of any
19 proceeds that constitute or are in the nature of
20 rent; all such gross income shall be taxable
21 under paragraph (9); provided that insofar as the
22 business of renting or leasing real property



1 under a lease is taxed under section 237-16.5,
2 the tax shall be levied by section 237-16.5.

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

5 (A) Upon every person engaging or continuing within
6 the State in the business of operating a theater,
7 opera house, moving picture show, vaudeville,
8 amusement park, dance hall, skating rink, radio
9 broadcasting station, or any other place at which
10 amusements are offered to the public, the tax
11 shall be equal to [~~four~~] 4.5 per cent of the
12 gross income of the business, and in the case of
13 a sale of an amusement at wholesale under section
14 237-4(a)(13), the tax shall be subject to section
15 237-13.3.

16 (B) The department may require that the person
17 rendering an amusement at wholesale take from the
18 licensed seller a certificate, in a form
19 prescribed by the department, certifying that the
20 sale is a sale at wholesale; provided that:

21 (i) Any licensed seller who furnishes a
22 certificate shall be obligated to pay to the



1 person rendering the amusement, upon demand,
2 the amount of additional tax that is imposed
3 upon the seller whenever the sale is not at
4 wholesale; and

5 (ii) The absence of a certificate in itself shall
6 give rise to the presumption that the sale
7 is not at wholesale unless the person
8 rendering the sale is exclusively rendering
9 the amusement at wholesale.

10 (5) Tax upon sales representatives, etc. Upon every
11 person classified as a representative or purchasing
12 agent under section 237-1, engaging or continuing
13 within the State in the business of performing
14 services for another, other than as an employee, there
15 is likewise hereby levied and shall be assessed and
16 collected a tax equal to [~~four~~] 4.5 per cent of the
17 commissions and other compensation attributable to the
18 services so rendered by the person.

19 (6) Tax on service business.

20 (A) Upon every person engaging or continuing within
21 the State in any service business or calling
22 including professional services not otherwise



1 specifically taxed under this chapter, there is
2 likewise hereby levied and shall be assessed and
3 collected a tax equal to [~~four~~] 4.5 per cent of
4 the gross income of the business, and in the case
5 of a wholesaler under section 237-4(a)(10), the
6 tax shall be equal to one-half of one per cent of
7 the gross income of the business.

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

11 (B) The department may require that the person
12 rendering a service at wholesale take from the
13 licensed seller a certificate, in a form
14 prescribed by the department, certifying that the
15 sale is a sale at wholesale; provided that:

16 (i) Any licensed seller who furnishes a
17 certificate shall be obligated to pay to the
18 person rendering the service, upon demand,
19 the amount of additional tax that is imposed
20 upon the seller whenever the sale is not at
21 wholesale; and



1 (ii) The absence of a certificate in itself shall
2 give rise to the presumption that the sale
3 is not at wholesale unless the person
4 rendering the sale is exclusively rendering
5 services at wholesale.

6 (C) Where any person is engaged in the business of
7 selling interstate or foreign common carrier
8 telecommunication services within and without the
9 State, other than as a home service provider, the
10 tax shall be imposed on that portion of gross
11 income received by a person from service which is
12 originated or terminated in this State and is
13 charged to a telephone number, customer, or
14 account in this State notwithstanding any other
15 state law (except for the exemption under section
16 237-23(a)(1)) to the contrary. If, under the
17 Constitution and laws of the United States, the
18 entire gross income as determined under this
19 paragraph of a business selling interstate or
20 foreign common carrier telecommunication services
21 cannot be included in the measure of the tax, the
22 gross income shall be apportioned as provided in



1 section 237-21; provided that the apportionment
2 factor and formula shall be the same for all
3 persons providing those services in the State.

4 (D) Where any person is engaged in the business of a
5 home service provider, the tax shall be imposed
6 on the gross income received or derived from
7 providing interstate or foreign mobile
8 telecommunications services to a customer with a
9 place of primary use in this State when such
10 services originate in one state and terminate in
11 another state, territory, or foreign country;
12 provided that all charges for mobile
13 telecommunications services which are billed by
14 or for the home service provider are deemed to be
15 provided by the home service provider at the
16 customer's place of primary use, regardless of
17 where the mobile telecommunications originate,
18 terminate, or pass through; provided further that
19 the income from charges specifically derived from
20 interstate or foreign mobile telecommunications
21 services, as determined by books and records that
22 are kept in the regular course of business by the



1 home service provider in accordance with section
2 239-24, shall be apportioned under any
3 apportionment factor or formula adopted under
4 subparagraph (C). Gross income shall not
5 include:

6 (i) Gross receipts from mobile
7 telecommunications services provided to a
8 customer with a place of primary use outside
9 this State;

10 (ii) Gross receipts from mobile
11 telecommunications services that are subject
12 to the tax imposed by chapter 239;

13 (iii) Gross receipts from mobile
14 telecommunications services taxed under
15 section 237-13.8; and

16 (iv) Gross receipts of a home service provider
17 acting as a serving carrier providing mobile
18 telecommunications services to another home
19 service provider's customer.

20 For the purposes of this paragraph, "charges for
21 mobile telecommunications services", "customer",
22 "home service provider", "mobile



1 telecommunications services", "place of primary
2 use", and "serving carrier" have the same meaning
3 as in section 239-22.

4 (7) Tax on insurance producers. Upon every person engaged
5 as a licensed producer pursuant to chapter 431, there
6 is hereby levied and shall be assessed and collected a
7 tax equal to 0.15 per cent of the commissions due to
8 that activity.

9 (8) Tax on receipts of sugar benefit payments. Upon the
10 amounts received from the United States government by
11 any producer of sugar (or the producer's legal
12 representative or heirs), as defined under and by
13 virtue of the Sugar Act of 1948, as amended, or other
14 Acts of the Congress of the United States relating
15 thereto, there is hereby levied a tax of one-half of
16 one per cent of the gross amount received; provided
17 that the tax levied hereunder on any amount so
18 received and actually disbursed to another by a
19 producer in the form of a benefit payment shall be
20 paid by the person or persons to whom the amount is
21 actually disbursed, and the producer actually making a
22 benefit payment to another shall be entitled to claim



1 on the producer's return a deduction from the gross
2 amount taxable hereunder in the sum of the amount so
3 disbursed. The amounts taxed under this paragraph
4 shall not be taxable under any other paragraph,
5 subsection, or section of this chapter.

6 (9) Tax on other business. Upon every person engaging or
7 continuing within the State in any business, trade,
8 activity, occupation, or calling not included in the
9 preceding paragraphs or any other provisions of this
10 chapter, there is likewise hereby levied and shall be
11 assessed and collected, a tax equal to [~~four~~] 4.5 per
12 cent of the gross income thereof. In addition, the
13 rate prescribed by this paragraph shall apply to a
14 business taxable under one or more of the preceding
15 paragraphs or other provisions of this chapter, as to
16 any gross income thereof not taxed thereunder as gross
17 income or gross proceeds of sales or by taxing an
18 equivalent value of products, unless specifically
19 exempted."

20 SECTION 3. Section 237-15, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "**§237-15 Technicians.** When technicians supply dentists or
2 physicians with dentures, orthodontic devices, braces, and
3 similar items [~~which~~] that have been prepared by the technician
4 in accordance with specifications furnished by the dentist or
5 physician, and [~~such~~] the items are to be used by the dentist or
6 physician in the dentist's or physician's professional practice
7 for a particular patient who is to pay the dentist or physician
8 for the same as a part of the dentist's or physician's
9 professional services, the technician shall be taxed as though
10 the technician were a manufacturer selling a product to a
11 licensed retailer, rather than at the rate of [~~four~~] 4.5 per
12 cent [~~which~~] that is generally applied to professions and
13 services."

14 SECTION 4. Section 237-16.5, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) This section relates to the leasing of real property
17 by a lessor to a lessee. There is hereby levied, and shall be
18 assessed and collected annually, a privilege tax against persons
19 engaging or continuing within the State in the business of
20 leasing real property to another, equal to [~~four~~] 4.5 per cent
21 of the gross proceeds or gross income received or derived from
22 the leasing; provided that where real property is subleased by a



1 lessee to a sublessee, the lessee, as provided in this section,
2 shall be allowed a deduction from the amount of gross proceeds
3 or gross income received from its sublease of the real property.
4 The deduction shall be in the amount allowed under this section.

5 All deductions under this section and the name and general
6 excise tax number of the lessee's lessor shall be reported on
7 the general excise tax return. Any deduction allowed under this
8 section shall only be allowed with respect to leases and
9 subleases in writing and relating to the same real property."

10 SECTION 5. Section 237-18, Hawaii Revised Statutes, is
11 amended by amending subsection (f) to read as follows:

12 "(f) Where tourism related services are furnished through
13 arrangements made by a travel agency or tour packager and the
14 gross income is divided between the provider of the services and
15 the travel agency or tour packager, the tax imposed by this
16 chapter shall apply to each [~~sueh~~] person with respect to [~~sueh~~]
17 the person's respective portion of the proceeds, and no more.

18 As used in this subsection, "tourism related services"
19 means catamaran cruises, canoe rides, dinner cruises, lei
20 greetings, transportation included in a tour package,
21 sightseeing tours not subject to chapter 239, admissions to
22 luaus, dinner shows, extravaganzas, cultural and educational



1 facilities, and other services rendered directly to the customer
2 or tourist, but only if the providers of the services other than
3 air transportation are subject to a [~~four~~] 4.5 per cent tax
4 under this chapter or chapter 239."

5 SECTION 6. Section 238-2, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§238-2 Imposition of tax on tangible personal property;**
8 **exemptions.** There is hereby levied an excise tax on the use in
9 this State of tangible personal property which is imported by a
10 taxpayer in this State whether owned, purchased from an
11 unlicensed seller, or however acquired for use in this State.
12 The tax imposed by this chapter shall accrue when the property
13 is acquired by the importer or purchaser and becomes subject to
14 the taxing jurisdiction of the State. The rates of the tax
15 hereby imposed and the exemptions thereof are as follows:

16 (1) If the importer or purchaser is licensed under chapter
17 237 and is:

18 (A) A wholesaler or jobber importing or purchasing
19 for purposes of sale or resale; or

20 (B) A manufacturer importing or purchasing material
21 or commodities which are to be incorporated by
22 the manufacturer into a finished or saleable



1 product (including the container or package in
2 which the product is contained) wherein it will
3 remain in such form as to be perceptible to the
4 senses, and which finished or saleable product is
5 to be sold in such manner as to result in a
6 further tax on the activity of the manufacturer
7 as the manufacturer or as a wholesaler, and not
8 as a retailer,

9 there shall be no tax; provided that if the
10 wholesaler, jobber, or manufacturer is also engaged in
11 business as a retailer (so classed under chapter 237),
12 paragraph (2) shall apply to the wholesaler, jobber,
13 or manufacturer, but the director of taxation shall
14 refund to the wholesaler, jobber, or manufacturer, in
15 the manner provided under section 231-23(c) such
16 amount of tax as the wholesaler, jobber, or
17 manufacturer shall, to the satisfaction of the
18 director, establish to have been paid by the
19 wholesaler, jobber, or manufacturer to the director
20 with respect to property which has been used by the
21 wholesaler, jobber, or manufacturer for the purposes
22 stated in this paragraph;



- 1 (2) If the importer or purchaser is licensed under chapter
2 237 and is:
- 3 (A) A retailer or other person importing or
4 purchasing for purposes of sale or resale, not
5 exempted by paragraph (1);
- 6 (B) A manufacturer importing or purchasing material
7 or commodities which are to be incorporated by
8 the manufacturer into a finished or saleable
9 product (including the container or package in
10 which the product is contained) wherein it will
11 remain in such form as to be perceptible to the
12 senses, and which finished or saleable product is
13 to be sold at retail in this State, in such
14 manner as to result in a further tax on the
15 activity of the manufacturer in selling such
16 products at retail;
- 17 (C) A contractor importing or purchasing material or
18 commodities which are to be incorporated by the
19 contractor into the finished work or project
20 required by the contract and which will remain in
21 such finished work or project in such form as to
22 be perceptible to the senses;



1 (D) A person engaged in a service business or calling
2 as defined in section 237-7, or a person
3 furnishing transient accommodations subject to
4 the tax imposed by section 237D-2, in which the
5 import or purchase of tangible personal property
6 would have qualified as a sale at wholesale as
7 defined in section 237-4(a)(8) had the seller of
8 the property been subject to the tax in chapter
9 237; or

10 (E) A publisher of magazines or similar printed
11 materials containing advertisements, when the
12 publisher is under contract with the advertisers
13 to distribute a minimum number of magazines or
14 similar printed materials to the public or
15 defined segment of the public, whether or not
16 there is a charge to the persons who actually
17 receive the magazines or similar printed
18 materials,

19 the tax shall be one-half of one per cent of the
20 purchase price of the property, if the purchase and
21 sale are consummated in Hawaii; or, if there is no
22 purchase price applicable thereto, or if the purchase



1 or sale is consummated outside of Hawaii, then one-
2 half of one per cent of the value of such property;
3 and

4 (3) In all other cases, [~~four~~] 4.5 per cent of the value
5 of the property.

6 For purposes of this section, tangible personal property is
7 property that is imported by the taxpayer for use in this State,
8 notwithstanding the fact that title to the property, or the risk
9 of loss to the property, passes to the purchaser of the property
10 at a location outside this State."

11 SECTION 7. Section 238-2.3, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§238-2.3 Imposition of tax on imported services or**
14 **contracting; exemptions.** There is hereby levied an excise tax
15 on the value of services or contracting as defined in section
16 237-6 that are performed by an unlicensed seller at a point
17 outside the State and imported or purchased for use in this
18 State. The tax imposed by this chapter shall accrue when the
19 service or contracting as defined in section 237-6 is received
20 by the importer or purchaser and becomes subject to the taxing
21 jurisdiction of the State. The rates of the tax hereby imposed
22 and the exemptions from the tax are as follows:



- 1 (1) If the importer or purchaser is licensed under chapter
2 237 and is:
- 3 (A) Engaged in a service business or calling in which
4 the imported or purchased services or contracting
5 become identifiable elements, excluding overhead,
6 of the services rendered by the importer or
7 purchaser, and the gross income of the importer
8 or purchaser is subject to the tax imposed under
9 chapter 237 on services at the rate of one-half
10 of one per cent or the rate of tax imposed under
11 section 237-13.3; or
- 12 (B) A manufacturer importing or purchasing services
13 or contracting that become identifiable elements,
14 excluding overhead, of a finished or saleable
15 product (including the container or package in
16 which the product is contained) and the finished
17 or saleable product is to be sold in a manner
18 that results in a further tax on the manufacturer
19 as a wholesaler, and not a retailer;
- 20 there shall be no tax imposed on the value of the
21 imported or purchased services or contracting;
22 provided that if the manufacturer is also engaged in



1 business as a retailer as classified under chapter
2 237, paragraph (2) shall apply to the manufacturer,
3 but the director of taxation shall refund to the
4 manufacturer, in the manner provided under section
5 231-23(c), that amount of tax that the manufacturer,
6 to the satisfaction of the director, shall establish
7 to have been paid by the manufacturer to the director
8 with respect to services that have been used by the
9 manufacturer for the purposes stated in this
10 paragraph.

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

13 (A) Engaged in a service business or calling in which
14 the imported or purchased services or contracting
15 become identifiable elements, excluding overhead,
16 of the services rendered by the importer or
17 purchaser, and the gross income from those
18 services when sold by the importer or purchaser
19 is subject to the tax imposed under chapter 237
20 at the highest rate;

21 (B) A manufacturer importing or purchasing services
22 or contracting that become identifiable elements,



1 excluding overhead, of the finished or saleable
2 manufactured product (including the container or
3 package in which the product is contained) and
4 the finished or saleable product is to be sold in
5 a manner that results in a further tax under
6 chapter 237 on the activity of the manufacturer
7 as a retailer; or

8 (C) A contractor importing or purchasing services or
9 contracting that become identifiable elements,
10 excluding overhead, of the finished work or
11 project required, under the contract, and where
12 the gross proceeds derived by the contractor are
13 subject to the tax under section 237-13(3) as a
14 contractor,

15 the tax shall be one-half of one per cent of the value
16 of the imported or purchased services or contracting;
17 and

18 (3) In all other cases, the importer or purchaser is
19 subject to the tax at the rate of [~~four~~] 4.5 per cent
20 on the value of the imported or purchased services or
21 contracting."



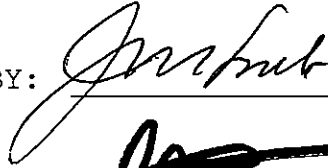
H.B. NO. 149

1 SECTION 8. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 9. This Act shall take effect on January 1, 2014.

4

INTRODUCED BY:



JAN 17 2013



H.B. NO. 149

Report Title:

General Excise Tax; Use Tax; Increase

Description:

Increases the general excise tax and use tax rates from 4% to 4.5%. Effective 01/01/2014.

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

