

JAN 18 2013

S.B. NO. 352

A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1: Section 237-24.75, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§237-24.75 Additional exemptions.** In addition to the
4 amounts exempt under section 237-24, this chapter shall not
5 apply to:

6 (1) Amounts received as a beverage container deposit
7 collected under chapter 342G, part VIII;
8 (2) Amounts received by the operator of the Hawaii
9 convention center for reimbursement of costs or
10 advances made pursuant to a contract with the Hawaii
11 tourism authority under section 201B-7 ~~[+ and]~~;

12 [+] (3) Amounts received[+] by a professional employment
13 organization from a client company equal to amounts
14 that are disbursed by the professional employment
15 organization for employee wages, salaries, payroll
16 taxes, insurance premiums, and benefits, including
17 retirement, vacation, sick leave, health benefits, and
18 similar employment benefits with respect to assigned



1 employees at a client company; provided that this
2 exemption shall not apply to a professional employment
3 organization upon failure of the professional
4 employment organization to collect, account for, and
5 pay over any income tax withholding for assigned
6 employees or any federal or state taxes for which the
7 professional employment organization is responsible.

8 As used in this paragraph, "professional employment
9 organization", "client company", and "assigned
10 employee" shall have the meanings provided in section
11 373K-1[-]; and

12 (4) Amounts received by a transferor as proceeds from the
13 sale of a non-new motor vehicle currently registered
14 in the State of Hawaii; provided that the sale:

15 (A) Is not an open title transaction;

16 (B) Is not a transaction where less than one hundred
17 eighty days have elapsed from the date of
18 issuance of the certificate of ownership to the
19 prior registered owner to the date of application
20 for registration in the name of the new
21 registered owner;

22 (C) Occurs through a licensed motor vehicle auction;



1 (D) Involves a sale by a dealer licensed to sell
2 motor vehicles under chapter 437 and the sales
3 transaction documents show that a tax imposed
4 under this chapter has been paid to such dealer;

5 (E) Involves the transfer of a motor vehicle having a
6 value, as determined under section 286-52, of not
7 more than \$1,000; or

8 (F) Involves a sale by a casual seller.

9 As used in this paragraph:

10 "Casual seller" means a person that is not required to have
11 a license under section 237-9 and who in any calendar year
12 transfers fewer than three motor vehicles for consideration.

13 The establishment of casual seller status as to any transaction
14 shall require the transferor and transferee to appear at the
15 same time before the department of taxation.

16 "Non-new motor vehicle" means a motor vehicle that has at
17 least one newer model year in operation or has been in regular
18 use for the past one hundred eighty days and is currently
19 registered to an individual owner.

20 "Open title transaction" means any transfer of an ownership
21 interest in a motor vehicle where the transferor is neither the



1 registered owner nor the legal owner of the motor vehicle as
2 shown on the certificate of title.

3 "Transferor" means the person or entity who receives
4 consideration for the transfer of ownership of a motor vehicle,
5 regardless of whether the person or entity appears on the
6 certificate of title for the motor vehicle as the registered or
7 legal owner."

8 SECTION 2. Section 237-31, Hawaii Revised Statutes, is
9 amended to read as follows:

10 **"§237-31 Remittances.** All remittances of taxes imposed by
11 this chapter shall be made by money, bank draft, check,
12 cashier's check, money order, or certificate of deposit to the
13 office of the department of taxation to which the return was
14 transmitted. The department shall issue its receipts therefor
15 to the taxpayer and shall pay the moneys into the state treasury
16 as a state realization, to be kept and accounted for as provided
17 by law; provided that:

- 18 (1) The sum from all general excise tax revenues realized
19 by the State that represents the difference between
20 \$45,000,000 and the proceeds from the sale of any
21 general obligation bonds authorized for that fiscal
22 year for the purposes of the state educational



1 facilities improvement special fund shall be deposited
2 in the state treasury in each fiscal year to the
3 credit of the state educational facilities improvement
4 special fund;

5 (2) A sum, not to exceed \$5,000,000, from all general
6 excise tax revenues realized by the State shall be
7 deposited in the state treasury in each fiscal year to
8 the credit of the compound interest bond reserve fund;
9 [and]

10 (3) A sum from all general excise tax revenues realized by
11 the State that is equal to one-half of the total
12 amount of funds appropriated or transferred out of the
13 hurricane reserve trust fund under sections 4 and 5 of
14 Act 62, Session Laws of Hawaii 2011, shall be
15 deposited into the hurricane reserve trust fund in
16 fiscal year 2013-2014 and in fiscal year 2014-2015;
17 provided that the deposit required in each fiscal year
18 shall be made by October 1 of that fiscal year[-]; and

19 (4) The sum from all general excise tax revenues realized
20 by the State as a result of non-new motor vehicle
21 sales, other than sales exempt from the tax pursuant



1 to section 237-24.75(a)(4), shall be deposited as
2 follows:
3 (A) per cent to the credit of the department of
4 taxation;
5 (B) per cent to the county treasury of the
6 county where the transaction occurs; and
7 (C) Any excess balance to the state treasury as a
8 state realization."

9 SECTION 3. Section 286-52, Hawaii Revised Statutes, is
10 amended as follows:

11 1. By amending subsection (a) to read:

12 "(a) Upon a transfer of the title or interest of a legal
13 owner in or to a vehicle registered under this part, the person
14 whose title or interest is to be transferred and the transferee
15 shall write their signatures with pen and ink upon the
16 certificate of ownership issued for the vehicle, together with
17 the address of the transferee in the appropriate space provided
18 upon the certificate. As a condition of the transfer of title
19 or interest of a legal owner, payment of the tax imposed by
20 section 237-13(2)(A) shall be required. Notwithstanding section
21 237-13(2)(A) to the contrary, the tax shall be levied on the
22 greater of the amount of:



- 1 (1) The consideration exchanged for ownership of the
- 2 vehicle as shown on the notice described in subsection
- 3 (j); or
- 4 (2) The retail value of the motor vehicle as shown in the
- 5 Kelley Blue Book or similar authority for valuation of
- 6 motor vehicles.

7 In lieu of payment of the tax imposed by section 237-13(2)(A),
8 an applicant for transfer of ownership of a motor vehicle may
9 present a certificate from the department of taxation showing
10 that the transaction is exempt pursuant to section
11 237-24.75(a)(4). The department of motor vehicles shall
12 maintain the certificate as part of the documentation of the
13 registration."

14 2. By amending subsection (j) to read:

15 "(j) Every person, other than a dealer, upon transferring

16 a motor vehicle, whether by sale, lease, or otherwise, shall

17 within ten days give notice of the transfer to the director of

18 finance upon the official form provided by the director of

19 finance. Every notice shall contain the date of transfer, the

20 names and addresses of the transferor and transferee, the

21 purchase price of the vehicle, and such description of the

22 vehicle as may be called for in the official form. Any person



1 who violates this subsection shall be fined not more than \$100.
2 For purposes of verification of general excise tax return
3 filings, including the applicability of any exemption pursuant
4 to section 237-24.75(a)(4), the department of motor vehicles of
5 a county that receives a notice pursuant to this subsection
6 shall provide the transferor's name and address to the
7 department of taxation."

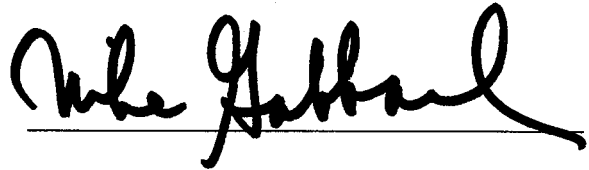
8 SECTION 4. This Act does not affect rights and duties that
9 matured, penalties that were incurred, and proceedings that were
10 begun before its effective date.

11 SECTION 5. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 6. This Act shall take effect upon its approval.

14

INTRODUCED BY:



Report Title:

Motor Vehicle Excise Tax; Exemption; Motor Vehicle Registration;
Counties

Description:

Exempts certain sales of non-new motor vehicles currently registered in the State from the general excise tax. Requires an unspecified percentage of the sum of all general excise tax revenues from non-exempt motor vehicle sales to be deposited with the county where the motor vehicle sale occurred. Requires a county DMV to collect the general excise tax on vehicle sales. Requires the county DMV to provide the transferor's name and address to DOTAX.

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

