
A BILL FOR AN ACT

RELATING TO THE GENERAL EXCISE TAX.

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

1 SECTION 1. Chapter 237, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§237- Amounts taxable at one-half of one per cent.

5 This chapter shall apply to the following at a rate of one-half
6 of one percent:

7 (1) Casual sales not classified as "business" under
8 section 237-2;

9 (2) Gross receipts from the sale of securities as defined
10 in 15 United States Code section 78c or similar laws
11 of jurisdictions outside the United States, contracts
12 for the sale of a commodity for future delivery and
13 other agreements, options, and rights as defined in 7
14 United States Code section 2 that are permitted to be
15 traded on a board of trade designated by the
16 Commodities Futures Trading Commission under the
17 Commodity Exchange Act, or evidence of indebtedness
18 or, except as otherwise provided;



- 1 (3) Gross receipts from the sale of land in fee simple,
2 improved or unimproved;
- 3 (4) Gross receipts from dividends as defined by chapter
4 235;
- 5 (5) Amounts received under life insurance policies and
6 contracts paid by reason of the death of the insured;
- 7 (6) Amounts received (other than amounts paid by reason of
8 death of the insured) under life insurance, endowment,
9 or annuity contracts, either during the term or at
10 maturity or upon surrender of the contract;
- 11 (7) Amounts received under any accident insurance or
12 health insurance policy or contract or under workers'
13 compensation acts or employers' liability acts, as
14 compensation for personal injuries, death, or
15 sickness, including also the amount of any damages or
16 other compensation received, whether as a result of
17 action or by private agreement between the parties on
18 account of the personal injuries, death, or sickness;
- 19 (8) Amounts received by any person as compensatory damages
20 for any tort injury to the person, or to the person's
21 character reputation, or received as compensatory
22 damages for any tort injury to or destruction of



1 property, whether as the result of action or by
2 private agreement between the parties (provided that
3 amounts received as punitive damages for tort injury
4 or breach of contract injury shall be included in
5 gross income);

6 (9) Amounts received as alimony and other similar payments
7 and settlements;

8 (10) Amounts received by a producer of sugarcane from the
9 manufacturer to whom the producer sells the sugarcane,
10 where:

11 (A) The producer is an independent cane farmer, so
12 classed by the Secretary of Agriculture under the
13 Sugar Act of 1948 (61 Stat. 922, Chapter 519) as
14 the Act may be amended or supplemented;

15 (B) The value or gross proceeds of the sale of the
16 sugar, and other products manufactured from the
17 sugarcane, are included in the measure of the tax
18 levied on the manufacturer under section 237-
19 13(1) or (2);

20 (C) The producer's gross proceeds of sales are
21 dependent upon the actual value of the products
22 manufactured therefrom or the average value of



- 1 all similar products manufactured by the
2 manufacturer; and
- 3 (D) The producer's gross proceeds of sales are
4 reduced by reason of the tax on the value or sale
5 of the manufactured products;
- 6 (11) Amounts received by a managed care support contractor
7 of the TRICARE program that is established under title
8 10 United States Code chapter 55, as amended, for the
9 actual cost or advancement to third party health care
10 providers pursuant to a contract with the United
11 States;
- 12 (12) Amounts received from the loading, transportation, and
13 unloading of agricultural commodities shipped for a
14 producer or produce dealer on one island of this State
15 to a person, firm, or organization on another island
16 of this State. The terms "agricultural commodity",
17 "producer", and "produce dealer" shall be defined in
18 the same manner as they are defined in section 147-1;
19 provided that agricultural commodities need not have
20 been produced in the State;
- 21 (13) Amounts received by an employee benefit plan by way of
22 contributions, dividends, interest, and other income;



1 and amounts received by a nonprofit organization or
2 office, as payments for costs and expenses incurred
3 for the administration of an employee benefit plan;
4 provided that this exemption shall not apply to any
5 gross rental income or gross rental proceeds received
6 after June 30, 1994, as income from investments in
7 real property in this State; and provided further that
8 gross rental income or gross rental proceeds from
9 investments in real property received by an employee
10 benefit plan after June 30, 1994, under written
11 contracts executed prior to July 1, 1994, shall not be
12 taxed until the contracts are renegotiated, renewed,
13 or extended, or until after December 31, 1998,
14 whichever is earlier. For the purposes of this
15 paragraph, "employee benefit plan" means any plan as
16 defined in section 1002(3) of title 29 of the United
17 States Code, as amended;

18 (14) Amounts received for purchases made with United States
19 Department of Agriculture food coupons under the
20 federal food stamp program, and amounts received for
21 purchases made with United States Department of
22 Agriculture food vouchers under the Special



1 Supplemental Foods Program for Women, Infants and
2 Children;

3 (15) Amounts received by a hospital, infirmary, medical
4 clinic, health care facility, pharmacy, or a
5 practitioner licensed to administer the drug to an
6 individual for selling prescription drugs or
7 prosthetic devices to an individual; provided that
8 this paragraph shall not apply to any amounts received
9 for services provided in selling prescription drugs or
10 prosthetic devices. As used in this paragraph:

11 "Prescription drugs" are those drugs defined
12 under section 328-1 and dispensed by filling or
13 refilling a written or oral prescription by a
14 practitioner licensed under law to administer the drug
15 and sold by a licensed pharmacist under section 328-16
16 or practitioners licensed to administer drugs.

17 "Prosthetic device" means any artificial device
18 or appliance, instrument, apparatus, or contrivance,
19 including their components, parts, accessories, and
20 replacements thereof, used to replace a missing or
21 surgically removed part of the human body, which is
22 prescribed by a licensed practitioner of medicine,



1 osteopathy, or podiatry and which is sold by the
2 practitioner or which is dispensed and sold by a
3 dealer of prosthetic devices; provided that
4 "prosthetic device" shall not mean any auditory,
5 ophthalmic, dental, or ocular device or appliance,
6 instrument, apparatus, or contrivance;

7 (16) Amounts received as dues by an unincorporated
8 merchants association from its membership for
9 advertising media, promotional, and advertising costs
10 for the promotion of the association for the benefit
11 of its members as a whole and not for the benefit of
12 an individual member or group of members less than the
13 entire membership;

14 (17) Amounts received from foreign diplomats and consular
15 officials who are holding cards issued or authorized
16 by the United States Department of State granting them
17 an exemption from state taxes;

18 (18) Amounts received by the operator of orchard properties
19 from the owner of the orchard property in amounts
20 equal to and which are disbursed by the operator for
21 employee wages, salaries, payroll taxes, insurance
22 premiums, and benefits, including retirement,



1 vacation, sick pay, and health benefits. As used in
2 this paragraph:

3 "Employee" means an employee directly engaged in
4 the day-to-day operations of the orchard properties
5 and employed by the operator.

6 "Operator" means a producer who, pursuant to a
7 written contract with the owner of the orchard
8 property, operates or manages the orchard property for
9 the owner where the property contains an area
10 sufficient to make the undertaking economically
11 feasible.

12 "Orchard property" means any real property that
13 is used to raise trees with a production life cycle of
14 fifteen years or more producing fruits or nuts having
15 a normal period of development from the initial
16 planting to the first commercially saleable harvest of
17 not less than three years.

18 "Owner" means a fee owner or lessee under a
19 recorded lease of orchard property;

20 (19) Tangible personal property sold by any person licensed
21 under this chapter to the United States (including any
22 agency, instrumentality, or federal credit union



1 thereof but not including national banks), and to any
2 state-chartered credit union, but the person making
3 such sale shall nevertheless, within the meaning of
4 this chapter, be deemed a licensed seller; and
5 (20) Amounts received by an electric utility for the
6 payment of a green infrastructure fee or green
7 infrastructure charge."

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

10 "**§237-2 "Business", "engaging" in business, defined.**

11 "Business" as used in this chapter, includes all activities
12 (personal, professional, or corporate), engaged in or caused to
13 be engaged in with the object of gain or economic benefit either
14 direct or indirect [~~, but does not include casual sales~~].

15 The term "engaging" as used in this chapter with reference
16 to engaging or continuing in business also includes the exercise
17 of corporate or franchise powers."

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

20 "(b) The words "gross income" and "gross proceeds of
21 sales" shall not be construed to include: gross receipts from
22 [~~the sale of securities as defined in 15 United States Code~~



1 ~~section 78c or similar laws of jurisdictions outside the United~~
2 ~~States, contracts for the sale of a commodity for future~~
3 ~~delivery and other agreements, options, and rights as defined in~~
4 ~~7 United States Code section 2 that are permitted to be traded~~
5 ~~on a board of trade designated by the Commodities Futures~~
6 ~~Trading Commission under the Commodity Exchange Act, or evidence~~
7 ~~of indebtedness or, except as otherwise provided, from the sale~~
8 ~~of land in fee simple, improved or unimproved, dividends as~~
9 ~~defined by chapter 235;]~~ cash discounts allowed and taken on
10 sales; the proceeds of sale of goods, wares, or merchandise
11 returned by customers when the sale price is refunded either in
12 cash or by credit; or the sale price of any article accepted as
13 part payment on any new article sold, if the full sale price of
14 the new article is included in the "gross income" or "gross
15 proceeds of sales"; gross receipts from the sale or transfer of
16 materials or supplies, interest on loans, or the provision of
17 engineering, construction, maintenance, or managerial services
18 by one "member" of an "affiliated public service company group"
19 to another "member" of the same group as such terms are defined
20 in section 239-2. Accounts found to be worthless and actually
21 charged off for income tax purposes may be deducted, at
22 corresponding periods, from gross proceeds of sale, or gross



1 income, within this chapter, so far as they reflect taxable
2 sales made, or gross income earned, after July 1, 1935, but
3 shall be added to gross proceeds of sale or gross income when
4 and if afterwards collected."

5 SECTION 4. Section 237-16.8, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "[+]§237-16.8[+]—~~Exemption~~ Taxation of certain convention,
8 conference, and trade show fees. [~~In addition to any other~~
9 ~~applicable exemption provided under this chapter, there shall be~~
10 ~~exempted from the measure of taxes imposed by this chapter]~~
11 There shall be a tax of one-half of one per cent on all of the
12 value or gross income derived by a fraternal benefit, religious,
13 charitable, scientific, educational, or other nonprofit
14 organization under section 501(c) of the Internal Revenue Code
15 of 1986, as amended, from fees for convention, conference, or
16 trade show exhibit or display spaces; provided that the gross
17 proceeds of sales by a vendor through the use of exhibit or
18 display space at a conference, convention, or trade show shall
19 be subject to the imposition of the general excise tax under
20 section 237-13."

21 SECTION 5. Section 237-21, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "§237-21 Apportionment. If any person, other than persons
2 liable to the tax on manufacturers as provided by section 237-
3 13(1), is engaged in business both within and without the State
4 or in selling goods for delivery outside the State, and if under
5 the Constitution or laws of the United States [~~or section 237-~~
6 ~~29.5~~] the entire gross income of such person cannot be included
7 in the measure of this tax, there shall be apportioned to the
8 State and included in the measure of the tax that portion of the
9 gross income which is derived from activities within the State,
10 to the extent that the apportionment is required by the
11 Constitution or laws of the United States [~~or section 237-29.5~~].
12 In the case of a tax upon the production of property in the
13 State the apportionment shall be determined as in the case of
14 the tax on manufacturers. In other cases, if and to the extent
15 that the apportionment cannot be accurately made by separate
16 accounting methods, there shall be apportioned to the State and
17 included in the measure of this tax that proportion of the total
18 gross income, so requiring apportionment, which the cost of
19 doing business within the State, applicable to the gross income,
20 bears to the cost of doing business both within and without the
21 State, applicable to the gross income."



1 SECTION 6. Section 237-24, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§237-24 Amounts not taxable. This chapter shall not
4 apply to the following amounts:

- 5 ~~[(1) Amounts received under life insurance policies and~~
6 ~~contracts paid by reason of the death of the insured;~~
- 7 ~~(2) Amounts received (other than amounts paid by reason of~~
8 ~~death of the insured) under life insurance, endowment,~~
9 ~~or annuity contracts, either during the term or at~~
10 ~~maturity or upon surrender of the contract;~~
- 11 ~~(3) Amounts received under any accident insurance or~~
12 ~~health insurance policy or contract or under workers'~~
13 ~~compensation acts or employers' liability acts, as~~
14 ~~compensation for personal injuries, death, or~~
15 ~~sickness, including also the amount of any damages or~~
16 ~~other compensation received, whether as a result of~~
17 ~~action or by private agreement between the parties on~~
18 ~~account of the personal injuries, death, or sickness;~~
- 19 ~~(4)]~~ (1) The value of all property of every kind and sort
20 acquired by gift, bequest, or devise, and the value of
21 all property acquired by descent or inheritance;



- 1 ~~[(5) Amounts received by any person as compensatory damages~~
2 ~~for any tort injury to the person, or to the person's~~
3 ~~character reputation, or received as compensatory~~
4 ~~damages for any tort injury to or destruction of~~
5 ~~property, whether as the result of action or by~~
6 ~~private agreement between the parties (provided that~~
7 ~~amounts received as punitive damages for tort injury~~
8 ~~or breach of contract injury shall be included in~~
9 ~~gross income);~~
- 10 ~~+(6)]~~ (2) Amounts received as salaries or wages for
11 services rendered by an employee to an employer;
- 12 ~~[(7) Amounts received as alimony and other similar payments~~
13 ~~and settlements;~~
- 14 ~~+(8)]~~ (3) Amounts collected by distributors as fuel taxes
15 on "liquid fuel" imposed by chapter 243, and the
16 amounts collected by such distributors as a fuel tax
17 imposed by any Act of the Congress of the United
18 States;
- 19 ~~[(9)]~~ (4) Taxes on liquor imposed by chapter 244D on
20 dealers holding permits under that chapter;
- 21 ~~[(10)]~~ (5) The amounts of taxes on cigarettes and tobacco
22 products imposed by chapter 245 on wholesalers or



1 dealers holding licenses under that chapter and
2 selling the products at wholesale;

3 ~~[(11)]~~ (6) Federal excise taxes imposed on articles sold at
4 retail and collected from the purchasers thereof and
5 paid to the federal government by the retailer;

6 ~~[(12)]~~ (7) The amounts of federal taxes under chapter 37 of
7 the Internal Revenue Code, or similar federal taxes,
8 imposed on sugar manufactured in the State, paid by
9 the manufacturer to the federal government;

10 ~~[(13)]~~ (8) An amount up to, but not in excess of, \$2,000 a
11 year of gross income received by any blind, deaf, or
12 totally disabled person engaging, or continuing, in
13 any business, trade, activity, occupation, or calling
14 within the State; a corporation all of whose
15 outstanding shares are owned by an individual or
16 individuals who are blind, deaf, or totally disabled;
17 a general, limited, or limited liability partnership,
18 all of whose partners are blind, deaf, or totally
19 disabled; or a limited liability company, all of whose
20 members are blind, deaf, or totally disabled;



- 1 ~~[(14) Amounts received by a producer of sugarcane from the~~
2 ~~manufacturer to whom the producer sells the sugarcane,~~
3 ~~where:~~
- 4 ~~(A) The producer is an independent cane farmer, so~~
5 ~~classified by the Secretary of Agriculture under the~~
6 ~~Sugar Act of 1948 (61 Stat. 922, Chapter 519) as~~
7 ~~the Act may be amended or supplemented;~~
- 8 ~~(B) The value or gross proceeds of the sale of the~~
9 ~~sugar, and other products manufactured from the~~
10 ~~sugarcane, are included in the measure of the tax~~
11 ~~levied on the manufacturer under section 237-~~
12 ~~13(1) or (2);~~
- 13 ~~(C) The producer's gross proceeds of sales are~~
14 ~~dependent upon the actual value of the products~~
15 ~~manufactured therefrom or the average value of~~
16 ~~all similar products manufactured by the~~
17 ~~manufacturer; and~~
- 18 ~~(D) The producer's gross proceeds of sales are~~
19 ~~reduced by reason of the tax on the value or sale~~
20 ~~of the manufactured products;~~



1 ~~(15)~~ (9) Money paid by the State or eleemosynary child-
2 placing organizations to foster parents for their care
3 of children in foster homes; and

4 ~~(16)~~ (10) Amounts received by a cooperative housing
5 corporation from its shareholders in reimbursement of
6 funds paid by the corporation for lease rental, real
7 property taxes, and other expenses of operating and
8 maintaining the cooperative land and improvements;
9 provided that the cooperative corporation is a
10 corporation:

11 (A) Having one and only one class of stock
12 outstanding;

13 (B) Each of the stockholders of which is entitled
14 solely by reason of the stockholder's ownership
15 of stock in the corporation, to occupy for
16 dwelling purposes a house, or an apartment in a
17 building owned or leased by the corporation; and

18 (C) No stockholder of which is entitled (either
19 conditionally or unconditionally) to receive any
20 distribution not out of earnings and profits of
21 the corporation except in a complete or partial
22 liquidation of the corporation [~~and~~



1 ~~(17) Amounts received by a managed care support contractor~~
2 ~~of the TRICARE program that is established under title~~
3 ~~10 United States Code chapter 55, as amended, for the~~
4 ~~actual cost or advancement to third party health care~~
5 ~~providers pursuant to a contract with the United~~
6 ~~States]."~~

7 SECTION 7. Section 237-24.3, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "§237-24.3 Additional amounts not taxable. In addition to
10 the amounts not taxable under section 237-24, this chapter shall
11 not apply to:

12 ~~[(1) Amounts received from the loading, transportation, and~~
13 ~~unloading of agricultural commodities shipped for a~~
14 ~~producer or produce dealer on one island of this State~~
15 ~~to a person, firm, or organization on another island~~
16 ~~of this State. The terms "agricultural commodity",~~
17 ~~"producer", and "produce dealer" shall be defined in~~
18 ~~the same manner as they are defined in section 147-1;~~
19 ~~provided that agricultural commodities need not have~~
20 ~~been produced in the State;~~

21 ~~(2)]~~ (1) Amounts received by the manager, submanager, or
22 board of directors of:



- 1 (A) An association of owners of a condominium
2 property regime established in accordance with
3 chapter 514A or 514B; or
- 4 (B) A nonprofit homeowners or community association
5 incorporated in accordance with chapter 414D or
6 any predecessor thereto and existing pursuant to
7 covenants running with the land,
8 in reimbursement of sums paid for common expenses;
- 9 [~~3~~] (2) Amounts received or accrued from:
- 10 (A) The loading or unloading of cargo from ships,
11 barges, vessels, or aircraft, whether or not the
12 ships, barges, vessels, or aircraft travel
13 between the State and other states or countries
14 or between the islands of the State;
- 15 (B) Tugboat services including pilotage fees
16 performed within the State, and the towage of
17 ships, barges, or vessels in and out of state
18 harbors, or from one pier to another; and
- 19 (C) The transportation of pilots or governmental
20 officials to ships, barges, or vessels offshore;
21 rigging gear; checking freight and similar



1 services; standby charges; and use of moorings
2 and running mooring lines;
3 ~~[(4) Amounts received by an employee benefit plan by way of~~
4 ~~contributions, dividends, interest, and other income,~~
5 ~~and amounts received by a nonprofit organization or~~
6 ~~office, as payments for costs and expenses incurred~~
7 ~~for the administration of an employee benefit plan,~~
8 ~~provided that this exemption shall not apply to any~~
9 ~~gross rental income or gross rental proceeds received~~
10 ~~after June 30, 1994, as income from investments in~~
11 ~~real property in this State; and provided further that~~
12 ~~gross rental income or gross rental proceeds from~~
13 ~~investments in real property received by an employee~~
14 ~~benefit plan after June 30, 1994, under written~~
15 ~~contracts executed prior to July 1, 1994, shall not be~~
16 ~~taxed until the contracts are renegotiated, renewed,~~
17 ~~or extended, or until after December 31, 1998,~~
18 ~~whichever is earlier. For the purposes of this~~
19 ~~paragraph, "employee benefit plan" means any plan as~~
20 ~~defined in section 1002(3) of title 29 of the United~~
21 ~~States Code, as amended,~~



1 ~~(5) Amounts received for purchases made with United States~~
2 ~~Department of Agriculture food coupons under the~~
3 ~~federal food stamp program, and amounts received for~~
4 ~~purchases made with United States Department of~~
5 ~~Agriculture food vouchers under the Special~~
6 ~~Supplemental Foods Program for Women, Infants and~~
7 ~~Children;~~

8 ~~(6) Amounts received by a hospital, infirmary, medical~~
9 ~~clinic, health care facility, pharmacy, or a~~
10 ~~practitioner licensed to administer the drug to an~~
11 ~~individual for selling prescription drugs or~~
12 ~~prosthetic devices to an individual; provided that~~
13 ~~this paragraph shall not apply to any amounts received~~
14 ~~for services provided in selling prescription drugs or~~
15 ~~prosthetic devices. As used in this paragraph:~~
16 ~~"Prescription drugs" are those drugs defined under~~
17 ~~section 328-1 and dispensed by filling or refilling a~~
18 ~~written or oral prescription by a practitioner~~
19 ~~licensed under law to administer the drug and sold by~~
20 ~~a licensed pharmacist under section 328-16 or~~
21 ~~practitioners licensed to administer drugs; and~~



1 ~~"Prosthetic device" means any artificial device or~~
2 ~~appliance, instrument, apparatus, or contrivance,~~
3 ~~including their components, parts, accessories, and~~
4 ~~replacements thereof, used to replace a missing or~~
5 ~~surgically removed part of the human body, which is~~
6 ~~prescribed by a licensed practitioner of medicine,~~
7 ~~osteopathy, or podiatry and which is sold by the~~
8 ~~practitioner or which is dispensed and sold by a~~
9 ~~dealer of prosthetic devices, provided that~~
10 ~~"prosthetic device" shall not mean any auditory,~~
11 ~~ophthalmic, dental, or ocular device or appliance,~~
12 ~~instrument, apparatus, or contrivance,~~

13 ~~(7)~~ (3) Taxes on transient accommodations imposed by
14 chapter 237D and passed on and collected by operators
15 holding certificates of registration under that
16 chapter;

17 ~~(8)~~ Amounts received as dues by an unincorporated
18 merchants association from its membership for
19 advertising media, promotional, and advertising costs
20 for the promotion of the association for the benefit
21 of its members as a whole and not for the benefit of



1 ~~an individual member or group of members less than the~~
2 ~~entire membership;~~

3 ~~(9)]~~ (4) Amounts received by a labor organization for real
4 property leased to:

5 (A) A labor organization; or

6 (B) A trust fund established by a labor organization
7 for the benefit of its members, families, and
8 dependents for medical or hospital care, pensions
9 on retirement or death of employees,
10 apprenticeship and training, and other membership
11 service programs.

12 As used in this paragraph, "labor organization" means
13 a labor organization exempt from federal income tax
14 under section 501(c)(5) of the Internal Revenue Code,
15 as amended; and

16 ~~[(10) Amounts received from foreign diplomats and consular~~
17 ~~officials who are holding cards issued or authorized~~
18 ~~by the United States Department of State granting them~~
19 ~~an exemption from state taxes; and~~

20 ~~(11)]~~ (5) Amounts received as rent for the rental or
21 leasing of aircraft or aircraft engines used by the
22 lessees or renters for interstate air transportation



1 of passengers and goods. For purposes of this
2 paragraph, payments made pursuant to a lease shall be
3 considered rent regardless of whether the lease is an
4 operating lease or a financing lease. The definition
5 of "interstate air transportation" is the same as in
6 49 U.S.C. section 40102."

7 SECTION 8. Section 237-24.5, Hawaii Revised Statutes, is
8 amended by amending its title and subsection (a) to read as
9 follows:

10 "~~§237-24.5 [Additional exemptions.]~~ Taxation of certain
11 stock exchange transactions. (a) [~~In addition to the amounts~~
12 ~~exempt under section 237-24, this chapter shall not]~~
13 Notwithstanding the provisions of any other law to the contrary,
14 a tax of one-half of one per cent shall apply to amounts
15 received by:

16 (1) An exchange from:

17 (A) Transaction fees charged exchange members by the
18 exchange for:

19 (i) The sale or purchase of securities or
20 products, or both, bought or sold on an
21 exchange by exchange members for their own
22 account or an account for which they have



1 responsibility as an agent, broker, or
2 fiduciary;
3 (ii) Order book executions made for purposes of
4 effecting transactions; and
5 (iii) Trade processing performed by an exchange in
6 matching trades, keypunching, record
7 keeping, post cashiering, and notarization;
8 (B) Membership dues, fees, charges, assessments, and
9 fines from individuals or firms, including
10 charges for firm symbols (member identification),
11 application processing, registration, initiation,
12 membership transfers, floor or post privileges,
13 transaction time extensions, expediting
14 transactions, crossover trades (trading out of
15 assigned functions) and rule infractions;
16 (C) Service fees charged to members including fees
17 for communications, badges, forms, documents, and
18 reports;
19 (D) Listing fees and listing maintenance fees charged
20 to companies that wish to be listed and have
21 their securities or products traded on the
22 exchange; and



- 1 (E) Participation in the communication network
2 consortium operated collectively by United States
3 exchanges or other markets recognized by the
4 Securities and Exchange Commission, the
5 Commodities Futures Trading Commission, or
6 similar regulatory authorities outside the United
7 States that provides last sale and quote
8 securities information to subscribers or that
9 connects such markets or exchanges for purposes
10 of data transmission;
- 11 (2) Exchange members by reason of executing a securities
12 or product transaction on an exchange; provided that
13 this exemption shall apply only to amounts received by
14 exchange members from brokers or dealers registered
15 with the Securities and Exchange Commission, from
16 futures commission merchants, brokers, or associates
17 registered with the Commodities Futures Trading
18 Commission, or from similar individuals or firms
19 registered with similar regulatory authorities outside
20 the United States; and
- 21 (3) Exchange members as proceeds from the sale of their
22 exchange memberships."



1 SECTION 9. Section 237-24.7, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§237-24.7 Additional amounts not taxable. In addition to
4 the amounts not taxable under section 237-24, this chapter shall
5 not apply to:

6 (1) Amounts received by the operator of a hotel from the
7 owner of the hotel or from a time share association,
8 and amounts received by the suboperator of a hotel
9 from the owner of the hotel, from a time share
10 association, or from the operator of the hotel, in
11 amounts equal to and which are disbursed by the
12 operator or suboperator for employee wages, salaries,
13 payroll taxes, insurance premiums, and benefits,
14 including retirement, vacation, sick pay, and health
15 benefits. As used in this paragraph:

16 "Employee" means employees directly engaged in
17 the day-to-day operation of the hotel and employed by
18 the operator or suboperator.

19 "Hotel" means an operation as defined in section
20 445-90 or a time share plan as defined in section
21 514E-1.



1 "Operator" means any person who, pursuant to a
2 written contract with the owner of a hotel or time
3 share association, operates or manages the hotel for
4 the owner or time share association.

5 "Owner" means the fee owner or lessee under a
6 recorded lease of a hotel.

7 "Suboperator" means any person who, pursuant to a
8 written contract with the operator, operates or
9 manages the hotel as a subcontractor of the operator.

10 "Time share association" means an "association"
11 as that term is defined in section 514E-1;

12 (2) Amounts received by the operator of a county
13 transportation system operated under an operating
14 contract with a political subdivision, where the
15 political subdivision is the owner of the county
16 transportation system. As used in this paragraph:

17 "County transportation system" means a mass
18 transit system of motorized buses providing regularly
19 scheduled transportation within a county.

20 "Operating contract" or "contract" means a
21 contract to operate and manage a political



1 subdivision's county transportation system, which
2 provides that:

3 (A) The political subdivision shall exercise
4 substantial control over all aspects of the
5 operator's operation;

6 (B) The political subdivision controls the
7 development of transit policy, service
8 planning, routes, and fares; and

9 (C) The operator develops in advance a draft
10 budget in the same format as prescribed for
11 agencies of the political subdivision. The
12 budget must be subject to the same
13 constraints and controls regarding the
14 lawful expenditure of public funds as any
15 public sector agency, and deviations from
16 the budget must be subject to approval by
17 the appropriate political subdivision
18 officials involved in the budgetary process.

19 "Operator" means any person who, pursuant to an
20 operating contract with a political subdivision,
21 operates or manages a county transportation system.



1 "Owner" means a political subdivision that owns
2 or is the lessee of all the properties and facilities
3 of the county transportation system (including buses,
4 real estate, parking garages, fuel pumps, maintenance
5 equipment, office supplies, etc.), and that owns all
6 revenues derived therefrom;

- 7 (3) Surcharge taxes on rental motor vehicles imposed by
8 chapter 251 and passed on and collected by persons
9 holding certificates of registration under that
10 chapter;

11 ~~[(4) Amounts received by the operator of orchard properties~~
12 ~~from the owner of the orchard property in amounts~~
13 ~~equal to and which are disbursed by the operator for~~
14 ~~employee wages, salaries, payroll taxes, insurance~~
15 ~~premiums, and benefits, including retirement,~~
16 ~~vacation, sick pay, and health benefits. As used in~~
17 ~~this paragraph.~~

18 ~~"Employee" means an employee directly engaged in~~
19 ~~the day to day operations of the orchard properties~~
20 ~~and employed by the operator.~~

21 ~~"Operator" means a producer who, pursuant to a~~
22 ~~written contract with the owner of the orchard~~



1 ~~property, operates or manages the orchard property for~~
2 ~~the owner where the property contains an area~~
3 ~~sufficient to make the undertaking economically~~
4 ~~feasible.~~

5 ~~"Orchard property" means any real property that~~
6 ~~is used to raise trees with a production life cycle of~~
7 ~~fifteen years or more producing fruits or nuts having~~
8 ~~a normal period of development from the initial~~
9 ~~planting to the first commercially saleable harvest of~~
10 ~~not less than three years.~~

11 ~~"Owner" means a fee owner or lessee under a~~
12 ~~recorded lease of orchard property;~~

13 ~~(5)]~~ (4) Taxes on nursing facility income imposed by
14 chapter 346E and passed on and collected by operators
15 of nursing facilities;

16 ~~[(6)]~~ (5) Amounts received under property and casualty
17 insurance policies for damage or loss of inventory
18 used in the conduct of a trade or business located
19 within the State or a portion thereof that is declared
20 a natural disaster area by the governor pursuant to
21 section 209-2;



1 ~~[(7)]~~ (6) Amounts received as compensation by community
2 organizations, school booster clubs, and nonprofit
3 organizations under a contract with the chief election
4 officer for the provision and compensation of precinct
5 officials and other election-related personnel,
6 services, and activities, pursuant to section 11-5;

7 ~~[(8)]~~ (7) Interest received by a person domiciled outside
8 the State from a trust company (as defined in section
9 412:8-101) acting as payment agent or trustee on
10 behalf of the issuer or payees of an interest bearing
11 instrument or obligation, if the interest would not
12 have been subject to tax under this chapter if paid
13 directly to the person domiciled outside the State
14 without the use of a paying agent or trustee; provided
15 that if the interest would otherwise be taxable under
16 this chapter if paid directly to the person domiciled
17 outside the State, it shall not be exempt solely
18 because of the use of a Hawaii trust company as a
19 paying agent or trustee;

20 ~~[(9)]~~ (8) Amounts received by a management company from
21 related entities engaged in the business of selling
22 interstate or foreign common carrier



1 telecommunications services in amounts equal to and
2 which are disbursed by the management company for
3 employee wages, salaries, payroll taxes, insurance
4 premiums, and benefits, including retirement,
5 vacation, sick pay, and health benefits. As used in
6 this paragraph:

7 "Employee" means employees directly engaged in
8 the day-to-day operation of related entities engaged
9 in the business of selling interstate or foreign
10 common carrier telecommunications services and
11 employed by the management company.

12 "Management company" means any person who,
13 pursuant to a written contract with a related entity
14 engaged in the business of selling interstate or
15 foreign common carrier telecommunications services,
16 provides managerial or operational services to that
17 entity.

18 "Related entities" means:

- 19 (A) An affiliated group of corporations within
20 the meaning of section 1504 (with respect to
21 affiliated group defined) of the federal
22 Internal Revenue Code of 1986, as amended;



- 1 (B) A controlled group of corporations within
2 the meaning of section 1563 (with respect to
3 definitions and special rules) of the
4 federal Internal Revenue Code of 1986, as
5 amended;
- 6 (C) Those entities connected through ownership
7 of at least eighty per cent of the total
8 value and at least eighty per cent of the
9 total voting power of each such entity (or
10 combination thereof), including
11 partnerships, associations, trusts, S
12 corporations, nonprofit corporations,
13 limited liability partnerships, or limited
14 liability companies; and
- 15 (D) Any group or combination of the entities
16 described in paragraph (C) constituting a
17 unitary business for income tax purposes;
18 whether or not the entity is located within or without
19 the State or licensed under this chapter; and
- 20 [~~10~~] (9) Amounts received as grants under section 206M-
21 15."



1 SECTION 10. Section 237-25, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) Any provision of law to the contrary notwithstanding,
4 there shall be exempted from, and excluded from the measures of,
5 the tax imposed by chapter 237 all sales, and the gross proceeds
6 of all sales, of:

7 (1) Intoxicating liquor, as defined in chapter 281,
8 hereafter sold by any person licensed under chapter
9 281 to the United States (including any agency or
10 instrumentality of the United States that is wholly
11 owned or otherwise so constituted as to be immune from
12 the levy of a tax under chapter 238 or 244D but not
13 including national banks), or to any organization to
14 which that sale is permitted by the proviso of "Class
15 3" of section 281-31, located on any Army, Navy, or
16 Air Force reservation, but the person making the sale
17 shall nevertheless, within the meaning of chapters
18 237, 244D, and 281 be deemed to be a licensed seller;

19 (2) Tobacco products and cigarettes, as defined in chapter
20 245, sold by any person licensed under the chapter to
21 the United States (including any agency or
22 instrumentality thereof that is wholly owned or



1 otherwise so constituted as to be immune from the levy
2 of a tax under chapter 238 or 245 but not including
3 national banks), but the person making the sale shall
4 nevertheless, within the meaning of chapters 237 and
5 245, be deemed to be a licensed seller; and

6 ~~[(3) Other tangible personal property sold by any person
7 licensed under this chapter to the United States
8 (including any agency, instrumentality, or federal
9 credit union thereof but not including national
10 banks), and to any state chartered credit union, but
11 the person making such sale shall nevertheless, within
12 the meaning of this chapter, be deemed a licensed
13 seller; and~~

14 ~~(4)]~~ (3) When the amount of property sold by a licensee
15 turns upon the amount of the property sold through a
16 vending machine or similar device to the customer
17 using the device, there shall not be deemed to have
18 occurred any sale covered by an exemption under
19 paragraph (1) ~~[7]~~ or (2) ~~[7, or (3)]~~."

20 SECTION 11. Section 237-26, Hawaii Revised Statutes, is
21 amended by amending its title and subsection (a) to read as
22 follows:



1 "§237-26 ~~[Exemption]~~ Taxation of certain scientific
2 contracts with the United States. (a) Any provision of law to
3 the contrary notwithstanding, there ~~[shall be exempted from the~~
4 ~~measure of the taxes imposed by chapter 237,]~~ shall be a tax of
5 one-half of one per cent on all of the gross proceeds derived by
6 a contractor or subcontractor arising from the performance of
7 any scientific work as defined in subsection (b), under a
8 contract or subcontract entered into with the United States
9 (including any agency or instrumentality thereof but not
10 including national banks), and all of the gross proceeds derived
11 from the sale of tangible personal property by a seller of such
12 tangible personal property to such contractor or subcontractor;
13 provided the ~~[exemption]~~ tax specified herein shall apply only
14 to such tangible personal property which is to be affixed to, or
15 to become a physical, integral part of the scientific facility,
16 or which is to be entirely consumed during the performance of
17 the service required by the contract or subcontract."

18 SECTION 12. Section 237-27, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "§237-27 ~~[Exemption]~~ Taxation of certain petroleum
21 refiners. (a) As used in this section:



1 (1) "Petroleum products" means petroleum, any distillate,
2 fraction, or derivative of petroleum, natural gas or
3 its components, gas manufactured from a petroleum
4 product, and any product derived from the gas or from
5 the manufacture thereof, such as benzene, xylene,
6 toluene, acetylene, tars, components of tars, and
7 ammonia.

8 (2) "Refiner" means any person who, in the State, engages
9 in the business of refining petroleum products and is
10 taxable under this chapter, upon the value or gross
11 proceeds of sales of the petroleum products resultant
12 from the business. A person who is engaged in
13 business as a refiner and also in other business shall
14 be deemed a refiner only in respect of the business
15 that produces the products included in the measure of
16 the tax imposed by this chapter.

17 (3) "Refining" means:
18 (A) Any process performed by a refiner that includes
19 a change in the character or properties of a
20 petroleum product through the application of
21 heat, or



1 (B) The compounding by a refiner of a petroleum
2 product with a product that has been refined by
3 the refiner by the process stated in clause (A).

4 (b) There shall be ~~[excluded from the measure of the]~~ a
5 tax of one-half of one per cent on a refiner on such part of the
6 petroleum products resultant from the refiner's business as is
7 to be further refined by another refiner, to the extent that the
8 petroleum products resultant from such further refining will be
9 (or but for this subsection would be) included in the measure of
10 the tax on such other refiner, and where petroleum products are
11 to be used partly for such refining and partly for other
12 purposes, the proportion used for each purpose shall be
13 determined upon the basis of weight or BTU content."

14 SECTION 13. Section 237-28.1, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "~~[+]§237-28.1[]—Exemption]~~ Taxation of certain
17 shipbuilding and ship repair business. There shall be ~~[exempted~~
18 ~~from, and excluded from the measure of, the taxes imposed by~~
19 ~~this chapter]~~ a tax of one-half of one per cent on all of the
20 gross proceeds arising from shipbuilding and ship repairs
21 rendered to surface vessels federally owned or engaged in
22 interstate or international trade."



1 SECTION 14. Section 237-29.5, Hawaii Revised Statutes, is
2 amended by amending the title and subsection (a) to read as
3 follows:

4 "§237-29.5 [~~Exemption for~~] Taxation of sales of tangible
5 personal property shipped out of the State. (a) There shall be
6 [~~exempted from, and excluded from the measure of, the taxes~~
7 ~~imposed by this chapter~~] a tax of one-half of one per cent on
8 all of the value or gross proceeds arising from the manufacture,
9 production, or sale of tangible personal property:

- 10 (1) Shipped by the manufacturer, producer, or seller to a
11 point outside the State where the property is resold
12 or otherwise consumed or used outside the State; or
13 (2) The sale of which is exempt under section 237-
14 24.3(2)."

15 SECTION 15. Section 237-29.53, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "§237-29.53 [~~Exemption for~~] Taxation of contracting or
18 services exported out of State. (a) There shall be [~~exempted~~
19 ~~from, and excluded from the measure of, taxes imposed by this~~
20 ~~chapter,~~] a tax of one-half of one per cent on all of the value
21 or gross income derived from contracting (as defined under
22 section 237-6) or services performed by a person engaged in a



1 service business or calling in the State for use outside the
2 State where:

3 (1) The contracting or services are for resale,
4 consumption, or use outside the State; and

5 (2) The value or gross income derived from the contracting
6 or services performed would otherwise be subject to
7 the tax imposed under this chapter on contracting or
8 services at the highest rate.

9 For the purposes of this subsection, the seller or person
10 rendering the contracting or services exported and resold,
11 consumed, or used outside the State shall take from the
12 customer, a certificate or an equivalent, in a form the
13 department prescribes, certifying that the contracting or
14 service purchased is to be otherwise resold, consumed, or used
15 outside the State. Any customer who furnishes this certificate
16 or an equivalent shall be obligated to pay the seller or person
17 rendering the contracting or services, upon demand, if the
18 contracting or service purchased is not resold or otherwise
19 consumed or used outside the State, the amount of the additional
20 tax which by reason thereof is imposed upon the seller or person
21 rendering the contracting or service.



1 (b) There shall be [~~exempted from, and excluded from the~~
2 ~~measure of, taxes imposed by this chapter,~~] a tax of one-half of
3 one per cent on all of the value or gross income derived from
4 contracting (as defined in section 237-6) or services performed
5 by a person engaged in a service business or calling in the
6 State for a purchaser who resells all of the contracting or
7 services for resale, consumption, or use outside the State
8 pursuant to subsection (a). For the purposes of this
9 subsection, the seller or person rendering the contracting or
10 services for a purchaser who resells the contracting or services
11 for resale, consumption, or use outside the State shall take
12 from the purchaser, a certificate or an equivalent, in a form
13 that the department prescribes, certifying that the contracting
14 or services purchased is to be for resale, consumption, or use
15 outside the State pursuant to subsection (a). Any purchaser who
16 furnishes this certificate or an equivalent shall be obligated
17 to pay the seller or person rendering the contracting or
18 services, upon demand, if the contracting or services purchased
19 is not resold in its entirety to a customer of the purchaser who
20 has complied with subsection (a), the amount of the additional
21 tax which by reason thereof is imposed upon the seller or the
22 person rendering the contracting or service."



1 SECTION 16. Section 237-29.55, Hawaii Revised Statutes, is
2 amended by amending its title and subsection (a) to read as
3 follows:

4 " ~~[+] §237-29.55 [— Exemption for sale]~~ Taxation of tangible
5 personal property for resale at wholesale. (a) There shall be
6 ~~[exempted from, and excluded from the measure of, the taxes~~
7 ~~imposed by this chapter]~~ a tax of one-half of one per cent on
8 all of the gross proceeds or gross income arising from the sale
9 of tangible personal property imported to Hawaii from a foreign
10 or domestic source to a licensed taxpayer for subsequent resale
11 for the purpose of wholesale as defined under section 237-4."

12 SECTION 17. Section 269-168, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) In the furtherance of section 39-65, the ownership,
15 transfer, and pledge of the green infrastructure fee and green
16 infrastructure property and the imposition, charging,
17 collection, and receipt of the green infrastructure fee and
18 green infrastructure charge are exempt from ~~[all]~~ taxes and
19 surcharges imposed by the State or the counties, including the
20 ~~[general excise tax under chapter 237,]~~ public service company
21 tax under chapter 239, public utility fee under section 269-30,
22 and public utility franchise tax under chapter 240."



1 SECTION 18. Section 269-172, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) The green infrastructure charge shall not be
4 considered revenue of the electric utilities and accordingly,
5 shall not be subject to state or county taxes, including [the
6 ~~general excise tax under chapter 237,~~] the public service
7 company tax under chapter 239, the public utility fee under
8 section 269-30, and the public utility franchise tax under
9 chapter 240."

10 SECTION 19. Section 421H-4, Hawaii Revised Statutes, is
11 amended by amending subsection (c) to read as follows:

12 "(c) The membership shares and cooperative fees are
13 interests in real property for purposes of:

14 (1) Cooperative housing corporations under section 216 of
15 the federal Internal Revenue Code of 1954, as amended;
16 and

17 (2) Exemption from state general excise tax under section
18 [~~237-24(16)-~~] 237-24(10)."

19 SECTION 20. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

21 SECTION 21. This Act shall take effect on July 1, 2014,
22 and shall apply to gross income or gross proceeds received after



1 December 31, 2014; provided that the amendments made to section
2 237-24, Hawaii Revised Statutes, by this Act shall not be
3 repealed when section 237-24, Hawaii Revised Statutes, is
4 reenacted on December 31, 2018, pursuant to Act 70, Session Laws
5 of Hawaii 2009, as amended by Act 164, Session Laws of Hawaii
6 2013.

7

INTRODUCED BY:

Jan Suda

JAN 23 2014



H.B. NO. 2051

Report Title:

GET; General Excise Tax Exemptions; Taxation

Description:

Applies the general excise tax to certain previously exempted classes at the rate of one-half of one per cent. Effective July 1, 2014.

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

