
A BILL FOR AN ACT

RELATING TO GENERAL EXCISE TAX EXEMPTION FOR CERTAIN SCIENTIFIC
CONTRACTS WITH THE UNITED STATES.

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

1 SECTION 1. The general excise tax exemption for scientific
2 contracts with the United States was intended to allow local
3 contractors to compete with out-of-state entities for scientific
4 contracts with federal facilities. However, today over ninety-
5 eight per cent of these contracts are held by out-of-state
6 entities, who pay no tax pursuant to this provision. These
7 contracts are often large, in excess of \$800,000,000, and the
8 annual tax loss is conservatively estimated to be between
9 \$20,000,000 to \$40,000,000 per year. Further, the exemption has
10 created a large administrative burden for the department of
11 taxation, resulting in ten per cent of audit staff being used to
12 evaluate claims for this exemption. By amending the exemption
13 to mirror section 41 of the Internal Revenue Code,
14 administration of the exemption will become more efficient.

15 SECTION 2. Section 237-26, Hawaii Revised Statutes, is
16 amended to read as follows:



1 "§237-26 Exemption of certain scientific contracts with
2 the United States. (a) Any provision of law to the contrary
3 notwithstanding, there shall be exempted from the measure of the
4 taxes imposed by chapter 237, [~~all of the~~] gross proceeds
5 ~~[derived by a contractor or subcontractor arising from the~~
6 ~~performance of any scientific work as defined in subsection (b),~~
7 ~~under a contract or subcontract entered into with the United~~
8 ~~States (including any agency or instrumentality thereof but not~~
9 ~~including national banks), and all of the gross proceeds derived~~
10 ~~from the sale of tangible personal property by a seller of such~~
11 ~~tangible personal property to such contractor or subcontractor,~~
12 ~~provided the exemption herein shall apply only to such tangible~~
13 ~~personal property which is to be affixed to, or to become a~~
14 ~~physical, integral part of the scientific facility, or which is~~
15 ~~to be entirely consumed during the performance of the service~~
16 ~~required by the contract or subcontract.] received under a
17 contract or subcontract entered into with the United States
18 (including any agency or instrumentality thereof but not
19 including national banks) in an amount equal to qualified
20 research expenses for the taxable year over the base amount,
21 basic research payments determined under Internal Revenue Code
22 section 41(e)(1)(A), and amounts paid or incurred by the~~



1 taxpayer in carrying on any trade or business of the taxpayer
2 during the taxable year (including as contributions) to an
3 energy research consortium for energy research. Gross proceeds
4 exempted under this section shall not exceed the amount properly
5 claimed and allowable under section 41 of the Internal Revenue
6 Code for the same taxable period.

7 (b) For purposes of this section, [~~"scientific work" is~~
8 ~~work involving primarily the research and development for, or~~
9 ~~the design, manufacture, instrumentation, installation,~~
10 ~~maintenance, or operation of aerospace, agricultural,~~
11 ~~astronomical, biomedical, electronic, geophysical,~~
12 ~~oceanographic, test range, or other scientific facilities.~~
13 ~~Maintenance or operation, for purposes of this section, shall~~
14 ~~include housekeeping functions in providing certain~~
15 ~~nonscientific logistic and support services.] "qualified
16 research expenses for the taxable year over the base amount",
17 "basic research payments determined under Internal Revenue Code
18 section 41(e)(1)(A)", and "amounts paid or incurred by the
19 taxpayer in carrying on any trade or business of the taxpayer
20 during the taxable year (including as contributions) to an
21 energy research consortium for energy research" shall have the~~



1 same meaning as under section 41 of the Internal Revenue Code
2 and its judicial and administrative interpretations."

3 SECTION 3. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 4. This Act, upon its approval, shall take effect
6 for taxable years beginning after December 31, 2013.



Report Title:

General Excise Tax; Exemption; Scientific Contracts

Description:

Amends general excise tax exemption for scientific contracts with the United States. (HB964 HD1)

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