

JAN 23 2014

---

---

# A BILL FOR AN ACT

RELATING TO STATE FINANCES.

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

1 PART I

2 SECTION 1. Section 238-2, Hawaii Revised Statutes, is  
3 amended to read as follows:

4 "§238-2 **Imposition of tax on tangible personal property;**  
5 **exemptions.** There is hereby levied an excise tax on the use in  
6 this State of tangible personal property which is imported by a  
7 taxpayer in this State whether owned, purchased from an  
8 unlicensed seller, or however acquired for use in this State.  
9 The tax imposed by this chapter shall accrue when the property  
10 is acquired by the importer or purchaser and becomes subject to  
11 the taxing jurisdiction of the State. The rates of the tax  
12 hereby imposed and the exemptions thereof are as follows:

13 (1) If the importer or purchaser is licensed under chapter  
14 237 and is:

15 (A) A wholesaler or jobber importing or purchasing  
16 for purposes of sale or resale; or

17 (B) A manufacturer importing or purchasing material  
18 or commodities which are to be incorporated by



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

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



1 wholesaler, jobber, or manufacturer for the purposes  
2 stated in this paragraph;

3 (2) If the importer or purchaser is licensed under chapter  
4 237 and is:

5 (A) A retailer or other person importing or  
6 purchasing for purposes of sale or resale, not  
7 exempted by paragraph (1);

8 (B) A manufacturer importing or purchasing material  
9 or commodities which are to be incorporated by  
10 the manufacturer into a finished or saleable  
11 product (including the container or package in  
12 which the product is contained) wherein it will  
13 remain in such form as to be perceptible to the  
14 senses, and which finished or saleable product is  
15 to be sold at retail in this State, in such  
16 manner as to result in a further tax on the  
17 activity of the manufacturer in selling such  
18 products at retail;

19 (C) A contractor importing or purchasing material or  
20 commodities which are to be incorporated by the  
21 contractor into the finished work or project  
22 required by the contract and which will remain in



1           such finished work or project in such form as to  
2           be perceptible to the senses;

3           (D) A person engaged in a service business or calling  
4           as defined in section 237-7, or a person  
5           furnishing transient accommodations subject to  
6           the tax imposed by section 237D-2, in which the  
7           import or purchase of tangible personal property  
8           would have qualified as a sale at wholesale as  
9           defined in section 237-4(a)(8) had the seller of  
10          the property been subject to the tax in chapter  
11          237; or

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

21          the tax shall be [~~one-half of one~~] two per cent of the  
22          purchase price of the property, if the purchase and

1 sale are consummated in Hawaii; or, if there is no  
2 purchase price applicable thereto, or if the purchase  
3 or sale is consummated outside of Hawaii, then [~~one-~~  
4 ~~half-of-one~~] two per cent of the value of such  
5 property; and

6 (3) In all other cases, four per cent of the value of the  
7 property.

8 For purposes of this section, tangible personal property is  
9 property that is imported by the taxpayer for use in this State,  
10 notwithstanding the fact that title to the property, or the risk  
11 of loss to the property, passes to the purchaser of the property  
12 at a location outside this State. Where plaintiff: (1) caused  
13 consumer electronic goods from various mainland vendors to be  
14 shipped to Hawaii in order to restock plaintiff's retail stores  
15 in this State, constituting importation of goods into the State  
16 for purposes of resale; and (2) used the goods in Hawaii by  
17 "keeping the property" in this State "for sale", plaintiff was  
18 subject to assessment of the use tax under this section. 128 H.  
19 116, 284 P.3d 209 (2012)."

20 SECTION 2. Section 238-2.3, Hawaii Revised Statutes, is  
21 amended to read as follows:



1           "§238-2.3   **Imposition of tax on imported services or**  
2 **contracting; exemptions.**   There is hereby levied an excise tax  
3 on the value of services or contracting as defined in section  
4 237-6 that are performed by an unlicensed seller at a point  
5 outside the State and imported or purchased for use in this  
6 State.   The tax imposed by this chapter shall accrue when the  
7 service or contracting as defined in section 237-6 is received  
8 by the importer or purchaser and becomes subject to the taxing  
9 jurisdiction of the State.   The rates of the tax hereby imposed  
10 and the exemptions from the tax are as follows:

- 11           (1)   If the importer or purchaser is licensed under chapter  
12                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 of the importer  
18                    or purchaser is subject to the tax imposed under  
19                    chapter 237 on services at the rate of one-half  
20                    of one per cent or the rate of tax imposed under  
21                    section 237-13.3;



1 (B) A manufacturer importing or purchasing services  
2 or contracting that become identifiable elements,  
3 excluding overhead, of a finished or saleable  
4 product (including the container or package in  
5 which the product is contained) and the finished  
6 or saleable product is to be sold in a manner  
7 that results in a further tax on the manufacturer  
8 as a wholesaler, and not a retailer; or  
9 (C) A contractor importing or purchasing contracting  
10 that become identifiable elements, excluding  
11 overhead, of the finished work or project  
12 required under the contract; provided that:  
13 (i) The gross proceeds derived by the contractor  
14 are subject to the tax under section 237-  
15 13(3) as a contractor; and  
16 (ii) The contractor could have deducted amounts  
17 paid to the subcontractor under section 237-  
18 13(3)(B) if the subcontractor was subject to  
19 general excise tax under chapter 237;  
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  
9           that become identifiable elements, excluding  
10          overhead, of the finished work or project  
11          required, under the contract, and where the gross  
12          proceeds derived by the contractor are subject to  
13          the tax under section 237-13(3) as a contractor,  
14          the tax shall be [~~one-half of one~~] two per cent of the  
15          value of the imported or purchased services or  
16          contracting; and

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

21          SECTION 3. Section 238-2.6, Hawaii Revised Statutes, is  
22          amended by amending subsection (c) to read as follows:



1           "(c) No county surcharge on state tax shall be established  
2 upon any use taxable under this chapter at the [~~one-half~~] two  
3 per cent tax rate or upon any use that is not subject to  
4 taxation or that is exempt from taxation under this chapter."

5           SECTION 4. Section 238-14, Hawaii Revised Statutes, is  
6 amended to read as follows:

7           "**§238-14 Taxes state realizations.** (a) All taxes  
8 collected under this chapter shall be state realizations.

9           (b) Beginning on July 1, 2014, the additional revenues  
10 generated and collected from the increase in use tax rates  
11 imposed by sections 1, 2, and 3 of Act           , Session Laws of  
12 Hawaii 2014, shall be deposited into the acquisition and  
13 management of agricultural lands special fund established under  
14 section 163D-     ."

15                                                           PART II

16           SECTION 5. Chapter 163D, Hawaii Revised Statutes, is  
17 amended by adding a new section to part II to be appropriately  
18 designated and to read as follows:

19           "**§163D-     Acquisition and management of agricultural**  
20 **lands special fund.** (a) There is established in the state  
21 treasury the acquisition and management of agricultural lands



1 special fund, into which shall be deposited use tax revenues as  
2 provided by section 238-14(b).

3 (b) The corporation may expend moneys from the fund for  
4 the following purposes:

5 (1) Acquisition of agricultural lands pursuant to section  
6 163D-31; or

7 (2) Payment for financial management services for  
8 agricultural lands, as provided under section 163D-  
9 31(d).

10 (c) The corporation shall adopt rules in accordance with  
11 chapter 91 for the purposes of this section."

12 SECTION 6. Section 163D-31, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 "[~~§~~163D-31~~]~~ **Acquisitions of important agricultural**  
15 **lands authorized by the legislature.** (a) The legislature may  
16 authorize the corporation to acquire agricultural lands for the  
17 protection of agricultural lands, public land banking, or the  
18 promotion of farm ownership and diversified agriculture.

19 (b) The acquisition shall be authorized by a bill enacted  
20 into law and shall contain:

21 (1) A statement of the value of the interest in land as a  
22 resource to the State;



- 1           (2) A description of the specific parcel of land or
- 2                   agricultural easement proposed to be acquired;
- 3           (3) The name of the owner of the property; and
- 4           (4) The estimated costs of acquiring the interest in the
- 5                   land.

6           (c) The landowner shall receive payment for the interest  
7 in the land in a lump sum, through an installment purchase  
8 agreement as determined pursuant to section 163D-32, or from  
9 revenues derived from the issuance of revenue bonds pursuant to  
10 section 163D-9.

11           (d) Notwithstanding any provision of this chapter to the  
12 contrary, the corporation may contract with a financial  
13 institution chartered under chapter 412 or a federal financial  
14 institution, as defined under section 412:1-109, that transacts  
15 business in this State to provide financial management services  
16 for agricultural lands acquired under this section. For the  
17 purposes of this subsection, "financial management services"  
18 includes the collection of lease rent and any other moneys owed  
19 to the corporation related to the lease of agricultural land  
20 under the corporation's control."

21           SECTION 7. Section 163D-32, Hawaii Revised Statutes, is  
22 amended by amending subsection (b) to read as follows:





# S.B. NO. 2965

**Report Title:**

Use Tax; Increase; Agribusiness Development Corporation;  
Acquisition and Management of Agricultural Lands

**Description:**

Increases the use tax by 1.5% for a 2-year period to provide a dedicated funding source for the acquisition and management of agricultural lands.

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

