

JAN 24 2013

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# A BILL FOR AN ACT

RELATING TO TAXATION.

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

1           SECTION 1. Act 105, Session Laws of Hawaii 2011,  
2 temporarily suspended certain exemptions from the general excise  
3 tax for a period of two years, and these exemptions are  
4 scheduled to be restored on June 30, 2013. One of the suspended  
5 exemptions is for the general excise tax imposed on tangible  
6 personal property that is sold by a person licensed under  
7 chapter 237, Hawaii Revised Statutes, to the United States and  
8 to any state-chartered credit union, pursuant to section  
9 237-25(a)(3), Hawaii Revised Statutes. The legislature finds  
10 that a consequence of not providing the exemption is that Hawaii  
11 businesses that sell tangible personal property to the federal  
12 government must pay the general excise tax on those goods but  
13 cannot pass the amount of the tax on to the federal government,  
14 which in effect creates a financial burden for state businesses  
15 and puts them at a disadvantage when competing with out-of-state  
16 businesses.

17           Rather than crippling local businesses, the legislature  
18 finds that Hawaii needs to promote the growth of local



1 businesses, including businesses that sell goods to the federal  
2 government, which tends to make large purchases from local  
3 vendors.

4 The purpose of this Act is to restore the general excise  
5 tax exemption for sales of tangible personal property to the  
6 United States and state-chartered credit unions, pursuant to  
7 section 237-25(a)(3), and to clarify the exemption under  
8 existing law to facilitate greater use of the exemption.

9 SECTION 2. Act 105, Session Laws of Hawaii 2011, section 2  
10 is amended by amending subsection (a) of section 237- , Hawaii  
11 Revised Statutes, relating to temporary suspension of exemption  
12 of certain amounts; levy of tax, to read as follows:

13 "(a) Notwithstanding any other law to the contrary, the  
14 exemption of the following amounts from taxation under this  
15 chapter shall be suspended from July 1, 2011, through June 30,  
16 2013:

17 (1) Amounts deducted from the gross income received by  
18 contractors as described under section 237-13(3)(B);

19 (2) Reimbursements received by federal cost-plus  
20 contractors for the costs of purchased materials,  
21 plant, and equipment as described under section  
22 237-13(3)(C);



- 1           (3) Gross receipts of home service providers acting as  
2           service carriers providing mobile telecommunications  
3           services to other home service providers as described  
4           under section 237-13(6)(D);
- 5           (4) Amounts deducted from the gross income of real  
6           property lessees because of receipt from sublessees as  
7           described under section 237-16.5;
- 8           (5) The value or gross income received by nonprofit  
9           organizations from certain conventions, conferences,  
10          trade show exhibits, or display spaces as described  
11          under section 237-16.8;
- 12          (6) Amounts received by sugarcane producers as described  
13          under section 237-24(14);
- 14          (7) Amounts received from the loading, transportation, and  
15          unloading of agricultural commodities shipped  
16          interisland as described under section 237-24.3(1);
- 17          (8) Amounts received from the sale of intoxicating liquor,  
18          cigarettes and tobacco products, and agricultural,  
19          meat, or fish products to persons or common carriers  
20          engaged in interstate or foreign commerce as described  
21          under section 237-24.3(2);



- 1           (9)   Amounts received or accrued from the loading or
- 2                    unloading of cargo as described under section
- 3                    237-24.3(4)(A);
- 4           (10)   Amounts received or accrued from tugboat and towage
- 5                    services as described under section 237-24.3(4)(B);
- 6           (11)   Amounts received or accrued from the transportation of
- 7                    pilots or government officials and other maritime-
- 8                    related services as described under section
- 9                    237-24.3(4)(C);
- 10          (12)   Amounts received by labor organizations for real
- 11                    property leases as described under section
- 12                    237-24.3(10);
- 13          (13)   Amounts received as rent for aircraft or aircraft
- 14                    engines used for interstate air transportation as
- 15                    described under section 237-24.3(12);
- 16          (14)   Amounts received by exchanges and exchange members as
- 17                    described under section 237-24.5;
- 18          (15)   Amounts received as high technology research and
- 19                    development grants under section 206M-15 as described
- 20                    under section 237-24.7(10);
- 21          (16)   Amounts received from the servicing and maintenance of
- 22                    aircraft or construction of aircraft service and



1 maintenance facilities as described under section  
2 237-24.9;

3 (17) Gross proceeds from the sale of the following:

4 (A) Intoxicating liquor to the United States  
5 (including any agency or instrumentality of the  
6 United States that is wholly owned or otherwise  
7 so constituted as to be immune from the levy of a  
8 tax under chapter 238 or 244D, but not including  
9 national banks) or any organization to which the  
10 sale is permitted by the proviso of "Class 3" of  
11 section 281-31 that is located on any Army, Navy,  
12 or Air Force reservation as described under  
13 section 237-25(a)(1); and

14 (B) Tobacco products and cigarettes to the United  
15 States (including any agency or instrumentality  
16 thereof that is wholly owned or otherwise so  
17 constituted as to be immune from the levy of tax  
18 under chapter 238 or 245, but not including  
19 national banks) as described under section  
20 237-25(a)(2); [and

21 ~~(C) "Other tangible personal property" to the United~~  
22 ~~States (including any agency, instrumentality, or~~



~~federal credit union thereof, but not including  
national banks) and any state chartered credit  
union as described under section 237-25(a)(3);]~~

- (18) Amounts received by petroleum product refiners from other refiners for further refining of petroleum products as described under section 237-27;
- (19) Gross proceeds received from the construction, reconstruction, erection, operation, use, maintenance, or furnishing of air pollution control facilities, as described under section 237-27.5, that do not have valid certificates of exemption on July 1, 2011;
- (20) Gross proceeds received from shipbuilding and ship repairs as described under section 237-28.1;
- (21) Amounts received by telecommunications common carriers from call center operators for interstate or foreign telecommunications services as described under section 237-29.8;
- (22) Gross proceeds received by qualified businesses in enterprise zones, as described under section 209E-11, that do not have valid certificates of qualification from the department of business, economic development, and tourism on July 1, 2011; and



1           (23) Gross proceeds received by contractors licensed under  
2           chapter 444 for construction within enterprise zones  
3           performed for qualified businesses within the  
4           enterprise zones or businesses approved by the  
5           department of business, economic development, and  
6           tourism to enroll into the enterprise zone program, as  
7           described under section 209E-11."

8           SECTION 3. Section 237-25, Hawaii Revised Statutes, is  
9           amended by amending subsection (c) to read as follows:

10           "(c) Nothing in this section shall be deemed to exempt any  
11           person engaging or continuing in a service business or calling  
12           from any part of the tax imposed upon the person for such  
13           activity, and the person shall not be entitled to deduct any  
14           amount for tangible personal property furnished in conjunction  
15           therewith [~~even though~~] unless the person separately bills or  
16           otherwise shows the amount of the gross income of the business  
17           derived from the furnishing of the property."

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

20           SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: Malene Jones



# S.B. NO. 953

**Report Title:**

Taxation; General Excise Tax; Exemptions; Repeal

**Description:**

Repeals the temporary suspension under Act 105, SLH 2011, on the general excise tax exemption on sales of tangible personal property sold to the federal government and state-chartered credit unions. Authorizes a general excise tax deduction for tangible personal property furnished in conjunction with engaging in or continuing in a service business or calling, if the person separately bills or otherwise shows the amount of the gross income of the business derived from the furnishing of the property.

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