

JAN 21 2016

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

3           "**§238-2 Imposition of tax on tangible personal property;**  
4 **exemptions.** There is hereby levied an excise tax on the use in  
5 this State of tangible personal property which is imported by a  
6 taxpayer in this State whether owned, purchased from an  
7 unlicensed seller, or however acquired for use in this State.  
8 The tax imposed by this chapter shall accrue when the property  
9 is acquired by the importer or purchaser and becomes subject to  
10 the taxing jurisdiction of the State. The rates of the tax  
11 hereby imposed and the exemptions thereof are as follows:

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

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

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



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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) [7], and whose annual  
8 gross sales are not in excess of \$ \_\_\_\_\_ ;

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

20 (C) A contractor importing or purchasing material or  
21 commodities which are to be incorporated by the



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1 contractor into the finished work or project  
2 required by the contract and which will remain in  
3 such finished work or project in such form as to  
4 be perceptible to the senses;

5 (D) A person engaged in a service business or calling  
6 as defined in section 237-7, or a person  
7 furnishing transient accommodations subject to  
8 the tax imposed by section 237D-2, in which the  
9 import or purchase of tangible personal property  
10 would have qualified as a sale at wholesale as  
11 defined in section 237-4(a)(8) had the seller of  
12 the property been subject to the tax in chapter  
13 237; or

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



1           receive the magazines or similar printed  
2           materials,  
3           the tax shall be one-half of one per cent of the  
4           purchase price of the property, if the purchase and  
5           sale are consummated in Hawaii; or, if there is no  
6           purchase price applicable thereto, or if the purchase  
7           or sale is consummated outside of Hawaii, then one-  
8           half of one per cent of the value of such property;  
9           [and]

10        (3) If the importer or purchaser is licensed under chapter  
11        237 and is a retailer or other person importing or  
12        purchasing for purposes of sale or resale, not  
13        exempted by paragraph (1), and whose annual gross  
14        sales are in excess of \$ \_\_\_\_\_, the tax shall be  
15        \_\_\_\_\_ per cent of the purchase price of the property,  
16        if the purchase and sale are consummated in Hawaii;  
17        or, if there is no purchase price applicable thereto,  
18        or if the purchase or sale is consummated outside of  
19        Hawaii, then \_\_\_\_\_ per cent of the value of such  
20        property; and



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1        [~~3~~] (4) In all other cases, four per cent of the value of  
2                    the property.

3            For purposes of this section, tangible personal property is  
4 property that is imported by the taxpayer for use in this State,  
5 notwithstanding the fact that title to the property, or the risk  
6 of loss to the property, passes to the purchaser of the property  
7 at a location outside this State."

8            SECTION 2. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

10           SECTION 3. This Act shall take effect on July 1, 2016.

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INTRODUCED BY: *Therese Chun Oakland*



# S.B. NO. 2082

**Report Title:**

Use Tax; Import Tax; Tangible Personal Property

**Description:**

Amends the use tax rate for importers or purchasers of tangible personal property into the State for retail sale and whose annual gross sales exceed \$                      from 0.5% to an unspecified per cent.

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

