

JAN 25 2017

A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 PART I

2 SECTION 1. Section 237-13, Hawaii Revised Statutes, is

3 amended to read as follows:

4 "§237-13 Imposition of tax. There is hereby levied and
5 shall be assessed and collected annually privilege taxes against
6 persons on account of their business and other activities in the
7 State measured by the application of rates against values of
8 products, gross proceeds of sales, or gross income, whichever is
9 specified, as follows:

10 (1) Tax on manufacturers.

11 (A) Upon every person engaging or continuing within
12 the State in the business of manufacturing,
13 including compounding, canning, preserving,
14 packing, printing, publishing, milling,
15 processing, refining, or preparing for sale,
16 profit, or commercial use, either directly or
17 through the activity of others, in whole or in



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1 part, any article or articles, substance or
2 substances, commodity or commodities, the amount
3 of the tax to be equal to the value of the
4 articles, substances, or commodities,
5 manufactured, compounded, canned, preserved,
6 packed, printed, milled, processed, refined, or
7 prepared for sale, as shown by the gross proceeds
8 derived from the sale thereof by the manufacturer
9 or person compounding, preparing, or printing
10 them, multiplied by one-half of one per cent.

11 (B) The measure of the tax on manufacturers is the
12 value of the entire product for sale, regardless
13 of the place of sale or the fact that deliveries
14 may be made to points outside the State.

15 (C) If any person liable for the tax on manufacturers
16 ships or transports the person's product, or any
17 part thereof, out of the State, whether in a
18 finished or unfinished condition, or sells the
19 same for delivery to points outside the State
20 (for example, consigned to a mainland purchaser
21 via common carrier f.o.b. Honolulu), the value of



1 the products in the condition or form in which
2 they exist immediately before entering interstate
3 or foreign commerce, determined as hereinafter
4 provided, shall be the basis for the assessment
5 of the tax imposed by this paragraph. This tax
6 shall be due and payable as of the date of entry
7 of the products into interstate or foreign
8 commerce, whether the products are then sold or
9 not. The department shall determine the basis
10 for assessment, as provided by this paragraph, as
11 follows:

12 (i) If the products at the time of their entry
13 into interstate or foreign commerce already
14 have been sold, the gross proceeds of sale,
15 less the transportation expenses, if any,
16 incurred in realizing the gross proceeds for
17 transportation from the time of entry of the
18 products into interstate or foreign
19 commerce, including insurance and storage in
20 transit, shall be the measure of the value
21 of the products;



1 (ii) If the products have not been sold at the
2 time of their entry into interstate or
3 foreign commerce, and in cases governed by
4 clause (i) in which the products are sold
5 under circumstances such that the gross
6 proceeds of sale are not indicative of the
7 true value of the products, the value of the
8 products constituting the basis for
9 assessment shall correspond as nearly as
10 possible to the gross proceeds of sales for
11 delivery outside the State, adjusted as
12 provided in clause (i), or if sufficient
13 data are not available, sales in the State,
14 of similar products of like quality and
15 character and in similar quantities, made by
16 the taxpayer (unless not indicative of the
17 true value) or by others. Sales outside the
18 State, adjusted as provided in clause (i),
19 may be considered when they constitute the
20 best available data. The department shall



1 prescribe uniform and equitable rules for
2 ascertaining the values;

3 (iii) At the election of the taxpayer and with the
4 approval of the department, the taxpayer may
5 make the taxpayer's returns under clause (i)
6 even though the products have not been sold
7 at the time of their entry into interstate
8 or foreign commerce; and

9 (iv) In all cases in which products leave the
10 State in an unfinished condition, the basis
11 for assessment shall be adjusted so as to
12 deduct the portion of the value as is
13 attributable to the finishing of the goods
14 outside the State.

15 (2) Tax on business of selling tangible personal property;
16 producing.

17 (A) Upon every person engaging or continuing in the
18 business of selling any tangible personal
19 property whatsoever (not including, however,
20 bonds or other evidence of indebtedness, or
21 stocks), there is likewise hereby levied, and



1 shall be assessed and collected, a tax equivalent
2 to [~~four~~] 4.5 per cent of the gross proceeds of
3 sales of the business; provided that, in the case
4 of a wholesaler, the tax shall be equal to one-
5 half of one per cent of the gross proceeds of
6 sales of the business; and provided further that
7 insofar as the sale of tangible personal property
8 is a wholesale sale under section 237-4(a)(8),
9 the tax shall be one-half of one per cent of the
10 gross proceeds. Upon every person engaging or
11 continuing within this State in the business of a
12 producer, the tax shall be equal to one-half of
13 one per cent of the gross proceeds of sales of
14 the business, or the value of the products, for
15 sale, if sold for delivery outside the State or
16 shipped or transported out of the State, and the
17 value of the products shall be determined in the
18 same manner as the value of manufactured products
19 covered in the cases under paragraph (1)(C).

20 (B) Gross proceeds of sales of tangible property in
21 interstate and foreign commerce shall constitute



1 a part of the measure of the tax imposed on
2 persons in the business of selling tangible
3 personal property, to the extent, under the
4 conditions, and in accordance with the provisions
5 of the Constitution of the United States and the
6 Acts of the Congress of the United States which
7 may be now in force or may be hereafter adopted,
8 and whenever there occurs in the State an
9 activity to which, under the Constitution and
10 Acts of Congress, there may be attributed gross
11 proceeds of sales, the gross proceeds shall be so
12 attributed.

13 (C) No manufacturer or producer, engaged in such
14 business in the State and selling the
15 manufacturer's or producer's products for
16 delivery outside of the State (for example,
17 consigned to a mainland purchaser via common
18 carrier f.o.b. Honolulu), shall be required to
19 pay the tax imposed in this chapter for the
20 privilege of so selling the products, and the
21 value or gross proceeds of sales of the products



1 shall be included only in determining the measure
2 of the tax imposed upon the manufacturer or
3 producer.

4 (D) When a manufacturer or producer, engaged in such
5 business in the State, also is engaged in selling
6 the manufacturer's or producer's products in the
7 State at wholesale, retail, or in any other
8 manner, the tax for the privilege of engaging in
9 the business of selling the products in the State
10 shall apply to the manufacturer or producer as
11 well as the tax for the privilege of
12 manufacturing or producing in the State, and the
13 manufacturer or producer shall make the returns
14 of the gross proceeds of the wholesale, retail,
15 or other sales required for the privilege of
16 selling in the State, as well as making the
17 returns of the value or gross proceeds of sales
18 of the products required for the privilege of
19 manufacturing or producing in the State. The
20 manufacturer or producer shall pay the tax
21 imposed in this chapter for the privilege of



1 selling its products in the State, and the value
2 or gross proceeds of sales of the products, thus
3 subjected to tax, may be deducted insofar as
4 duplicated as to the same products by the measure
5 of the tax upon the manufacturer or producer for
6 the privilege of manufacturing or producing in
7 the State; provided that no producer of
8 agricultural products who sells the products to a
9 purchaser who will process the products outside
10 the State shall be required to pay the tax
11 imposed in this chapter for the privilege of
12 producing or selling those products.

13 (E) A taxpayer selling to a federal cost-plus
14 contractor may make the election provided for by
15 paragraph (3)(C), and in that case the tax shall
16 be computed pursuant to the election,
17 notwithstanding this paragraph or paragraph (1)
18 to the contrary.

19 (F) The department, by rule, may require that a
20 seller take from the purchaser of tangible
21 personal property a certificate, in a form



1 prescribed by the department, certifying that the
2 sale is a sale at wholesale; provided that:

3 (i) Any purchaser who furnishes a certificate
4 shall be obligated to pay to the seller,
5 upon demand, the amount of the additional
6 tax that is imposed upon the seller whenever
7 the sale in fact is not at wholesale; and

8 (ii) The absence of a certificate in itself shall
9 give rise to the presumption that the sale
10 is not at wholesale unless the sales of the
11 business are exclusively at wholesale.

12 (3) Tax upon contractors.

13 (A) Upon every person engaging or continuing within
14 the State in the business of contracting, the tax
15 shall be equal to [~~four~~] 4.5 per cent of the
16 gross income of the business.

17 (B) In computing the tax levied under this paragraph,
18 there shall be deducted from the gross income of
19 the taxpayer so much thereof as has been included
20 in the measure of the tax levied under
21 subparagraph (A), on:



- 1 (i) Another taxpayer who is a contractor, as
- 2 defined in section 237-6;
- 3 (ii) A specialty contractor, duly licensed by the
- 4 department of commerce and consumer affairs
- 5 pursuant to section 444-9, in respect of the
- 6 specialty contractor's business; or
- 7 (iii) A specialty contractor who is not licensed
- 8 by the department of commerce and consumer
- 9 affairs pursuant to section 444-9, but who
- 10 performs contracting activities on federal
- 11 military installations and nowhere else in
- 12 this State;
- 13 provided that any person claiming a deduction
- 14 under this paragraph shall be required to show in
- 15 the person's return the name and general excise
- 16 number of the person paying the tax on the amount
- 17 deducted by the person.
- 18 (C) In computing the tax levied under this paragraph
- 19 against any federal cost-plus contractor, there
- 20 shall be excluded from the gross income of the



1 contractor so much thereof as fulfills the
2 following requirements:

3 (i) The gross income exempted shall constitute
4 reimbursement of costs incurred for
5 materials, plant, or equipment purchased
6 from a taxpayer licensed under this chapter,
7 not exceeding the gross proceeds of sale of
8 the taxpayer on account of the transaction;
9 and

10 (ii) The taxpayer making the sale shall have
11 certified to the department that the
12 taxpayer is taxable with respect to the
13 gross proceeds of the sale, and that the
14 taxpayer elects to have the tax on gross
15 income computed the same as upon a sale to
16 the state government.

17 (D) A person who, as a business or as a part of a
18 business in which the person is engaged, erects,
19 constructs, or improves any building or
20 structure, of any kind or description, or makes,
21 constructs, or improves any road, street,



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1 sidewalk, sewer, or water system, or other
2 improvements on land held by the person (whether
3 held as a leasehold, fee simple, or otherwise),
4 upon the sale or other disposition of the land or
5 improvements, even if the work was not done
6 pursuant to a contract, shall be liable to the
7 same tax as if engaged in the business of
8 contracting, unless the person shows that at the
9 time the person was engaged in making the
10 improvements the person intended, and for the
11 period of at least one year after completion of
12 the building, structure, or other improvements
13 the person continued to intend to hold and not
14 sell or otherwise dispose of the land or
15 improvements. The tax in respect of the
16 improvements shall be measured by the amount of
17 the proceeds of the sale or other disposition
18 that is attributable to the erection,
19 construction, or improvement of such building or
20 structure, or the making, constructing, or
21 improving of the road, street, sidewalk, sewer,



1 or water system, or other improvements. The
2 measure of tax in respect of the improvements
3 shall not exceed the amount which would have been
4 taxable had the work been performed by another,
5 subject as in other cases to the deductions
6 allowed by subparagraph (B). Upon the election
7 of the taxpayer, this paragraph may be applied
8 notwithstanding that the improvements were not
9 made by the taxpayer, or were not made as a
10 business or as a part of a business, or were made
11 with the intention of holding the same. However,
12 this paragraph shall not apply in respect of any
13 proceeds that constitute or are in the nature of
14 rent; all such gross income shall be taxable
15 under paragraph (9); provided that insofar as the
16 business of renting or leasing real property
17 under a lease is taxed under section 237-16.5,
18 the tax shall be levied by section 237-16.5.

19 (4) Tax upon theaters, amusements, radio broadcasting
20 stations, etc.



1 (A) Upon every person engaging or continuing within
2 the State in the business of operating a theater,
3 opera house, moving picture show, vaudeville,
4 amusement park, dance hall, skating rink, radio
5 broadcasting station, or any other place at which
6 amusements are offered to the public, the tax
7 shall be equal to [~~four~~] 4.5 per cent of the
8 gross income of the business, and in the case of
9 a sale of an amusement at wholesale under section
10 237-4(a)(13), the tax shall be one-half of one
11 per cent of the gross income.

12 (B) The department may require that the person
13 rendering an amusement at wholesale take from the
14 licensed seller a certificate, in a form
15 prescribed by the department, certifying that the
16 sale is a sale at wholesale; provided that:

17 (i) Any licensed seller who furnishes a
18 certificate shall be obligated to pay to the
19 person rendering the amusement, upon demand,
20 the amount of additional tax that is imposed



1 upon the seller whenever the sale is not at
2 wholesale; and

3 (ii) The absence of a certificate in itself shall
4 give rise to the presumption that the sale
5 is not at wholesale unless the person
6 rendering the sale is exclusively rendering
7 the amusement at wholesale.

8 (5) Tax upon sales representatives, etc. Upon every
9 person classified as a representative or purchasing
10 agent under section 237-1, engaging or continuing
11 within the State in the business of performing
12 services for another, other than as an employee, there
13 is likewise hereby levied and shall be assessed and
14 collected a tax equal to [~~four~~] 4.5 per cent of the
15 commissions and other compensation attributable to the
16 services so rendered by the person.

17 (6) Tax on service business.

18 (A) Upon every person engaging or continuing within
19 the State in any service business or calling
20 including professional services not otherwise
21 specifically taxed under this chapter, there is



1 likewise hereby levied and shall be assessed and
2 collected a tax equal to [~~four~~] 4.5 per cent of
3 the gross income of the business, and in the case
4 of a wholesaler under section 237-4(a)(10), the
5 tax shall be equal to one-half of one per cent of
6 the gross income of the business.

7 (B) The department may require that the person
8 rendering a service at wholesale take from the
9 licensed seller a certificate, in a form
10 prescribed by the department, certifying that the
11 sale is a sale at wholesale; provided that:

12 (i) Any licensed seller who furnishes a
13 certificate shall be obligated to pay to the
14 person rendering the service, upon demand,
15 the amount of additional tax that is imposed
16 upon the seller whenever the sale is not at
17 wholesale; and

18 (ii) The absence of a certificate in itself shall
19 give rise to the presumption that the sale
20 is not at wholesale unless the person



1 rendering the sale is exclusively rendering
2 services at wholesale.

3 (C) Where any person is engaged in the business of
4 selling interstate or foreign common carrier
5 telecommunication services within and without the
6 State, other than as a home service provider, the
7 tax shall be imposed on that portion of gross
8 income received by a person from service which is
9 originated or terminated in this State and is
10 charged to a telephone number, customer, or
11 account in this State notwithstanding any other
12 state law (except for the exemption under section
13 237-23(a)(1)) to the contrary. If, under the
14 Constitution and laws of the United States, the
15 entire gross income as determined under this
16 paragraph of a business selling interstate or
17 foreign common carrier telecommunication services
18 cannot be included in the measure of the tax, the
19 gross income shall be apportioned as provided in
20 section 237-21; provided that the apportionment



1 factor and formula shall be the same for all
2 persons providing those services in the State.

3 (D) Where any person is engaged in the business of a
4 home service provider, the tax shall be imposed
5 on the gross income received or derived from
6 providing interstate or foreign mobile
7 telecommunications services to a customer with a
8 place of primary use in this State when such
9 services originate in one state and terminate in
10 another state, territory, or foreign country;
11 provided that all charges for mobile
12 telecommunications services which are billed by
13 or for the home service provider are deemed to be
14 provided by the home service provider at the
15 customer's place of primary use, regardless of
16 where the mobile telecommunications originate,
17 terminate, or pass through; provided further that
18 the income from charges specifically derived from
19 interstate or foreign mobile telecommunications
20 services, as determined by books and records that
21 are kept in the regular course of business by the



1 home service provider in accordance with section
2 239-24, shall be apportioned under any
3 apportionment factor or formula adopted under
4 subparagraph (C). Gross income shall not
5 include:

6 (i) Gross receipts from mobile
7 telecommunications services provided to a
8 customer with a place of primary use outside
9 this State;

10 (ii) Gross receipts from mobile
11 telecommunications services that are subject
12 to the tax imposed by chapter 239;

13 (iii) Gross receipts from mobile
14 telecommunications services taxed under
15 section 237-13.8; and

16 (iv) Gross receipts of a home service provider
17 acting as a serving carrier providing mobile
18 telecommunications services to another home
19 service provider's customer.

20 For the purposes of this paragraph, "charges for
21 mobile telecommunications services", "customer",



1 "home service provider", "mobile
2 telecommunications services", "place of primary
3 use", and "serving carrier" have the same meaning
4 as in section 239-22.

5 (7) Tax on insurance producers. Upon every person engaged
6 as a licensed producer pursuant to chapter 431, there
7 is hereby levied and shall be assessed and collected a
8 tax equal to 0.15 per cent of the commissions due to
9 that activity.

10 (8) Tax on receipts of sugar benefit payments. Upon the
11 amounts received from the United States government by
12 any producer of sugar (or the producer's legal
13 representative or heirs), as defined under and by
14 virtue of the Sugar Act of 1948, as amended, or other
15 Acts of the Congress of the United States relating
16 thereto, there is hereby levied a tax of one-half of
17 one per cent of the gross amount received; provided
18 that the tax levied hereunder on any amount so
19 received and actually disbursed to another by a
20 producer in the form of a benefit payment shall be
21 paid by the person or persons to whom the amount is



1 actually disbursed, and the producer actually making a
2 benefit payment to another shall be entitled to claim
3 on the producer's return a deduction from the gross
4 amount taxable hereunder in the sum of the amount so
5 disbursed. The amounts taxed under this paragraph
6 shall not be taxable under any other paragraph,
7 subsection, or section of this chapter.

8 (9) Tax on other business. Upon every person engaging or
9 continuing within the State in any business, trade,
10 activity, occupation, or calling not included in the
11 preceding paragraphs or any other provisions of this
12 chapter, there is likewise hereby levied and shall be
13 assessed and collected, a tax equal to [~~four~~] 4.5 per
14 cent of the gross income thereof. In addition, the
15 rate prescribed by this paragraph shall apply to a
16 business taxable under one or more of the preceding
17 paragraphs or other provisions of this chapter, as to
18 any gross income thereof not taxed thereunder as gross
19 income or gross proceeds of sales or by taxing an
20 equivalent value of products, unless specifically
21 exempted."



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

3 "§237-15 Technicians. When technicians supply dentists or
4 physicians with dentures, orthodontic devices, braces, and
5 similar items [~~which~~] that have been prepared by the technician
6 in accordance with specifications furnished by the dentist or
7 physician, and [~~such~~] the items are to be used by the dentist or
8 physician in the dentist's or physician's professional practice
9 for a particular patient who is to pay the dentist or physician
10 for the same as a part of the dentist's or physician's
11 professional services, the technician shall be taxed as though
12 the technician were a manufacturer selling a product to a
13 licensed retailer, rather than at the rate of [~~four~~] 4.5 per
14 cent [~~which~~] that is generally applied to professions and
15 services."

16 SECTION 3. Section 237-16.5, Hawaii Revised Statutes, is
17 amended as follows:

18 1. By amending subsection (a) to read:

19 "(a) This section relates to the leasing of real property
20 by a lessor to a lessee. There is hereby levied, and shall be
21 assessed and collected annually, a privilege tax against persons



1 engaging or continuing within the State in the business of
2 leasing real property to another, equal to [~~four~~] 4.5 per cent
3 of the gross proceeds or gross income received or derived from
4 the leasing; provided that where real property is subleased by a
5 lessee to a sublessee, the lessee, as provided in this section,
6 shall be allowed a deduction from the amount of gross proceeds
7 or gross income received from its sublease of the real property.
8 The deduction shall be in the amount allowed under this section.

9 All deductions under this section and the name and general
10 excise tax number of the lessee's lessor shall be reported on
11 the general excise tax return. Any deduction allowed under this
12 section shall only be allowed with respect to leases and
13 subleases in writing and relating to the same real property."

14 2. By amending subsection (f) to read:

15 "(f) This section shall not cause the tax upon a lessor,
16 with respect to any item of the lessor's gross proceeds or gross
17 income, to exceed [~~four~~] 4.5 per cent."

18 SECTION 4. Section 237-18, Hawaii Revised Statutes, is
19 amended by amending subsection (f) to read as follows:

20 "(f) Where tourism related services are furnished through
21 arrangements made by a travel agency or tour packager and the



1 gross income is divided between the provider of the services and
2 the travel agency or tour packager, the tax imposed by this
3 chapter shall apply to each such person with respect to [~~such~~]
4 the person's respective portion of the proceeds, and no more.

5 As used in this subsection, "tourism related services"
6 means catamaran cruises, canoe rides, dinner cruises, lei
7 greetings, transportation included in a tour package,
8 sightseeing tours not subject to chapter 239, admissions to
9 luaus, dinner shows, extravaganzas, cultural and educational
10 facilities, and other services rendered directly to the customer
11 or tourist, but only if the providers of the services other than
12 air transportation are subject to a [~~four~~] 4.5 per cent tax
13 under this chapter or chapter 239."

14 SECTION 5. Section 237-31, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "§237-31 Remittances. (a) All remittances of taxes
17 imposed by this chapter shall be made by money, bank draft,
18 check, cashier's check, money order, or certificate of deposit
19 to the office of the department of taxation to which the return
20 was transmitted.



1 (b) The department shall issue its receipts therefor to
2 the taxpayer and shall pay the moneys into the state treasury as
3 a state realization, to be kept and accounted for as provided by
4 law; provided that:

5 (1) A sum, not to exceed \$5,000,000, from all general
6 excise tax revenues realized by the State shall be
7 deposited in the state treasury in each fiscal year to
8 the credit of the compound interest bond reserve fund;

9 (2) A sum from all general excise tax revenues realized by
10 the State that is equal to one-half of the total
11 amount of funds appropriated or transferred out of the
12 hurricane reserve trust fund under sections 4 and 5 of
13 Act 62, Session Laws of Hawaii 2011, shall be
14 deposited into the hurricane reserve trust fund in
15 fiscal year 2013-2014 and in fiscal year 2014-2015;
16 provided that the deposit required in each fiscal year
17 shall be made by October 1 of that fiscal year; and

18 [†] (3) [†] Commencing with fiscal year 2018-2019, a sum from
19 all general excise tax revenues realized by the State
20 that represents the difference between the state
21 public employer's annual required contribution for the



1 separate trust fund established under section 87A-42
2 and the amount of the state public employer's
3 contributions into that trust fund shall be deposited
4 to the credit of the State's annual required
5 contribution into that trust fund in each fiscal year,
6 as provided in section 87A-42.

7 (c) Notwithstanding subsection (b), beginning on July 1,
8 2017, the additional revenues generated and collected from the
9 increase in general excise tax rates imposed by sections 1, 2,
10 3, and 4 of Act _____, Session Laws of Hawaii 2017, shall be
11 distributed as follows:

12 (1) _____ per cent or \$200,000,000, whichever is
13 greater, of the revenues shall be deposited into a
14 special account in the general fund for appropriation
15 to and expenditure for operations of the department of
16 education under chapter 302A; and

17 (2) _____ per cent or \$50,000,000, whichever is
18 greater, of the revenues shall be deposited into a
19 special account in the general fund for appropriation
20 to and expenditure for operations of the University of
21 Hawaii under chapter 304A."



1 SECTION 6. 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
18 the manufacturer into a finished or saleable
19 product (including the container or package in
20 which the product is contained) wherein it will
21 remain in such form as to be perceptible to the



1 senses, and which finished or saleable product is
2 to be sold in such manner as to result in a
3 further tax on the activity of the manufacturer
4 as the manufacturer or as a wholesaler, and not
5 as a retailer,

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

- 20 (2) If the importer or purchaser is licensed under chapter
21 237 and is:



- 1 (A) A retailer or other person importing or
2 purchasing for purposes of sale or resale, not
3 exempted by paragraph (1);
- 4 (B) A manufacturer importing or purchasing material
5 or commodities which are to be incorporated by
6 the manufacturer into a finished or saleable
7 product (including the container or package in
8 which the product is contained) wherein it will
9 remain in such form as to be perceptible to the
10 senses, and which finished or saleable product is
11 to be sold at retail in this State, in such
12 manner as to result in a further tax on the
13 activity of the manufacturer in selling such
14 products at retail;
- 15 (C) A contractor importing or purchasing material or
16 commodities which are to be incorporated by the
17 contractor into the finished work or project
18 required by the contract and which will remain in
19 such finished work or project in such form as to
20 be perceptible to the senses;



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

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

19 the tax shall be one-half of one per cent of the
20 purchase price of the property, if the purchase and
21 sale are consummated in Hawaii; or, if there is no



1 purchase price applicable thereto, or if the purchase
2 or sale is consummated outside of Hawaii, then one-
3 half of one per cent of the value of such property;
4 and

5 (3) In all other cases, [~~four~~] 4.5 per cent of the value
6 of the property.

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

19 SECTION 7. Section 238-2.3, Hawaii Revised Statutes, is
20 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;



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;



1 provided that if the manufacturer is also engaged in
2 business as a retailer as classified under chapter
3 237, paragraph (2) shall apply to the manufacturer,
4 but the director of taxation shall refund to the
5 manufacturer, in the manner provided under section
6 231-23(c), that amount of tax that the manufacturer,
7 to the satisfaction of the director, shall establish
8 to have been paid by the manufacturer to the director
9 with respect to services that have been used by the
10 manufacturer for the purposes stated in this
11 paragraph.

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

14 (A) Engaged in a service business or calling in which
15 the imported or purchased services or contracting
16 become identifiable elements, excluding overhead,
17 of the services rendered by the importer or
18 purchaser, and the gross income from those
19 services when sold by the importer or purchaser
20 is subject to the tax imposed under chapter 237
21 at the highest rate;



1 (B) A manufacturer importing or purchasing services
2 or contracting that become identifiable elements,
3 excluding overhead, of the finished or saleable
4 manufactured product (including the container or
5 package in which the product is contained) and
6 the finished or saleable product is to be sold in
7 a manner that results in a further tax under
8 chapter 237 on the activity of the manufacturer
9 as a retailer; or

10 (C) A contractor importing or purchasing services
11 that become identifiable elements, excluding
12 overhead, of the finished work or project
13 required, under the contract, and where the gross
14 proceeds derived by the contractor are subject to
15 the tax under section 237-13(3) as a contractor,
16 the tax shall be one-half of one per cent of the value
17 of the imported or purchased services or contracting;
18 and

19 (3) In all other cases, the importer or purchaser is
20 subject to the tax at the rate of [~~four~~] 4.5 per cent



1 on the value of the imported or purchased services or
2 contracting."

3 PART II

4 SECTION 8. Section 248-2.6, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) If adopted by county ordinance, all county surcharges
7 on state tax collected by the director of taxation shall be paid
8 into the state treasury quarterly, within ten working days after
9 collection, and shall be placed by the director of finance in
10 special accounts. Out of the revenues generated by county
11 surcharges on state tax paid into each respective state treasury
12 special account, the director of finance shall deduct [~~ten~~] five
13 per cent of the gross proceeds of a respective county's
14 surcharge on state tax to reimburse the State for the costs of
15 assessment, collection, and disposition of the county surcharge
16 on state tax incurred by the State. Amounts retained shall be
17 general fund realizations of the State."

18 PART III

19 SECTION 9. Section 235-2.4, Hawaii Revised Statutes, is
20 amended by amending subsection (a) to read as follows:



1 "(a) Section 63 (with respect to taxable income defined)
2 of the Internal Revenue Code shall be operative for the purposes
3 of this chapter, subject to the following:

4 (1) Section 63(c)(1)(B) (relating to the additional
5 standard deduction), 63(c)(1)(C) (relating to the real
6 property tax deduction), 63(c)(1)(D) (relating to the
7 disaster loss deduction), 63(c)(1)(E) (relating to the
8 motor vehicle sales tax deduction), 63(c)(4) (relating
9 to inflation adjustments), 63(c)(7) (defining the real
10 property tax deduction), 63(c)(8) (defining the
11 disaster loss deduction), 63(c)(9) (defining the motor
12 vehicle sales tax deduction), and 63(f) (relating to
13 additional amounts for the aged or blind) of the
14 Internal Revenue Code shall not be operative for
15 purposes of this chapter;

16 (2) Section 63(c)(2) (relating to the basic standard
17 deduction) of the Internal Revenue Code shall be
18 operative, except that the standard deduction amounts
19 provided therein shall instead mean:

20 (A) [~~\$4,400~~] \$ _____ in the case of:



- 1 (i) A joint return as provided by section
2 235-93; or
3 (ii) A surviving spouse (as defined in section
4 2(a) of the Internal Revenue Code);
5 (B) [~~\$3,212~~] \$ _____ in the case of a head of
6 household (as defined in section 2(b) of the
7 Internal Revenue Code);
8 (C) [~~\$2,200~~] \$ _____ in the case of an individual
9 who is not married and who is not a surviving
10 spouse or head of household; or
11 (D) [~~\$2,200~~] \$ _____ in the case of a married
12 individual filing a separate return;
13 (3) Section 63(c)(5) (limiting the basic standard
14 deduction in the case of certain dependents) of the
15 Internal Revenue Code shall be operative, except that
16 the limitation shall be the greater of \$500 or the
17 individual's earned income; and
18 (4) The standard deduction amount for nonresidents shall
19 be calculated pursuant to section 235-5."



1 PART IV

2 SECTION 10. Act 223, Session Laws of Hawaii 2015, is
3 amended by amending section 4 to read as follows:

4 "SECTION 4. This Act, upon its approval, shall apply to
5 taxable years beginning after December 31, 2015; provided that
6 this Act shall be repealed on December 31, [~~2017~~] 2019, and
7 section 235-55.85, Hawaii Revised Statutes, shall be reenacted
8 in the form in which it read on the day prior to the effective
9 date of this Act."

10 PART V

11 SECTION 11. This Act does not affect rights and duties
12 that matured, penalties that were incurred, and proceedings that
13 were begun before its effective date.

14 SECTION 12. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 13. This Act shall take effect upon its approval;
17 provided that:

18 (1) Parts I and II shall take effect on July 1, 2017; and



S.B. NO. 1132

1 (2) Part III shall apply to taxable years beginning after
2 December 31, 2016.

3

INTRODUCED BY:

A handwritten signature in black ink, appearing to be "R. D. O'Connell", written over a horizontal line.

S.B. NO. 1132

Report Title:

General Excise Tax; Use Tax; Increase; County Surcharge on State Tax; Reimbursement; Income Tax; Standard Deduction; Refundable Food/Excise Tax Credit

Description:

Increases the general excise tax by 0.5% to provide a dedicated funding source for the department of education and the University of Hawaii. Increases the use tax by 0.5%. Reduces the amount deducted from the county surcharge on state tax to reimburse the State for costs of assessment, collection, and disposition from 10% to 5%. Amends the state income tax by increasing the amounts of the standard deduction to unspecified amounts. Extends the sunset date for the increased amounts of the refundable food/excise tax credit by 2 years.

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

