

JAN 20 2017

A BILL FOR AN ACT

RELATING TO THE GENERAL EXCISE TAX.

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

1 SECTION 1. The purpose of this Act is to provide an
2 exemption for amounts received from the sale of mobility
3 enhancement and durable medical equipment, and to expand the
4 definition of "prosthetic devices" to include devices that are
5 worn on the body. These changes will benefit individuals with
6 disabilities and kupuna on limited income by exempting necessary
7 medical devices and the repair of those devices from Hawaii's
8 general excise tax.

9 SECTION 2. Section 237-24.3, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§237-24.3 Additional amounts not taxable.** In addition to
12 the amounts not taxable under section 237-24, this chapter shall
13 not apply to:

14 (1) Amounts received from the loading, transportation, and
15 unloading of agricultural commodities shipped for a
16 producer or produce dealer on one island of this State
17 to a person, firm, or organization on another island



1 of this State. The terms "agricultural commodity",
2 "producer", and "produce dealer" shall be defined in
3 the same manner as they are defined in section 147-1;
4 provided that agricultural commodities need not have
5 been produced in the State;

6 (2) Amounts received by the manager, submanager, or board
7 of directors of:

8 (A) An association of owners of a condominium
9 property regime established in accordance with
10 chapter 514A or 514B; or

11 (B) A nonprofit homeowners or community association
12 incorporated in accordance with chapter 414D or
13 any predecessor thereto and existing pursuant to
14 covenants running with the land,

15 in reimbursement of sums paid for common expenses;

16 (3) Amounts received or accrued from:

17 (A) The loading or unloading of cargo from ships,
18 barges, vessels, or aircraft, whether or not the
19 ships, barges, vessels, or aircraft travel
20 between the State and other states or countries
21 or between the islands of the State;



- 1 (B) Tugboat services including pilotage fees
2 performed within the State, and the towage of
3 ships, barges, or vessels in and out of state
4 harbors, or from one pier to another; and
- 5 (C) The transportation of pilots or governmental
6 officials to ships, barges, or vessels offshore;
7 rigging gear; checking freight and similar
8 services; standby charges; and use of moorings
9 and running mooring lines;
- 10 (4) Amounts received by an employee benefit plan by way of
11 contributions, dividends, interest, and other income;
12 and amounts received by a nonprofit organization or
13 office, as payments for costs and expenses incurred
14 for the administration of an employee benefit plan;
15 provided that this exemption shall not apply to any
16 gross rental income or gross rental proceeds received
17 after June 30, 1994, as income from investments in
18 real property in this State; and provided further that
19 gross rental income or gross rental proceeds from
20 investments in real property received by an employee
21 benefit plan after June 30, 1994, under written



1 contracts executed prior to July 1, 1994, shall not be
2 taxed until the contracts are renegotiated, renewed,
3 or extended, or until after December 31, 1998,
4 whichever is earlier. For the purposes of this
5 paragraph, "employee benefit plan" means any plan as
6 defined in section 1002(3) of title 29 of the United
7 States Code, as amended;

8 (5) Amounts received for purchases made with United States
9 Department of Agriculture food coupons under the
10 federal food stamp program, and amounts received for
11 purchases made with United States Department of
12 Agriculture food vouchers under the Special
13 Supplemental Foods Program for Women, Infants and
14 Children;

15 (6) Amounts received [~~by a hospital, infirmary, medical~~
16 ~~clinic, health care facility, pharmacy, or a~~
17 ~~practitioner licensed to administer the drug to an~~
18 ~~individual for selling prescription drugs or~~
19 ~~prosthetic devices to an individual; provided that~~
20 ~~this paragraph shall not apply to any amounts received~~
21 ~~for services provided in selling prescription drugs or~~



1 ~~prosthetic devices.]~~ from sales of the following when
2 sold for human use:

3 (A) Prescription drugs sold pursuant to a doctor's
4 prescription;

5 (B) Diabetic supplies;

6 (C) Prosthetic devices;

7 (D) Medical oxygen;

8 (E) Human blood and its derivatives;

9 (F) Durable medical equipment for home use;

10 (G) Mobility enhancing equipment sold by
11 prescription; and

12 (H) Repair and replacement parts for any of the
13 foregoing exempt devices and equipment;

14 provided that this exemption shall not apply to
15 amounts received for services in selling any of the
16 foregoing. As used in this paragraph:

17 "Durable medical equipment" means equipment,
18 including repair and replacement parts, but not
19 including mobility enhancing equipment, that:

20 (A) Can withstand repeated use;



- 1 (B) Is primarily and customarily used to serve a
2 medical purpose;
- 3 (C) Is generally not useful to a person in the
4 absence of illness or injury; and
- 5 (D) Is not worn in or on the body;
- 6 provided that examples of "durable medical equipment"
7 include the following: bath and shower chairs, bed
8 pans, and raised toilet seats;
- 9 "Mobility enhancing equipment" means equipment,
10 including repair and replacement parts, other than
11 durable medical equipment, that:
- 12 (A) Is primarily and customarily used to provide or
13 increase the ability to move from one place to
14 another and which is appropriate for use either
15 at home or in a motor vehicle;
- 16 (B) Is not generally used by persons with normal
17 mobility; and
- 18 (C) Does not include any motor vehicle or equipment
19 on a motor vehicle normally provided by a motor
20 vehicle manufacturer;



1 "Prescription" means an order, formula, or recipe
2 issued in any form of oral, written, electronic, or
3 other means of transmission by a duly licensed
4 practitioner authorized by the laws of this State;

5 "Prescription drugs" are those drugs defined
6 under section 328-1 and dispensed by filling or
7 refilling a written or oral prescription by a
8 practitioner licensed under law to administer the drug
9 and sold by a licensed pharmacist under section 328-16
10 or practitioners licensed to administer drugs[~~+~~
11 ~~provided that "prescription drugs" shall not include~~
12 ~~marijuana or manufactured marijuana products~~
13 ~~authorized pursuant to chapters 329 and 329D[+]; and[+]~~

14 "Prosthetic device" means [~~any artificial device~~
15 ~~or appliance, instrument, apparatus, or contrivance,~~
16 ~~including their components, parts, accessories, and~~
17 ~~replacements thereof, used to replace a missing or~~
18 ~~surgically removed part of the human body, which is~~
19 ~~prescribed by a licensed practitioner of medicine,~~
20 ~~osteopathy, or podiatry and that is sold by the~~
21 ~~practitioner or that is dispensed and sold by a dealer~~



S.B. NO. 222

1 ~~of prosthetic devices; provided that "prosthetic~~
2 ~~device" shall not mean any auditory, ophthalmic,~~
3 ~~dental, or ocular device or appliance, instrument,~~
4 ~~apparatus, or contrivance;]~~ a replacement, corrective,
5 or supportive device including repair and replacement
6 parts for same worn on or in the body in order to:

7 (A) Artificially replace a missing portion of the
8 body;

9 (B) Prevent or correct a physical deformity or
10 malfunction; or

11 (C) Support a weak or deformed portion of the body;

12 provided that "prosthetic device" shall not mean any
13 ophthalmic, dental, or ocular device or appliance,
14 instrument, apparatus, or contrivance. Examples of
15 prosthetic devices include the following: heart
16 valves, hearing aids, pacemakers, and artificial
17 limbs;

18 (7) Taxes on transient accommodations imposed by chapter
19 237D and passed on and collected by operators holding
20 certificates of registration under that chapter;



1 (8) Amounts received as dues by an unincorporated
2 merchants association from its membership for
3 advertising media, promotional, and advertising costs
4 for the promotion of the association for the benefit
5 of its members as a whole and not for the benefit of
6 an individual member or group of members less than the
7 entire membership;

8 (9) Amounts received by a labor organization for real
9 property leased to:

10 (A) A labor organization; or

11 (B) A trust fund established by a labor organization
12 for the benefit of its members, families, and
13 dependents for medical or hospital care, pensions
14 on retirement or death of employees,
15 apprenticeship and training, and other membership
16 service programs.

17 As used in this paragraph, "labor organization" means
18 a labor organization exempt from federal income tax
19 under section 501(c)(5) of the Internal Revenue Code,
20 as amended;



1 (10) Amounts received from foreign diplomats and consular
 2 officials who are holding cards issued or authorized
 3 by the United States Department of State granting them
 4 an exemption from state taxes; and

5 (11) Amounts received as rent for the rental or leasing of
 6 aircraft or aircraft engines used by the lessees or
 7 renters for interstate air transportation of
 8 passengers and goods. For purposes of this paragraph,
 9 payments made pursuant to a lease shall be considered
 10 rent regardless of whether the lease is an operating
 11 lease or a financing lease. The definition of
 12 "interstate air transportation" is the same as in 49
 13 U.S.C. section 40102."

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

16 SECTION 4. This Act, upon its approval, shall apply to
 17 taxable years beginning after December 31, 2017.

18

Mike Gabbard

INTRODUCED BY:

Randy H. Beck
Stacy
Ron E. Bell



S.B. NO. 222

Report Title:

General Excise Tax; Medical Devices; Exemption

Description:

Exempts gross receipts from the sale of mobility enhancing equipment and durable medical equipment from the general excise tax. Amends the definition of "prosthetic device" to include devices worn on the body. Exempts gross receipts from the repair of prosthetic devices from the general excise tax.

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

