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# 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:

2 (1) Provide a general excise tax exemption for amounts  
3 received from the sale of mobility enhancement  
4 equipment, durable medical equipment, prescription  
5 drugs sold pursuant to a doctor's prescription,  
6 diabetic supplies, prosthetic devices, medical oxygen,  
7 and human blood and its derivatives; and

8 (2) Expand the definition of "prosthetic devices" to  
9 include devices that are worn on the body.

10 These changes will benefit individuals with disabilities  
11 and kupuna on limited income by exempting necessary medical  
12 devices and the repair of those devices from Hawaii's general  
13 excise tax.

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

16 "§237-24.3 **Additional amounts not taxable.** In addition to  
17 the amounts not taxable under section 237-24, this chapter shall  
18 not apply to:



- 1           (1) Amounts received from the loading, transportation, and  
2           unloading of agricultural commodities shipped for a  
3           producer or produce dealer on one island of this State  
4           to a person, firm, or organization on another island  
5           of this State. The terms "agricultural commodity",  
6           "producer", and "produce dealer" shall be defined in  
7           the same manner as they are defined in section 147-1;  
8           provided that agricultural commodities need not have  
9           been produced in the State;
- 10          (2) Amounts received by the manager, submanager, or board  
11          of directors of:
- 12            (A) An association of owners of a condominium  
13            property regime established in accordance with  
14            chapter 514A or 514B; or
- 15            (B) A nonprofit homeowners or community association  
16            incorporated in accordance with chapter 414D or  
17            any predecessor thereto and existing pursuant to  
18            covenants running with the land,  
19            in reimbursement of sums paid for common expenses;
- 20          (3) Amounts received or accrued from:



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



1 after June 30, 1994, as income from investments in  
2 real property in this State; and provided further that  
3 gross rental income or gross rental proceeds from  
4 investments in real property received by an employee  
5 benefit plan after June 30, 1994, under written  
6 contracts executed prior to July 1, 1994, shall not be  
7 taxed until the contracts are renegotiated, renewed,  
8 or extended, or until after December 31, 1998,  
9 whichever is earlier. For the purposes of this  
10 paragraph, "employee benefit plan" means any plan as  
11 defined in section 1002(3) of title 29 of the United  
12 States Code, as amended;

13 (5) Amounts received for purchases made with United States  
14 Department of Agriculture food coupons under the  
15 federal food stamp program, and amounts received for  
16 purchases made with United States Department of  
17 Agriculture food vouchers under the Special  
18 Supplemental Foods Program for Women, Infants and  
19 Children;

20 (6) Amounts received [~~by a hospital, infirmary, medical~~  
21 ~~clinic, health care facility, pharmacy, or a~~



1 ~~practitioner licensed to administer the drug to an~~  
2 ~~individual for selling prescription drugs or~~  
3 ~~prosthetic devices to an individual; provided that~~  
4 ~~this paragraph shall not apply to any amounts received~~  
5 ~~for services provided in selling prescription drugs or~~  
6 ~~prosthetic devices.] from sales of the following when~~  
7 ~~sold for human use:~~

8 (A) Prescription drugs sold pursuant to a doctor's  
9 prescription;

10 (B) Diabetic supplies;

11 (C) Prosthetic devices;

12 (D) Medical oxygen;

13 (E) Human blood and its derivatives;

14 (F) Durable medical equipment for home use;

15 (G) Mobility enhancing equipment sold by  
16 prescription; and

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

19 provided that this exemption shall not apply to  
20 amounts received for services in selling any of the  
21 foregoing.



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As used in this paragraph:

"Durable medical equipment" means the same as in title 42 Code of Federal Regulations section 414.202 and includes repair and replacement parts; provided that the term includes bath and shower chairs, bed pans, and raised toilet seats but excludes mobility enhancing equipment.

"Mobility enhancing equipment" means equipment, including repair and replacement parts, other than durable medical equipment, that:

(A) Is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either at home or in a motor vehicle;

(B) Is not generally used by persons with normal mobility; and

(C) Does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer;

"Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or



1 other means of transmission by a duly licensed  
2 practitioner authorized by the laws of this State;

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

12 "Prosthetic device" means [~~any artificial device~~  
13 ~~or appliance, instrument, apparatus, or contrivance,~~  
14 ~~including their components, parts, accessories, and~~  
15 ~~replacements thereof, used to replace a missing or~~  
16 ~~surgically removed part of the human body, which is~~  
17 ~~prescribed by a licensed practitioner of medicine,~~  
18 ~~osteopathy, or podiatry and that is sold by the~~  
19 ~~practitioner or that is dispensed and sold by a dealer~~  
20 ~~of prosthetic devices; provided that "prosthetic~~  
21 ~~device" shall not mean any auditory, ophthalmic,~~



1 ~~dental, or ocular device or appliance, instrument,~~  
2 ~~apparatus, or contrivance,]~~ a replacement, corrective,  
3 or supportive device including repair and replacement  
4 parts for the device worn on or in the body in order  
5 to:

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

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

10 (C) Support a weak or deformed portion of the body;  
11 provided that "prosthetic device" shall not mean any  
12 ophthalmic, dental, or ocular device or appliance,  
13 instrument, apparatus, or contrivance. Examples of  
14 prosthetic devices include the following: heart  
15 valves, hearing aids, pacemakers, and artificial  
16 limbs;

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

20 (8) Amounts received as dues by an unincorporated  
21 merchants association from its membership for





1 advertising media, promotional, and advertising costs  
2 for the promotion of the association for the benefit  
3 of its members as a whole and not for the benefit of  
4 an individual member or group of members less than the  
5 entire membership;

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

8 (A) A labor organization; or

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

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

19 (10) Amounts received from foreign diplomats and consular  
20 officials who are holding cards issued or authorized



1 by the United States Department of State granting them  
2 an exemption from state taxes; and  
3 (11) Amounts received as rent for the rental or leasing of  
4 aircraft or aircraft engines used by the lessees or  
5 renters for interstate air transportation of  
6 passengers and goods. For purposes of this paragraph,  
7 payments made pursuant to a lease shall be considered  
8 rent regardless of whether the lease is an operating  
9 lease or a financing lease. The definition of  
10 "interstate air transportation" is the same as in 49  
11 U.S.C. section 40102."

12 SECTION 3. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

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



**Report Title:**

General Excise Tax; Medical Devices; Exemption

**Description:**

Exempts gross receipts from the sale of mobility enhancing equipment, durable medical equipment, prosthetic devices, prescription drugs sold pursuant to a doctor's prescription, diabetic supplies, medical oxygen, and human blood and its derivatives from the general excise tax. Amends the definition of "prosthetic device" to include devices worn on the body. Amends the definition of "prescription drugs". (SD1)

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