
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 amend the general
2 excise tax exemption for amounts received from the sale of
3 prescription drugs and prosthetic devices to include mobility
4 enhancement equipment, prescription drugs sold pursuant to a
5 doctor's prescription, prosthetic devices, and repair or service
6 of equipment and devices. This measure also expands the
7 definition of "prosthetic devices" to include devices that are
8 worn on the body. These changes will benefit individuals with
9 disabilities and kupuna on limited income by exempting necessary
10 medical devices and the repair of those devices from the State's
11 general excise tax.

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

14 "§237-24.3 Additional amounts not taxable. In addition to
15 the amounts not taxable under section 237-24, this chapter shall
16 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 a condominium property regime
13 established in accordance with chapter 514B or
14 any predecessor thereto; 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 title 29 United States Code section
12 1002(3), 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) Prosthetic devices;

11 (C) Mobility enhancing equipment sold by
12 prescription; and

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

15 provided that this exemption shall not apply to
16 amounts received for services in selling any of the
17 foregoing.

18 As used in this paragraph:

19 "Mobility enhancing equipment" means equipment,
20 including repair and replacement parts, that:



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

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

7 (C) Does not include any motor vehicle or equipment
8 on a motor vehicle normally provided by a motor
9 vehicle manufacturer.

10 "Prescription" means an order, formula, or recipe
11 issued in any form of oral, written, electronic, or
12 other means of transmission by a duly licensed
13 practitioner authorized by the laws of this State.

14 "Prescription drugs" are those drugs defined
15 under section 328-1 and dispensed by filling or
16 refilling a written or oral prescription by a
17 practitioner licensed under law to administer the drug
18 and sold by a licensed pharmacist under section 328-16
19 or practitioners licensed to administer drugs;
20 provided that "prescription drugs" shall not include



1 cannabis or manufactured cannabis products authorized
2 pursuant to chapters 329 and 329D; and

3 "Prosthetic device" means ~~[any artificial device~~
4 ~~or appliance, instrument, apparatus, or contrivance,~~
5 ~~including their components, parts, accessories, and~~
6 ~~replacements thereof, used to replace a missing or~~
7 ~~surgically removed part of the human body, which is~~
8 ~~prescribed by a licensed practitioner of medicine,~~
9 ~~osteopathy, or podiatry and that is sold by the~~
10 ~~practitioner or that is dispensed and sold by a dealer~~
11 ~~of prosthetic devices; provided that "prosthetic~~
12 ~~device" shall not mean any auditory, ophthalmic,~~
13 ~~dental, or ocular device or appliance, instrument,~~
14 ~~apparatus, or contrivance;]~~ a replacement, corrective,
15 or supportive device, including repair and replacement
16 parts for the device, worn on or in the body in order
17 to:

- 18 (A) Artificially replace a missing portion of the
19 body;
20 (B) Prevent or correct a physical deformity or
21 malfunction; or



- 1 (C) Support a weak or deformed portion of the body;
2 provided that "prosthetic device" shall not
3 include any ophthalmic, dental, or ocular device
4 or appliance, instrument, apparatus, or
5 contrivance. Examples of prosthetic devices
6 include the following: hearing aids and
7 artificial limbs;
- 8 (7) Taxes on transient accommodations imposed by chapter
9 237D and passed on and collected by operators holding
10 certificates of registration under that chapter;
- 11 (8) Amounts received as dues by an unincorporated
12 merchants association from its membership for
13 advertising media, promotional, and advertising costs
14 for the promotion of the association for the benefit
15 of its members as a whole and not for the benefit of
16 an individual member or group of members less than the
17 entire membership;
- 18 (9) Amounts received by a labor organization for real
19 property leased to:
- 20 (A) A labor organization; or



1 (B) A trust fund established by a labor organization
2 for the benefit of its members, families, and
3 dependents for medical or hospital care, pensions
4 on retirement or death of employees,
5 apprenticeship and training, and other membership
6 service programs.

7 As used in this paragraph, "labor organization" means
8 a labor organization exempt from federal income tax
9 under section 501(c)(5) of the Internal Revenue Code,
10 as amended;

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

15 (11) Amounts received as rent for the rental or leasing of
16 aircraft or aircraft engines used by the lessees or
17 renters for interstate air transportation of
18 passengers and goods. For purposes of this paragraph,
19 payments made pursuant to a lease shall be considered
20 rent regardless of whether the lease is an operating
21 lease or a financing lease. The definition of



1 "interstate air transportation" is the same as in 49
2 U.S.C. section 40102."

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

5 SECTION 4. This Act shall take effect on July 1, 2050 and
6 shall apply to taxable years beginning after December 31, 2019.



Report Title:

General Excise Tax; Medical Devices; Exemption

Description:

Exempts gross receipts from the sale of mobility enhancing equipment, prosthetic devices, and prescription drugs sold pursuant to a doctor's prescription from the general excise tax. Amends the definition of "prosthetic device" to include devices worn on the body. (HB345 HD1)

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