

JAN 24 2019

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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 237-13, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§237-13 Imposition of tax.** There is hereby levied and  
4 shall be assessed and collected annually privilege taxes against  
5 persons on account of their business and other activities in the  
6 State measured by the application of rates against values of  
7 products, gross proceeds of sales, or gross income, whichever is  
8 specified, as follows:

9           (1) Tax on manufacturers.

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



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

10 (B) The measure of the tax on manufacturers is the  
11 value of the entire product for sale.

12 (2) Tax on business of selling tangible personal property;  
13 producing.

14 (A) Upon every person engaging or continuing in the  
15 business of selling any tangible personal  
16 property whatsoever, there is likewise hereby  
17 levied, and shall be assessed and collected, a  
18 tax equivalent to [~~four~~] four and one-half per  
19 cent of the gross proceeds of sales of the  
20 business; provided that, in the case of a  
21 wholesaler, the tax shall be equal to one-half of



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1 one per cent of the gross proceeds of sales of  
2 the business; and provided further that insofar  
3 as the sale of tangible personal property is a  
4 wholesale sale under section 237-4(a)(8), the tax  
5 shall be one-half of one per cent of the gross  
6 proceeds. Upon every person engaging or  
7 continuing within this State in the business of a  
8 producer, the tax shall be equal to one-half of  
9 one per cent of the gross proceeds of sales of  
10 the business, or the value of the products, for  
11 sale.

12 (B) Gross proceeds of sales of tangible property in  
13 interstate and foreign commerce shall constitute  
14 a part of the measure of the tax imposed on  
15 persons in the business of selling tangible  
16 personal property, to the extent, under the  
17 conditions, and in accordance with the provisions  
18 of the Constitution of the United States and the  
19 Acts of the Congress of the United States which  
20 may be now in force or may be hereafter adopted,  
21 and whenever there occurs in the State an



1 activity to which, under the Constitution and  
2 Acts of Congress, there may be attributed gross  
3 proceeds of sales, the gross proceeds shall be so  
4 attributed.

5 (C) No manufacturer or producer, engaged in such  
6 business in the State and selling the  
7 manufacturer's or producer's products for  
8 delivery outside of the State (for example,  
9 consigned to a mainland purchaser via common  
10 carrier f.o.b. Honolulu), shall be required to  
11 pay the tax imposed in this chapter for the  
12 privilege of so selling the products, and the  
13 value or gross proceeds of sales of the products  
14 shall be included only in determining the measure  
15 of the tax imposed upon the manufacturer or  
16 producer.

17 (D) A manufacturer or producer, engaged in such  
18 business in the State, shall pay the tax imposed  
19 in this chapter for the privilege of selling its  
20 products in the State, and the value or gross  
21 proceeds of sales of the products, thus subjected



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

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

17 (F) The department, by rule, may require that a  
18 seller take from the purchaser of tangible  
19 personal property a certificate, in a form  
20 prescribed by the department, certifying that the  
21 sale is a sale at wholesale; provided that:



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- 1                   (i) Any purchaser who furnishes a certificate  
2                   shall be obligated to pay to the seller,  
3                   upon demand, the amount of the additional  
4                   tax that is imposed upon the seller whenever  
5                   the sale in fact is not at wholesale; and  
6                   (ii) The absence of a certificate in itself shall  
7                   give rise to the presumption that the sale  
8                   is not at wholesale unless the sales of the  
9                   business are exclusively at wholesale.
- 10           (3) Tax upon contractors.
- 11                   (A) Upon every person engaging or continuing within  
12                   the State in the business of contracting, the tax  
13                   shall be equal to [~~four~~] four and one-half per  
14                   cent of the gross income of the business.
- 15                   (B) In computing the tax levied under this paragraph,  
16                   there shall be deducted from the gross income of  
17                   the taxpayer so much thereof as has been included  
18                   in the measure of the tax levied under  
19                   subparagraph (A), on another taxpayer who is a  
20                   contractor, as defined in section 237-6; provided  
21                   that any person claiming a deduction under this



1 paragraph shall be required to show in the  
2 person's return the name and general excise  
3 number of the person paying the tax on the amount  
4 deducted by the person.

5 (C) In computing the tax levied under this paragraph  
6 against any federal cost-plus contractor, there  
7 shall be excluded from the gross income of the  
8 contractor so much thereof as fulfills the  
9 following requirements:

10 (i) The gross income exempted shall constitute  
11 reimbursement of costs incurred for  
12 materials, plant, or equipment purchased  
13 from a taxpayer licensed under this chapter,  
14 not exceeding the gross proceeds of sale of  
15 the taxpayer on account of the transaction;  
16 and

17 (ii) The taxpayer making the sale shall have  
18 certified to the department that the  
19 taxpayer is taxable with respect to the  
20 gross proceeds of the sale, and that the  
21 taxpayer elects to have the tax on gross



1                   income computed the same as upon a sale to  
2                   the state government.

3           (D) A person who, as a business or as a part of a  
4           business in which the person is engaged, erects,  
5           constructs, or improves any building or  
6           structure, of any kind or description, or makes,  
7           constructs, or improves any road, street,  
8           sidewalk, sewer, or water system, or other  
9           improvements on land held by the person (whether  
10          held as a leasehold, fee simple, or otherwise),  
11          upon the sale or other disposition of the land or  
12          improvements, even if the work was not done  
13          pursuant to a contract, shall be liable to the  
14          same tax as if engaged in the business of  
15          contracting, unless the person shows that at the  
16          time the person was engaged in making the  
17          improvements the person intended, and for the  
18          period of at least one year after completion of  
19          the building, structure, or other improvements  
20          the person continued to intend to hold and not  
21          sell or otherwise dispose of the land or





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1 improvements. The tax in respect of the  
2 improvements shall be measured by the amount of  
3 the proceeds of the sale or other disposition  
4 that is attributable to the erection,  
5 construction, or improvement of such building or  
6 structure, or the making, constructing, or  
7 improving of the road, street, sidewalk, sewer,  
8 or water system, or other improvements. The  
9 measure of tax in respect of the improvements  
10 shall not exceed the amount which would have been  
11 taxable had the work been performed by another,  
12 subject as in other cases to the deductions  
13 allowed by subparagraph (B). Upon the election  
14 of the taxpayer, this paragraph may be applied  
15 notwithstanding that the improvements were not  
16 made by the taxpayer, or were not made as a  
17 business or as a part of a business, or were made  
18 with the intention of holding the same. However,  
19 this paragraph shall not apply in respect of any  
20 proceeds that constitute or are in the nature of  
21 rent, which shall be taxable under paragraph (9);



1 provided that insofar as the business of renting  
2 or leasing real property under a lease is taxed  
3 under section 237-16.5, the tax shall be levied  
4 by section 237-16.5.

5 (4) Tax upon theaters, amusements, radio broadcasting  
6 stations, etc.

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

18 (B) The department may require that the person  
19 rendering an amusement at wholesale take from the  
20 licensed seller 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 licensed seller who furnishes a  
4           certificate shall be obligated to pay to the  
5           person rendering the amusement, upon demand,  
6           the amount of additional tax that is imposed  
7           upon the seller whenever the sale is not at  
8           wholesale; and

9           (ii) The absence of a certificate in itself shall  
10          give rise to the presumption that the sale  
11          is not at wholesale unless the person  
12          rendering the sale is exclusively rendering  
13          the amusement at wholesale.

14          (5) Tax upon sales representatives, etc. Upon every  
15          person classified as a representative or purchasing  
16          agent under section 237-1, engaging or continuing  
17          within the State in the business of performing  
18          services for another, other than as an employee, there  
19          is likewise hereby levied and shall be assessed and  
20          collected a tax equal to [~~four~~] four and one-half per  
21          cent of the commissions and other compensation



1           attributable to the services so rendered by the  
2           person.

3           (6) Tax on service business.

4           (A) Upon every person engaging or continuing within  
5           the State in any service business or calling  
6           including professional services not otherwise  
7           specifically taxed under this chapter, there is  
8           likewise hereby levied and shall be assessed and  
9           collected a tax equal to [~~four~~] four and one-half  
10          per cent of the gross income of the business, and  
11          in the case of a wholesaler under section  
12          237-4(a)(10), the tax shall be equal to one-half  
13          of one per cent of the gross income of the  
14          business.

15          (B) The department may require that the person  
16          rendering a service at wholesale take from the  
17          licensed seller a certificate, in a form  
18          prescribed by the department, certifying that the  
19          sale is a sale at wholesale; provided that:

20               (i) Any licensed seller who furnishes a  
21               certificate shall be obligated to pay to the



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1 person rendering the service, upon demand,  
2 the amount of additional tax that is imposed  
3 upon the seller whenever the sale is not at  
4 wholesale; and

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

10 (C) Where any person is engaged in the business of  
11 selling interstate or foreign common carrier  
12 telecommunication services within and without the  
13 State, other than as a home service provider, the  
14 tax shall be imposed on that portion of gross  
15 income received by a person from service which is  
16 originated or terminated in this State and is  
17 charged to a telephone number, customer, or  
18 account in this State notwithstanding any other  
19 state law (except for the exemption under section  
20 237-23(a)(1)) to the contrary. If, under the  
21 Constitution and laws of the United States, the



1 entire gross income as determined under this  
2 paragraph of a business selling interstate or  
3 foreign common carrier telecommunication services  
4 cannot be included in the measure of the tax, the  
5 gross income shall be apportioned as provided in  
6 section 237-21; provided that the apportionment  
7 factor and formula shall be the same for all  
8 persons providing those services in the State.

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



1 where the mobile telecommunications originate,  
2 terminate, or pass through; provided further that  
3 the income from charges specifically derived from  
4 interstate or foreign mobile telecommunications  
5 services, as determined by books and records that  
6 are kept in the regular course of business by the  
7 home service provider in accordance with section  
8 239-24, shall be apportioned under any  
9 apportionment factor or formula adopted under  
10 subparagraph (C). Gross income shall not  
11 include:

12 (i) Gross receipts from mobile  
13 telecommunications services provided to a  
14 customer with a place of primary use outside  
15 this State;

16 (ii) Gross receipts from mobile  
17 telecommunications services that are subject  
18 to the tax imposed by chapter 239;

19 (iii) Gross receipts from mobile  
20 telecommunications services taxed under  
21 section 237-13.8; and



1 (iv) Gross receipts of a home service provider  
2 acting as a serving carrier providing mobile  
3 telecommunications services to another home  
4 service provider's customer.

5 For the purposes of this paragraph, "charges for  
6 mobile telecommunications services", "customer",  
7 "home service provider", "mobile  
8 telecommunications services", "place of primary  
9 use", and "serving carrier" have the same meaning  
10 as in section 239-22.

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

16 (8) Tax on receipts of sugar benefit payments. Upon the  
17 amounts received from the United States government by  
18 any producer of sugar (or the producer's legal  
19 representative or heirs), as defined under and by  
20 virtue of the Sugar Act of 1948, as amended, or other  
21 Acts of the Congress of the United States relating





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1 thereto, there is hereby levied a tax of one-half of  
2 one per cent of the gross amount received; provided  
3 that the tax levied hereunder on any amount so  
4 received and actually disbursed to another by a  
5 producer in the form of a benefit payment shall be  
6 paid by the person or persons to whom the amount is  
7 actually disbursed, and the producer actually making a  
8 benefit payment to another shall be entitled to claim  
9 on the producer's return a deduction from the gross  
10 amount taxable hereunder in the sum of the amount so  
11 disbursed. The amounts taxed under this paragraph  
12 shall not be taxable under any other paragraph,  
13 subsection, or section of this chapter.

14 (9) Tax on other business. Upon every person engaging or  
15 continuing within the State in any business, trade,  
16 activity, occupation, or calling not included in the  
17 preceding paragraphs or any other provisions of this  
18 chapter, there is likewise hereby levied and shall be  
19 assessed and collected, a tax equal to [~~four~~] four and  
20 one-half per cent of the gross income thereof. In  
21 addition, the rate prescribed by this paragraph shall



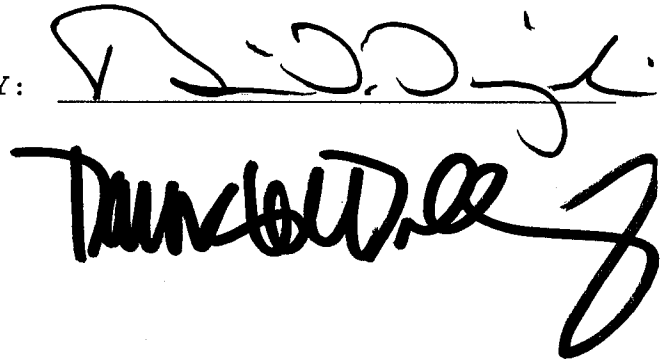
1 apply to a business taxable under one or more of the  
2 preceding paragraphs or other provisions of this  
3 chapter, as to any gross income thereof not taxed  
4 thereunder as gross income or gross proceeds of sales  
5 or by taxing an equivalent value of products, unless  
6 specifically exempted."

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

9 SECTION 3. This Act shall take effect upon its approval;  
10 provided that section 1 of this Act shall take effect on  
11 January 1, 2031.

12

INTRODUCED BY:





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**Report Title:**

General Excise Tax; Increase; Taxation

**Description:**

Increases the general excise tax by 0.5 per cent to 4.5 per cent on January 1, 2031.

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

