

JAN 17 2020

A BILL FOR AN ACT

RELATING TO THE EXEMPTION OF CERTAIN INCOME FROM THE STATE
GENERAL EXCISE TAX.

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

1 SECTION 1. The legislature finds that nonprofit
2 organizations are exempt from federal and state income taxes
3 because they provide critically needed programs, goods, and
4 services, many of which would otherwise be provided by
5 government agencies and therefor, by taxpayers. The federal
6 income tax law does not tax a charitable, religious, or
7 educational organization's fundraising or contribution income
8 because such income is essential to the existence and provision
9 of program services and such organization's tax-exempt purposes.
10 Because government grants and subsidies are extremely limited,
11 public contributions, including financial support through
12 fundraising activities, are of existential importance to these
13 nonprofit organizations. Taxpayers receive a federal income tax
14 deduction for gifts and contributions that they make to these
15 organizations.

16 The legislature further finds that the State imposes the
17 general excise tax on charitable, religious, and educational



1 organizations' fundraising income. The taxation of a nonprofit
2 organization's fundraising income under chapter 237, Hawaii
3 Revised Statutes, deprives the nonprofit sector of critically
4 needed financial support for the delivery of program services,
5 and serves no coherent public policy. Moreover, the general
6 excise tax is imposed on gross income and as such, nonprofit
7 organizations are taxed on fundraising income without deduction
8 for any costs related to those fundraising activities, such as
9 room rentals, food and beverage service, marketing, and other
10 expenses, resulting in a financial "double whammy" on nonprofit
11 organizations.

12 The purpose of this Act is to exempt from the State's
13 general excise tax, the fundraising income of tax-exempt
14 charitable, religious, and educational organizations, while
15 retaining the general excise tax on such organizations'
16 unrelated business taxable income.

17 SECTION 2. Section 237-23, Hawaii Revised Statutes, is
18 amended by amending subsection (b) to read as follows:

19 "(b) The exemptions enumerated in subsection (a)(3) to (7)
20 shall apply only:



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- 1 (1) To those persons who shall have registered with the
2 department of taxation by filing a written application
3 for registration in such form as the department shall
4 prescribe, shall have paid the registration fee of
5 \$20, and shall have had the exemption allowed by the
6 department or by a court or tribunal of competent
7 jurisdiction upon appeal from any assessment resulting
8 from disallowance of the exemption by the department;
- 9 (2) To activities from which no profit inures to the
10 benefit of any private stockholder or individual,
11 except for death or other benefits to the members of
12 fraternal societies; and
- 13 (3) To the fraternal, religious, charitable, scientific,
14 educational, communal, or social welfare activities of
15 such persons, or to the activities of hospitals,
16 infirmaries, sanitararia, and potable water companies [~~7~~
17 ~~as such, and not to any activity the primary purpose~~
18 ~~of which is to produce income even though the income~~
19 ~~is to be used for or in furtherance of the exempt~~
20 ~~activities of such persons]; provided that such
21 persons' activities that are taxable as unrelated~~



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1 business taxable income under section 512 of the
2 Internal Revenue Code of 1986, as amended, shall not
3 be exempt under this section."

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

6 SECTION 4. This Act shall take effect on July 1, 2020.

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INTRODUCED BY: *Rosely H. Behr*
By Request



S.B. NO. 2112

Report Title:

General Excise Tax; Nonprofit Organizations; Fundraising
Exemption; Unrelated Business Taxable Income

Description:

Clarifies the application of the GET law to the unrelated
business taxable income of nonprofit organizations.

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