

JAN 18 2019

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

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

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

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



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

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

9 (A) An association of a condominium property regime
10 established in accordance with chapter 514B or
11 any predecessor thereto; or

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

16 in reimbursement of sums paid for common expenses;

17 (3) Amounts received or accrued from:

18 (A) The loading or unloading of cargo from ships,
19 barges, vessels, or aircraft, whether or not the
20 ships, barges, vessels, or aircraft travel



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



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

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

17 (6) Amounts received [~~by a hospital, infirmary, medical~~
18 ~~clinic, health care facility, pharmacy, or a~~
19 ~~practitioner licensed to administer the drug to an~~
20 ~~individual for selling prescription drugs or~~
21 ~~prosthetic devices to an individual, provided that~~



1 ~~this paragraph shall not apply to any amounts received~~
2 ~~for services provided in selling prescription drugs or~~
3 ~~prosthetic devices.] from sales of the following when~~
4 ~~sold for human use:~~

5 (A) Prescription drugs sold pursuant to a doctor's
6 prescription;

7 (B) Prosthetic devices;

8 (C) Mobility enhancing equipment sold by
9 prescription; and

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

12 provided that this exemption shall not apply to
13 amounts received for services in selling any of the
14 foregoing.

15 As used in this paragraph:

16 "Mobility enhancing equipment" means equipment,
17 including repair and replacement parts that:

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



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

3 (C) Does not include any motor vehicle or equipment
4 on a motor vehicle normally provided by a motor
5 vehicle manufacturer.

6 "Prescription" means an order, formula, or recipe
7 issued in any form of oral, written, electronic, or
8 other means of transmission by a duly licensed
9 practitioner authorized by the laws of this State;

10 "Prescription drugs" are those drugs defined
11 under section 328-1 and dispensed by filling or
12 refilling a written or oral prescription by a
13 practitioner licensed under law to administer the drug
14 and sold by a licensed pharmacist under section 328-16
15 or practitioners licensed to administer drugs;
16 provided that "prescription drugs" shall not include
17 cannabis or manufactured cannabis products authorized
18 pursuant to chapters 329 and 329D; and

19 "Prosthetic device" means ~~[any artificial device~~
20 ~~or appliance, instrument, apparatus, or contrivance,~~
21 ~~including their components, parts, accessories, and~~



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

12 to:

13 (A) Artificially replace a missing portion of the
14 body;

15 (B) Prevent or correct a physical deformity or
16 malfunction; or

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

18 provided that "prosthetic device" shall not include
19 any ophthalmic, dental, or ocular device or appliance,
20 instrument, apparatus, or contrivance. Examples of



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1 prosthetic devices include the following: hearing aids
2 and artificial limbs;

3 (7) Taxes on transient accommodations imposed by chapter
4 237D and passed on and collected by operators holding
5 certificates of registration under that chapter;

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

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

15 (A) A labor organization; or

16 (B) A trust fund established by a labor organization
17 for the benefit of its members, families, and
18 dependents for medical or hospital care, pensions
19 on retirement or death of employees,
20 apprenticeship and training, and other membership
21 service programs.



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1 As used in this paragraph, "labor organization" means
2 a labor organization exempt from federal income tax
3 under section 501(c)(5) of the Internal Revenue Code,
4 as amended;

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

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

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

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1 SECTION 4. This Act, upon its approval, shall apply to
2 taxable years beginning after December 31, 2019.

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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.

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