H.B. NO. ⁵⁸ H.D. 1 S.D. 1 C.D. 1

A BILL FOR AN ACT

RELATING TO STATE FUNDS.

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

1	SECT	ION 1. Chapter 237, Hawaii Revised Statutes, is				
2	amended b	y adding two new sections to be appropriately				
3	designate	d and to read as follows:				
4	" <u>§23</u>	7- Temporary suspension of exemption of certain				
5	amounts;	levy of tax. (a) Notwithstanding any other law to the				
6	contrary,	the exemption of the following amounts from taxation				
7	under this chapter shall be suspended from January 1, 2022,					
8	through D	ecember 31, 2023:				
9	(1)	Reimbursements received by federal cost-plus				
10		contractors for the costs of purchased materials,				
11		plant, and equipment as described under section				
12		<u>237-13(3)(C);</u>				
13	(2)	Gross receipts of home service providers acting as				
14		service carriers providing mobile telecommunications				
15	т.,	services to other home service providers as described				
16		under section 237-13(6)(D);				

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1	(3)	Amou	nts deducted from the gross income of real
2		prop	erty lessees because of receipt from sublessees as
3		desc	ribed under section 237-16.5;
4	(4)	Amou	nts received by sugarcane producers as described
5		unde	r section 237-24(14);
6	(5)	Amou	nts received by exchanges and exchange members as
7		<u>desc</u>	ribed under section 237-24.5;
8	(6)	Gros	s proceeds from the sale of the following:
9		<u>(A)</u>	Intoxicating liquor, as described under section
10			237-25(a)(1), to the United States (including any
11			agency or instrumentality of the United States
12			that is wholly owned or otherwise so constituted
13			as to be immune from the levy of a tax under
14			chapter 238 or 244D, but not including national
15			banks) or any organization to which the sale is
16			permitted by the proviso of "Class 3" of section
17			281-31 that is located on any Army, Navy, or Air
18			Force reservation;
19		<u>(B)</u>	Tobacco products and cigarettes, as described
20			under section 237-25(a)(2), to the United States
21			(including any agency or instrumentality thereof

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1			that is wholly owned or otherwise so constituted
2			as to be immune from the levy of tax under
3			chapter 238 or 245, but not including national
4			banks); and
5		<u>(C)</u>	Other tangible personal property, as described
6			under section 237-25(a)(3), to the United States
7			(including any agency, instrumentality, or
8			federal credit union thereof, but not including
9			national banks) and any state-chartered credit
10			union;
11	(7)	Gross	proceeds received from the construction,
12		recor	nstruction, erection, operation, use, maintenance,
13		or fu	irnishing of air pollution control facilities, as
14		desci	ribed under section 237-27.5, that do not have
15		valio	d certificates of exemption on July 1, 2021; and
16	(8)	Amour	nts received by telecommunications common carriers
17		from	call center operators for interstate or foreign
18		tele	communications services as described under section
19		<u>237-2</u>	29.8.
20	(b)	Exce	ot as otherwise provided under subsection (e),
21	<u>(f)</u> , or (g), tl	nere is levied, assessed, and collected annually

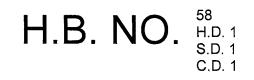


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1	against a taxpayer receiving or deriving previously exempt gross
2	income or gross proceeds of sale from January 1, 2022, to
3	December 31, 2023, a tax at the rate of four per cent on that
4	previously exempt gross income or gross proceeds of sale.
5	(c) The taxpayer against whom the tax is levied and
6	assessed under this section shall be responsible for payment of
7	the tax to the director of taxation.
8	(d) Notwithstanding section 237-8.6, no county surcharge
9	shall be levied, assessed, or collected on any previously exempt
10	gross income or gross proceeds of sale that is subject to
11	taxation under subsection (b).
12	(e) This section shall not apply to gross income or gross
13	proceeds from binding written contracts entered into prior to
14	July 1, 2021, that do not permit the passing on of increased
15	rates of taxes.
16	(f) This section shall not apply to gross income or gross
17	proceeds from stevedoring services and related services, as
18	defined in section 382-1, furnished to a company by its wholly
19	owned subsidiary.
20	(g) The tax imposed under subsection (b) shall not apply
21	to any gross income or gross proceeds of sale that cannot

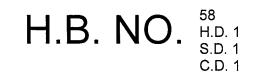


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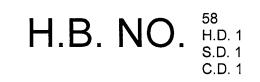
1	legally b	e so taxed under the Constitution or laws of the United
2	<u>States, b</u>	ut only so long as, and only to the extent, to which
3	the State	is without power to impose the tax.
4	<u>To t</u>	he extent that any exemption, exclusion, or
5	apportion	ment is necessary to comply with the preceding
6	sentence,	the director of taxation shall:
7	(1)	Exempt or exclude the gross income or gross proceeds
8		of sale from the tax under subsection (b); or
9	(2)	Apportion the gross income or gross proceeds of sale
10		derived within the State by persons engaged in
11		business both within and without the State to
12		determine the gross income or gross proceeds of sale
13		that is subject to taxation under this chapter for the
14		purposes of section 237-21.
15	<u>(h)</u>	This chapter shall apply to the payment, collection,
16	enforceme	nt, and appeal of the tax levied under this section.
17	<u>(i)</u>	The director of taxation may establish additional
18	requireme	nts, procedures, and forms pursuant to rules adopted
19	under cha	pter 91 to effectuate this section.
20	<u>(j)</u>	As used in this section, "previously exempt gross
21	income or	gross proceeds of sale means the amount of the gross





1	income or gross proceeds of sale the exemption for which is
2	suspended under subsection (a).
3	§237- Information reporting. Beginning January 1,
4	2022, the director of taxation shall require information
5	reporting on all exclusions or exemptions of all amounts,
6	persons, or transactions from this chapter, except for the
7	following:
8	(1) Amounts received that are exempt under section
9	237-24(1) through (7); and
10	(2) Any other amounts, persons, or transactions as
11	determined by the director to be in the best interest
12	of tax administration and made by official
13	pronouncement."
14	SECTION 2. Chapter 238, Hawaii Revised Statutes, is
15	amended by adding two new sections to be appropriately
16	designated and to read as follows:
17	" <u>§238-</u> <u>Temporary</u> suspension of exemption of certain
18	amounts; levy of tax. (a) Notwithstanding any other law to the
19	contrary, the exemption of the following from taxation under
20	this chapter shall be suspended from January 1, 2022, through
21	December 31, 2023:





1	<u>(1)</u>	The use or sale of intoxicating liquor and cigarettes
2		and tobacco products imported into the State and sold
3		to any person or common carrier in interstate
4		commerce, whether ocean-going or air, for consumption
5		out of State by the person, crew, or passengers on the
6		shipper's vessels or airplanes, as described under
7		section 238-3(g);
8	(2)	The use of any vessel constructed under section 189-25
9		prior to July 1, 1969, as described under section
10		238-3(h); and
11	(3)	The use of any air pollution control facility subject
12		to section 237-27.5 as described under section
13		<u>238-3(k).</u>
14	(b)	Except as otherwise provided under subsection (e) or
15	(f), ther	e is levied, assessed, and collected annually against a
16	taxpayer	who imports or purchases previously exempt property,
17	services,	or contracting for use in this State that becomes
18	<u>subject t</u>	o the State's taxing jurisdiction from January 1, 2022,
19	to Decemb	er 31, 2023, a tax at the rate of four per cent on the
20	value of	that previously exempt property, services, or
21	contracti	ng.

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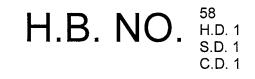
1	(c) The taxpayer against whom the tax is levied and
2	assessed under this section shall be responsible for payment of
3	the tax to the director of taxation.
4	(d) Notwithstanding section 238-2.6, no county surcharge
5	shall be levied, assessed, or collected on the value of any
6	previously exempt property, services, or contracting that is
7	subject to taxation under subsection (b).
8	(e) This section shall not apply to any property,
9	services, or contracting imported or purchased under binding
10	written contracts entered into prior to July 1, 2021, that do
11	not permit the passing on of increased rates of taxes.
12	(f) The tax imposed under subsection (b) shall not apply
13	to any property, services, or contracting or to any use of the
14	property, services, or contracting that cannot legally be so
15	taxed under the Constitution or laws of the United States, but
16	only so long as, and only to the extent to which, the State is
17	without power to impose the tax.
18	To the extent that any exemption, exclusion, or
19	apportionment is necessary to comply with the preceding
20	sentence, the director of taxation shall:



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1	<u>(1)</u>	Exempt or exclude the property, services, or
2		contracting or the use of the property, services, or
3		contracting, from the tax under subsection (b); or
4	(2)	Apportion the gross value of services or contracting
5		sold to customers within the State by persons engaged
6		in business both within and without the State to
7		determine the value of that portion of the services or
8		contracting that is subject to taxation under chapter
9		237 for the purposes of section 237-21.
10	<u>(g)</u>	This chapter shall apply to the payment, collection,
11	enforceme	ent, and appeal of the tax levied under this section.
12	(h)	The director of taxation may establish additional
13	requireme	ents, procedures, and forms pursuant to rules adopted
14	<u>under cha</u>	pter 91 to effectuate this section.
15	<u>(i)</u>	As used in this section, "previously exempt property,
16	services,	or contracting" means property, services, or
17	<u>contracti</u>	ng, the exemption for which is suspended under
18	subsectio	on (a).
19	<u>§</u> 238	- Information reporting. Beginning January 1,
20	2022, the	e director of taxation shall require information
21	reporting	on all exclusions or exemptions of all amounts,





1 persons, or transactions from this chapter, except for any 2 amounts, persons, or transactions as determined by the director 3 to be in the best interest of tax administration and made by 4 official pronouncement." 5 SECTION 3. Section 247-2, Hawaii Revised Statutes, is 6 amended to read as follows: 7 "\$247-2 Basis and rate of tax. The tax imposed by section

8 247-1 shall be based on the actual and full consideration 9 (whether cash or otherwise, including any promise, act, forbearance, property interest, value, gain, advantage, benefit, 10 11 or profit), paid or to be paid for all transfers or conveyance 12 of realty or any interest therein, that shall include any liens 13 or encumbrances thereon at the time of sale, lease, sublease, 14 assignment, transfer, or conveyance, and shall be at the 15 following rates:

16 (1) Except as provided in [paragraph (2):] paragraphs (2) 17 <u>and (3):</u>

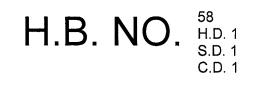
18 (A) [Ten cents per \$100 for] For properties with a
19 value of less than \$600,000[+]: ten cents per
20 \$100;





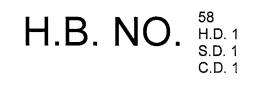
1		(B)	[Twenty cents per \$100 for] <u>For</u> properties with a
2			value of at least \$600,000, but less than
3			\$1,000,000[;]: twenty cents per \$100;
4		(C)	[Thirty cents per \$100 for] For properties with a
5			value of at least \$1,000,000, but less than
6			\$2,000,000[;]: thirty cents per \$100;
7		(D)	[Fifty cents per \$100 for] <u>For</u> properties with a
8			value of at least \$2,000,000, but less than
9			\$4,000,000[;]: fifty cents per \$100;
10		(E)	[Seventy cents per \$100 for] <u>For</u> properties with
11			a value of at least \$4,000,000, but less than
12			\$6,000,000[;]: \$1.40 per \$100;
13		(F)	[Ninety cents per \$100 for] <u>For</u> properties with a
14			value of at least \$6,000,000, but less than
15			\$10,000,000[; and] <u>: \$2.70 per \$100; and</u>
16		(G)	[One dollar per \$100 for] <u>For</u> properties with a
17			value of \$10,000,000 or greater[; and] <u>: \$4.00 per</u>
18			<u>\$100;</u>
19	(2)	For	the sale of a condominium or single family
20		resi	dence for which the purchaser is ineligible for a
21		coun	ty homeowner's exemption on property tax:

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1	(A)	[Fifteen cents per \$100 for] <u>For</u> properties with
2		a value of less than \$600,000[;] <u>: fifteen cents</u>
3		per \$100;
4	(B)	[Twenty-five cents per \$100 for] <u>For</u> properties
5		with a value of at least \$600,000, but less than
6		\$1,000,000[;]: twenty-five cents per \$100;
7	(C)	[Forty cents per \$100 for] <u>For</u> properties with a
8		value of at least \$1,000,000, but less than
9		\$2,000,000[;]: forty cents per \$100;
10	(D)	[Sixty cents per \$100 for] <u>For</u> properties with a
11		value of at least \$2,000,000, but less than
12		\$4,000,000[;]: sixty cents per \$100;
13	(E)	[Eighty five cents per \$100 for] <u>For</u> properties
14		with a value of at least \$4,000,000, but less
15		than \$6,000,000[;] <u>: \$1.70 per \$100;</u>
16	(F)	[One dollar and ten cents per \$100 for] <u>For</u>
17		properties with a value of at least \$6,000,000,
18		but less than \$10,000,000[; and] <u>: \$3.30 per \$100;</u>
19		and





1		(G)	[One dollar and twenty-five cents per \$100 for]
2			For properties with a value of \$10,000,000 or
3			greater[-]: \$5.00 per \$100; and
4	(3)	For	the sale of commercial properties:
5		<u>(A)</u>	Ten cents per \$100 for properties with a value of
6			<u>less than \$600,000;</u>
7		<u>(B)</u>	Twenty cents per \$100 for properties with a value
8			of at least \$600,000, but less than \$1,000,000;
9		<u>(C)</u>	Thirty cents per \$100 for properties with a value
10			of at least \$1,000,000, but less than \$2,000,000;
11		<u>(D)</u>	Fifty cents per \$100 for properties with a value
12			of at least \$2,000,000, but less than \$4,000,000;
13		<u>(E)</u>	Seventy cents per \$100 for properties with a
14			value of at least \$4,000,000, but less than
15			<u>\$6,000,000;</u>
16		<u>(F)</u>	Ninety cents per \$100 for properties with a value
17			of at least \$6,000,000, but less than
18			\$10,000,000; and
19		<u>(G)</u>	One dollar per \$100 for properties with a value
20			of \$10,000,000 or greater,



1 of such actual and full consideration; provided that in the case 2 of a lease or sublease, this chapter shall apply only to a lease 3 or sublease whose full unexpired term is for a period of five 4 years or more, and in those cases, including [(where 5 appropriate)], where appropriate, those cases where the lease 6 has been extended or amended, the tax in this chapter shall be 7 based on the cash value of the lease rentals discounted to present day value and capitalized at the rate of six per cent, 8 9 plus the actual and full consideration paid or to be paid for 10 any and all improvements, if any, that shall include on-site as 11 well as off-site improvements, applicable to the leased 12 premises; and provided further that the tax imposed for each 13 transaction shall be [not] no less than \$1.

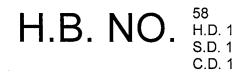
14 For the purposes of this section, "commercial properties"
15 means property classified as "commercial" for county real
16 property tax purposes."

SECTION 4. Statutory material to be repealed is bracketedand stricken. New statutory material is underscored.

19

SECTION 5. This Act shall take effect on January 1, 2022.





Report Title: General Excise Tax; Use Tax; Conveyance Tax

Description:

From 1/1/2022 through 12/31/2023, temporarily suspends certain general excise and use tax exemptions. Increases conveyance taxes for the sale of non-commercial properties valued at \$4,000,000 or greater. Effective 1/1/2022. (HB58 CD1)

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