

JAN 19 2024

A BILL FOR AN ACT

RELATING TO OPPORTUNITY ZONES.

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

1 SECTION 1. Chapter 235, Hawaii Revised Statutes, is
2 amended by adding a new section to part IV to be appropriately
3 designated and to read as follows:

4 "§235- Exemption for businesses within an opportunity
5 zone. There shall be excluded from taxable income under this
6 part, all income by a business located within an opportunity
7 zone; provided that this exemption shall not apply to income by
8 any location of that business that is located outside an
9 opportunity zone; provided further that the duration of the
10 exemption under this section for any location shall not be for
11 more than five years."

12 SECTION 2. Chapter 237, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§237- Exemption for businesses within an opportunity
16 zone. (a) This chapter shall not apply to amounts received by
17 a business located within an opportunity zone; provided that



1 this exemption shall not apply to amounts received by any
2 location of that business that is located outside an opportunity
3 zone; provided further that the duration of the exemption under
4 this section for any location shall not be more than five years.

5 (b) To obtain allowance of an exemption under this
6 section, a person shall register with the department by filing
7 an application for exemption in the form of an affidavit or
8 affidavits setting forth in general all facts affecting the
9 right to the exemption and any particular facts that the
10 department may require, to which shall be attached any records,
11 papers, and other information as the department may prescribe.

12 (c) For all persons, the statement registering the person
13 with the department or application for exemption shall be filed
14 on or before March 31 of the first year of registration or
15 within three months after the commencement of business. In the
16 event of allowance of the exemption, no further statement or
17 application therefor need be filed unless there is a material
18 change in the facts. In the event of disallowance of the
19 exemption, a license may be obtained upon payment of the
20 required fee as provided by section 237-9, less the \$20 already
21 paid under this section, which shall be credited thereon. In



1 the event the registrant has a license under this chapter, no
2 further fee shall be required for registration under this
3 section."

4 SECTION 3. Section 235-1, Hawaii Revised Statutes, is
5 amended by adding a new definition to be appropriately inserted
6 and to read as follows:

7 "Opportunity zone" means a population census tract in
8 Hawaii designated by the Secretary of the Treasury under Notice
9 2018-48, as amended, as a "qualified opportunity zone" for
10 purposes of 26 U.S.C. §1400Z-1 et seq., as amended."

11 SECTION 4. Section 237-1, Hawaii Revised Statutes, is
12 amended by adding a new definition to be appropriately inserted
13 and to read as follows:

14 "Opportunity zone" shall have the same meaning as defined
15 in section 235-1."

16 SECTION 5. Section 383-1, Hawaii Revised Statutes, is
17 amended by adding a new definition to be appropriately inserted
18 and to read as follows:

19 "Opportunity zone" shall have the same meaning as defined
20 in section 235-1."



1 SECTION 6. Section 383-7, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "(a) "Employment" shall not include:

4 (1) Agricultural labor as defined in section 383-9 if it
5 is performed by an individual who is employed by an
6 employing unit:

7 (A) That, during each calendar quarter in both the
8 current and the preceding calendar years, paid
9 less than \$20,000 in cash remuneration to
10 individuals employed in agricultural labor,
11 including labor performed by an alien referred to
12 in subparagraph (C); and

13 (B) That had, in each of the current and the
14 preceding calendar years:

15 (i) No more than nineteen calendar weeks,
16 whether consecutive or not, in which
17 agricultural labor was performed by its
18 employees, including labor performed by an
19 alien referred to in subparagraph (C); or

20 (ii) No more than nine individuals in its employ
21 performing agricultural labor in any one



1 calendar week, whether or not the same
2 individuals performed the labor in each
3 week, including labor performed by an alien
4 referred to in subparagraph (C); or

5 (C) If such agricultural labor is performed by an
6 individual who is an alien admitted to the United
7 States to perform agricultural labor pursuant to
8 sections 214(c) and 101(a)(15)(H) of the
9 Immigration and Nationality Act;

10 (2) Domestic service in a private home, local college
11 club, or local chapter of a college fraternity or
12 sorority as set forth in section 3306(c)(2) of the
13 Internal Revenue Code of 1986, as amended;

14 (3) Service not in the course of the employing unit's
15 trade or business performed in any calendar quarter by
16 an individual, unless the cash remuneration paid for
17 the service is \$50 or more and the service is
18 performed by an individual who is regularly employed
19 by the employing unit to perform the service. For the
20 purposes of this paragraph, an individual shall be
21 deemed to be regularly employed to perform service not



1 in the course of an employing unit's trade or business
2 during a calendar quarter if:

3 (A) On each of some twenty-four days during the
4 quarter the individual performs the service for
5 some portion of the day; or

6 (B) The individual was regularly employed as
7 determined under subparagraph (A) by the
8 employing unit in the performance of the service
9 during the preceding calendar quarter;

10 (4) (A) Service performed on or in connection with a
11 vessel not an American vessel, if the individual
12 performing the service is employed on and in
13 connection with the vessel when outside the
14 United States;

15 (B) Service performed by an individual in (or as an
16 officer or member of the crew of a vessel while
17 it is engaged in) the catching, taking,
18 harvesting, cultivating, or farming of any kind
19 of fish, shellfish, crustacea, sponges, seaweeds,
20 or other aquatic forms of animal and vegetable



1 life, including service performed as an ordinary
2 incident thereto, except:

3 (i) The service performed in connection with a
4 vessel of more than ten net tons (determined
5 in the manner provided for determining the
6 register tonnage of merchant vessels under
7 the laws of the United States);

8 (ii) The service performed in connection with a
9 vessel of ten net tons or less (determined
10 in the manner provided for determining the
11 register tonnage of merchant vessels under
12 the laws of the United States) by an
13 individual who is employed by an employing
14 unit which had in its employ one or more
15 individuals performing the service for some
16 portion of a day in each of twenty calendar
17 weeks all occurring, whether consecutive or
18 not, in either the current or the preceding
19 calendar year; and



1 (iii) Service performed in connection with the
2 catching or taking of salmon or halibut for
3 commercial purposes;

4 (5) Service performed by an individual in the employ of
5 the individual's son, daughter, or spouse, and service
6 performed by a child under the age of twenty-one in
7 the employ of the child's father or mother;

8 (6) Service performed in the employ of the United States
9 government or an instrumentality of the United States
10 exempt under the Constitution of the United States
11 from the contributions imposed by this chapter, except
12 that to the extent that the Congress of the United
13 States permits states to require any instrumentalities
14 of the United States to make payments into an
15 unemployment fund under a state unemployment
16 compensation law, all of the provisions of this
17 chapter shall apply to those instrumentalities, and to
18 services performed for those instrumentalities, in the
19 same manner, to the same extent, and on the same terms
20 as to all other employers, employing units,
21 individuals, and services; provided that if this State



1 is not certified for any year by the Secretary of
2 Labor under section 3304(c) of the federal Internal
3 Revenue Code, the payments required of those
4 instrumentalities with respect to that year shall be
5 refunded by the department of labor and industrial
6 relations from the fund in the same manner and within
7 the same period as is provided in section 383-76 with
8 respect to contributions erroneously collected;

9 (7) Service performed in the employ of any other state, or
10 any political subdivision thereof, or any
11 instrumentality of any one or more of the foregoing
12 which is wholly owned by one or more states or
13 political subdivisions; and any service performed in
14 the employ of any instrumentality of one or more other
15 states or their political subdivisions to the extent
16 that the instrumentality is, with respect to the
17 service, exempt from the tax imposed by section 3301
18 of the Internal Revenue Code of 1986, as amended;

19 (8) Service with respect to which unemployment
20 compensation is payable under an unemployment system
21 established by an act of Congress;



- 1 (9) (A) Service performed in any calendar quarter in the
2 employ of any organization exempt from income tax
3 under section 501(a) of the federal Internal
4 Revenue Code (other than an organization
5 described in section 401(a) or under section 521
6 of the Internal Revenue Code), if:
- 7 (i) The remuneration for the service is less
8 than \$50; or
- 9 (ii) The service is performed by a fully
10 ordained, commissioned, or licensed minister
11 of a church in the exercise of the
12 minister's ministry or by a member of a
13 religious order in the exercise of duties
14 required by the order;
- 15 (B) Service performed in the employ of a school,
16 college, or university, if the service is
17 performed by a student who is enrolled and is
18 regularly attending classes at the school,
19 college, or university; or
- 20 (C) Service performed by an individual who is
21 enrolled at a nonprofit or public educational



1 institution which normally maintains a regular
2 faculty and curriculum and normally has a
3 regularly organized body of students in
4 attendance at the place where its educational
5 activities are carried on as a student in a
6 full-time program, taken for credit at the
7 institution, which combines academic instruction
8 with work experience, if the service is an
9 integral part of such program, and the
10 institution has so certified to the employer,
11 except that this subparagraph shall not apply to
12 service performed in a program established for or
13 on behalf of an employer or group of employers;

14 (10) Service performed in the employ of a foreign
15 government, including service as a consular or other
16 officer or employee of a nondiplomatic representative;

17 (11) Service performed in the employ of an instrumentality
18 wholly owned by a foreign government:

19 (A) If the service is of a character similar to that
20 performed in foreign countries by employees of



1 the United States government or of an
2 instrumentality thereof; and
3 (B) If the United States Secretary of State has
4 certified or certifies to the United States
5 Secretary of the Treasury that the foreign
6 government, with respect to whose instrumentality
7 exemption is claimed, grants an equivalent
8 exemption with respect to similar service
9 performed in the foreign country by employees of
10 the United States government and of
11 instrumentalities thereof;
12 (12) Service performed as a student nurse in the employ of
13 a hospital or a nurses' training school by an
14 individual who is enrolled and is regularly attending
15 classes in a nurses' training school chartered or
16 approved pursuant to state law; and service performed
17 as an intern in the employ of a hospital by an
18 individual who has completed a four-year course in a
19 medical school chartered or approved pursuant to state
20 law;



1 (13) Service performed by an individual for an employing
2 unit as an insurance producer, if all service
3 performed by the individual for the employing unit is
4 performed for remuneration solely by way of
5 commission;

6 (14) Service performed by an individual under the age of
7 eighteen in the delivery or distribution of newspapers
8 or shopping news, not including delivery or
9 distribution to any point for subsequent delivery or
10 distribution;

11 (15) Service covered by an arrangement between the
12 department and the agency charged with the
13 administration of any other state or federal
14 unemployment compensation law pursuant to which all
15 services performed by an individual for an employing
16 unit during the period covered by the employing unit's
17 duly approved election, are deemed to be performed
18 entirely within the agency's state;

19 (16) Service performed by an individual who, pursuant to
20 the federal Economic Opportunity Act of 1964, is not



1 subject to the federal laws relating to unemployment
2 compensation;

3 (17) Service performed by an individual for an employing
4 unit as a real estate salesperson, if all service
5 performed by the individual for the employing unit is
6 performed for remuneration solely by way of
7 commission;

8 (18) Service performed by a registered sales representative
9 for a registered travel agency, when the service
10 performed by the individual for the travel agent is
11 performed for remuneration by way of commission;

12 (19) Service performed by a vacuum cleaner salesperson for
13 an employing unit, if all services performed by the
14 individual for the employing unit are performed for
15 remuneration solely by way of commission;

16 (20) Service performed for a family-owned private
17 corporation organized for profit that employs only
18 members of the family who each own at least fifty per
19 cent of the shares issued by the corporation; provided
20 that:



- 1 (A) The private corporation elects to be excluded
- 2 from coverage under this chapter;
- 3 (B) The election for exclusion shall apply to all
- 4 shareholders and under the same circumstances;
- 5 (C) No more than two members of a family may be
- 6 eligible per entity for exclusion under this
- 7 paragraph;
- 8 (D) The exclusion shall be irrevocable for five
- 9 years;
- 10 (E) The family-owned private corporation presents to
- 11 the department proof that it has paid federal
- 12 unemployment insurance taxes as required by
- 13 federal law; and
- 14 (F) The election to be excluded from coverage shall
- 15 be effective the first day of the calendar
- 16 quarter in which the application and all
- 17 substantiating documents requested by the
- 18 department are filed with the department;
- 19 (21) Service performed by a direct seller as defined in
- 20 section 3508 of the Internal Revenue Code of 1986;



- 1 (22) Service performed by an election official or election
2 worker as defined in section 3309(b)(3)(F) of the
3 Internal Revenue Code of 1986, as amended;
- 4 (23) Service performed by an inmate or any person committed
5 to a penal institution; [~~and~~]
- 6 (24) Domestic in-home and community-based services for
7 persons with developmental and intellectual
8 disabilities under the medicaid home and
9 community-based services program pursuant to title 42
10 Code of Federal Regulations sections 440.180 and
11 441.300, and title 42 Code of Federal Regulations,
12 part 434, subpart A, as amended, or when provided
13 through state funded medical assistance to individuals
14 ineligible for medicaid, and identified as chore,
15 personal assistance and habilitation, residential
16 habilitation, supported employment, respite, and
17 skilled nursing services, as the terms are defined and
18 amended from time to time by the department of human
19 services, performed by an individual whose services
20 are contracted by a recipient of social service
21 payments and who voluntarily agrees in writing to be



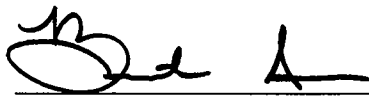
1 an independent contractor of the recipient of social
 2 service payments unless the individual is an employee
 3 and not an independent contractor of the recipient of
 4 social service payments under the federal Unemployment
 5 Tax Act[-]; and

6 (25) Service performed as an employee of a business located
 7 in an opportunity zone; provided that this exemption
 8 shall not apply to services performed as an employee
 9 at a location of that business that is located outside
 10 an opportunity zone."

11 SECTION 7. Statutory material to be repealed is bracketed
 12 and stricken. New statutory material is underscored.

13 SECTION 8. This Act shall take effect upon its approval
 14 and shall apply to taxable years beginning after December 31,
 15 2024.

16

INTRODUCED BY: 



S.B. NO. 2625

Report Title:

Opportunity Zones; General Excise Tax; Income Tax; Unemployment Contributions; Exemption

Description:

Permanently excludes businesses within a federally designated opportunity zone from required unemployment insurance contributions and temporarily excludes those businesses from general excise and income tax for five years.

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

