

A Bill for an Act Relating to Taxation.

*Be It Enacted by the Legislature of the State of Hawaii:*

**PART I**

SECTION 1. Section 235-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There shall be excluded from gross income, adjusted gross income, and taxable income:

- (1) Income not subject to taxation by the State under the Constitution and laws of the United States;
- (2) Rights, benefits, and other income exempted from taxation by section 88-82, having to do with the state retirement system, and the rights, benefits, and other income, comparable to the rights, benefits, and other income exempted by section 88-82, under any other public retirement system;
- (3) Any compensation received in the form of a pension for past services, or paid as a weekly benefit for unemployment up to but not in excess of the amount provided by the employment security law (it being the intention of this provision to exempt that amount whether paid from a fund or account in the federal or state treasury or paid by an employer or by a trust or other means provided by an employer);
- (4) Compensation paid to a patient affected with leprosy employed by the State or the United States in any hospital, settlement, or place for the treatment of leprosy;
- (5) Except as otherwise expressly provided, payments made by the United States or this State, under an act of Congress or a law of this State, which by express provision or administrative regulation or interpretation are exempt from both the normal and surtaxes of the United States, even though not so exempted by the Internal Revenue Code itself;
- (6) All proceeds received by organizations enumerated under section 237-23(6) to (9), resulting from the sale of brooms which are manufactured by blind persons working at the adult blind broom shop;
- (7) Any income expressly exempted or excluded from the measure of the tax imposed by this chapter by any other law of the State, it being the intent of this chapter not to repeal or supersede any such express exemption or exclusion;
- (8) The first \$500 received by each member of the reserve components of the army, navy, air force, marine corps, coast guard of the United

## ACT 180

States of America and the Hawaii national guard as compensation for performance of duty as such.”

SECTION 2. Section 235-54, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) In computing the taxable income of any individual, there shall be deducted, in lieu of the personal exemptions allowed by the Internal Revenue Code, personal exemptions computed as follows: Ascertain the number of exemptions which the individual can lawfully claim under the Internal Revenue Code and multiply that number by the amount as shown below for the corresponding taxable years as follows:

- (1) Effective with respect to taxable years beginning after December 31, 1969 and before January 1, 1971, the amount shall be \$625;
- (2) Effective with respect to taxable years beginning after December 31, 1970 and before January 1, 1972, the amount shall be \$650;
- (3) Effective with respect to taxable years beginning after December 31, 1971 and before January 1, 1973, the amount shall be \$700;
- (4) Effective with respect to taxable years beginning after December 31, 1972, the amount shall be \$750.

A nonresident shall be entitled to the same personal exemptions as a resident, without proration of the personal exemptions on account of income from sources outside the State.”

SECTION 3. Notwithstanding any provision to the contrary, in ascertaining the amount of net income taxes to be withheld for the period from January 1, 1970 through December 31, 1970, both days inclusive, every employer shall deduct and withhold from the wages of employees an amount of tax computed under section 235-61, on the basis of \$600 for each exemption for the period from January 1, 1970 through June 30, 1970, both days inclusive, and \$650 for each exemption for the period from July 1, 1970 through December 31, 1970, both days inclusive.

SECTION 4. Section 235-57, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) For each person, constituting a personal exemption allowed a taxpayer under the Internal Revenue Code and section 235-54, who was duly registered and in attendance as a student in an institution of higher education for not less than one-half of the course work of a full-time student at such institution and for not less than three months of the taxable year for which an individual net income tax return was filed, or who was enrolled and in attendance as a student at school in grades kindergarten through twelve for not less than three months of the taxable year for which an individual net income tax return was filed, there shall be allowed to such resident taxpayer claiming such exemption, tax credits in the amount indicated for each adjusted gross income tax bracket as shown in the table below; provided, that no person who is claimed, or is eligible to be claimed as a dependent, for federal or Hawaii state

individual net income tax purposes by another shall be allowed to claim the tax credit as provided in this section.

Adjusted Gross Income Brackets	Tax Credits Per Exemption Attending:	
	K-12	An Institution of Higher Education
Under \$3,000	\$20	\$50
\$3,000 to \$3,999	15	30
4,000 to 4,999	10	20
5,000 to 5,999	5	10
6,000 to 6,999	2	5"

SECTION 5. Section 235-56, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 235-56. Tax credits against individual net income taxes.** (a) Tax credit for resident taxpayer. Each resident taxpayer who files an individual net income tax return for a taxable year and who is not claimed or is not otherwise eligible to be claimed as a dependent by another tax payer for federal or Hawaii state individual net income tax purposes may claim tax credits against his individual net income tax liability or as otherwise provided below for the taxable year for which the individual net income tax return is being filed; provided that a husband and wife filing separate returns for a taxable year for which a joint return could have been made by them shall claim only the tax credit to which they would have been entitled had a joint return been filed; and provided that a resident individual who has no income or no income taxable under this chapter and who is not claimed or is not otherwise eligible to be claimed as a dependent by a taxpayer for federal or Hawaii state individual net income tax purposes may also claim tax credits as set forth in this section.

(b) Modified adjusted gross income. Each resident taxpayer who claims tax credits as set forth in this section shall declare in addition to his income taxable under this chapter, the following income presently exempt from income taxation: social security benefits, unemployment compensation benefits, workmen’s compensation benefits, interest on tax-free securities, public assistance payments, pensions, and annuities, cost of living allowances paid to federal employees, and proceeds from life insurance. The modified gross income of a resident taxpayer for the purposes of this section shall be the sum of his adjusted gross income for income tax purposes, if any, and the income exempt from income taxation, if any, declared pursuant to this subsection.

(c) Tax credit schedule. Each taxpayer may claim tax credits in the amount indicated for each modified adjusted gross income bracket as shown in the schedule below.

Modified Adjusted Gross Income Brackets	Tax Credits Per Qualified Exemption
\$ 0 - \$ 999	\$21
1,000 - 1,999	20
2,000 - 2,999	18
3,000 - 3,999	17

**ACT 180**

4,000 - 4,999	13
5,000 - 5,999	9
6,000 - 6,999	5
7,000 - 7,999	3
8,000 - 9,999	1

(d) Qualified exemption defined. For the purposes of this section, a qualified exemption is defined to include those exemptions permitted under this chapter; provided that the person for whom exemption is claimed has physically resided in the State for more than nine months during the taxable year; and provided further that multiple exemptions shall not be granted because of advanced age or deficiencies in vision.

(e) Tax credits to be deducted from income tax liability, if any; refunds. The tax credits by a resident taxpayer pursuant to this section shall be deductible from the resident taxpayer's individual net income tax liability, if any, for the tax year in which they are properly claimed. In the event the tax credits claimed by a resident taxpayer, and allowed, exceed the amount of income tax payment due from the resident taxpayer, the excess of credits over payments due shall be refunded to the resident taxpayer, provided that tax credits properly claimed by a resident individual who has no income tax liability, and allowed, shall be paid to the resident individual; and further provided that no refunds or payment on account of the tax credits allowed by this section shall be made for amounts less than \$1.

(f) Forms and rules and regulations. The director of taxation shall prepare and prescribe the appropriate form or forms to be used by taxpayers in filing claims for tax credits hereunder. The form shall be made an integral part of the individual net income tax return. He shall also be empowered to promulgate such rules and regulations as may be necessary to effectuate the purposes of this section pursuant to chapter 91.

(g) Assessments and refunds. All of the provisions relating to assessments and refunds under this chapter and under section 231-23(d) shall be made applicable hereto and shall apply with equal force to the tax credits hereunder.

(h) Time for filing. Claims for tax credits under this section, including any amended claims thereof, must be filed on or before the end of the twelfth month following the close of the taxable year for which the credits may be claimed. Failure to comply with the foregoing provisions shall constitute and be deemed a waiver of the right to claim or recover the credit hereunder.

(i) Tax credits for drug and medical expenses. In addition to the credits provided by this section, a resident taxpayer or resident individual as defined in subsection (a) may claim tax credits as provided below on account of drug or medical expenses paid during the tax year. For purposes of this subsection, drug and medical expenses mean all expenses allowable in computing the drug and medical deduction for State income tax purposes, or which would have been allowable except for the fact that the expense was compensated by hospital, health, or accident insurance, or except for the fact that an itemized tax return was not filed; provided the transaction causing the expense was subject to the tax imposed by chapters 237 or 238. An itemized list of the expenses shall accompany the claim. All provisions of this section shall be applicable to claims for these tax credits except subsection (c). Each taxpayer may claim tax

credits in the amount indicated for each modified adjusted gross income bracket as shown in the schedule below.

<b>Modified Adjusted Gross Income Brackets</b>	<b>Tax Credits</b>
Under \$5,000	4% of drug and medical expenses
\$5,000 to \$7,999	3% of drug and medical expenses
8,000 to 10,999	2% of drug and medical expenses
11,000 to 13,999	1% of drug and medical expenses.”

SECTION 6. Chapter 235, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**Sec. 235- Tax credits to low-income household renters.** (a) For the purposes of this section:

“Adjusted gross income” is defined in the manner set forth in Section 235-1.

“Rent” means the amount actually paid in cash in any taxable year for the occupancy of a dwelling place which is used by him or his immediate family as the principal residence in this State;

The rent shall be limited to the amount paid for the occupancy of the dwelling place only, and it shall be exclusive of charges for utilities, parking stalls, storage of goods, yard services, furniture, furnishings and the like. The rent shall be exclusive of any rental claimed as a deduction from gross income and/or adjusted gross income for income tax purposes, any ground rental paid for use of land only, and any rent allowance or subsidies received.

(b) Each resident taxpayer who occupies real property as his residence for which he has paid rent and which is not partially or wholly exempted from the real property tax under Section 246-26, and who files an individual net income tax return for a taxable year may claim tax credits against his Hawaii state individual net income tax; provided that the claimant was a resident of Hawaii and he or his immediate family shall have occupied the residence for which he has paid rent during the taxable year for which he files for credit under this section.

(c) Each claimant may claim tax credits, expressed as a percentage of rent paid during the taxable year based on the following schedule.

<b>Income Brackets Adjusted Gross Income</b>	<b>Tax Credits Per Cent of Rent</b>
Under \$10,000	2.0% of rent
\$10,000 but less than \$12,500	1.1/2% of rent
\$12,500 but less than \$15,000	1% of rent

(d) If a rental unit is occupied by two or more individuals, and more than one individual is able to qualify as a claimant, the claim for credit shall be based upon a percentage of the individual’s share of the rent paid.

(e) The tax credits claimed by a taxpayer pursuant to this section shall be deductible from the taxpayer’s individual net income tax liability, if any, for the tax year in which such credits are properly claimed, provided that a husband and wife filing separate returns for a taxable year for which a joint return could have been made by them shall claim only the tax credits to which they would have been entitled had a joint return been filed. In the event the tax credits claimed by a taxpayer, and allowed, exceed the amount of the income tax payments due from the taxpayer, the excess of credits over payments due shall be refunded to the taxpayer; provided that tax credits properly claimed by an individual who has no income tax liability, and allowed, shall be paid to the individual; and provided further that no refunds or payments on account

## ACT 180

of the tax credits allowed by this section shall be made for amounts less than \$1.

(f) The director of taxation shall prepare and prescribe the appropriate form or forms to be used by taxpayers in filing claims for tax credits hereunder. He may also require that the taxpayer furnish proof in order that he may ascertain the validity of the claim for tax credits made pursuant to this section and promulgate any rules and regulations as he may deem necessary to effectuate the purposes of this section pursuant to chapter 91.

(g) All of the provisions relating to assessments and refunds under this chapter and under section 231-23(d) (1) shall be made applicable hereto and shall apply with equal force to the tax credits hereunder.

(h) Claims for tax credits under this section, including any amended claims thereof, must be filed on or before the end of the twelfth month following the taxable year for which the credit may be claimed."

SECTION 7. Chapter 235, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 235- . Tax credits to discourage sale of dangerous items.** Any taxpayer who sells glue, paints, and solvents which, when abused by inhalation, can cause serious human harm shall be entitled to a tax credit equal to four per cent of the gross sales price of each transaction for which he can produce a certificate from the department of health stating that certain additives or substances have been added to the glue, paint, or other solvent which will substantially deter its abuse by inhalation."

SECTION 8. Sections 1 and 7, upon their approval, shall be effective for taxable years beginning on or after January 1, 1971. Sections 2, 3, 4, 5 and 6, upon their approval, shall be effective for taxable years beginning on or after January 1, 1970.

### PART II

SECTION 9. Section 237-4, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 237-4. 'Wholesaler', 'jobber', defined.** 'Wholesaler' or 'jobber' applies only to a person making sales at wholesale. Only the following are sales at wholesale:

- (1) Sales to a licensed retail merchant, jobber, or other licensed seller for purposes of resale;
- (2) Sales to a licensed manufacturer of material or commodities which are to be incorporated by the manufacturer into a finished or saleable product (including the container or package in which the product is contained) during the course of its preservation, manufacture, or processing, including preparation for market, and which will remain in such finished or saleable product in such form as to be perceptible to the senses, which finished or saleable product is to be sold and not otherwise used by the manufacturer; or

- (3) Sales to a licensed contractor, of material or commodities which are to be incorporated by the contractor into the finished work or project required by the contract and which will remain in such finished work or project in such form as to be perceptible to the senses; or
- (4) Sales to a licensed producer, or to a cooperative association described in section 237-23(10) for sale to such producer, or to a licensed person operating a feed lot, of poultry or animal feed, hatching eggs, semen, replacement stock, breeding services for the purpose of raising or producing animal or poultry products for disposition as described in section 237-5 or to be incorporated in a manufactured product as described in paragraph (2) of this section or for the purpose of breeding, hatching, milking, or egg laying other than for the customer's own consumption of the meat, poultry, eggs, or milk so produced; provided that in the case of a feed lot operator, only the segregated cost of the feed furnished by him as part of his service to a licensed producer of poultry or animals to be butchered or to a cooperative association described in section 237-23(10) of such licensed producers shall be deemed to be a sale at wholesale; and provided further that any amount derived from the furnishing of feed lot services, other than the segregated cost of feed, shall be deemed taxable at the service business rate. This paragraph (4) shall not apply to the sale of feed for poultry or animals to be used for hauling, transportation, or sports purposes;
- (5) Sales to a licensed producer, or to a cooperative association described in section 237-23(10) for sale to the producer, of seed for producing agricultural products, or bait for catching fish (including the catching of bait for catching fish), which agricultural products or fish are to be disposed of as described in section 237-5 or to be incorporated in a manufactured product as described in paragraph (2) of this section; or
- (6) Sales to a licensed producer, or to a cooperative association described in section 237-23(10) for sale to such producer; of cartons and such other containers, wrappers, and sacks, and binders to be used for packaging eggs, vegetables, fruits, and other agricultural products; of seedlings and cuttings for producing nursery plants; or of chick containers; which cartons and such other containers, wrappers, and sacks, binders, seedlings, cuttings, and containers are to be used as described in section 237-5, or to be incorporated in a manufactured product as described in paragraph (2) of this section.
- (7) Sales of tangible personal property to a licensed person engaged in the service business, provided that (1) said property is not consumed or incidental to the performance of the services; (2) there is a resale of said article at the retail rate of 4 per cent; and (3) the resale of said article is separately charged or billed by the person rendering the services.

## ACT 180

If the use tax law is finally held by a court of competent jurisdiction to be unconstitutional or invalid insofar as it purports to tax the use or consumption of tangible personal property imported into the State in interstate or foreign commerce or both, wholesalers and jobbers shall be taxed thereafter under this chapter in accordance with the following definition (which shall supersede the preceding paragraph otherwise defining 'wholesaler' or 'jobber'): 'Wholesaler' or 'jobber' means a person, or a definitely organized division thereof, definitely organized to render and rendering a general distribution service which buys and maintains at his or its place of business a stock or lines of merchandise which he or it distributes; and which, through salesmen, advertising, or sales promotion devices, sells to licensed retailers, to institutional or licensed commercial or industrial users, in wholesale quantities and at wholesale rates. A corporation deemed not to be carrying on a trade or business in this State under section 235-6 shall nevertheless be deemed to be a wholesaler and shall be subject to the tax imposed by this chapter."

SECTION 10. Section 237-13, Hawaii Revised Statutes, is amended to read as follows:

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

(1) Tax on manufacturers.

- (A) Upon every person engaging or continuing within the State in the business of manufacturing, compounding, canning, preserving, packing, commercial job printing but not including the printing and publishing of a newspaper, milling, processing, refining, or preparing for sale, profit, or commercial use, either directly or through the activity of others, in whole or in part, any article or articles, substance or substances, commodity or commodities, the amount of the tax to be equal to the value of the articles, substances, or commodities, manufactured, compounded, canned, preserved, packed, printed, milled, processed, refined, or prepared, for sale, as shown by the gross proceeds derived from the sale thereof by the manufacturer or person compounding, preparing, or printing them, multiplied by one-half of one per cent.
- (B) The measure of the tax on manufacturers is the value of the entire product for sale, regardless of the place of sale or the fact that deliveries may be made to points outside the State.
- (C) If any person liable for the tax on manufacturers shall ship or transport his products, or any part thereof, out of the State, whether in a finished or unfinished condition, or shall sell the same for delivery outside of the State (for example, consigned to a mainland purchaser via common carrier f.o.b. Honolulu), the value of the products in the condition or form in which they exist

immediately before entering interstate or foreign commerce, determined as hereinafter provided, shall be the basis for the assessment of the tax imposed by this paragraph (1). This tax shall be due and payable as of the date of entry of the products into interstate or foreign commerce, whether the products are then sold or not. The department of taxation shall determine the basis for assessment, as provided by this paragraph, as follows:

- (i) If the products at the time of their entry into interstate or foreign commerce already have been sold, the gross proceeds of sale, less the transportation expenses, if any, incurred in realizing the gross proceeds for transportation from the time of entry of the products into interstate or foreign commerce, including insurance and storage in transit, are the measure of the value of the products.
- (ii) If the products have not been sold at the time of their entry into interstate or foreign commerce, and in cases governed by paragraph (i) in which the products are sold under circumstances such that the gross proceeds of sale are not indicative of the true value of the products, the value of the products constituting the basis for assessment shall correspond as nearly as possible to the gross proceeds of sales for delivery outside the State, adjusted as provided in paragraph (i), or if sufficient data are not available, sales in the State, of similar products of like quality and character and in similar quantities, made by the taxpayer (unless not indicative of the true value) or by others. Sales outside the State, adjusted as provided in paragraph (i), may be considered when they constitute the best available data. The department shall prescribe uniform and equitable rules for ascertaining such values.
- (iii) At the election of the taxpayer and with the approval of the department, the taxpayer may make his returns under paragraph (i) even though the products have not been sold at the time of their entry into interstate or foreign commerce.
- (iv) In all cases in which products leave the State in an unfinished condition the basis for assessment shall be adjusted so as to deduct such portion of the value as is attributable to the finishing of the goods outside the State.

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

- (A) Upon every person engaging or continuing in the business of selling any tangible personal property whatsoever (not including, however, bonds or other evidence of indebtedness, or stocks), there is likewise hereby levied, and shall be assessed and collected, a tax equivalent to four per cent of the gross proceeds of sales of the business; provided, that insofar as certain retailing is

taxed by section 237-16, the tax shall be that levied by section 237-16, and in the case of a wholesaler, the tax shall be equal to one-half of one per cent of the gross proceeds of sales of the business. Upon every person engaging or continuing within this State in the business of a producer the tax shall be equal to one-half of one per cent of the gross proceeds of sales of the business, or the value of the products, for sale, if sold for delivery outside the State or shipped or transported out of the State, and the value of the products shall be determined in the same manner as the value of manufactured products covered in the cases under paragraph (1) (C) of this section.

- (B) Gross proceeds of sales of tangible property in interstate and foreign commerce shall constitute a part of the measure of the tax imposed on persons in the business of selling tangible personal property, to the extent, under the conditions, and in accordance with the provisions of the Constitution of the United States and the acts of the Congress of the United States which may be now in force or may be hereafter adopted, and whenever there occurs in the State an activity to which, under the Constitution and Acts of Congress, there may be attributed gross proceeds of sales, such gross proceeds shall be so attributed.
- (C) No manufacturer or producer, engaged in such business in the State and selling his products for delivery outside of the State (for example, consigned to a mainland purchaser via common carrier f.o.b. Honolulu), shall be required to pay the tax imposed in this chapter for the privilege of so selling his products, and the value or gross proceeds of sales of the products shall be included only in determining the measure of the tax imposed upon the manufacturer or producer as such.
- (D) When a manufacturer or producer, engaged in such business in the State, also is engaged in selling his products in the State at wholesale, retail, or in any other manner, the tax for the privilege of engaging in the business of selling the products in the State shall apply to him as well as the tax for the privilege of manufacturing or producing in the State, and he shall make the returns of the gross proceeds of the wholesale, retail, or other sales required for the privilege of selling in the State, as well as making the returns of the value or gross proceeds of sales of his products required for the privilege of manufacturing or producing in the State. He shall pay the tax imposed in this chapter at the highest rate applicable for any of the privileges exercised by him in respect of the particular products, and the value or gross proceeds of sales of the products, thus subjected to tax at the highest rate, may be deducted insofar as duplicated as to the same products by

the measure of the tax upon him for the other privileges enumerated in this paragraph (2), paragraph (1), and section 237-16.

- (E) A taxpayer selling to a federal cost-plus contractor may make the election provided for by paragraph (3) (C) of this section, and in any such case the tax shall be computed pursuant to the election, notwithstanding this paragraph (2) or paragraph (1) to the contrary.
- (F) The department, by regulation, may provide that a seller may take from the purchaser of tangible personal property a certificate, in such form as the department shall prescribe, certifying that the sale is a sale at wholesale. If the certificate is so provided for by regulation of the department:
  - (i) Any purchaser who shall furnish such a certificate shall be obligated to pay to the seller, upon demand, if the sale in fact is not at wholesale, the amount of the additional tax which by reason thereof is imposed upon the seller; and
  - (ii) The absence of such a certificate shall, unless the sales of the business are exclusively at wholesale, in itself give rise to the presumption that the sale is not at wholesale.

(3) Tax upon contractors.

- (A) Upon every person engaging or continuing within the State in the business of contracting, the tax shall be equal to four per cent of the gross income of the business; provided, that insofar as the business of contracting is taxed by section 237-16, which relates to certain retailing, the tax shall be that levied by section 237-16.
- (B) In computing the tax levied under this paragraph (3) or section 237-16, there shall be deducted from the gross income of the taxpayer so much thereof as has been included in the measure of the tax levied under paragraph (3) (A) or section 237-16, on another taxpayer who is a contractor, as defined, or who is a specialty contractor, duly licensed by the department of regulatory agencies pursuant to section 444-9, in respect of his business as such, if the tax on the amount so deducted has been paid by the other person, or has been withheld by the taxpayer and shall be paid over by him to the assessor at the time of filing the return, such withholding being hereby authorized; but any person claiming a deduction under this paragraph shall be required to show in his return the name of the person paying the tax on the amount deducted by him or from whom the tax was withheld, and shall issue a receipt for any amount of tax withheld, which upon filing by the other taxpayer with his return, shall relieve the other taxpayer of liability for the amount of tax withheld.

- (C) In computing the tax levied under this paragraph (3) against any federal cost-plus contractor, there shall be excluded from the gross income of the contractor so much thereof as fulfills the following requirements:
- (i) The gross income exempted shall constitute reimbursement of costs incurred for materials, plant, or equipment purchased from a taxpayer licensed under this chapter, not exceeding the gross proceeds of sale of the taxpayer on account of the transaction.
  - (ii) The taxpayer making the sale shall have certified to the department that he is taxable with respect to the gross proceeds of the sale, and that he elects to have the tax on such gross income computed the same as upon a sale to the state government.
- (D) A person who, as a business or as a part of a business in which he is engaged, erects, constructs, or improves any building or structure, of any kind or description, or makes, constructs, or improves any road, street, sidewalk, sewer, or water system, or other improvements on land held by him (whether held as a leasehold, fee simple, or otherwise), shall upon the sale or other disposition of the land or improvements, even if the work was not done pursuant to a contract, be liable to the same tax as if engaged in the business of contracting, unless he shall show that at the time he was engaged in making the improvements it was, and for the period of at least one year after completion of the building, structure, or other improvements, it continued to be his purpose to hold and not to sell or otherwise dispose of the land or improvements. The tax in respect of the improvements shall be measured by the amount of the proceeds of the sale or other disposition that is attributable to the erection, construction, or improvement of such building or structure, or the making, constructing, or improving of the road, street, sidewalk, sewer, or water system, or other improvements. The measure of tax in respect of the improvements shall not exceed the amount which would have been taxable had the work been performed by another, subject as in other cases to the deductions allowed by paragraph (3) (B). Upon the election of the taxpayer this paragraph may be applied notwithstanding the improvements were not made by the taxpayer, or were not made as or as a part of a business, or were made with the intention of holding the same. However, this paragraph shall not apply in respect of any proceeds that constitute or are in the nature of rent; all such gross income shall be taxable under paragraph (9).
- (4) Tax upon theaters, amusements, radio broadcasting stations, etc. Upon every person engaging or continuing within the State in the

business of operating a theater, opera house, moving picture show, vaudeville, amusement park, dance hall, skating rink, radio broadcasting station, or any other place at which amusements are offered to the public, the tax shall be equal to four per cent of the gross income of the business.

- (5) Tax upon sales representatives, etc. Upon every person classified as a representative or purchasing agent under chapter 237-1, engaging or continuing within the State in the business of performing services for another, other than as an employee, there is likewise hereby levied and shall be assessed and collected a tax equal to four per cent of the commissions and other compensation attributable to the services so rendered by him.
- (6) Tax on service business. Upon every person engaging or continuing within the State in any service business or calling not otherwise specifically taxed under this chapter, there is likewise hereby levied and shall be assessed and collected a tax equal to four per cent of the gross income of any such business; provided, however, where any person engaging or continuing within the State in any service business or calling renders such services upon the order of or at the request of another taxpayer who is engaged in the service business and who, in fact, acts as or acts in the nature of an intermediary between the person rendering such services and the ultimate recipient of the benefits of such services, so much of the gross income as is received by the person rendering the services shall be subjected to the tax at the rate of one-half of one per cent and all of the gross income received by the intermediary from the principal shall be subjected to a tax at the rate of four per cent.
- (7) Tax on insurance solicitors. Upon every person engaged as a licensed solicitor pursuant to chapter 431, there is hereby levied and shall be assessed and collected a tax equal to two per cent of the commissions due to such activity.
- (8) Professions. Upon every person engaging or continuing within the State in the practice of a profession, including those expounding the religious doctrines of any church, there is likewise hereby levied and shall be assessed and collected a tax equal to four per cent of the gross income on the practice or exposition.
- (9) Tax on other business. Upon every person engaging or continuing within the State in any business, trade, activity, occupation, or calling not included in the preceding paragraphs or any other provisions of this chapter, there is likewise hereby levied and shall be assessed and collected, a tax equal to four per cent of the gross income thereof. In addition, the rate prescribed by this paragraph shall apply to a business taxable under one or more of the preceding paragraphs or other provisions of this chapter, as to any gross income thereof not taxed

thereunder as gross income or gross proceeds of sales or by taxing an equivalent value of products, unless specifically exempted.”

SECTION 11. Section 237-18(c), Hawaii Revised Statutes, is repealed.

SECTION 12. Section 237-23, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

**“Sec. 237-23. Exemptions, persons exempt, applications for exemption. (a)** This chapter shall not apply to the following persons:

- (1) National banks;
- (2) Banks taxable under chapter 241;
- (3) Public service companies (as that term is defined in section 239-2), with respect to the gross income, either actual gross income or gross income estimated and adjusted, which is included in the measure of the tax imposed by chapter 239;
- (4) Public utilities owned and operated by the State or any county or other political subdivision thereof;
- (5) Insurance companies which pay the State a tax upon their gross premiums under chapter 431;
- (6) Fraternal benefit societies, orders, or associations, operating under the lodge system, or for the exclusive benefit of the members of the fraternity itself, operating under the lodge system, and providing for the payment of death, sick, accident, or other benefits to the members of such societies, orders, or associations, and to their dependents;
- (7) Corporations, associations, or societies organized and operated exclusively for religious, charitable, scientific, or educational purposes as well as that of operating senior citizens housing facilities qualifying for a loan under the laws of the United States as authorized by section 202 of the Housing Act of 1959, as amended by the Housing Act of 1961, the Senior Citizens Housing Act of 1962, the Housing Act of 1964, and the Housing and Urban Development Act of 1965;
- (8) Business leagues, chambers of commerce, boards of trade, civic leagues, and organizations operated exclusively for the benefit of the community and for the promotion of social welfare, and from which no profit inures to the benefit of any private stockholder or individual;
- (9) Hospitals, infirmaries, and sanitararia;
- (10) Cooperative associations now or hereafter incorporated under and pursuant to chapters 421 or 422 and which fully meet the requirements of section 421-23 or section 422-33 (provided that the exemption shall apply only to the gross income derived from its activities authorized by chapters 421 or 422; and that the exemption shall not relieve any person who receives any proceeds of sale from the associa-

tion of the duty of returning and paying the tax on the total gross proceeds of the sales on account of which the payment was made, in the same amount and at the same rate as would apply thereto had the sales been made directly by the person, and all such persons shall be so taxable);

- (11) Building and loan associations taxable under chapter 241;
- (12) Persons affected with leprosy and kokuas, with respect to business within the county of Kalawao;
- (13) Corporations, companies, associations, or trusts organized for the establishment and conduct of cemeteries no part of the net earnings of which inures to the financial benefit of any private stockholder or individual (provided, that the exemption shall apply only to the activities of such persons in the conduct of cemeteries and not to any activity the primary purpose of which is to produce income, even though the income is to be used for or in the furtherance of the exempt activities of such persons);
- (14) Industrial loan companies taxable under chapter 241, provided that the exemption shall apply only to the income from the "engaging in the business of an industrial loan company" as defined in section 408-2;
- (15) Businesses which are organized for the purpose of broadcasting radio programs to areas outside of the State to promote the Hawaiian tourist industry and which are solely supported by state funds;
- (16) Local development companies incorporated under the laws of the State and approved by the Small Business Administration as qualifying for loans under section 502 of the Small Business Investment Act of 1958, as amended, provided that the exemption shall apply only with respect to gross income derived as interest on loans made to borrowers from loan funds obtained from the Small Business Administration but only if the loans are made at the same rates of interest payable to the Small Business Administration by the local development corporation;
- (17) Non-profit shippers associations operating under part 296 of the Civil Aeronautics Board Economic Regulations."

SECTION 13. Section 237-26, Hawaii Revised Statutes, is amended to read as follows:

**"Section 237-26. Exemption of certain scientific contracts with the United States.** (a) Any provision of law to the contrary notwithstanding, there shall be exempted from the measure of the taxes imposed by chapter 237, all of the gross proceeds derived by a contractor or subcontractor arising from the performance of any scientific work as defined in subsection (b), under a contract or subcontract entered into with the United States (including any agency or in-

## ACT 180

strumentality thereof), and all of the gross proceeds derived from the sale of tangible personal property by a seller of such tangible personal property to such contractor or subcontractor; provided, however, the exemption herein shall apply only to those tangible personal property which is to be affixed to, or to become a physical, integral part of the scientific facility, or which is to be entirely consumed during the performance of the service required by the contract or subcontract.

(b) For purposes of this section, 'scientific work' is work involving primarily the research and development for, or the design, manufacture, instrumentation, installation, maintenance, or operation of an electronic, test range, aerospace, oceanographic, geophysical or other scientific facilities. Maintenance or operation, for purposes of this section, shall include housekeeping functions in providing certain nonscientific logistic and support services."

SECTION 14. The exemption provided by Section 8 shall not apply to (1) gross proceeds derived from subcontracts executed prior to the effective date of this Act; (2) gross proceeds derived from the sale of tangible personal property to subcontractors performing under a general scientific contract where such sales are made prior to the effective date of this Act; (3) gross proceeds derived from maintenance and operation contracts or from sales of tangible personal property pursuant to such contracts executed prior to the effective date of this Act.

SECTION 15. Sections 9, 11, 12, 13 and 14, upon their approval, shall be effective for taxable years beginning on or after January 1, 1971. Section 10, upon its approval, shall be effective for taxable years beginning on or after January 1, 1971 except that that part which amends section 237-13(3) (B), Hawaii Revised Statutes, shall be effective for taxable years beginning on or after July 1, 1970.

### PART III

SECTION 16. Section 238-3, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 238-3. Application of tax, etc.** (a) The tax imposed by this chapter shall not apply to any property, or to any use of the property, which cannot legally be so taxed under the Constitution or laws of the United States, but only so long as, and only to the extent to which, the State is without power to impose the tax.

(b) The tax imposed by this chapter shall not apply to any use of property the transfer of which property to, or the acquisition of which by, the person so using the same, has actually been or actually is taxed under chapter 237.

(c) The tax imposed by this chapter shall be paid only once upon or in respect of the same property; provided, that nothing in this chapter contained shall be construed to exempt any property or the use thereof from taxation under any other law of the State.

(d) The tax imposed by this chapter shall be in addition to any other taxes imposed by any other laws of the State, except as otherwise specifically

provided herein; provided, that if it be finally held by any court of competent jurisdiction, that the tax imposed by this chapter may not legally be imposed in addition to any other tax or taxes imposed by any other law or laws with respect to the same property or the use thereof, then this chapter shall be deemed not to apply to the property and the use thereof under such specific circumstances, but such other laws shall be given full effect with respect to the property and use.

(e) The tax imposed by this chapter shall not apply to any use of property exempted by section 238-4.

(f) The tax imposed by this chapter shall not apply to any use or consumption of aircraft and vessels, the transfer of which aircraft or vessel to, or the acquisition of which by, the person so using or consuming the same, or the rental for the use of the aircraft or vessel, has actually been or actually is taxed under chapter 237.

(g) The tax imposed by this chapter shall not apply to any intoxicating liquor as defined in chapter 244 and tobacco products as defined in chapter 245, imported into the State and sold to any person or common carrier in interstate commerce, whether ocean-going or air, for consumption out-of-state by such person, crew, or passengers on the shipper's vessels or airplanes.

(g-1) The tax imposed by this chapter shall not apply to any use of vessels constructed under section 189-25, prior to July 1, 1969.

(h) Each taxpayer liable for the tax imposed by this chapter on tangible personal property shall be entitled to full credit for the combined amount or amounts of legally imposed sales or use taxes paid by him with respect to the same transaction and property to another state and any subdivision thereof, but such credit shall not exceed the amount of the use tax imposed under this chapter on account of the transaction and property. The director of taxation may require the taxpayer to produce the necessary receipts or vouchers indicating the payment of the sales or use tax to another state or subdivision as a condition for the allowance of the credit.

(i) The tax imposed by this chapter shall not apply to any use of property exempted by section 237-26."

SECTION 17. Part III, upon its approval, shall be effective for taxable years beginning on and after January 1, 1971.

#### PART IV

SECTION 18. Subsection 243-4(c), Hawaii Revised Statutes, is amended to read as follows:

"(c) The tax shall not be collected in respect to any liquefied petroleum gas, benzol, benzene, toluol, or xylol sold for use other than for operating internal combustion engines. With respect to these products, other than liquefied petroleum gas, the department by regulation shall provide for the reporting and payment of the tax and for the keeping of records in respect thereto, in such manner as to collect, for each gallon of such product sold for use in internal combustion engines for the generation of power, or so used, the same tax or taxes as apply to each gallon of diesel oil. With respect to liquefied petroleum

## ACT 180

gas, the only tax collected shall be that provided in paragraphs (1), (2), and (3) of this subsection. This subsection shall not apply to aviation fuel sold for use in or used for airplanes.

- (1) Every distributor or other person who uses any liquefied petroleum gases for operation of an internal combustion engine shall pay a license tax to the department of 1 cent for each gallon of such liquefied petroleum gas so used by him.
- (2) Every distributor or other person who uses any liquefied petroleum gas for operating a motor vehicle or motor vehicles upon the public highways of the State shall, in addition to the tax required under paragraph (1) of this subsection, pay a license tax to the department for each gallon of such liquefied petroleum gas so used by him at a rate equal to two-thirds of the rates applicable to diesel oil so used upon the public highways, rounded to the nearest cent, and the taxes so paid shall be paid into the state treasury and deposited in special funds or paid over in the same manner as provided by law in respect of the tax on diesel oil so used upon the public highways.
- (3) Any liquefied petroleum gas acquired by a person who has in his ownership, possession, or control any internal combustion engine for the operation of which liquefied petroleum gas may be used, shall be presumed to have been entirely used by such person for such purpose, and if the internal combustion engine is in a vehicle which may be used on the highway, shall be presumed to have been entirely used by such person upon the highways, unless upon proper records and from such other evidence as the department may require it shall be proved to the satisfaction of the department that such liquefied petroleum gas has not been so used."

SECTION 19. Part IV, upon its approval, shall take effect on January 1, 1971.

### PART V

SECTION 20. Section 246-26, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Real property owned and occupied only as his or their home by any individual or individuals, shall be exempt only to the following extent from property taxes:

- (1) Totally exempt where the value of the property is not in excess of \$5,100;
- (2) Where the value of such property is in excess of \$5,100, according to the following schedule:

Value of Property	Exemption
Over \$5,100 to \$5,299	\$5,000

5,300 to 5,499	5,100
5,500 to 5,699	5,200
5,700 to 5,949	5,400
5,950 to 6,199	5,600
6,200 to 6,499	5,800
6,500 to 6,799	6,100
6,800 to 7,099	6,400
7,100 to 7,499	6,700
7,500 to 7,999	7,100
8,000 to 8,499	7,500
8,500 and over	8,000

Provided:

- (A) That no such exemption shall be allowed to any corporation, co-partnership, or company;
- (B) That the exemption shall not be allowed on more than one home for any one taxpayer;
- (C) That where the taxpayer has acquired his home by a deed made on or after July 1, 1951, the deed shall have been recorded on or before June 30 immediately preceding the year for which the exemption is claimed;
- (D) That a husband and wife shall not be permitted exemption of separate homes owned by each of them, unless they are living separate and apart, in which case they shall be entitled to one exemption, to be apportioned between each of their respective homes in proportion to the value thereof;
- (E) That a person living on premises, a portion of which is used for commercial purposes, shall not be entitled to an exemption with respect to such portion, but shall be entitled to an exemption with respect to the portion thereof used exclusively as a home; and
- (F) That such exemption shall be revoked if the home is not occupied by the owner or owners during the first three months of the tax year."

SECTION 21. Part V, upon its approval, shall take effect on July 1, 1971.

PART VI

SECTION 22. Section 239-6, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 239-6 Airlines, certain carriers.** There shall be levied and assessed upon each airline a tax of four per cent of its gross income each year from the airline business; provided that if an airline adopts a rate schedule for students in grade twelve or below traveling in school groups providing such students at reasonable hours a rate less than one-half of the regular adult fare, the tax shall be three per cent of its gross income each year from the airline business. There shall be levied and assessed upon each motor carrier, each common carrier by water, and upon each contract carrier other than a motor carrier, a tax of four per cent of its gross income each year from the motor carrier or contract carrier business. The tax imposed by this section is a means of taxing the personal property of the airline or other carrier, tangible and intangible, including going concern value, and is in lieu of the tax imposed by chapter 237 but is not in lieu of any other tax.”

SECTION 23. Part VI, upon its approval, shall take effect for taxable years beginning on and after January 1, 1970.

SECTION 24. If any Part, section, sentence, clause or phrase of this Act, or its application to any person or circumstances, is for any reason held to be unconstitutional or invalid, the remaining portions of this Act, or the application of this Act to other persons or circumstances, shall not be affected. The Legislature hereby declares that it would have passed this Act and each Part, section, sentence, clause or phrase thereof irrespective of the fact that any one or more other Parts, sections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 25. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.\*

SECTION 26. Subject to the foregoing, this Act shall take effect upon its approval.

(Approved June 30, 1970.)

---

\* Edited accordingly