

ACT 118

H.B. NO. 12

A Bill for an Act Relating to Economic Development.

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

SECTION 1. Section 237-3, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The words “gross income” and “gross proceeds of sales” shall not be construed to include: gross receipts from the sale of securities as defined in [section 485-1] 15 U.S.C. section 78c or similar laws of jurisdictions outside the United States, contracts for the sale of a commodity for future delivery and other agreements, options, and rights as defined in 7 U.S.C. section 2 that are permitted to be traded on a board of trade designated by the Commodities Futures Trading Commission under the Commodity Exchange Act, or [other] evidence of indebtedness or, except as otherwise provided, from the sale of land in fee simple, improved or unimproved, dividends as defined by chapter 235; cash discounts allowed and taken on sales; the proceeds of sale of goods, wares, or merchandise returned by customers when the sale price is refunded either in cash or by credit; or the sale price of any article accepted as part payment on any new article sold, if the full sale price of the new article is included in the “gross income” or “gross proceeds of sales”; gross receipts from the sale or transfer of materials or supplies, interest on loans, or the provision of engineering, construction, maintenance, or managerial services by one “member” of an “affiliated public service company group” to another “member” of the same group as such terms are defined in section 239-2(6). Accounts found to be worthless and actually charged off for income tax purposes may, at corresponding periods, be deducted from gross proceeds of sale, or gross income, within this chapter, so far as they reflect taxable sales made, or gross income earned, after July 1, 1935, but shall be added to gross proceeds of sale or gross income when and if afterwards collected.”

SECTION 2. Section 237-24.5, Hawaii Revised Statutes, is amended to read as follows:

“**[§237-24.5] Additional exemptions.** (a) In addition to the amounts exempt under section 237-24, this chapter shall not apply to amounts[:] received by:

- (1) [Received by a stock] An exchange from:
 - (A) Transaction fees charged exchange members by the exchange for:
 - (i) The sale or purchase of [stocks or option contracts] securities or products, or both, bought or sold on [the] an exchange by exchange members[;] for their own account or an account for which they have responsibility as an agent, broker, or fiduciary;
 - (ii) Order book [official entries] executions made [by exchange employees in an official order book for accounting and monitoring] for purposes[;] of effecting transactions; and
 - (iii) [Data entries] Trade processing performed by an exchange [employees which entries match] in matching trades [for buy and sell purposes;], keypunching, record keeping, post cashiering, and notarization;
 - (B) Membership dues, fees, charges, assessments, and fines from individuals or firms, including charges for firm symbols (member identification)[;], application processing, registration, initiation, membership transfers, floor or post privileges, transaction time extensions, expediting transactions, crossover trades (trading out of assigned functions) and rule infractions;
 - (C) Service fees charged to members including fees for communications, badges, forms, documents, and reports;
 - [(C)] (D) Listing fees and listing maintenance fees charged to companies that wish to be listed and have their securities or products traded on the exchange; and
 - [(D)] (E) Participation in the communication network consortium [owned and] operated collectively by United States exchanges or other markets recognized by the Securities and Exchange Commission, the Commodities Futures Trading Commissions, or similar regulatory authorities outside the United States that provides last sale and quote securities information to subscribers[; and] or that connects such markets or exchanges for purposes of data transmission;
 - (2) [Amounts received by any stock exchange member] Exchange members by reason of executing a securities or product transaction [relating to securities] on [the floor of a stock] an exchange; provided that this [exclusion] exemption shall [not] apply only to amounts received by [any person for transactions preceding or succeeding a transaction on the floor of the stock exchange.] exchange members from brokers or dealers registered with the Securities and Exchange Commission, from futures commission merchants, brokers, or associates registered with the Commodities Futures Trading Commission, or from similar individuals or firms registered with similar regulatory authorities outside the United States; and
 - (3) Exchange members as proceeds from the sale of their exchange memberships.
- (b) As used in this section:

["Securities" means securities as defined in section 485-1.

"Stock exchange" means a stock exchange organized under the laws of, or authorized to do business in, this State.

"Stock exchange member" means an individual or firm that pays membership dues to the exchange in order to trade securities on the floor of the exchange.]

"Exchange" means an exchange or board of trade as defined in 15 U.S.C. section 78c(a)(1) or in 7 U.S.C. section 7, respectively, which is subject to regulation by the Securities and Exchange Commission or the Commodities Futures Trading Commission or an organization subject to similar regulation under the laws of a jurisdiction outside the United States.

"Exchange member" means an individual or firm that is qualified by an exchange as a member and pays membership dues to an exchange in order to trade securities or products on an exchange.

"Securities" means securities as defined in 15 U.S.C. section 78c and "products" means contracts of sale of commodities for future delivery, futures contracts, options, calls, puts, and similar rights as defined in 7 U.S.C. section 2, which securities or products are permitted to be traded on an exchange.

(c) This section is repealed on June 30, 1992."

SECTION 3. Act 295, Session Laws of Hawaii 1988, is amended by amending section 4 to read as follows:

"SECTION 4. This Act shall take effect upon its approval[, and Section 1 shall be repealed on June 30, 1989]."

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

SECTION 5. This Act shall take effect upon its approval.

(Approved June 7, 1989.)