



March 15, 2022

The Honorable Sean Quinlan, Chair  
The Honorable Daniel Holt, Vice Chair  
House Committee on Economic Development

Re: SB 2020 SD1 – Relating to the General Excise Tax

Dear Chair Quinlan, Vice Chair Holt, and Committee Members:

Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on SB 2020 SD1, which clarifies that, under the general excise tax law, sales to a licensed retail merchant, jobber, or other licensed seller for resale are only eligible for the wholesale tax rate if the resale is subject to the highest general excise tax rate. Adds a similar requirement for sales of tangible personal property to a service provider or for the purpose of providing transient accommodations.

HMSA submits comments on this bill that the language as written could have undue impact upon the non-profit health systems providers in Hawaii. While we appreciate the continued discussion regarding the general excise tax, we do ask that consideration be given to the testimony from Hawaii's non-profit health systems.

Thank you for the opportunity to testify on SB 2020 SD1.

Sincerely,

Matthew W. Sasaki  
Assistant Vice President  
Government & External Relations

Wednesday, March 16, 2022 at 10:00 AM  
Via Video Conference

**House Committee on Economic Development**

To: Representative Sean Quinlan, Chair  
Representative Daniel Holt, Vice Chair

From: Michael Robinson  
Vice President, Government Relations & Community Affairs

Re: **SB 2020, SD1 – Testimony In Opposition With Suggested Amendments  
Relating to General Excise Tax**

---

My name is Michael Robinson, and I am the Vice President of Government Relations & Community Affairs at Hawai'i Pacific Health. Hawai'i Pacific Health is a not-for-profit health care system comprised of its four medical centers – Kapi'olani, Pali Momi, Straub and Wilcox and over 70 locations statewide with a mission of creating a healthier Hawai'i.

I am writing in **OPPOSITION** to SB 2020, SD1 which establishes that sales to a licensed retail merchant, jobber or other licensed seller for resale are only eligible for the wholesale tax rate if the resale is subject to the highest general excise tax rate. The measure creates a similar requirement for sales of tangible personal property to a service provider.

As a not-for-profit organization, HPH is exempt from the general excise tax. The Department of Taxation (DoTax) has recognized this exemption which governs HPH and all of its affiliated hospitals. HRS §237-23(a)(6) codifies the provision that the GET does not apply to hospitals, affirming the recognition provided to nonprofit organizations such as HPH by DoTax. SB 2020 is seemingly inconsistent with HRS §237-23(a)(6) and gives the impression that nonprofit hospitals are subject to the GET at the highest rate.

HPH resells non-prescription drugs, supplies and other medical products purchased from its vendors to its patients and to the general public. Charging the general excise tax to purchasers would require that HPH and other hospitals pay the general excise tax at the increased rate of 4%, despite their nonprofit status. The 4% retail GET rate being charged by the suppliers would need to be absorbed by the hospitals and only recouped by increasing patient charges, which would add to health care costs. This would increase the cost of healthcare by approximately \$5-\$7 million. If the increased costs are not passed onto consumers, the hospitals would be forced to absorb the loss or be put in the position of having to renegotiate with payers to cover the additional costs.

While HPH opposes SB 2020, should this committee believe the measure is worthy of moving forward, we respectfully suggest the following amendment be inserted as item no. 15 on page 12:

“(15) Sales of prescription drugs, nonprescription drugs, prosthetic devices, supplies and surgical implants to hospitals, infirmaries, or sanitarium described under section 237-23(a)(6) for purposes of resale. As used in this paragraph, prescription drugs and prosthetic devices shall have the same meaning set forth under section 237-24.3(6).”

Inclusion of the definition provided above clarifies and reinforces legislative intent that hospitals, infirmaries and sanitarium are not subject to the GET. Similarly, the proposed amendment clarifies and reinforces legislative intent that amounts received by hospitals, infirmaries and sanitarium are also exempt from the GET.

Thank you for the opportunity to testify.

# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

**SUBJECT:** GENERAL EXCISE, Change Requirements for Wholesale Rate Sales

**BILL NUMBER:** SB 2020 SD 1

**INTRODUCED BY:** Senate Committee on Ways & Means

**EXECUTIVE SUMMARY:** Clarifies that, under the general excise tax law, sales to a licensed retail merchant, jobber, or other licensed seller for resale are only eligible for the wholesale tax rate if the resale is subject to the highest general excise tax rate. Adds a similar requirement for sales of tangible personal property to a service provider or for the purpose of providing transient accommodations. Our view is that this legislation is not necessary and may cause harm. If consistency is needed within the prongs of section 237-4, HRS, we recommend that the inconsistency be resolved in favor of the older provisions.

**SYNOPSIS:** Amends section 237-4(a)(1), HRS, to add a requirement that if tangible personal property is resold, the resale must be subject to the tax imposed at the highest tax rate.

Amends section 237-4(a)(8), HRS, to add a requirement that if a service provider resells services or tangible personal property, the resale must be subject to the tax imposed at the highest tax rate.

**EFFECTIVE DATE:** Upon Approval

**STAFF COMMENTS:** This bill deals with the definition of wholesaling, and therefore which transactions qualify for the 0.5% wholesale tax rate, under the general excise tax law. The bill attempts to conform paragraphs 237-4(a)(1) and (8) with paragraphs (10) and (13), both of which have a requirement similar to the one this bill proposes to add.

Taxpayers are often, understandably, confused about when they are entitled to claim the wholesale GET rate. Consider taxpayer T making a sale to retailer R. T is entitled to the wholesale rate only if R is reselling the product or service sold. This fact, however, typically is not something that T knows. To fill in the information gap, T is supposed to take a resale certificate from R certifying that R will indeed resell the product or service. That resale certificate would allow T to claim the wholesale rate in good faith. Not all taxpayers, however, know how to use resale certificates.

The existing system, in theory, separates non-retail from retail transactions by requiring that T's customer have a general excise tax license. This is a requirement in existing law, and it can be enforced relatively easily.

Adding a requirement that the resale be at the highest rate can and will add to the confusion, and also will lead to anomalous results, more than under current law. An audit of T in this example and a survey of T's customers may reveal whether the customer has a GET license, but will not reveal whether tax has been paid at the highest rate. Consider the following scenarios:

1. T, a manufacturer of aloha shirts, sells a shirt to R. R resells the shirt to X by way of Internet sale, and R ships the shirt to X out of state. Under current law, T qualifies for the wholesale rate even though R is exempt from tax on the retail sale (export sale, exempt under section 237-29.5, HRS). Under the bill, T would be taxable at the retail rate even though T is entirely unaware that R has exported the shirt.
2. T, a manufacturer of medicines, sells medicines to D, a drug store. T's doctor prescribes some of T's medicine to patient X, and X buys some from D. Under current law, T qualifies for the wholesale rate even though R is exempt from tax on the retail sale (prescription drugs, exempt under section 237-24.3(6), HRS). (Note that the result changes if D is a GET-exempt hospital. In that case, existing case law does not consider D to be a licensed seller, and T would need to pay retail rate GET on sales to the hospital.) Under the bill, T would be taxable at the retail rate whether or not D is an exempt entity.
3. T, a supplier of feed and other materials relating to farming, sells feed to distributor D. D resells the feed to farmer F, who feeds cattle with it. The farmer sells the meat to grocery store R, who sells the meat to X for consumption. Under current law, the sales by T, D, and F all qualify as wholesale sales. Under the bill, the sale from D to F will be taxed at 4%, meaning that 4% would be imposed twice in the economic chain (on D and R). This would be expected to hurt farmers and drive up the price of food.

For these reasons, we believe the bill is ill-advised. Consideration should be given to repealing subparagraphs 237-4(a)(10)(F) and 237-4(a)(13)(F) for these reasons. A substitute draft to accomplish this goal is attached.

Digested: 3/14/2022

## **SB 2020 Substitute Drafted by Tax Foundation of Hawaii**

SECTION 1. The legislature finds that, under the general excise tax law, wholesalers who sell goods for resale are not taxed at the typical four per cent rate. Instead, they are taxed at a lower rate of one-half per cent. Wholesalers can qualify for this lower rate even though their customer is not taxed at the four per cent rate, such as if the wholesaler sells to another licensed wholesaler, where both wholesalers will qualify for the one-half per cent rate; or if the wholesaler sells to a licensed retailer and the retailer then sells it to an out-of-state customer so that the retail sale qualifies for the exemption for export sales.

Accordingly, the purpose of this Act is to remove confusing language that purports to require in some situations that the resale be taxed at the highest rate under the general excise tax law.

SECTION 2. Section 237-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) "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 materials or commodities that 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 that 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;
- (3) Sales to a licensed producer or cooperative association of materials or commodities that are to be incorporated by the producer or by the cooperative association into a finished or saleable product that is to be sold and not otherwise used by the producer or cooperative association, including specifically materials or commodities expended as essential to the planting, growth, nurturing, and production of commodities that are sold by the producer or by the cooperative association;
- (4) Sales to a licensed contractor, of materials or commodities that are to be incorporated by the contractor into the finished work or project required by the contract and that will remain in such finished work or project in such form as to be perceptible to the senses;

- (5) Sales to a licensed producer, or to a cooperative association described in section [{}237-23(a)(8){}] for sale to a licensed 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 for incorporation into a manufactured product as described in paragraph (2) 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 the feed lot operator as part of the feed lot operator's service to a licensed producer of poultry or animals to be butchered or to a cooperative association described in section [{}237-23(a)(8){}] 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 shall not apply to the sale of feed for poultry or animals to be used for hauling, transportation, or sports purposes;
- (6) Sales to a licensed producer, or to a cooperative association described in section [{}237-23(a)(8){}] for sale to the producer, of seed or seedstock for producing agricultural and aquacultural products, or bait for catching fish (including the catching of bait for catching fish), which agricultural and aquacultural 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);
- (7) Sales to a licensed producer, or to a cooperative association described in section [{}237-23(a)(8){}] for sale to such producer; of polypropylene shade cloth; of polyfilm; of polyethylene film; of cartons and such other containers, wrappers, and sacks, and binders to be used for packaging eggs, vegetables, fruits, and other agricultural and aquacultural products; of seedlings and cuttings for producing nursery plants or aquacultural products; 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);
- (8) Sales of tangible personal property where:
  - (A) Tangible personal property is sold upon the order or request of a licensed seller for the purpose of rendering a service in the course of the person's service business or calling, or upon the order or request of a person subject to tax under section 237D-2 for the purpose of furnishing transient accommodations;

- (B) The tangible personal property becomes or is used as an identifiable element of the service rendered; and
  - (C) The cost of the tangible personal property does not constitute overhead to the licensed seller;
- (9) Sales to a licensed leasing company of capital goods that have a depreciable life, are purchased by the leasing company for lease to its customers, and are thereafter leased as a service to others;
- (10) Sales of services to a licensed seller engaging in a business or calling whenever:
- (A) Either:
    - (i) In the context of a service-to-service transaction, a service is rendered upon the order or request of a licensed seller for the purpose of rendering another service in the course of the seller's service business or calling, including a dealer's furnishing of goods or services to the purchaser of tangible personal property to fulfill a warranty obligation of the manufacturer of the property;
    - (ii) In the context of a service-to-tangible personal property transaction, a service is rendered upon the order or request of a licensed seller for the purpose of manufacturing, producing, or preparing tangible personal property to be sold;
    - (iii) In the context of a services-to-contracting transaction, a service is rendered upon the order or request of a licensed contractor as defined in section 237-6 for the purpose of assisting that licensed contractor; or
    - (iv) In the context of a services-to-transient accommodations rental transaction, a service is rendered upon the order or request of a person subject to tax under section 237D-2 for the purpose of furnishing transient accommodations;
  - (B) The benefit of the service passes to the customer of the licensed seller, licensed contractor, or person furnishing transient accommodations as an identifiable element of the other service or property to be sold, the contracting, or the furnishing of transient accommodations;



- (C) The cost of the service does not constitute overhead to the licensed seller, licensed contractor, or person furnishing transient accommodations;
  - (D) The gross income of the licensed seller is not divided between the licensed seller and another licensed seller, contractor, or person furnishing transient accommodations for imposition of the tax under this chapter; and
  - (E) The gross income of the licensed seller is not subject to a deduction under this chapter or chapter 237D[; ~~and~~
  - ~~(F) The resale of the service, tangible personal property, contracting, or transient accommodations is subject to the tax imposed under this chapter at the highest tax rate].~~
- (11) Sales to a licensed retail merchant, jobber, or other licensed seller of bulk condiments or prepackaged single-serving packets of condiments that are provided to customers by the licensed retail merchant, jobber, or other licensed seller;
  - (12) Sales to a licensed retail merchant, jobber, or other licensed seller of tangible personal property that will be incorporated or processed by the licensed retail merchant, jobber, or other licensed seller into a finished or saleable product during the course of its preparation for market (including disposable, nonreturnable containers, packages, or wrappers, in which the product is contained and that are generally known and most commonly used to contain food or beverage for transfer or delivery), and which finished or saleable product is to be sold and not otherwise used by the licensed retail merchant, jobber, or other licensed seller;
  - (13) Sales of amusements subject to taxation under section 237-13(4) to a licensed seller engaging in a business or calling whenever:
    - (A) Either:
      - (i) In the context of an amusement-to-service transaction, an amusement is rendered upon the order or request of a licensed seller for the purpose of rendering another service in the course of the seller's service business or calling;
      - (ii) In the context of an amusement-to-tangible personal property transaction, an amusement is rendered upon the order or request of a licensed seller for the purpose of selling tangible personal property; or

- (iii) In the context of an amusement-to-amusement transaction, an amusement is rendered upon the order or request of a licensed seller for the purpose of rendering another amusement in the course of the person's amusement business;
- (B) The benefit of the amusement passes to the customer of the licensed seller as an identifiable element of the other service, tangible personal property to be sold, or amusement;
- (C) The cost of the amusement does not constitute overhead to the licensed seller;
- (D) The gross income of the licensed seller is not divided between the licensed seller and another licensed seller, person furnishing transient accommodations, or person rendering an amusement for imposition of the tax under chapter 237; and
- (E) The gross income of the licensed seller is not subject to a deduction under this chapter[; ~~and~~
- ~~(F) The resale of the service, tangible personal property, or amusement is subject to the tax imposed under this chapter at the highest rate].~~

As used in this paragraph, "amusement" means entertainment provided as part of a show for which there is an admission charge; and

- (14) Sales by a printer to a publisher of magazines or similar printed materials containing advertisements, when the publisher is under contract with the advertisers to distribute a minimum number of magazines or similar printed materials to the public or defined segment of the public, whether or not there is a charge to the persons who actually receive the magazines or similar printed materials."

SECTION 3. Any agreement that purports to define "wholesaler" or "jobber" for purposes of chapter 237 otherwise than as provided in this Act shall be to that extent void as against public policy from the effective date of this Act.

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

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



**March 16, 2022 at 10:00 am**  
**Via Videoconference**

**House Committee on Economic Development**

To: Chair Sean Quinlan  
Vice Chair Daniel Holt

From: Paige Heckathorn Choy  
Associate Vice President, Government Affairs  
Healthcare Association of Hawaii

Re: **Submitting Comments**  
**SB 2020 SD 1, Relating to the General Excise Tax**

The Healthcare Association of Hawaii (HAH), established in 1939, serves as the leading voice of healthcare on behalf of 170 member organizations who represent almost every aspect of the health care continuum in Hawaii. Members include acute care hospitals, skilled nursing facilities, home health agencies, hospices, assisted living facilities and durable medical equipment suppliers. In addition to providing access to appropriate, affordable, high quality care to all of Hawaii's residents, our members contribute significantly to Hawaii's economy by employing over 20,000 people statewide.

We write to **submit comments** with strong concerns on this measure, which seeks to provide consistency and clarity within the Hawaii tax code for wholesalers and retailers. We understand that there are situations where the appropriate rate of taxation is not as clear-cut, such as when healthcare providers are acquiring drugs or supplies needed for patient care. However, this will create a one-size-fits-all solution to a situation that would be best resolved using a thoughtful, targeted approach.

The pandemic has caused immense financial stress on healthcare providers in the state. Delayed and cancelled care during the initial stages of the pandemic and in the ensuing surges decreased revenues for all providers, which was difficult considering the immense additional costs that providers have faced in acquiring PPE and tests at inflated rates and securing travel and temporary staff that are able to charge surge prices due to the nationwide shortage, among many other cost items. The amendments proposed in this measure would increase the costs of care for many providers during an already precarious time for many healthcare providers in the state, large and small.

While we understand that discussions should continue regarding the appropriate application of the GET, we believe that this bill may be unintentionally broad and could unnecessarily strain healthcare providers while we are still in a pandemic. We would appreciate any amendments to exempt and provide a reprieve for all non-profit medical providers, including post-acute care providers, to help ensure that we keep down the costs of care for the entire healthcare system. Thank you for your consideration of our comments.



**TESTIMONY OF TINA YAMAKI, PRESIDENT  
RETAIL MERCHANTS OF HAWAII  
March 16, 2022**

**Re: SB 2020 SD1 RELATING TO THE GENERAL EXCISE TAX**

Good morning, Chairperson Quinlan and members of the House Committee on Economic Development. I am Tina Yamaki, President of the Retail Merchants of Hawaii and I appreciate this opportunity to testify.

The Retail Merchants of Hawaii was founded in 1901, RMH is a statewide, not for profit trade organization committed to the growth and development of the retail industry in Hawaii. Our membership includes small mom & pop stores, large box stores, resellers, luxury retail, department stores, shopping malls, local, national, and international retailers, chains, and everyone in between.

We are **STRONGLY OPPOSED** to SB 2020 SD1 Relating to the General Excise Tax. This measure clarifies that, under the general excise tax law, sales to a licensed retail merchant, jobber, or other licensed seller for resale are only eligible for the wholesale tax rate if the resale is subject to the highest general excise tax rate. Adds a similar requirement for sales of tangible personal property to a service provider or for the purpose of providing transient accommodations.

While this tax does not appear to be directed at the consumer but the wholesaler, we will in fact see prices increase even higher than what we are seeing now. Hawaii's General Excise Tax is a compounded tax. This would include items like medication, clothing, home goods, and food to name a few. Retailers would have to pass this increased cost down to the consumer by raising prices, making Hawaii an even more expensive place to live.

Since the pandemic, retailers are being hit with supply chain disruption, higher cost, and delays in shipping not to mention a recession in which inflation rose 7.9% in the last 12 months (the largest gain since 1982 according to the US Labor Department) and will be expected to see it raising in the months to come. We cannot afford measures like this that will raise Hawaii's prices even more as residents are already complaining out the high cost of living in our islands.

Mahalo for this opportunity to testify.



**SanHi**

GOVERNMENT STRATEGIES

A LIMITED LIABILITY LAW PARTNERSHIP

DATE: March 14, 2022

TO: Representative Sean Quinlan  
Chair, House Committee on Economic Development

FROM: Mihoko Ito/Tiffany Yajima

RE: **S.B. 2020, S.D. 1 – Relating to the General Excise Tax**  
**Hearing Date: Wednesday, March 16, 2022 at 10:00 a.m.**  
**Conference Room: 312**

---

Dear Chair Quinlan, Vice Chair Holt, and members of the Committee on Economic Development:

We submit this testimony on behalf of Walgreen Co. (“Walgreens”). Walgreens operates stores at more than 9,000 locations in all 50 states, the District of Columbia, and Puerto Rico. In Hawaii, Walgreens has 17 stores on the islands of Oahu and Maui.

Walgreens respectfully **opposes** S.B. 2020 S.D. 1, which provides that under the general excise tax law, sales to a licensed retail merchant, jobber, or other licensed seller for resale are only eligible for the wholesale tax rate if the resale is subject to the highest general excise tax rate.

Under current Hawaii tax law, prescription drugs and medical devices are exempted from the general excise tax. If this bill were to pass, this exemption would remain in place, but companies like Walgreens would be required to absorb the increased tax, without the ability to collect it. We believe that this measure would ultimately increase the prices of prescription drugs and medical devices for patients. For these reasons, we are opposed to the bill.

We respectfully ask the Committee to hold S.B. 2020 S.D.1. Thank you for the opportunity to testify on this measure.

Representative Sean Quinlan, Chair  
Representative Daniel Holt, Vice Chair  
Committee on Economic Development

**RE: SB 2020 SD1 Relating to the General Excise Tax – IN OPPOSITION**

March 16, 2022; 10:00 A.M.; Via Videoconference

Aloha Chair Quinlan, Vice Chair Holt and members of the committee:

CVS is in opposition to SB 2020 SD1, which clarifies that, under the general excise tax law, sales to a licensed retail merchant, jobber or other licensed seller for resale are only eligible for the wholesale tax rate if the resale is subject to the highest general excise tax rate.

With various and countless transactions taking place between wholesalers, retailers and nonprofit organizations such as hospitals that are exempt from the general excise tax, and consumers, this bill, if passed, will have a significant adverse financial impact on those businesses that will have to absorb the tax. It will also increase costs for prescription drugs and medical devices that are currently exempt from the general excise tax.

CVS Health serves millions of people through our local presence, digital channels, and our nearly 300,000 dedicated colleagues – including more than 40,000 physicians, pharmacists, nurses and nurse practitioners. Our unique health care model gives us an unparalleled perspective on how systems can be better designed to help consumers navigate the health care system – and their personal health care – by improving access, lowering costs, and being a trusted partner for every meaningful moment of health. And we do it all with heart, each and every day.

Thank you for the opportunity to subject testimony. We respectfully urge the committee to hold this bill.

Respectfully,



Shannon Butler  
Executive Director of Government Affairs  
CVS Health



## THE QUEEN'S HEALTH SYSTEMS

---

To: The Honorable Sean Quinlan, Chair  
The Honorable Daniel Holt, Vice Chair  
Members, House Committee on Economic Development

From: Jacce S. Mikulanec, Director, Government Relations, The Queen's Health Systems

Date: March 16, 2022

Re: Opposition to SB 2020 SD1 – Relating to the General Excise Tax

---

The Queen's Health Systems (Queen's) is a not-for-profit corporation that provides expanded health care capabilities to the people of Hawai'i and the Pacific Basin. Since the founding of the first Queen's hospital in 1859 by Queen Emma and King Kamehameha IV, it has been our mission to provide quality health care services in perpetuity for Native Hawaiians and all of the people of Hawai'i. Over the years, the organization has grown to four hospitals, 66 health care centers and labs, and more than 1,600 physicians statewide. As the preeminent health care system in Hawai'i, Queen's strives to provide superior patient care that is constantly advancing through education and research.

Queen's appreciates the opportunity to testify in opposition to SB 2020 SD1, which attempts to clarify that, under the general excise tax law, sales to a licensed retail merchant, jobber, or other licensed seller for resale are only eligible for the wholesale tax rate if the resale is subject to the highest general excise tax (GET) rate.

Our health systems operate as registered non-profit organizations per designation provided by the state Department of Taxation (HRS §237-23(a)(6)) and are exempt from GET on income related to their exempt purpose. As such, Queen's does not pass on GET to patients and the public. However, similar to other non-profits in Hawaii, most of Queen's vendors are not exempt from GET and vendors pass on the cost of GET on invoices. This applies to the purchase of prescription/non-prescription pharmaceuticals and other medical supplies across our system (including Molokai General Hospital, Queen's North Hawai'i Community Hospital, and Queen's West Oahu).

This bill, should it pass, would increase our vendor's GET rate to 4% (instead of the current wholesale rate of .5%). As a result, we estimate that The Queen's Health Systems could face an annual increase in general excise tax expense passed on by our vendors of \$3 million a year.

Should the Committee see fit to advance this measure we would respectfully request the following amendment to subsection (a) to ensure that hospitals are not impacted directly or indirectly by this measure:

(a)(15) of section 237-4, to read as follows:

*The mission of The Queen's Health Systems is to fulfill the intent of Queen Emma and King Kamehameha IV to provide in perpetuity quality health care services to improve the well-being of Native Hawaiians and all of the people of Hawai'i.*

“Sales of prescription drugs, nonprescription drugs, prosthetic devices, supplies and surgical implants to hospitals, infirmaries, or sanitararia described under section 237-23(a)(6) for purposes of resale. As used in this paragraph, prescription drugs and prosthetic devices shall have the same meaning set forth under section 237-24.3(6).”

Thank you for allowing The Queen’s Health Systems to testify in opposition to SB 2020 SD1.



DAVID Y. IGE  
GOVERNOR

JOSH GREEN M.D.  
LT. GOVERNOR



ISAAC W. CHOY  
DIRECTOR OF TAXATION

STATE OF HAWAII  
**DEPARTMENT OF TAXATION**  
P.O. BOX 259  
HONOLULU, HAWAII 96809  
PHONE NO: (808) 587-1540  
FAX NO: (808) 587-1560

To: The Honorable Sean Quinlan, Chair;  
The Honorable Daniel Holt, Vice Chair;  
and Members of the House Committee on Economic Development

From: Isaac W. Choy, Director  
Department of Taxation

Date: Wednesday, March 16, 2022  
Time: 10:00 A.M.  
Place: Via Video Conference, State Capitol

**Re: S.B. 2020, S.D. 1, Relating to the General Excise Tax**

The Department of Taxation (Department) strongly supports S.B. 2020, S.D. 1.

S.B. 2020, S.D. 1, amends the general excise tax (GET) to limit application of the wholesale rate of GET to situations where a subsequent retail sale that is subject to the 4 percent rate occurs. The bill adds the requirement of a subsequent retail sale to both Hawaii Revised Statutes (HRS) sections 237-4(a)(1) and 237-4(a)(8). The bill is effective upon approval.

The Department's testimony is based on the following summary points:

- The wholesale rate was adopted to relieve the pyramiding effect of the GET. The application of the wholesale rate contemplated that a subsequent sale taxed at the highest rate of tax would occur.
- The elimination of the requirement for a sale subject to the highest rate of tax was inadvertent, resulting from a mere misinterpretation of intent by the revisor of statutes.
- Clarifying the intent of the legislature is important to the orderly administration of taxes.
- The unintended consequences of S.B. 638 (1999) has cost the state tens of millions of dollars.

HISTORY OF LAWS AFFECTING THE WHOLESALE RATE SINCE 1999

In order to understand the mistakes that led to the current law, it is useful to go back through the history of laws enacted.

S.B. 638 (1999): The purpose of this bill was to expand the definition of wholesale service-to-service transactions (formerly known as intermediary services) to mirror the wholesale sales of tangible personal property (TPP). The measure did not change the requirement for having a four percent rate in the transaction chain. HRS sections 237-4(a)(8)(A) and (B).

S.B. 638, S.D. 1 (1999): This draft added a phase-in of the rate applicable to wholesale services from four percent to one-half percent over a period of years. The phase-in used a deduction mechanism. Full implementation of the one-half percent rate would become effective in 2006. The requirement for having a four percent transaction in transaction chain for sale of TPP at wholesale was not changed.

S.B. 638, S.D. 1, H.D. 1 (1999): This draft changed the phase-in of the one-half percent rate from a deduction mechanism to the simple statement of the applicable rates. This draft also clarified the definition of wholesale transaction of TPP at HRS section 237-4(a)(8). The drafting changes used for eliminating the need to have a four percent transaction in the transaction chain, was not changed.

This draft also included the sunset provision that deleted HRS section 237-4(a)(8)(A). As interpreted by the revisor, this deleted the entire section 237-4(a)(8)(A) and thus deleted the specific requirement for a four percent transaction in the transaction chain to receive the wholesale rate. The sunset date was set at January 1, 2006. The provision for requiring a four percent transaction in the transaction chain was intact until January 1, 2006.

Act 71, Session Laws of Hawaii (SLH), 1999; S.B. 638, S.D. 1, H.D. 2: The final draft appears to have been written as the final legal check. The modifications were:

- HRS section 237-4(a)(10)(B) was amended to include licensed contractors and persons furnishing transient accommodations.
- HRS section 237-13(2)(A) added “and provided that insofar as the sales of TPP is a wholesale under section 237-4(a)(8) (B) the sale shall be subject to section 237-\_\_”

When the bill became Act 71, SLH 1999, the requirement for a four percent transaction in the transaction chain was still intact in HRS section 237-4(a)(8)(A).

Act 198, SLH 2000; S.B. 2945, S.D. 1, H.D. 3: Act 198, SLH 2000 made several technical amendments to the wholesale statute. The act made the following substantive amendments:

- HRS section 237-4(a)(10) was amended to add several elements to the definition of wholesale services. The added elements included subpart (F), which required a resale of the service that was subject to GET at the highest rate as a requirement to qualify for the wholesale rate.
- HRS section 237-4(a)(13) was added to allow wholesale sales of amusements, the enactment included the requirement that a resale of amusements be subject to GET at the highest rate.

As you can see, it was the intent of the Legislature to require a subsequent resale subject to the four percent rate.

Act 16, SLH 2008; S.B. 2399: This was a revisor bill. The bill was enacted as introduced. The Act made the following amendments relevant to this testimony:

- HRS section 237-4(a)(8)(A) was deleted. This deletion removed the requirement of a subsequent sale at the highest rate of GET. The Department contends this deletion was a mistake, which was based on a misinterpretation of Act 71, SLH 1999, by the revisor of statutes.
- HRS section 237-4(a)(8)(C) was deleted.

#### CONCLUSION

The Department believes the intent of the legislature was clear. That intent was to allow a wholesale transaction only if there was a four percent transaction in the transaction chain. This requirement made it clear and simple to administer the various wholesale rate allowances. The requirement of the four percent transaction provided an objective test for the wholesale rate. Without the four percent rate, the determination is more subjective. A subjective determination is harder to administer.

For these reasons, the Department is strongly in support of this measure. Thank you for the opportunity to provide testimony on this measure.



Healthcare Distribution Alliance

PATIENTS MOVE US.

TO: The Honorable Representative Quinlan  
Chair, Committee on Economic Development

FROM: Leah Lindahl, Senior Director  
Healthcare Distribution Alliance

DATE: March 16, 2022

RE: Healthcare Distribution Alliance (HDA) Comments on Senate Bill 2020 SD 1

Chair Quinlan, Vice Chair Holt, and Members of the Committee:

On behalf of the Healthcare Distribution Alliance (HDA) and our wholesale drug distributor members doing business in Hawaii, I am writing regarding our industry's concerns with Senate Bill (SB) 2020 SD 1 and the impact on healthcare providers and patients in Hawaii.

HDA is the national trade association representing healthcare wholesale distributors, the vital link between the nation's pharmaceutical and medical product manufacturers and the nation's healthcare providers. Each business day, HDA member companies safely and efficiently deliver 15 million healthcare products to more than 200,000 pharmacies, hospitals, nursing homes, physician offices and clinics in every state in the nation, including 200 located across Hawaii which are serviced by four state-located distribution facilities. HDA and its 34-member companies work daily to provide value and achieve cost savings, an estimated \$42 billion each year, to our nation's healthcare system.

Senate Bill 2020 SD 1 proposes to clarify that, under the general excise tax law, sales to a licensed retail merchant, jobber, or other licensed seller for resale are only eligible for the wholesale tax rate if the resale is subject to the highest general excise tax rate. This clarification as proposed in Senate Bill 2020 SD 1 would have a significant impact on the healthcare supply chain in addition to the patients, due to these concerns we request the committee consider an **exemption for medication and medical supplies from the General Excise Tax (GET)**.

Healthcare wholesale distribution is a high-volume, high-value, yet very low profit margin industry, resulting in margins of roughly 1.3% on average. Due to these thin margins, when states consider applying a gross receipts tax, like Hawaii's GET, they will provide a lower tax rate to ensure the tax rate does not create affordability and access challenge for medication and medical supplies. While the GET applies a lower rate of .5 percent at the wholesale level, increasing the tax liability for subsequent purchases to 4 percent would be incredibly burdensome specifically for the pharmacies and healthcare facilities in the state. This would ultimately compound costs throughout the entire supply chain, likely increasing the costs for patients at a time when the national conversation is laser-focused on controlling medication costs.

In conclusion, HDA requests the committee consider an amendment to remove medication and healthcare supplies from the GET entirely due to the disproportionate impact it would have on the supply chain and unintended consequences it could have on patients. Please feel free to contact me should you have any questions or concerns at (303) 829-4121 or [LLindahl@hda.org](mailto:LLindahl@hda.org).

**SB-2020-SD-1**

Submitted on: 3/14/2022 6:37:44 PM

Testimony for ECD on 3/16/2022 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Gerard Silva	Individual	Oppose	Written Testimony Only

Comments:

Taxes Are Illegal!!



Testimony of  
Jonathan Ching  
Government Relations Director

**LATE**

Before:  
House Committee on Economic Development  
The Honorable Sean Quinlan, Chair  
The Honorable Daniel Holt, Vice Chair

March 16, 2022  
10:00 a.m.  
CR 312 & Via Videoconference

**Re: SB 2020, SD1, Relating to the General Excise Tax**

Chair Quinlan, Vice Chair Holt, and committee members, which clarifies that, under the general excise tax law, sales to a licensed retail merchant, jobber, or other licensed seller for resale are only eligible for the wholesale tax rate if the resale is subject to the highest general excise tax rate. It also adds a similar requirement for sales of tangible personal property to a service provider or for the purpose of providing transient accommodations.

**Kaiser Permanente Hawai'i OPPOSES SB2020, SD1**

Kaiser Permanente Hawai'i is Hawai'i's largest integrated health system that provides care and coverage for approximately 265,000 members. Each day, more than 4,400 dedicated employees and more than 650 Hawai'i Permanente Medical Group physicians and providers come to work at Kaiser Permanente Hawai'i to care for our members at our 20 medical facilities, including Moanalua Medical Center, providing high-quality care for our members, and delivering on our commitment to improve the health of the 1.4 million people living in the communities we serve.

As a not-for-profit organization, Kaiser Foundation Health Plan and Hospitals are exempt from the general excise tax. As such, we do not charge members the general excise tax. However, Kaiser Permanente like, other hospitals in the state, purchase and resell a number of prescription/non-prescription pharmaceuticals and other medical supplies.

SB 2020, SD1 is seemingly inconsistent with HRS §237-23 and gives the impression that nonprofit health plans and hospitals are subject to the GET at the highest rate. In its current form, SB 2020, SD1 would require Kaiser Foundation Health Plan and Hospitals to pay the increased GET rate of 4.5% (instead of the wholesale rate of .5%) on these items and thus incur significant financial costs without the ability to recoup those costs. **We estimate that Kaiser Foundation Health Plan and Hospitals would face an annual increase in expense of \$10 million should this bill be enacted. Moreover, the cost of prescription drugs to members could increase, thereby possibly leading to an increase in healthcare premiums.**

Mahalo for the opportunity to testify on this measure.