
A BILL FOR AN ACT

RELATING TO AN EXEMPTION TO THE GENERAL EXCISE TAX.

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

1 SECTION 1. The purpose of this Act is to offset the
2 regressive nature of the general excise tax by exempting from
3 the state general excise tax the sale of infant formula as
4 defined under The Special Supplemental Nutrition Program for
5 Women, Infants, and Children (WIC program) administered by the
6 federal Food and Nutrition Service of the United States
7 Department of Agriculture.

8 The legislature finds that Hawaii is among a minority of
9 states that provide no exemption from the state excise or sales
10 tax for the sale of food. This Act, which exempts the sale of
11 infant formula from the general excise tax, would allow Hawaii
12 to join the majority of states in recognizing the societal
13 benefit of providing targeted tax relief for food purchases.

14 SECTION 2. Section 237-24.3, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§237-24.3 Additional amounts not taxable.** In addition to
17 the amounts not taxable under section 237-24, this chapter shall
18 not apply to:



1 (1) Amounts received from the loading, transportation, and
2 unloading of agricultural commodities shipped for a
3 producer or produce dealer on one island of this State
4 to a person, firm, or organization on another island
5 of this State. The terms "agricultural commodity",
6 "producer", and "produce dealer" shall be defined in
7 the same manner as they are defined in section 147-1;
8 provided that agricultural commodities need not have
9 been produced in the State;

10 (2) Amounts received from sales of:

11 (A) Intoxicating liquor as the term "liquor" is
12 defined in chapter 244D;

13 (B) Cigarettes and tobacco products as defined in
14 chapter 245; and

15 (C) Agricultural, meat, or fish products;
16 to any person or common carrier in interstate or
17 foreign commerce, or both, whether ocean-going or air,
18 for consumption out-of-state on the shipper's vessels
19 or airplanes;

20 (3) Amounts received by the manager or board of directors
21 of:



- 1 (A) An association of apartment owners of a
- 2 condominium property regime established in
- 3 accordance with chapter 514B; or
- 4 (B) A nonprofit homeowners or community association
- 5 incorporated in accordance with chapter 414D or
- 6 any predecessor thereto and existing pursuant to
- 7 covenants running with the land,
- 8 in reimbursement of sums paid for common expenses;
- 9 (4) Amounts received or accrued from:
 - 10 (A) The loading or unloading of cargo from ships,
 - 11 barges, vessels, or aircraft, whether or not the
 - 12 ships, barges, vessels, or aircraft travel
 - 13 between the State and other states or countries
 - 14 or between the islands of the State;
 - 15 (B) Tugboat services including pilotage fees
 - 16 performed within the State, and the towage of
 - 17 ships, barges, or vessels in and out of state
 - 18 harbors, or from one pier to another; and
 - 19 (C) The transportation of pilots or governmental
 - 20 officials to ships, barges, or vessels offshore;
 - 21 rigging gear; checking freight and similar



1 services; standby charges; and use of moorings
2 and running mooring lines;

3 (5) Amounts received by an employee benefit plan by way of
4 contributions, dividends, interest, and other income;
5 and amounts received by a nonprofit organization or
6 office, as payments for costs and expenses incurred
7 for the administration of an employee benefit plan;
8 provided that this exemption shall not apply to any
9 gross rental income or gross rental proceeds received
10 after June 30, 1994, as income from investments in
11 real property in this State; and provided further that
12 gross rental income or gross rental proceeds from
13 investments in real property received by an employee
14 benefit plan after June 30, 1994, under written
15 contracts executed prior to July 1, 1994, shall not be
16 taxed until the contracts are renegotiated, renewed,
17 or extended, or until after December 31, 1998,
18 whichever is earlier. For the purposes of this
19 paragraph, "employee benefit plan" means any plan as
20 defined in section 1002(3) of title 29 of the United
21 States Code, as amended;

22 (6) Amounts received for ~~purchases~~;



1 (A) Purchases made with United States Department of
2 Agriculture food coupons under the federal food
3 stamp program [~~and amounts received for~~
4 purchases];

5 (B) Purchases made with United States Department of
6 Agriculture food vouchers under the Special
7 Supplemental Foods Program for Women, Infants and
8 Children; and

9 (C) Purchases by any purchaser of infant formula as
10 defined under the Special Supplemental Foods
11 Program for Women, Infants, and Children as of
12 January 1, 2008, and as amended thereafter;
13 provided that if the Special Supplemental Foods
14 Program for Women, Infants, and Children ceases,
15 proceeds from purchases of the most recent
16 qualifying items shall remain exempt amounts
17 under this subsection;

18 (7) Amounts received by a hospital, infirmary, medical
19 clinic, health care facility, pharmacy, or a
20 practitioner licensed to administer the drug to an
21 individual for selling prescription drugs or



1 prosthetic devices to an individual; provided that
2 this paragraph shall not apply to any amounts received
3 for services provided in selling prescription drugs or
4 prosthetic devices. As used in this paragraph:

5 (A) "Prescription drugs" are those drugs defined
6 under section 328-1 and dispensed by filling or
7 refilling a written or oral prescription by a
8 practitioner licensed under law to administer the
9 drug and sold by a licensed pharmacist under
10 section 328-16 or practitioners licensed to
11 administer drugs; and

12 (B) "Prosthetic device" means any artificial device
13 or appliance, instrument, apparatus, or
14 contrivance, including their components, parts,
15 accessories, and replacements thereof, used to
16 replace a missing or surgically removed part of
17 the human body, which is prescribed by a licensed
18 practitioner of medicine, osteopathy, or podiatry
19 and which is sold by the practitioner or which is
20 dispensed and sold by a dealer of prosthetic
21 devices; provided that "prosthetic device" shall
22 not mean any auditory, ophthalmic, dental, or



- 1 ocular device or appliance, instrument,
2 apparatus, or contrivance;
- 3 (8) Taxes on transient accommodations imposed by chapter
4 237D and passed on and collected by operators holding
5 certificates of registration under that chapter;
- 6 (9) Amounts received as dues by an unincorporated
7 merchants association from its membership for
8 advertising media, promotional, and advertising costs
9 for the promotion of the association for the benefit
10 of its members as a whole and not for the benefit of
11 an individual member or group of members less than the
12 entire membership;
- 13 (10) Amounts received by a labor organization for real
14 property leased to:
- 15 (A) A labor organization; or
- 16 (B) A trust fund established by a labor organization
17 for the benefit of its members, families, and
18 dependents for medical or hospital care, pensions
19 on retirement or death of employees,
20 apprenticeship and training, and other membership
21 service programs.



1 As used in this paragraph, "labor organization" means
2 a labor organization exempt from federal income tax
3 under section 501(c)(5) of the Internal Revenue Code,
4 as amended;

5 (11) Amounts received from foreign diplomats and consular
6 officials who are holding cards issued or authorized
7 by the United States Department of State granting them
8 an exemption from state taxes; and

9 (12) Amounts received as rent for the rental or leasing of
10 aircraft or aircraft engines used by the lessees or
11 renters for interstate air transportation of
12 passengers and goods. For purposes of this paragraph,
13 payments made pursuant to a lease shall be considered
14 rent regardless of whether the lease is an operating
15 lease or a financing lease. The definition of
16 "interstate air transportation" is the same as in 49
17 U.S.C. section 40102."

18 SECTION 3. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 4. This Act shall take effect upon its approval
21 and shall apply to proceeds received on or after January 1,
22 2008.



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INTRODUCED BY:

Jim Uhaul

JAN 22 2007



Report Title:

Taxation

Description:

Exempts infant formula from general excise tax liability.

