

Report Title:

Education Funding; GET; Increase; Exemptions; Volunteers Tax
Credit; Standard Deduction

Description:

Increases the general excise tax to fund public education;
exempts groceries, certain medical expenses, and a portion of
rent from the general excise tax; establishes a tax credit for
volunteer services performed in public schools; increases the
standard deduction; establishes an education funding commission
to provide oversight for general excise tax revenues deposited
into the newly created education special fund. (SD2)

A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. The legislature finds that the key to Hawaii's
2 future success and the backbone of a stronger economy is a
3 community filled with highly-educated, highly-qualified
4 individuals. A strong public school system that equips our
5 keiki with the knowledge, skills, and experiences necessary to
6 succeed is critical to enhancing Hawaii's standing in an
7 increasingly competitive world.

8 The legislature further finds that meeting this challenge
9 requires adequate, sustained funding of public education. Yet,
10 a study several years ago found that Hawaii's schools were
11 underfunded by \$278,000,000. In 2008, the executive budget
12 proposes to cut \$40,000,000 from our schools and students
13 programs, further eroding our commitment to public education.

14 In addition, the legislature finds that Hawaii's current
15 tax structure is regressive, with lower and middle income
16 taxpayers shouldering the major portion of the tax burden.

17 While there have been numerous studies and proposals suggesting

1 ways to shift the burden to those that can afford to pay more,
2 little has been accomplished.

3 In recent years, the legislature has passed significant
4 initiatives to strengthen the public school system with
5 resources, procedures, and opportunities to make effective
6 change in the manner by which schools are organized and children
7 learn. The Reinventing Education Act of 2004 directed funds to
8 schools based on the needs of their populations, taking into
9 account economic hardship, English as a second language, special
10 needs, and mobility. Additionally, the legislature has provided
11 a governance structure to charter schools to allow the decision
12 makers to be closer to their constituency and placed an emphasis
13 on learning academies and experiential or applied learning
14 programs.

15 If these initiatives are to succeed fully, significant
16 long-term revenue sources must be developed and directed to
17 public schools through the weighted school formula, support for
18 classroom teachers, and facilities improvements.

19 Within the department of education, the backlog for repair
20 and maintenance continues to be a problem. In 2001, the
21 legislature appropriated funds to help mitigate the department
22 of education's estimated \$640,000,000 backlog of repair and

1 maintenance projects. By 2008, the estimated backlog of repair
2 and maintenance projects was approximately \$420,000,000, which
3 included recurring major and minor repairs, ongoing cycle
4 maintenance, service and contract maintenance, nonrecurring
5 projects, and emergency repairs.

6 The \$1.8 billion economic stimulus plan unveiled by the
7 governor in December 2008, includes nearly \$318,000,000 for
8 public school and library projects ready to begin within the
9 next eighteen months - projects which were previously budgeted
10 and approved by the legislature, but not released by the
11 governor. While the release of these funds is a step forward,
12 it does not represent a long-term commitment to reducing the
13 backlog.

14 Hawaii's public schools need a consistent, long-term source
15 of funds to deal with mounting infrastructure deficiencies.
16 Public schools statewide are plagued with nonexistent or
17 inadequate air conditioning in classrooms where soaring
18 temperatures makes learning difficult or impossible; inadequate
19 electrical systems that cannot support new technologies;
20 outdated science and technology laboratories and equipment that
21 hamper efforts to teach twenty-first century skills; and other

1 facilities that have a direct - and often negative impact - on
2 student learning.

3 Adequate funding for these changes and initiatives
4 continues to prove to be a challenge. Increased mandates
5 resulting from the No Child Left Behind Act and the Felix
6 consent decree, among others, have contributed to the lack of
7 adequate funds to support public schools in the State. Despite
8 these increased mandates, over the past few decades, the
9 percentage of the budget allocated to education has consistently
10 decreased as well.

11 In a poll conducted by the Honolulu Advertiser in 2003,
12 seventy-seven per cent of those polled indicated that they would
13 pay more in taxes to improve the quality of public education.
14 The poll also indicated that seventy-six per cent would pay more
15 taxes to make repairs to public schools. A 2004 poll, conducted
16 for Good Beginnings Alliance, indicated that sixty per cent of
17 individuals polled favored a tax increase to support universal
18 preschool. The legislature believes that Hawaii residents have
19 and will continue to demonstrate a willingness to support an
20 increase in taxes to support public education in the State.

21 The legislature also understands that the public wants to
22 know how - and how well - its money is being spent. As the

1 federal government discovered in its recent massive bailout of
2 the financial industry, taxpayers are demanding the specifics of
3 how their money is being spent. To achieve the "most bang for
4 the buck", education funding should go directly to the schools
5 where it can be used to address the needs of the school or
6 school complex. Taxpayers also want to know that any additional
7 moneys they direct to the public schools stay just that -
8 additional moneys - and are not an excuse to cut general funds
9 or other spending for education, or to cut the _____ per cent
10 of the general funds allocated to education funding.

11 Tax reform, which not only includes increasing the general
12 excise tax, but also provides tax relief, will benefit the
13 majority of taxpayers, particularly in the lower income tax
14 brackets, through an increased standard deduction amount,
15 exemptions from the general excise tax for certain goods and
16 services, and tax credits, as well as by ensuring the delivery
17 of high-quality education and state-of-the-art facilities for
18 our keiki.

19 The purpose of this Act is to provide a sustained source of
20 funding for public education through a carefully balanced tax
21 package, by:

(1) Increasing the four per cent general excise tax, with a portion of the increased revenues allocated for public education;

(2) Offsetting the effects of the tax increase by establishing a general excise tax exemption for:

(A) Food;

(B) Medical expenses, including nonprescription medications, prescription eyewear, and physician and dental services; and

(C) A portion of rental expenses;

(3) Establishing a tax credit for individuals who volunteer their services at public schools;

(4) Increasing the state standard deduction amounts; and

(5) Establishing an education funding commission to provide oversight for general excise tax revenues deposited into the education special fund established in this Act.

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

"§235- Credit for general volunteer services performed for the public schools. (a) Each individual taxpayer who files

1 an individual income tax return for a taxable year, and who is
2 not claimed or is not otherwise eligible to be claimed as a
3 dependent by another for state or federal income tax purposes,
4 may claim a nonrefundable credit against the tax otherwise due
5 under this chapter in the amount of \$ _____, provided that
6 the taxpayer performed general volunteer services for at least
7 _____ hours in any taxable year for public schools.

8 (b) If the tax credit under this section exceeds the
9 individual's tax liability, the excess of credit over liability
10 shall not be refunded to the taxpayer. All claims, including
11 any amended claims, for a tax credit under this section shall be
12 filed on or before the end of the twelfth month following the
13 close of the taxable year for which the credit may be claimed.
14 Failure to comply with the foregoing provision shall constitute
15 a waiver of the right to claim the credit.

16 (c) Only general volunteer services performed for public
17 schools shall qualify for the credit. No credit shall be
18 granted for volunteer services provided by an individual that
19 are normally and customarily performed by a paid employee of
20 public schools for which the individual is providing services.

21 For purposes of this section "volunteer services" shall
22 include:

(1) Services provided for the public schools by a non-salaried individual; or

(2) Services provided for the public schools by a salaried individual that are outside of that individual's duties as a salaried employee of the department of education.

(d) The director shall provide by rule a method of documenting the actual performance by a taxpayer of the hours of general volunteer services required to establish eligibility for the tax credit authorized in this section.

(e) The department of taxation shall prepare forms as may be necessary to claim the credit under this section."

SECTION 3. Chapter 237, Hawaii Revised Statutes, is amended by adding four new sections to be appropriately designated and to read as follows:

"§237- Exemption of food items. (a) There shall be exempted from, and excluded from the measure of, the taxes imposed by this chapter all of the gross proceeds or income arising from the manufacture, production, packaging, and sale of food items within the State.

(b) As used in this section, "food items" means any food or food product for home consumption except alcoholic beverages,

tobacco, and food products prepared at the place of sale or at another location and sold primarily for immediate or nearly immediate consumption. In the case of those persons who are sixty-five years of age or older or who receive supplemental security income benefits under Title XVI of the Social Security Act (42 U.S.C. §1381 et. seq.), and their spouses, "food items" includes meals prepared by and served in senior citizens' centers, apartment buildings occupied primarily by senior citizens, private nonprofit establishments (eating or otherwise) that feed senior citizens, private establishments that contract with the appropriate agency of the State to offer meals for senior citizens at concessional prices, and meals prepared for and served to residents of federally subsidized housing for the elderly.

The phrase "food items" may be further defined by the department of taxation by rule through the enumeration of items in rules or informational releases; provided that the department of taxation shall consult with the federal Food and Nutrition Service of the United States Department of Agriculture in further defining the phrase "food items" for food stamp purposes.

1 **§237- Exemption of over-the-counter nonprescription**
2 **medications and prescription eyewear.** (a) There shall be
3 exempted from, and excluded from the measure of, the taxes
4 imposed by this chapter all of the gross proceeds or income
5 arising from the sale of over-the-counter nonprescription
6 medications and prescription eyewear.

7 (b) For purposes of this section:
8 "Over-the-counter nonprescription medications" means drugs
9 or medications that can be purchased without a prescription (for
10 example, aspirin, cough syrup, and laxatives).

11 "Prescription eyewear" means lenses, spectacles,
12 eyeglasses, or appurtenances thereto requiring a written
13 prescription from a physician or optometrist duly licensed to
14 practice.

15 **§237- Exemption of physician and dentistry services.**

16 (a) There shall be exempted from, and excluded from the measure
17 of, the taxes imposed by this chapter all of the gross proceeds
18 or income arising from the provision of physician or dentistry
19 services.

20 (b) For purposes of this section:

21 "Dentistry" shall have the same meaning as in section
22 448-1.

1 "Dentistry services" shall mean those services provided by
2 or under the supervision of a person who practices dentistry.

3 "Physician" shall have the same meaning as under section
4 327E-2.

5 "Physician services" shall mean those services provided by
6 or under the supervision of a physician.

7 **\$237- Exemption of rent.** (a) There shall be exempted
8 from, and excluded from the measure of, the taxes imposed by
9 this chapter all of the gross proceeds or income arising from
10 the payment of rent; provided that the exemption shall be
11 limited to the first \$ of rent received for the
12 occupancy of a dwelling place per month.

13 (b) For purposes of this section "rent" shall have the
14 same meaning as in section 235-55.7."

15 SECTION 4. Chapter 302A, Hawaii Revised Statutes, is
16 amended by adding two new sections to be appropriately
17 designated and to read as follows:

18 **"§302A-A Education funding commission.** (a) There is
19 established within the department of education, for
20 administrative purposes only, the education funding commission.
21 The commission shall consist of eleven members. Nine voting

1 members appointed by the governor pursuant to section 26-34;
2 provided that:

3 (1) Three members shall be appointed from a list of
4 nominees submitted by the president of the senate;

5 (2) Three members shall be appointed from a list of
6 nominees submitted by the speaker of the house of
7 representatives;

8 (3) Three members shall be appointed by the governor;

9 (4) Vacancies in these positions shall be filled in the
10 same manner in which they were appointed; and

11 (5) Appointees shall include individuals representing the
12 department of education, the business community, and
13 the Hawaii P-20 initiative.

14 The superintendent of education and the chairperson of the board
15 of education shall serve as ex officio, nonvoting members. The
16 members of the commission shall serve without compensation but
17 shall be reimbursed for expenses necessary for the performance
18 of their duties.

19 (b) The commission shall establish dollar or percentage
20 allocations, or a combination thereof, for moneys deposited into
21 the education special fund established under section 302A-B for
22 the following two-year period; provided that funds shall be

1 allocated to the following purposes to support early education
2 and public schools:

3 (1) Repair and maintenance projects;

4 (2) Capital improvement projects;

5 (3) Learning materials and technology and equipment;

6 (4) The base per pupil allocation in the weighted student
7 formula; and

8 (5) Workforce training.

9 (c) The commission may seek assistance from the department
10 and any other department or agency in conducting its review and
11 formulating its allocation formula, including financial and
12 management audits of the education special fund. All agencies
13 shall fully cooperate with the commission and provide any
14 necessary information to the commission upon request.

15 (d) The commission shall submit a report of its findings
16 and its fund allocations for the following two-year period to
17 the legislature and the governor, no later than twenty days
18 prior to the convening of the regular session of the legislature
19 in even-numbered years, beginning with the regular session of
20 2010; provided that the commission shall meet at least annually
21 thereafter and prepare an annual report for submittal to the
22 legislature and the governor, no later than twenty days prior to

1 the convening of each regular session on the allocation and
2 utilization of funds, including the actual related usage of
3 funds.

4 (e) The new allocation distributions shall become
5 effective July 1 of the next fiscal year and July 1 every two
6 years thereafter.

7 **\$302A-B Education special fund.** (a) There is created in
8 the treasury of the State the education special fund, into which
9 shall be deposited general excise tax revenues collected by the
10 department of taxation under section 237-31.

11 (b) The education special fund shall be used solely for
12 the support of early education and public schools. The funds
13 shall be allocated in the manner established by the education
14 funding commission."

15 SECTION 5. Section 235-2.4, Hawaii Revised Statutes, is
16 amended by amending subsection (a) to read as follows:

17 "(a) Section 63 (with respect to taxable income defined)
18 of the Internal Revenue Code shall be operative for the purposes
19 of this chapter, except that the standard deduction amount in
20 section 63(c) of the Internal Revenue Code shall instead mean:

21 (1) [~~\$4,000~~] \$8,000 in the case of:

22 (A) A joint return as provided by section 235-93; or

1 (B) A surviving spouse (as defined in section 2(a) of
2 the Internal Revenue Code);

3 (2) [~~\$2,920~~] \$5,840 in the case of a head of household (as
4 defined in section 2(b) of the Internal Revenue Code);

5 (3) [~~\$2,000~~] \$4,000 in the case of an individual who is
6 not married and who is not a surviving spouse or head
7 of household; or

8 (4) [~~\$2,000~~] \$4,000 in the case of a married individual
9 filing a separate return.

10 Section 63(c) (4) shall not be operative in this State.

11 Section 63(c) (5) shall be operative, except that the limitation
12 on basic standard deduction in the case of certain dependents
13 shall be the greater of [~~\$500~~] \$1,000 or such individual's
14 earned income. Section 63(f) shall not be operative in this
15 State.

16 The standard deduction amount for nonresidents shall be
17 calculated pursuant to section 235-5."

18 SECTION 6. Section 237-13, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§237-13 Imposition of tax.** There is hereby levied and
21 shall be assessed and collected annually privilege taxes against
22 persons on account of their business and other activities in the

1 State measured by the application of rates against values of
2 products, gross proceeds of sales, or gross income, whichever is
3 specified, as follows:

4 (1) Tax on manufacturers.

5 (A) Upon every person engaging or continuing within
6 the State in the business of manufacturing,
7 including compounding, canning, preserving,
8 packing, printing, publishing, milling,
9 processing, refining, or preparing for sale,
10 profit, or commercial use, either directly or
11 through the activity of others, in whole or in
12 part, any article or articles, substance or
13 substances, commodity or commodities, the amount
14 of the tax to be equal to the value of the
15 articles, substances, or commodities,
16 manufactured, compounded, canned, preserved,
17 packed, printed, milled, processed, refined, or
18 prepared for sale, as shown by the gross proceeds
19 derived from the sale thereof by the manufacturer
20 or person compounding, preparing, or printing
21 them, multiplied by one-half of one per cent.

1 (B) The measure of the tax on manufacturers is the
2 value of the entire product for sale, regardless
3 of the place of sale or the fact that deliveries
4 may be made to points outside the State.

5 (C) If any person liable for the tax on manufacturers
6 ships or transports the person's product, or any
7 part thereof, out of the State, whether in a
8 finished or unfinished condition, or sells the
9 same for delivery to points outside the State
10 (for example, consigned to a mainland purchaser
11 via common carrier f.o.b. Honolulu), the value of
12 the products in the condition or form in which
13 they exist immediately before entering interstate
14 or foreign commerce, determined as hereinafter
15 provided, shall be the basis for the assessment
16 of the tax imposed by this paragraph. This tax
17 shall be due and payable as of the date of entry
18 of the products into interstate or foreign
19 commerce, whether the products are then sold or
20 not. The department shall determine the basis
21 for assessment, as provided by this paragraph, as
22 follows:

1 (i) If the products at the time of their entry
2 into interstate or foreign commerce already
3 have been sold, the gross proceeds of sale,
4 less the transportation expenses, if any,
5 incurred in realizing the gross proceeds for
6 transportation from the time of entry of the
7 products into interstate or foreign
8 commerce, including insurance and storage in
9 transit, shall be the measure of the value
10 of the products;

11 (ii) If the products have not been sold at the
12 time of their entry into interstate or
13 foreign commerce, and in cases governed by
14 clause (i) in which the products are sold
15 under circumstances such that the gross
16 proceeds of sale are not indicative of the
17 true value of the products, the value of the
18 products constituting the basis for
19 assessment shall correspond as nearly as
20 possible to the gross proceeds of sales for
21 delivery outside the State, adjusted as
22 provided in clause (i), or if sufficient

1 data are not available, sales in the State,
2 of similar products of like quality and
3 character and in similar quantities, made by
4 the taxpayer (unless not indicative of the
5 true value) or by others. Sales outside the
6 State, adjusted as provided in clause (i),
7 may be considered when they constitute the
8 best available data. The department shall
9 prescribe uniform and equitable rules for
10 ascertaining the values;

11 (iii) At the election of the taxpayer and with the
12 approval of the department, the taxpayer may
13 make the taxpayer's returns under clause (i)
14 even though the products have not been sold
15 at the time of their entry into interstate
16 or foreign commerce; and

17 (iv) In all cases in which products leave the
18 State in an unfinished condition, the basis
19 for assessment shall be adjusted so as to
20 deduct the portion of the value as is
21 attributable to the finishing of the goods
22 outside the State.

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

3 (A) Upon every person engaging or continuing in the
4 business of selling any tangible personal
5 property whatsoever (not including, however,
6 bonds or other evidence of indebtedness, or
7 stocks), there is likewise hereby levied, and
8 shall be assessed and collected, a tax equivalent
9 to [~~four~~] _____ per cent of the gross proceeds of
10 sales of the business; provided that insofar as
11 the sale of tangible personal property is a
12 wholesale sale [~~under section 237-4(a)(8)~~], the
13 sale shall be subject to section 237-13.3. Upon
14 every person engaging or continuing within this
15 State in the business of a producer, the tax
16 shall be equal to one-half of one per cent of the
17 gross proceeds of sales of the business, or the
18 value of the products, for sale, if sold for
19 delivery outside the State or shipped or
20 transported out of the State, and the value of
21 the products shall be determined in the same

1 manner as the value of manufactured products
2 covered in the cases under paragraph (1) (C).

3 (B) Gross proceeds of sales of tangible property in
4 interstate and foreign commerce shall constitute
5 a part of the measure of the tax imposed on
6 persons in the business of selling tangible
7 personal property, to the extent, under the
8 conditions, and in accordance with the provisions
9 of the Constitution of the United States and the
10 Acts of the Congress of the United States which
11 may be now in force or may be hereafter adopted,
12 and whenever there occurs in the State an
13 activity to which, under the Constitution and
14 Acts of Congress, there may be attributed gross
15 proceeds of sales, the gross proceeds shall be so
16 attributed.

17 (C) No manufacturer or producer, engaged in such
18 business in the State and selling the
19 manufacturer's or producer's products for
20 delivery outside of the State (for example,
21 consigned to a mainland purchaser via common
22 carrier f.o.b. Honolulu), shall be required to

1 pay the tax imposed in this chapter for the
2 privilege of so selling the products, and the
3 value or gross proceeds of sales of the products
4 shall be included only in determining the measure
5 of the tax imposed upon the manufacturer or
6 producer.

7 (D) When a manufacturer or producer, engaged in such
8 business in the State, also is engaged in selling
9 the manufacturer's or producer's products in the
10 State at wholesale, retail, or in any other
11 manner, the tax for the privilege of engaging in
12 the business of selling the products in the State
13 shall apply to the manufacturer or producer as
14 well as the tax for the privilege of
15 manufacturing or producing in the State, and the
16 manufacturer or producer shall make the returns
17 of the gross proceeds of the wholesale, retail,
18 or other sales required for the privilege of
19 selling in the State, as well as making the
20 returns of the value or gross proceeds of sales
21 of the products required for the privilege of
22 manufacturing or producing in the State. The

1 manufacturer or producer shall pay the tax
2 imposed in this chapter for the privilege of
3 selling its products in the State, and the value
4 or gross proceeds of sales of the products, thus
5 subjected to tax, may be deducted insofar as
6 duplicated as to the same products by the measure
7 of the tax upon the manufacturer or producer for
8 the privilege of manufacturing or producing in
9 the State; provided that no producer of
10 agricultural products who sells the products to a
11 purchaser who will process the products outside
12 the State shall be required to pay the tax
13 imposed in this chapter for the privilege of
14 producing or selling those products.

15 (E) A taxpayer selling to a federal cost-plus
16 contractor may make the election provided for by
17 paragraph (3) (C), and in that case the tax shall
18 be computed pursuant to the election,
19 notwithstanding this paragraph or paragraph (1)
20 to the contrary.

21 (F) The department, by rule, may require that a
22 seller take from the purchaser of tangible

1 personal property a certificate, in a form
2 prescribed by the department, certifying that the
3 sale is a sale at wholesale; provided that:

4 (i) Any purchaser who furnishes a certificate
5 shall be obligated to pay to the seller,
6 upon demand, the amount of the additional
7 tax that is imposed upon the seller whenever
8 the sale in fact is not at wholesale; and

9 (ii) The absence of a certificate in itself shall
10 give rise to the presumption that the sale
11 is not at wholesale unless the sales of the
12 business are exclusively at wholesale.

13 (3) Tax upon contractors.

14 (A) Upon every person engaging or continuing within
15 the State in the business of contracting, the tax
16 shall be equal to [~~four~~] _____ per cent of the
17 gross income of the business.

18 (B) In computing the tax levied under this paragraph,
19 there shall be deducted from the gross income of
20 the taxpayer so much thereof as has been included
21 in the measure of the tax levied under
22 subparagraph (A), on:

1 (i) Another taxpayer who is a contractor, as
2 defined in section 237-6;

3 (ii) A specialty contractor, duly licensed by the
4 department of commerce and consumer affairs
5 pursuant to section 444-9, in respect of the
6 specialty contractor's business; or

7 (iii) A specialty contractor who is not licensed
8 by the department of commerce and consumer
9 affairs pursuant to section 444-9, but who
10 performs contracting activities on federal
11 military installations and nowhere else in
12 this State;

13 provided that any person claiming a deduction
14 under this paragraph shall be required to show in
15 the person's return the name and general excise
16 number of the person paying the tax on the amount
17 deducted by the person.

18 (C) In computing the tax levied under this paragraph
19 against any federal cost-plus contractor, there
20 shall be excluded from the gross income of the
21 contractor so much thereof as fulfills the
22 following requirements:

1 (i) The gross income exempted shall constitute
2 reimbursement of costs incurred for
3 materials, plant, or equipment purchased
4 from a taxpayer licensed under this chapter,
5 not exceeding the gross proceeds of sale of
6 the taxpayer on account of the transaction;
7 and

8 (ii) The taxpayer making the sale shall have
9 certified to the department that the
10 taxpayer is taxable with respect to the
11 gross proceeds of the sale, and that the
12 taxpayer elects to have the tax on gross
13 income computed the same as upon a sale to
14 the state government.

15 (D) A person who, as a business or as a part of a
16 business in which the person is engaged, erects,
17 constructs, or improves any building or
18 structure, of any kind or description, or makes,
19 constructs, or improves any road, street,
20 sidewalk, sewer, or water system, or other
21 improvements on land held by the person (whether
22 held as a leasehold, fee simple, or otherwise),

1 upon the sale or other disposition of the land or
2 improvements, even if the work was not done
3 pursuant to a contract, shall be liable to the
4 same tax as if engaged in the business of
5 contracting, unless the person shows that at the
6 time the person was engaged in making the
7 improvements the person intended, and for the
8 period of at least one year after completion of
9 the building, structure, or other improvements
10 the person continued to intend to hold and not
11 sell or otherwise dispose of the land or
12 improvements. The tax in respect of the
13 improvements shall be measured by the amount of
14 the proceeds of the sale or other disposition
15 that is attributable to the erection,
16 construction, or improvement of such building or
17 structure, or the making, constructing, or
18 improving of the road, street, sidewalk, sewer,
19 or water system, or other improvements. The
20 measure of tax in respect of the improvements
21 shall not exceed the amount which would have been
22 taxable had the work been performed by another,

1 subject as in other cases to the deductions
2 allowed by subparagraph (B). Upon the election
3 of the taxpayer, this paragraph may be applied
4 notwithstanding that the improvements were not
5 made by the taxpayer, or were not made as a
6 business or as a part of a business, or were made
7 with the intention of holding the same. However,
8 this paragraph shall not apply in respect of any
9 proceeds that constitute or are in the nature of
10 rent; all such gross income shall be taxable
11 under paragraph (9); provided that insofar as the
12 business of renting or leasing real property
13 under a lease is taxed under section 237-16.5,
14 the tax shall be levied by section 237-16.5.

15 (4) Tax upon theaters, amusements, radio broadcasting
16 stations, etc.

17 (A) Upon every person engaging or continuing within
18 the State in the business of operating a theater,
19 opera house, moving picture show, vaudeville,
20 amusement park, dance hall, skating rink, radio
21 broadcasting station, or any other place at which
22 amusements are offered to the public, the tax

1 shall be equal to [~~four~~] _____ per cent of the
2 gross income of the business, and in the case of
3 a sale of an amusement at wholesale under section
4 237-4(a)(13), the tax shall be subject to section
5 237-13.3.

6 (B) The department may require that the person
7 rendering an amusement at wholesale take from the
8 licensed seller a certificate, in a form
9 prescribed by the department, certifying that the
10 sale is a sale at wholesale; provided that:

11 (i) Any licensed seller who furnishes a
12 certificate shall be obligated to pay to the
13 person rendering the amusement, upon demand,
14 the amount of additional tax that is imposed
15 upon the seller whenever the sale is not at
16 wholesale; and

17 (ii) The absence of a certificate in itself shall
18 give rise to the presumption that the sale
19 is not at wholesale unless the person
20 rendering the sale is exclusively rendering
21 the amusement at wholesale.

1 (5) Tax upon sales representatives, etc. Upon every
2 person classified as a representative or purchasing
3 agent under section 237-1, engaging or continuing
4 within the State in the business of performing
5 services for another, other than as an employee, there
6 is likewise hereby levied and shall be assessed and
7 collected a tax equal to [~~four~~] _____ per cent of the
8 commissions and other compensation attributable to the
9 services so rendered by the person.

10 (6) Tax on service business.

11 (A) Upon every person engaging or continuing within
12 the State in any service business or calling
13 including professional services not otherwise
14 specifically taxed under this chapter, there is
15 likewise hereby levied and shall be assessed and
16 collected a tax equal to [~~four~~] _____ per cent of
17 the gross income of the business, and in the case
18 of a wholesaler under section 237-4(a)(10), the
19 tax shall be equal to one-half of one per cent of
20 the gross income of the business.

21 Notwithstanding the foregoing, a wholesaler under

1 section 237-4(a)(10) shall be subject to section
2 237-13.3.

3 (B) The department may require that the person
4 rendering a service at wholesale take from the
5 licensed seller a certificate, in a form
6 prescribed by the department, certifying that the
7 sale is a sale at wholesale; provided that:

8 (i) Any licensed seller who furnishes a
9 certificate shall be obligated to pay to the
10 person rendering the service, upon demand,
11 the amount of additional tax that is imposed
12 upon the seller whenever the sale is not at
13 wholesale; and

14 (ii) The absence of a certificate in itself shall
15 give rise to the presumption that the sale
16 is not at wholesale unless the person
17 rendering the sale is exclusively rendering
18 services at wholesale.

19 (C) Where any person is engaged in the business of
20 selling interstate or foreign common carrier
21 telecommunication services within and without the
22 State, other than as a home service provider, the

1 tax shall be imposed on that portion of gross
2 income received by a person from service which is
3 originated or terminated in this State and is
4 charged to a telephone number, customer, or
5 account in this State notwithstanding any other
6 state law (except for the exemption under section
7 237-23(a)(1)) to the contrary. If, under the
8 Constitution and laws of the United States, the
9 entire gross income as determined under this
10 paragraph of a business selling interstate or
11 foreign common carrier telecommunication services
12 cannot be included in the measure of the tax, the
13 gross income shall be apportioned as provided in
14 section 237-21; provided that the apportionment
15 factor and formula shall be the same for all
16 persons providing those services in the State.

17 (D) Where any person is engaged in the business of a
18 home service provider, the tax shall be imposed
19 on the gross income received or derived from
20 providing interstate or foreign mobile
21 telecommunications services to a customer with a
22 place of primary use in this State when such

1 services originate in one state and terminate in
2 another state, territory, or foreign country;
3 provided that all charges for mobile
4 telecommunications services which are billed by
5 or for the home service provider are deemed to be
6 provided by the home service provider at the
7 customer's place of primary use, regardless of
8 where the mobile telecommunications originate,
9 terminate, or pass through; provided further that
10 the income from charges specifically derived from
11 interstate or foreign mobile telecommunications
12 services, as determined by books and records that
13 are kept in the regular course of business by the
14 home service provider in accordance with section
15 239-24, shall be apportioned under any
16 apportionment factor or formula adopted under
17 subparagraph (C). Gross income shall not
18 include:

19 (i) Gross receipts from mobile
20 telecommunications services provided to a
21 customer with a place of primary use outside
22 this State;

(ii) Gross receipts from mobile telecommunications services that are subject to the tax imposed by chapter 239;

(iii) Gross receipts from mobile telecommunications services taxed under section 237-13.8; and

(iv) Gross receipts of a home service provider acting as a serving carrier providing mobile telecommunications services to another home service provider's customer.

For the purposes of this paragraph, "charges for mobile telecommunications services", "customer", "home service provider", "mobile telecommunications services", "place of primary use", and "serving carrier" have the same meaning as in section 239-22.

(7) Tax on insurance producers. Upon every person engaged as a licensed producer pursuant to chapter 431, there is hereby levied and shall be assessed and collected a tax equal to 0.15 per cent of the commissions due to that activity.

- 1 (8) Tax on receipts of sugar benefit payments. Upon the
2 amounts received from the United States government by
3 any producer of sugar (or the producer's legal
4 representative or heirs), as defined under and by
5 virtue of the Sugar Act of 1948, as amended, or other
6 Acts of the Congress of the United States relating
7 thereto, there is hereby levied a tax of one-half of
8 one per cent of the gross amount received; provided
9 that the tax levied hereunder on any amount so
10 received and actually disbursed to another by a
11 producer in the form of a benefit payment shall be
12 paid by the person or persons to whom the amount is
13 actually disbursed, and the producer actually making a
14 benefit payment to another shall be entitled to claim
15 on the producer's return a deduction from the gross
16 amount taxable hereunder in the sum of the amount so
17 disbursed. The amounts taxed under this paragraph
18 shall not be taxable under any other paragraph,
19 subsection, or section of this chapter.
- 20 (9) Tax on other business. Upon every person engaging or
21 continuing within the State in any business, trade,
22 activity, occupation, or calling not included in the

1 preceding paragraphs or any other provisions of this
2 chapter, there is likewise hereby levied and shall be
3 assessed and collected, a tax equal to [~~four~~] _____
4 per cent of the gross income thereof. In addition,
5 the rate prescribed by this paragraph shall apply to a
6 business taxable under one or more of the preceding
7 paragraphs or other provisions of this chapter, as to
8 any gross income thereof not taxed thereunder as gross
9 income or gross proceeds of sales or by taxing an
10 equivalent value of products, unless specifically
11 exempted."

12 SECTION 7. Section 237-15, Hawaii Revised Statutes, is
13 amended to read as follows:

14 **"§237-15 Technicians.** When technicians supply dentists or
15 physicians with dentures, orthodontic devices, braces, and
16 similar items which have been prepared by the technician in
17 accordance with specifications furnished by the dentist or
18 physician, and such items are to be used by the dentist or
19 physician in the dentist's or physician's professional practice
20 for a particular patient who is to pay the dentist or physician
21 for the same as a part of the dentist's or physician's
22 professional services, the technician shall be taxed as though

1 the technician were a manufacturer selling a product to a
2 licensed retailer, rather than at the rate of [~~four~~] _____ per
3 cent which is generally applied to professions and services."

4 SECTION 8. Section 237-31, Hawaii Revised Statutes, is
5 amended to read as follows:

6 **"§237-31 Remittances.** All remittances of taxes imposed by
7 this chapter shall be made by money, bank draft, check,
8 cashier's check, money order, or certificate of deposit to the
9 office of the department of taxation to which the return was
10 transmitted. The department shall issue its receipts therefor
11 to the taxpayer and shall pay the moneys into the state treasury
12 as a state realization, to be kept and accounted for as provided
13 by law; provided that:

14 (1) The sum from all general excise tax revenues realized
15 by the State that represents the difference between
16 \$45,000,000 and the proceeds from the sale of any
17 general obligation bonds authorized for that fiscal
18 year for the purposes of the state educational
19 facilities improvement special fund shall be deposited
20 in the state treasury in each fiscal year to the
21 credit of the state educational facilities improvement
22 special fund;

(2) A sum, not to exceed \$5,000,000, from all general excise tax revenues realized by the State shall be deposited in the state treasury in each fiscal year to the credit of the compound interest bond reserve fund; ~~[and]~~

(3) A sum, not to exceed the amount necessary to meet the obligations of the integrated tax information management systems performance-based contract may be retained and deposited in the state treasury to the credit of the integrated tax information management systems special fund. The sum retained by the director of taxation for deposit to the integrated tax information management systems special fund for each fiscal year shall be limited to amounts appropriated by the legislature. This paragraph shall be repealed on July 1, 2005~~[-]~~;

(4) A sum, not to exceed \$, shall be deposited in the education special fund under section 302A-B in each fiscal year in quarterly allotments; and

(5) Any remaining sums from all general excise tax revenues realized by the State shall be deposited to the credit of the general fund."

1 SECTION 9. In codifying the new sections added by section
2 4 of this Act, the revisor of statutes shall substitute
3 appropriate section numbers for the letters used in designating
4 the new sections in this Act.

5 SECTION 10. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 11. This Act shall take effect on July 1, 2045,
8 and shall apply to taxable years beginning after December 31,
9 2009.