

GOV. MSG. NO. 1370

EXECUTIVE CHAMBERS

DAVID Y. IGE governor

July 12, 2016

The Honorable Ronald D. Kouchi, President and Members of the Senate Twenty-Eighth State Legislature State Capitol, Room 409 Honolulu, Hawai'i 96813 The Honorable Joseph M. Souki, Speaker and Members of the House of Representatives Twenty-Eighth State Legislature State Capitol, Room 431 Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Souki, and Members of the Legislature:

This is to inform you that on July 12, 2016, the following bill was signed into law:

SB2547 SD1 HD1 CD1

RELATING TO TAXATION ACT 261 (16)

Sincerely,

DAVID Y. IGE Governor, State of Hawai'i

Approved by the Governor on \_\_\_\_\_\_JUL 12 2016<sup>1</sup> THE SENATE TWENTY-EIGHTH LEGISLATURE, 2016 STATE OF HAWAII

### A BILL FOR AN ACT

ACT 261 S.B. NO.

2547

S.D. 1

H.D. 1 C.D. 1

1

RELATING TO TAXATION.

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

1 SECTION 1. The legislature finds that tax exemptions, 2 exclusions, and credits require periodic review to determine 3 their tax expenditures, benefits, and continued merit and necessity. The legislature further finds that tax expenditures 4 5 from the exemptions, exclusions, and credits reduce revenues to This requires ordinary taxpayers who do not benefit 6 the State. 7 from the exemptions, exclusions, and credits to compensate for 8 the reduced revenues. Alternatively, funding for important 9 state programs must be curtailed. The legislature further finds that good tax policy requires the equal treatment of similarly-10 situated taxpayers for the sake of equity and efficiency. When 11 certain taxpayers receive special benefits to the detriment of 12 13 others, it may generate resentment that leads to the loss of the general public's confidence in fair treatment by the state 14 15 government.

16 However, the legislature also believes that certain tax 17 exemptions, exclusions, and credits are worthy of continuation 18 for equity, efficiency, and economic and social policy. The SB2547 CD1 LRB 16-2360.doc



legislature finds that review by the state auditor would help 1 2 the legislature to identify and affirm the exemptions, 3 exclusions, and credits that represent good public policy. 4 Accordingly, the purpose of this Act is to require the 5 state auditor to periodically review certain tax exemptions, 6 exclusions, and credits under the general excise and use taxes, 7 public service company tax, and insurance premium tax. These 8 taxes are generally imposed on gross income or a similar 9 measure. The legislature finds that this Act is necessary to 10 promote tax equity and efficiency, adequacy of state revenues, public transparency, and confidence in a fair state government. 11 SECTION 2. Chapter 23, Hawaii Revised Statutes, is amended 12 by adding a new part to be appropriately designated and to read 13 14 as follows: . REVIEW OF TAX EXEMPTIONS, EXCLUSIONS, AND CREDITS 15 "PART §23-A Review of certain exemptions, exclusions, and 16 credits under the general excise and use taxes, public service 17 company tax, and insurance premium tax. (a) The auditor shall 18 conduct a review of the tax exemptions, exclusions, and credits 19 20 listed in sections 23-B to 23-K.

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1	(b)	In the review of an exemption, exclusion, or credit,
2	the audit	or shall:
3	(1)	Determine the amount of tax expenditure for the
4		exemption, exclusion, or credit for each of the
5		previous three fiscal years;
6	(2)	Estimate the amount of tax expenditure for the
7		exemption, exclusion, or credit for the current fiscal
8		year and the next two fiscal years;
9	(3)	Determine whether the exemption, exclusion, or credit
10		has achieved and continues to achieve the purpose for
11		which it was enacted by the legislature;
12	(4)	Determine whether the exemption, exclusion, or credit
13		is necessary to promote or preserve tax equity or
14		efficiency;
15	(5)	If the exemption, exclusion, or credit was enacted
16		because of its purported economic or employment
17		benefit to the State:
18		(A) Determine whether a benefit has resulted, and if
19		so, quantify to the extent possible the estimated
20		benefit directly attributable to the exemption,
21		exclusion, or credit; and

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### S.B. NO. 2547 S.D. 1 H.D. 1 C.D. 1

1		(B) Comment on whether the benefit, if any, outweighs
2		the cost of the exemption, exclusion, or credit;
3		and
4	(6)	Estimate the annual cost of the exemption, exclusion,
5		or credit per low-income resident of the State. For
6		purposes of this paragraph, a "low-income resident of
7		the State" means an individual who is a resident of
8		the State and:
9		(A) Is the only member of a family of one and has an
10		income of not more than eighty per cent of the
11		area median income for a family of one; or
12		(B) Is part of a family with an income of not more
13		than eighty per cent of the area median income
14	.*	for a family of the same size.
15		The cost shall be estimated by dividing the annual tax
16		expenditure for the exemption, exclusion, or credit
17		for each fiscal year under review by the number of
18		low-income residents of the State in the fiscal year.
19		The estimate determined pursuant to this paragraph is
20		intended to display the effect on low-income residents
21		of the State if they directly receive, either through

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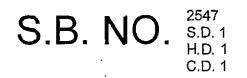
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1	tax reduction or negative tax, the dollars saved by
2	elimination of the exemption, exclusion, or credit.
3	(c) Based on the review, the auditor shall recommend
4	whether the exemption, exclusion, or credit should be retained
5	without modification, amended, or repealed.
6	The auditor may recommend that an exemption, exclusion, or
7	credit be removed from review under sections 23-B through 23-K.
8	§23-B Review for 2018 and every tenth year thereafter.
9	(a) The exemptions and exclusions under the general excise and
10	use taxes listed in subsection (c) shall be reviewed in 2018 and
11	every tenth year thereafter.
12	(b) The auditor shall submit the findings and
13	recommendations of the reviews to the legislature and governor
14	no later than twenty days prior to the convening of the
15	immediately following regular session.
16	(c) This section shall apply to the following:
17	(1) Section 237-3(b)Gross receipts from the following:
18	(A) Sales of securities;
19	(B) Sales of commodity futures;
20	(C) Sales of evidences of indebtedness;
21	(D) Fee simple sales of improved or unimproved land;

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1		(E) Dividends; and
2		(F) Sales or transfers of materials and supplies,
3		interest on loans, and provision of services
4		among members of an affiliated public service
5		company group;
6	(2)	Section 237-13(3)(B)Gross income of contractors from
7		subcontractors;
8	(3)	Section 237-13(3)(C)Reimbursements to federal cost-
9		plus contractors;
10	(4)	Section 237-13(6)(D)(i), (ii), (iii), and (iv)Gross
11		receipts of home service providers acting as service
12		carriers;
13	(5)	Section 237-24.3(11)Amounts received from aircraft
14		and aircraft engine rental or leasing;
15	(6)	Section 237-24.9Amounts received from aircraft
16		servicing and maintenance and aircraft service and
17		maintenance facility construction;
18	(7)	Section 238-1, paragraph (6) of the definition of
19		"use"The value of aircraft leases or rental and
20		acquired or imported aircrafts and aircraft engines;
21		and

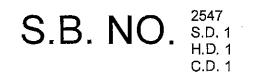
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1	(8)	Section 238-1, paragraph (8) of the definition of
2		"use"The value of material, parts, or tools for
3		aircraft service and maintenance and aircraft service
4		and maintenance facility construction.
5	§23-	C Review for 2019 and every tenth year thereafter.
6	(a) The	exemptions, exclusions, and credits under the general
7	excise ta	x listed in subsection (c) shall be reviewed in 2019
8	and every	tenth year thereafter.
9	(b)	The auditor shall submit the findings and
10	recommend	ations of the reviews to the legislature and governor
11	no later	than twenty days prior to the convening of the
12	immediate	ly following regular session.
13	(c)	This section shall apply to the following:
14	(1)	Section 237-16.5Gross income of real property
15		lessees from sublessees;
16	(2)	Section 237-16.8Value or gross income of nonprofit
17		organizations from conventions, conferences, trade
18		shows, and display spaces;
19	(3)	Section 349-10Proceeds earned from annual senior
20		citizen's fairs;

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1	(4)	Section 237-23.5Amounts received from common
2		payments of related entities;
3	(5)	Section 237-24(13)Amounts received by blind, deaf,
4		or totally disabled persons from their business;
5	(6)	Section 237-24(14)Amounts received by independent
6		cane farmers who are sugarcane producers;
7	(7)	Section 237-24(15)Amounts received by foster
8		parents;
9	(8)	Section 237-24(16)Reimbursements to cooperative
10		housing corporations for operating and maintenance
11		expenses;
12	(9)	Section 237-24(17) Amounts received by TRICARE
13		managed care support contractors; and
14	(10)	Section 237-24(18)Amounts received by patient-
15		centered community care program contractors.
16	§23-	D Review for 2020 and every tenth year thereafter.
17	(a) The	exemptions and exclusions under the general excise tax,
18	public se	rvice company tax, or insurance premium tax listed in
19	subsectio	n (c) shall be reviewed in 2020 and every tenth year
20	thereafte	r.

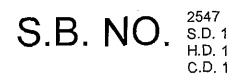
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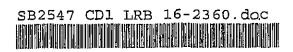
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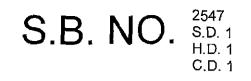
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1	(b)	The auditor shall submit the findings and
2	recommend	ations of the reviews to the legislature and governor
3	no later	than twenty days prior to the convening of the
4	immediate	ly following regular session.
5	(c)	This section shall apply to the following:
6	(1)	Section 239-2, paragraph (5) of the definition of
7		"gross income"Gross income of home service providers
8		of mobile telecommunications services;
9	(2)	Section 239-2, exclusions under the definition of
10		"gross income"Dividends paid by one member to
11		another member of an affiliated public service company
12		group or gross income from the sale or transfer of
13		materials and supplies, interest on loans, and
14		provision of services among members of an affiliated
15		public service company group;
16	(3).	Section 237-3(b)Gross receipts from the sale or
17		transfer of materials and supplies, interest on loans,
18		and provision of services among members of an
19		affiliated public service company group;
20	(4)	Section 239-5.5Gross income of utilities from
21		monthly surcharges;





1	(5)	Section 239-5.6Gross income of electric utility
2		companies from cable surcharges;
3	(6)	Section 239-6.5Tax credit for lifeline telephone
4		service subsidies;
5	(7)	Section 269-172Green infrastructure charges received
6		by electric utilities;
7	(8)	Section 237-29.7Gross income or gross proceeds
8		received by insurance companies;
9	(9)	Section 431:7-207Tax credit to facilitate regulatory
10		oversight;
11	(10)	Section 432:1-403Exemption for nonprofit medical
12		indemnity or hospital service associations or
13		societies specifically from the general excise tax,
14		public service company tax, or insurance premium tax;
15		and
16	(11)	Section 432:2-503Exemption for fraternal benefit
17		societies specifically from the general excise tax,
18		public service company tax, or insurance premium tax.
19	§23-	E Review for 2021 and every tenth year thereafter.
20	(a) The	exemptions or exclusions under the general excise and

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use taxes	listed in subsection (c) shall be reviewed in 2021 and
every ten	th year thereafter.
(b)	The auditor shall submit the findings and
recommend	ations of the reviews to the legislature and governor
no later	than twenty days prior to the convening of the
immediate	ly following regular session.
(c)	This section shall apply to the following:
(1)	Section 237-24.3(1)Amounts received from loading,
	transporting, and unloading agricultural commodities
	<pre>shipped interisland;</pre>
(2)	Section 237-24.3(3)(A)Amounts received from cargo
	loading or unloading;
(3)	Section 237-24.3(3)(B)Amounts received from tugboat
	and towage services;
(4)	Section 237-24.3(3)(C)Amounts received from the
	transportation of pilots or government officials and
	other maritime-related services;
(5)	Section 238-1, paragraph (7) of the definition of
	"use"The value of oceangoing vehicles for
	transportation from one point to another in the State;
	<pre>every ten     (b) recommenda no later     (c)     (1)     (2)     (3)     (4)</pre>

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1	(6)	Section 238-3(g)The value of imported intoxicating
2		liquor and cigarettes and tobacco products for sale to
3		persons or common carriers in interstate commerce;
4	(7)	Section 238-3(h)The value of vessels constructed
5		under section 189-25, relating to commercial fishing
6		vessel loans, prior to July 1, 1969; and
7	(8)	Section 237-28.1Gross proceeds from shipbuilding and
8		ship repair.
9	§23-:	F Review for 2022 and every tenth year thereafter.
10	(a) The e	exemptions or exclusions under the general excise tax
11	listed in	subsection (c) shall be reviewed in 2022 and every
12	tenth year	r thereafter.
13	(b)	The auditor shall submit the findings and
14	recommend	ations of the reviews to the legislature and governor
15	no later	than twenty days prior to the convening of the
16	immediate	ly following regular session.
17	(c)	This section shall apply to the following:
18	(1)	Section 237-24.3(4)Amounts received by employment
19		benefit plans and amounts received by nonprofit
20		organizations or offices for the administration of
21		employee benefit plans;

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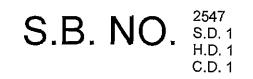
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1		(2)	Section 237-24.3(5)Amounts received from food
2			coupons under the federal food stamp program or
3			vouchers under the Special Supplemental Foods Program
4			for Women, Infants and Children;
5		(3)	Section 237-24.3(6)Amounts received from the sale of
6			prescription drugs or prosthetic devices;
7		(4)	Section 237-24.3(8)Amounts received as dues by
8			unincorporated merchants associations for advertising
9			or promotion;
10		(5)	Section 237-24.3(9)Amounts received by labor
11			organizations from real property leases;
12		(6)	Section 237-24.75(2)Reimbursements to the Hawali
13			convention center operator from the Hawaii tourism
14			authority;
15		(7)	Section 237-24.75(3)Reimbursements to professional
16			employer organizations from client companies for
17			employee wages and fringe benefits; and
18		(8)	Section 209E-11Amounts received by qualified
19			businesses in enterprise zones.
20		§23-0	G Review for 2023 and every tenth year thereafter.
<b>2</b> 1	(a)	The e	exemptions or exclusions under the general excise and

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1	use taxes	listed in subsection (c) shall be reviewed in 2023 and
2	every tent	ch year thereafter.
3	(b)	The auditor shall submit the findings and
4	recommenda	ations of the reviews to the legislature and governor
5	no later (	than twenty days prior to the convening of the
6	immediate	ly following regular session.
7	(c)	This section shall apply to the following:
8	(1)	Section 237-24.3(2)Reimbursements to associations of
9		owners of condominium property regimes or nonprofit
10		homeowners or community associations for common
1 <b>1</b>		expenses;
12	(2)	Section 237-24.5Amounts received by exchanges or
13		exchange members;
14	(3)	Section 237-25(a)(3)Gross income received from
15		tangible personal property sales to state-chartered
16		credit unions;
17	(4)	Section 237-24.8Amounts received by financial
18		institutions, trust companies, trust departments, or
19		financial corporations acting as interbank brokers;
20	(5)	Section 237-26Gross proceeds of scientific
21		contractors and subcontractors:

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#### **S.B. NO.** <sup>2547</sup> S.D. 1 H.D. 1 C.D. 1

1	(6)	Section 238-3(j)The value of property or services
2		exempted by section 237-26, relating to scientific
3		contracts; and
4	(7)	Section 237-27Amounts received by petroleum product
5		refiners from other refiners.
6	§23-	H Review for 2024 and every tenth year thereafter.
7	(a) The	exemptions or exclusions under the general excise tax
8	listed in	subsection (c) shall be reviewed in 2024 and every
9	tenth yea	r thereafter.
10	(b)	The auditor shall submit the findings and
11	recommend	ations of the reviews to the legislature and governor
12	no later	than twenty days prior to the convening of the
13	immediate	ly following regular session.
14	(c)	This section shall apply to the following:
15	(1)	Section 237-24.7(1) Amounts received by hotel
16		operators and hotel suboperators for employee wages
17		and fringe benefits;
18	(2)	Section 237-24.7(2)Amounts received by a county
19		transportation system operator under a contract with
20		the county;



#### S.B. NO. <sup>2547</sup> S.D. 1 H.D. 1 C.D. 1

1	(3)	Section 237-24.7(4)Amounts received by orchard
2		property operators for employee wages and fringe
3		benefits;
4	(4)	Section 237-24.7(6)Amounts received from insurers
5		for damage or loss of inventory of businesses located
6		in a natural disaster area;
7	(5)	Section 237-24.7(7)Amounts received by community
8		organizations, school booster clubs, and nonprofit
9	,	organizations for precinct and other election-related
10		activities;
11	(6)	Section 237-24.7(8)Interest received by persons
12		domiciled outside the State from trust companies
13		acting as payment agents or trustees on behalf of
14		issuers or payees of interest-bearing instruments or
15		obligations;
16	(7)	Section 237-24.7(9)Amounts received by management
17		companies from related entities engaged in interstate
18		or foreign common carrier telecommunications services
19		for employee wages and fringe benefits; and
20	(8)	Section 237-24.7(10)Amounts received from high
21		technology research and development grants.

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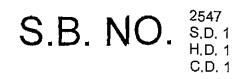
#### S.B. NO. 2547 S.D. 1 H.D. 1 C.D. 1

1	§23-	I Review for 2025 and every tenth year thereafter.
2	(a) The	exemptions, exclusions, or credits under the general
3	excise an	d use taxes and insurance premium tax listed in
4	subsectio	on (c) shall be reviewed in 2025 and every tenth year
5	thereafte	er.
6	(b)	The auditor shall submit the findings and
7	recommend	ations of the reviews to the legislature and governor
8	no later	than twenty days prior to the convening of the
9	immediate	ly following regular session.
10	(c)	This section shall apply to the following:
<b>1</b> 1	(1)	Section 237-27.5Gross proceeds from air pollution
12		control facility construction, reconstruction,
13		operation, use, maintenance, or furnishing;
14	(2)	Section 238-3(k)The value of air pollution control
15		facilities;
16	(3)	Section 237-27.6Amounts received by solid waste
17		processing, disposal, and electric generating facility
18		operators under sale and leaseback transactions with
19		political subdivisions that involve the facilities;

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1	(4)	Section 237-29Gross income of qualified persons or
2		firms or nonprofits or limited distribution mortgagors
3		for certified or approved low-income housing projects;
4	(5)	Section 238-3(j)The value of property, services, or
5		contracting exempted by section 237-29, relating to
6		certified or approved housing projects;
7	(6)	Section 431:7-208Credit for low-income housing;
8	(7)	Section 46-15.1(a)Gross income from county low-
9		income housing projects; and
10	(8)	Section 346-369Compensation received by provider
11		agencies for homeless services or homeless facility
12		management.
13	§23-	J Review for 2026 and every tenth year thereafter.
14	(a) The	exemptions or exclusions under the general excise and
15	use taxes	listed in subsection (c) shall be reviewed in 2026 and
16	every ten	th year thereafter.
17	(b)	The auditor shall submit the findings and
18	recommend	ations of the reviews to the legislature and governor
19	no later	than twenty days prior to the convening of the
20	immediate	ly following regular session.
21	(c)	This section shall apply to the following:



#### S.B. NO. <sup>2547</sup> S.D. 1 H.D. 1 C.D. 1

1	(1)	Section 237-29.5Value or gross proceeds from
2		tangible personal property shipped out of State;
3	(2)	Section 237-29.53Value or gross income from
4		contracting or services performed for use outside the
5		State;
6	(3)	Section 238-1, paragraph (9) of the definition of
7		"use"The value of services or contracting imported
8		for resale, consumption, or use outside the State; and
9	(4)	Section 237-29.55Gross proceeds or gross income from
10		the sale of tangible personal property imported into
11		the State for subsequent resale.
12	\$23-:	K Review for 2027 and every tenth year thereafter.
13	(a) The	exemptions or exclusions under the general excise tax
14	listed in	subsection (c) shall be reviewed in 2027 and every
15	tenth yea	r thereafter.
16	(b)	The auditor shall submit the findings and
17	recommend	ations of the reviews to the legislature and governor
18	no later	than twenty days prior to the convening of the
19	immediate	ly following regular session.
20	(c)	This section shall apply to the following:

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#### S.B. NO. <sup>2547</sup> S.D. 1 H.D. 1 C.D. 1

1	(1)	Section 237-23(a)(3)Fraternal benefit societies,
2		orders, or associations for the payment of benefits to
3		members;
4	(2)	Section 237-23(a)(4)Corporations, associations,
5		trusts, or societies:
6	,	(A) Organized and operated exclusively for religious,
7		charitable, scientific, or educational purposes;
8		(B) Operating senior citizens housing facilities
9		qualifying for loans under the United States
10		Housing Act of 1959, as amended;
11		(C) Operating legal service plans; or
12		(D) Operating or managing homeless facilities or
13		other programs for the homeless;
14	(3)	Section 237-23(a)(5)Business leagues, chambers of
15		commerce, boards of trade, civic leagues, agricultural
16		and horticultural organizations, and organizations
17		operated exclusively for the benefit of the community
18		or promotion of social welfare, including legal
19		service plans;
20	(4)	Section 237-23(a)(6)Hospitals, infirmaries, and
21		sanitaria;

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#### S.B. NO. <sup>2547</sup> S.D. 1 H.D. 1 C.D. 1

1	(5)	Section 237-23(a)(7)Tax-exempt potable water
2		companies serving residential communities lacking
3		access to public utility water services;
4	(6)	Section 237-23(a)(8)Agricultural cooperative
5		associations incorporated under state or federal law;
6	(7)	Section 237-23(a)(9)Persons affected with Hansen's
7		disease and kokuas with respect to business within the
8		county of Kalawao;
9	(8)	Section 237-23(a)(10)Corporations, companies,
10		associations, or trusts organized for cemeteries; and
11	(9)	Section 237-23(a)(11)Nonprofit shippers."
12	SECT	ION 3. In codifying the new sections added by section
13	2 of this	Act, the revisor of statutes shall substitute
<b>1</b> 4	appropria	te section numbers for the letters used in designating
15	the new s	ections in this Act.
16	SECT	ION 4. This Act shall take effect on July 1, 2017.

APPROVED this

day of الل , 2016

Anid 2 Iza

GOVERNOR OF THE STATE OF HAWAII

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