

JAN 21 2016

---

## A BILL FOR AN ACT

---

RELATING TO A GENERAL EXCISE TAX EXEMPTION FOR LOW INCOME RENTAL  
SUBSIDIES.

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

1       SECTION 1. Section 237-24.7, Hawaii Revised Statutes, is  
2 amended to read as follows:

3       "§237-24.7 Additional amounts not taxable. In addition to  
4 the amounts not taxable under section 237-24, this chapter shall  
5 not apply to:

6       (1) Amounts received by the operator of a hotel from the  
7 owner of the hotel or from a time share association,  
8 and amounts received by the suboperator of a hotel  
9 from the owner of the hotel, from a time share  
10 association, or from the operator of the hotel, in  
11 amounts equal to and which are disbursed by the  
12 operator or suboperator for employee wages, salaries,  
13 payroll taxes, insurance premiums, and benefits,  
14 including retirement, vacation, sick pay, and health  
15 benefits. As used in this paragraph:



1           "Employee" means employees directly engaged in  
2           the day-to-day operation of the hotel and employed by  
3           the operator or suboperator.

4           "Hotel" means an operation as defined in section  
5           445-90 or a time share plan as defined in section  
6           514E-1.

7           "Operator" means any person who, pursuant to a  
8           written contract with the owner of a hotel or time  
9           share association, operates or manages the hotel for  
10          the owner or time share association.

11          "Owner" means the fee owner or lessee under a  
12          recorded lease of a hotel.

13          "Suboperator" means any person who, pursuant to a  
14          written contract with the operator, operates or  
15          manages the hotel as a subcontractor of the operator.

16          "Time share association" means an "association"  
17          as that term is defined in section 514E-1;

18          (2) Amounts received by the operator of a county  
19          transportation system operated under an operating  
20          contract with a political subdivision, where the



1 political subdivision is the owner of the county  
2 transportation system. As used in this paragraph:

3 "County transportation system" means a mass  
4 transit system of motorized buses providing regularly  
5 scheduled transportation within a county.

6 "Operating contract" or "contract" means a  
7 contract to operate and manage a political  
8 subdivision's county transportation system, which  
9 provides that:

10 (A) The political subdivision shall exercise  
11 substantial control over all aspects of the  
12 operator's operation;

13 (B) The political subdivision controls the  
14 development of transit policy, service  
15 planning, routes, and fares; and

16 (C) The operator develops in advance a draft  
17 budget in the same format as prescribed for  
18 agencies of the political subdivision. The  
19 budget must be subject to the same  
20 constraints and controls regarding the  
21 lawful expenditure of public funds as any



1 public sector agency, and deviations from  
2 the budget must be subject to approval by  
3 the appropriate political subdivision  
4 officials involved in the budgetary process.

5 "Operator" means any person who, pursuant to an  
6 operating contract with a political subdivision,  
7 operates or manages a county transportation system.

8 "Owner" means a political subdivision that owns  
9 or is the lessee of all the properties and facilities  
10 of the county transportation system (including buses,  
11 real estate, parking garages, fuel pumps, maintenance  
12 equipment, office supplies, etc.), and that owns all  
13 revenues derived therefrom;

14 (3) Surcharge taxes on rental motor vehicles imposed by  
15 chapter 251 and passed on and collected by persons  
16 holding certificates of registration under that  
17 chapter;

18 (4) Amounts received by the operator of orchard properties  
19 from the owner of the orchard property in amounts  
20 equal to and which are disbursed by the operator for  
21 employee wages, salaries, payroll taxes, insurance



1 premiums, and benefits, including retirement,  
2 vacation, sick pay, and health benefits. As used in  
3 this paragraph:

4 "Employee" means an employee directly engaged in  
5 the day-to-day operations of the orchard properties  
6 and employed by the operator.

7 "Operator" means a producer who, pursuant to a  
8 written contract with the owner of the orchard  
9 property, operates or manages the orchard property for  
10 the owner where the property contains an area  
11 sufficient to make the undertaking economically  
12 feasible.

13 "Orchard property" means any real property that  
14 is used to raise trees with a production life cycle of  
15 fifteen years or more producing fruits or nuts having  
16 a normal period of development from the initial  
17 planting to the first commercially saleable harvest of  
18 not less than three years.

19 "Owner" means a fee owner or lessee under a  
20 recorded lease of orchard property;



- 1       (5)   Taxes on nursing facility income imposed by chapter  
2           346E and passed on and collected by operators of  
3           nursing facilities;
- 4       (6)   Amounts received under property and casualty insurance  
5           policies for damage or loss of inventory used in the  
6           conduct of a trade or business located within the  
7           State or a portion thereof that is declared a natural  
8           disaster area by the governor pursuant to section 209-  
9           2;
- 10      (7)   Amounts received as compensation by community  
11           organizations, school booster clubs, and nonprofit  
12           organizations under a contract with the chief election  
13           officer for the provision and compensation of precinct  
14           officials and other election-related personnel,  
15           services, and activities, pursuant to section 11-5;
- 16      (8)   Interest received by a person domiciled outside the  
17           State from a trust company (as defined in section  
18           412:8-101) acting as payment agent or trustee on  
19           behalf of the issuer or payees of an interest bearing  
20           instrument or obligation, if the interest would not  
21           have been subject to tax under this chapter if paid



1 directly to the person domiciled outside the State  
2 without the use of a paying agent or trustee; provided  
3 that if the interest would otherwise be taxable under  
4 this chapter if paid directly to the person domiciled  
5 outside the State, it shall not be exempt solely  
6 because of the use of a Hawaii trust company as a  
7 paying agent or trustee;

8 (9) Amounts received by a management company from related  
9 entities engaged in the business of selling interstate  
10 or foreign common carrier telecommunications services  
11 in amounts equal to and which are disbursed by the  
12 management company for employee wages, salaries,  
13 payroll taxes, insurance premiums, and benefits,  
14 including retirement, vacation, sick pay, and health  
15 benefits. As used in this paragraph:

16 "Employee" means employees directly engaged in  
17 the day-to-day operation of related entities engaged  
18 in the business of selling interstate or foreign  
19 common carrier telecommunications services and  
20 employed by the management company.



1           "Management company" means any person who,  
2           pursuant to a written contract with a related entity  
3           engaged in the business of selling interstate or  
4           foreign common carrier telecommunications services,  
5           provides managerial or operational services to that  
6           entity.

7           "Related entities" means:

8           (A) An affiliated group of corporations within  
9           the meaning of section 1504 (with respect to  
10          affiliated group defined) of the federal  
11          Internal Revenue Code of 1986, as amended;

12          (B) A controlled group of corporations within  
13          the meaning of section 1563 (with respect to  
14          definitions and special rules) of the  
15          federal Internal Revenue Code of 1986, as  
16          amended;

17          (C) Those entities connected through ownership  
18          of at least eighty per cent of the total  
19          value and at least eighty per cent of the  
20          total voting power of each such entity (or  
21          combination thereof), including



1 partnerships, associations, trusts, S  
2 corporations, nonprofit corporations,  
3 limited liability partnerships, or limited  
4 liability companies; and

5 (D) Any group or combination of the entities  
6 described in paragraph (C) constituting a  
7 unitary business for income tax purposes;  
8 whether or not the entity is located within or without  
9 the State or licensed under this chapter; [and]

10 (10) Amounts received as grants under section 206M-15[-];  
11 and

12 (11) Amounts received from a government public housing  
13 agency or non-profit organization for the  
14 subsidization of rent for individuals or families  
15 participating in a Title 42 United States Code section  
16 1437 assisted housing program or federal, state, or  
17 county housing first program."

18 SECTION 2. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.



# S.B. NO. 2089

1       SECTION 3. This Act shall take effect upon its approval;  
2       provided that this Act shall apply to gross income or gross  
3       proceeds received after December 31, 2015.

4

INTRODUCED BY:

Therese Chun Oakland

Breanne Hunt

Randy H. Baker

~~SC. Paul Agon~~



# S.B. NO. 2089

**Report Title:**

Housing First; Section 8 Housing; GET

**Description:**

Exempts rental subsidy payments for Section 8 and Housing First Programs from the state general excise tax.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

