

JAN 27 2016

A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Section 237-24.3, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§237-24.3 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 from the loading, transportation, and
7 unloading of agricultural commodities shipped for a
8 producer or produce dealer on one island of this State
9 to a person, firm, or organization on another island
10 of this State. The terms "agricultural commodity",
11 "producer", and "produce dealer" shall be defined in
12 the same manner as they are defined in section 147-1;
13 provided that agricultural commodities need not have
14 been produced in the State;

15 (2) Amounts received by the manager, submanager, or board
16 of directors of:



- 1 (A) An association of owners of a condominium
- 2 property regime established in accordance with
- 3 chapter 514A or 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 (3) 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 (4) 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;



1 (5) Amounts received for purchases made with United States
2 Department of Agriculture food coupons under the
3 federal food stamp program, and amounts received for
4 purchases made with United States Department of
5 Agriculture food vouchers under the Special
6 Supplemental Foods Program for Women, Infants and
7 Children;

8 (6) Amounts received by a hospital, infirmary, medical
9 clinic, health care facility, pharmacy, or a
10 practitioner licensed to administer the drug to an
11 individual for selling prescription drugs or
12 prosthetic devices to an individual; provided that
13 this paragraph shall not apply to any amounts received
14 for services provided in selling prescription drugs or
15 prosthetic devices. As used in this paragraph:
16 "Prescription drugs" are those drugs defined under
17 section 328-1 and dispensed by filling or refilling a
18 written or oral prescription by a practitioner
19 licensed under law to administer the drug and sold by
20 a licensed pharmacist under section 328-16 or
21 practitioners licensed to administer drugs; and



1 "Prosthetic device" means any artificial device or
2 appliance, instrument, apparatus, or contrivance,
3 including their components, parts, accessories, and
4 replacements thereof, used to replace a missing or
5 surgically removed part of the human body, which is
6 prescribed by a licensed practitioner of medicine,
7 osteopathy, or podiatry and which is sold by the
8 practitioner or which is dispensed and sold by a
9 dealer of prosthetic devices; provided that
10 "prosthetic device" shall not mean any auditory,
11 ophthalmic, dental, or ocular device or appliance,
12 instrument, apparatus, or contrivance;

13 (7) Taxes on transient accommodations imposed by chapter
14 237D and passed on and collected by operators holding
15 certificates of registration under that chapter;

16 (8) Amounts received as dues by an unincorporated
17 merchants association from its membership for
18 advertising media, promotional, and advertising costs
19 for the promotion of the association for the benefit
20 of its members as a whole and not for the benefit of



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an individual member or group of members less than the entire membership;

(9) Amounts received by a labor organization for real property leased to:

(A) A labor organization; or

(B) A trust fund established by a labor organization for the benefit of its members, families, and dependents for medical or hospital care, pensions on retirement or death of employees, apprenticeship and training, and other membership service programs.

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

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

(11) Effective until December 31, 2017, [Amounts] amounts received as rent for the rental or leasing of aircraft



1 or aircraft engines used by the lessees or renters for
2 interstate air transportation of passengers and goods.
3 For purposes of this paragraph, payments made pursuant
4 to a lease shall be considered rent regardless of
5 whether the lease is an operating lease or a financing
6 lease. The definition of "interstate air
7 transportation" is the same as in 49 U.S.C. section
8 40102."

9 SECTION 2. Section 238-1, Hawaii Revised Statutes, is
10 amended by amending the definition of "use" to read as follows:

11 "Use" (and any nounal, verbal, adjectival, adverbial, and
12 other equivalent form of the term) herein used interchangeably
13 means any use, whether the use is of such nature as to cause the
14 property, services, or contracting to be appreciably consumed or
15 not, or the keeping of the property or services for such use or
16 for sale, the exercise of any right or power over tangible or
17 intangible personal property incident to the ownership of that
18 property, and shall include control over tangible or intangible
19 property by a seller who is licensed or who should be licensed
20 under chapter 237, who directs the importation of the property
21 into the State for sale and delivery to a purchaser in the



1 State, liability and free on board (FOB) to the contrary
2 notwithstanding, regardless of where title passes, but the term
3 "use" shall not include:

4 (1) Temporary use of property, not of a perishable or
5 quickly consumable nature, where the property is
6 imported into the State for temporary use (not sale)
7 therein by the person importing the same and is not
8 intended to be, and is not, kept permanently in the
9 State. For example, without limiting the generality
10 of the foregoing language:

11 (A) In the case of a contractor importing permanent
12 equipment for the performance of a construction
13 contract, with intent to remove, and who does
14 remove, the equipment out of the State upon
15 completing the contract;

16 (B) In the case of moving picture films imported for
17 use in theaters in the State with intent or under
18 contract to transport the same out of the State
19 after completion of such use; and

20 (C) In the case of a transient visitor importing an
21 automobile or other belongings into the State to



1 be used by the transient visitor while therein
2 but which are to be used and are removed upon the
3 transient visitor's departure from the State;

4 (2) Use by the taxpayer of property acquired by the
5 taxpayer solely by way of gift;

6 (3) Use which is limited to the receipt of articles and
7 the return thereof, to the person from whom acquired,
8 immediately or within a reasonable time either after
9 temporary trial or without trial;

10 (4) Use of goods imported into the State by the owner of a
11 vessel or vessels engaged in interstate or foreign
12 commerce and held for and used only as ship stores for
13 the vessels;

14 (5) The use or keeping for use of household goods,
15 personal effects, and private automobiles imported
16 into the State for nonbusiness use by a person who:

17 (A) Acquired them in another state, territory,
18 district, or country;

19 (B) At the time of the acquisition was a bona fide
20 resident of another state, territory, district,
21 or country;



1 (C) Acquired the property for use outside the State;
2 and

3 (D) Made actual and substantial use thereof outside
4 this State;

5 provided that as to an article acquired less than
6 three months prior to the time of its importation into
7 the State it shall be presumed, until and unless
8 clearly proved to the contrary, that it was acquired
9 for use in the State and that its use outside the
10 State was not actual and substantial;

11 (6) The leasing or renting of any aircraft or the keeping
12 of any aircraft solely for leasing or renting to
13 lessees or renters using the aircraft for commercial
14 transportation of passengers and goods or, effective
15 until December 31, 2017, the acquisition or
16 importation of any such aircraft or aircraft engines
17 by any lessee or renter engaged in interstate air
18 transportation. For purposes of this paragraph,
19 "leasing" includes all forms of lease, regardless of
20 whether the lease is an operating lease or financing



1 lease. The definition of "interstate air
2 transportation" is the same as in 49 U.S.C. 40102;

3 (7) The use of oceangoing vehicles for passenger or
4 passenger and goods transportation from one point to
5 another within the State as a public utility as
6 defined in chapter 269;

7 (8) The use of material, parts, or tools imported or
8 purchased by a person licensed under chapter 237 which
9 are used for aircraft service and maintenance, or the
10 construction of an aircraft service and maintenance
11 facility as those terms are defined in section 237-
12 24.9;

13 (9) The use of services or contracting imported for resale
14 where the contracting or services are for resale,
15 consumption, or use outside the State pursuant to
16 section 237-29.53(a); and

17 (10) The use of property, services, or contracting imported
18 by foreign diplomats and consular officials who are
19 holding cards issued or authorized by the United
20 States Department of State granting them an exemption
21 from state taxes.



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1 With regard to purchases made and distributed under the
2 authority of chapter 421, a cooperative association shall be
3 deemed the user thereof."

4 SECTION 3. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 4. This Act shall take effect upon its approval.
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INTRODUCED BY:

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Report Title:

General Excise Tax; Aircraft Rentals and Leases

Description:

Ends the general excise tax and use tax exemptions for amounts received as rent for the rental or leasing of aircraft or aircraft engines used by lessees or renters for the interstate transportation of passengers and goods on December 31, 2017.

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

