



EXECUTIVE CHAMBERS  
HONOLULU

DAVID Y. IGE  
GOVERNOR

July 10, 2018

**GOV. MSG. NO. 1292**

The Honorable Ronald D. Kouchi,  
President  
and Members of the Senate  
Twenty-Ninth State Legislature  
State Capitol, Room 409  
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,  
Speaker and Members of the  
House of Representatives  
Twenty-Ninth State Legislature  
State Capitol, Room 431  
Honolulu, Hawai'i 96813

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

This is to inform you that on July 10, 2018, the following bill was signed into law:

HB2416 HD1 SD1 CD1

RELATING TO TAX ON INTANGIBLE PROPERTY  
**ACT 183 (18)**

Sincerely,

DAVID Y. IGE  
Governor, State of Hawai'i

on JUL 10 2018HOUSE OF REPRESENTATIVES  
TWENTY-NINTH LEGISLATURE, 2018  
STATE OF HAWAII

ACT 183

H.B. NO. 2416  
H.D. 1  
S.D. 1  
C.D. 1

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# A BILL FOR AN ACT

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RELATING TO TAX ON INTANGIBLE PROPERTY.

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

- 1 SECTION 1. Chapter 237, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:
- 4 "§237- Exemption for intangible property used outside  
5 the State. (a) All of the value or gross proceeds arising from  
6 the use of intangible property outside the State shall be  
7 exempted from, and excluded from the measure of, the taxes  
8 imposed by this chapter.
- 9 (b) For the purposes of this section, the seller or  
10 licensor shall take from the purchaser a certificate, in a form  
11 prescribed by the department, certifying that the intangible  
12 property is to be used outside the State. Any purchaser who  
13 furnishes the certificate shall be obligated to pay to the  
14 seller or licensor, upon demand, the amount of the additional  
15 tax that is imposed upon the seller or licensor, if the  
16 intangible property is used in this State."



1 SECTION 2. Chapter 238, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4 "§238- Imposition of tax on intangible property. There  
5 is hereby levied an excise tax on the value of intangible  
6 property acquired from an unlicensed seller and imported or used  
7 in the State. The tax imposed by this chapter shall accrue when  
8 the intangible property is acquired by the importer or purchaser  
9 and becomes subject to the taxing jurisdiction of the State.  
10 The rate of the tax hereby imposed shall be four per cent of the  
11 value of the intangible property."

12 SECTION 3. Section 238-1, Hawaii Revised Statutes, is  
13 amended as follows:

14 1. By amending the definition of "import" to read:

15 "Import" (or any nounal, verbal, adverbial, adjective, or  
16 other equivalent of the term) includes:

17 (1) The importation into the State of [~~tangible~~] property,  
18 services, or contracting owned, purchased from an  
19 unlicensed seller, or however acquired, from any other  
20 part of the United States or its possessions or from



1 any foreign country, whether in interstate or foreign  
2 commerce, or both; and

3 (2) The sale and delivery of [~~tangible personal~~] property  
4 owned, purchased from an unlicensed seller, or however  
5 acquired, by a seller who is or should be licensed  
6 under the general excise tax law from an out-of-state  
7 location to an in-state purchaser, regardless of the  
8 free on board point or the place where title to the  
9 property transfers to the purchaser."

10 2. By amending the definition of "price" to read:

11 "Price" means the total amount for which [~~tangible~~  
12 ~~personal~~] property, services, or contracting are purchased,  
13 valued in money, whether paid in money or otherwise, and  
14 wheresoever paid; provided that cash discounts allowed and taken  
15 on sales shall not be included."

16 3. By amending the definition of "property" to read:

17 "Property" means tangible personal property, intangible  
18 property, and prepaid telephone calling services but does not  
19 include [~~newspapers~~]:

20 (1) Newspapers or other periodical publications purchased  
21 on the subscription plan, issued at stated intervals



as frequently as four times a year, and of the class admitted to the United States mails as second class matter under the laws and regulations governing the postal service on January 1, 1965[-];

- (2) Securities as defined in title 15 United States Code section 78c or similar laws of jurisdictions outside the United States;
- (3) Commodities for future delivery and other agreements, options, and rights as defined in title 7 United States Code section 2 that are permitted to be traded on a board of trade designated by the Commodities Futures Trading Commission under the Commodity Exchange Act;
- (4) Evidence of indebtedness;
- (5) Interest in land; or
- (6) Dividends as defined by chapter 235."

4. By amending the definition of "'purchase' and 'sale'" to read:

"'Purchase' and 'sale' means any transfer, exchange, or barter, conditional or otherwise, in any manner or by any means,



1 wheresoever consummated, of [~~tangible personal~~] property,  
2 services, or contracting for a consideration."

3 5. By amending the definition of "seller" to read:

4 "Seller" means any person engaged in the business of  
5 selling [~~tangible personal~~] property, services, or contracting,  
6 wheresoever engaged, but does not include the United States or  
7 its wholly owned agencies or instrumentalities other than  
8 national banks, the State or a political subdivision thereof, or  
9 wholly owned agencies or instrumentalities of the State or a  
10 political subdivision."

11 6. By amending the definition of "service business or  
12 calling" to read:

13 "Service business or calling" includes all activities  
14 engaged in for other persons for a consideration that involve  
15 the rendering of a service as distinguished from the sale of  
16 [~~tangible personal~~] property or the production and sale of  
17 [~~tangible~~] property. "Service business or calling" includes  
18 professional services, but does not include services rendered by  
19 an employee to the employee's employer."

20 SECTION 4. Section 238-2.6, Hawaii Revised Statutes, is  
21 amended by amending subsection (a) to read as follows:



1       "(a) The county surcharge on state tax, upon the adoption  
2 of a county ordinance and in accordance with the requirements of  
3 section 46-16.8, shall be levied, assessed, and collected as  
4 provided in this section on the value of property and services  
5 taxable under this chapter. No county shall set the surcharge  
6 on state tax at a rate greater than one-half per cent of the  
7 value of property taxable under this chapter. All provisions of  
8 this chapter shall apply to the county surcharge on state tax.  
9 With respect to the surcharge, the director shall have all the  
10 rights and powers provided under this chapter. In addition, the  
11 director of taxation shall have the exclusive rights and power  
12 to determine the county or counties in which a person imports or  
13 purchases [~~tangible personal~~] property and, in the case of a  
14 person importing or purchasing [~~tangible~~] property in more than  
15 one county, the director shall determine, through apportionment  
16 or other means, that portion of the surcharge on state tax  
17 attributable to the importation or purchase in each county."

18       SECTION 5. Section 238-3, Hawaii Revised Statutes, is  
19 amended by amending subsection (i) to read as follows:

20       "(i) Each taxpayer liable for the tax imposed by this  
21 chapter on [~~tangible personal~~] property, services, or

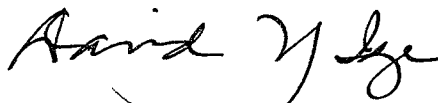


1 contracting shall be entitled to full credit for the combined  
2 amount or amounts of legally imposed sales or use taxes paid by  
3 the taxpayer with respect to the same transaction and property,  
4 services, or contracting to another state and any subdivision  
5 thereof, but ~~[such]~~ the credit shall not exceed the amount of  
6 the use tax imposed under this chapter on account of the  
7 transaction and property, services, or contracting. The  
8 director of taxation may require the taxpayer to produce the  
9 necessary receipts or vouchers indicating the payment of the  
10 sales or use tax to another state or subdivision as a condition  
11 for the allowance of the credit."

12 SECTION 6. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14 SECTION 7. This Act shall take effect upon its approval  
15 and shall apply to taxable years beginning after December 31,  
16 2018.

APPROVED this 10 day of JUL, 2018



GOVERNOR OF THE STATE OF HAWAII





HB No. 2416, HD 1, SD 1, CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 1, 2018  
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Twenty-Ninth Legislature of the State of Hawaii, Regular Session of 2018.



Scott K. Saiki  
Speaker  
House of Representatives

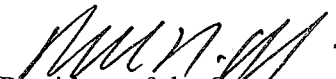



Brian L. Takeshita  
Chief Clerk  
House of Representatives

**THE SENATE OF THE STATE OF HAWAI'I**

Date: May 1, 2018  
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the  
Senate of the Twenty-ninth Legislature of the State of Hawai'i, Regular Session of 2018.

  
President of the Senate

  
Clerk of the Senate