

---

## A BILL FOR AN ACT

---

RELATING TO TAXATION.

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

1       SECTION 1.   Section 237-13, Hawaii Revised Statutes, is  
2   amended to read as follows:

3       "§237-13   **Imposition of tax.**   There is hereby levied and  
4   shall be assessed and collected annually privilege taxes against  
5   persons on account of their business and other activities in the  
6   State measured by the application of rates against values of  
7   products, gross proceeds of sales, or gross income, whichever is  
8   specified, as follows:

9       (1)   Tax on manufacturers.

10       (A)   Upon every person engaging or continuing within  
11       the State in the business of manufacturing,  
12       including compounding, canning, preserving,  
13       packing, printing, publishing, milling,  
14       processing, refining, or preparing for sale,  
15       profit, or commercial use, either directly or  
16       through the activity of others, in whole or in  
17       part, any article or articles, substance or



## H.B. NO. 1898

1 substances, commodity or commodities, the amount  
2 of the tax to be equal to the value of the  
3 articles, substances, or commodities,  
4 manufactured, compounded, canned, preserved,  
5 packed, printed, milled, processed, refined, or  
6 prepared for sale, as shown by the gross proceeds  
7 derived from the sale thereof by the manufacturer  
8 or person compounding, preparing, or printing  
9 them, multiplied by one-half of one per cent.

10 (B) The measure of the tax on manufacturers is the  
11 value of the entire product for sale, regardless  
12 of the place of sale or the fact that deliveries  
13 may be made to points outside the State.

14 (C) If any person liable for the tax on manufacturers  
15 ships or transports the person's product, or any  
16 part thereof, out of the State, whether in a  
17 finished or unfinished condition, or sells the  
18 same for delivery to points outside the State  
19 (for example, consigned to a mainland purchaser  
20 via common carrier f.o.b. Honolulu), the value of  
21 the products in the condition or form in which



1           they exist immediately before entering interstate  
2           or foreign commerce, determined as hereinafter  
3           provided, shall be the basis for the assessment  
4           of the tax imposed by this paragraph. This tax  
5           shall be due and payable as of the date of entry  
6           of the products into interstate or foreign  
7           commerce, whether the products are then sold or  
8           not. The department shall determine the basis  
9           for assessment, as provided by this paragraph, as  
10          follows:

11          (i) If the products at the time of their entry  
12             into interstate or foreign commerce already  
13             have been sold, the gross proceeds of sale,  
14             less the transportation expenses, if any,  
15             incurred in realizing the gross proceeds for  
16             transportation from the time of entry of the  
17             products into interstate or foreign  
18             commerce, including insurance and storage in  
19             transit, shall be the measure of the value  
20             of the products;



1           (ii) If the products have not been sold at the  
2           time of their entry into interstate or  
3           foreign commerce, and in cases governed by  
4           clause (i) in which the products are sold  
5           under circumstances such that the gross  
6           proceeds of sale are not indicative of the  
7           true value of the products, the value of the  
8           products constituting the basis for  
9           assessment shall correspond as nearly as  
10          possible to the gross proceeds of sales for  
11          delivery outside the State, adjusted as  
12          provided in clause (i), or if sufficient  
13          data are not available, sales in the State,  
14          of similar products of like quality and  
15          character and in similar quantities, made by  
16          the taxpayer (unless not indicative of the  
17          true value) or by others. Sales outside the  
18          State, adjusted as provided in clause (i),  
19          may be considered when they constitute the  
20          best available data. The department shall



1                   prescribe uniform and equitable rules for  
2                   ascertaining the values;

3           (iii) At the election of the taxpayer and with the  
4           approval of the department, the taxpayer may  
5           make the taxpayer's returns under clause (i)  
6           even though the products have not been sold  
7           at the time of their entry into interstate  
8           or foreign commerce; and

9           (iv) In all cases in which products leave the  
10          State in an unfinished condition, the basis  
11          for assessment shall be adjusted so as to  
12          deduct the portion of the value as is  
13          attributable to the finishing of the goods  
14          outside the State.

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

17       (A) Upon every person engaging or continuing in the  
18       business of selling any tangible personal  
19       property whatsoever (not including, however,  
20       bonds or other evidence of indebtedness, or  
21       stocks), there is likewise hereby levied, and



1 shall be assessed and collected, a tax equivalent  
2 to [~~four~~] 4.5 per cent of the gross proceeds of  
3 sales of the business; provided that, in the case  
4 of a wholesaler, the tax shall be equal to one-  
5 half of one per cent of the gross proceeds of  
6 sales of the business; and provided further that  
7 insofar as the sale of tangible personal property  
8 is a wholesale sale under section 237-4(a)(8),  
9 the tax shall be one-half of one per cent of the  
10 gross proceeds. Upon every person engaging or  
11 continuing within this State in the business of a  
12 producer, the tax shall be equal to one-half of  
13 one per cent of the gross proceeds of sales of  
14 the business, or the value of the products, for  
15 sale, if sold for delivery outside the State or  
16 shipped or transported out of the State, and the  
17 value of the products shall be determined in the  
18 same manner as the value of manufactured products  
19 covered in the cases under paragraph (1)(C).

20 (B) Gross proceeds of sales of tangible property in  
21 interstate and foreign commerce shall constitute



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

13 (C) No manufacturer or producer, engaged in such  
14 business in the State and selling the  
15 manufacturer's or producer's products for  
16 delivery outside of the State (for example,  
17 consigned to a mainland purchaser via common  
18 carrier f.o.b. Honolulu), shall be required to  
19 pay the tax imposed in this chapter for the  
20 privilege of so selling the products, and the  
21 value or gross proceeds of sales of the products



1           shall be included only in determining the measure  
2           of the tax imposed upon the manufacturer or  
3           producer.

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





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

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

19          (F) The department, by rule, may require that a  
20          seller take from the purchaser of tangible  
21          personal property a certificate, in a form



1           prescribed by the department, certifying that the  
2           sale is a sale at wholesale; provided that:

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

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

12       (3) Tax upon contractors.

13       (A) Upon every person engaging or continuing within  
14       the State in the business of contracting, the tax  
15       shall be equal to [~~four~~] 4.5 per cent of the  
16       gross income of the business.

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



1 contractor so much thereof as fulfills the  
2 following requirements:

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

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

17 (D) A person who, as a business or as a part of a  
18 business in which the person is engaged, erects,  
19 constructs, or improves any building or  
20 structure, of any kind or description, or makes,  
21 constructs, or improves any road, street,



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



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

19 (4) Tax upon theaters, amusements, radio broadcasting  
20 stations, etc.



1           (A) Upon every person engaging or continuing within  
2           the State in the business of operating a theater,  
3           opera house, moving picture show, vaudeville,  
4           amusement park, dance hall, skating rink, radio  
5           broadcasting station, or any other place at which  
6           amusements are offered to the public, the tax  
7           shall be equal to [~~four~~] 4.5 per cent of the  
8           gross income of the business, and in the case of  
9           a sale of an amusement at wholesale under section  
10          237-4(a)(13), the tax shall be one-half of one  
11          per cent of the gross income.

12          (B) The department may require that the person  
13          rendering an amusement at wholesale take from the  
14          licensed seller a certificate, in a form  
15          prescribed by the department, certifying that the  
16          sale is a sale at wholesale; provided that:

17           (i) Any licensed seller who furnishes a  
18           certificate shall be obligated to pay to the  
19           person rendering the amusement, upon demand,  
20           the amount of additional tax that is imposed



1                   upon the seller whenever the sale is not at  
2                   wholesale; and

3           (ii)   The absence of a certificate in itself shall  
4                   give rise to the presumption that the sale  
5                   is not at wholesale unless the person  
6                   rendering the sale is exclusively rendering  
7                   the amusement at wholesale.

8       (5)   Tax upon sales representatives, etc.   Upon every  
9           person classified as a representative or purchasing  
10          agent under section 237-1, engaging or continuing  
11          within the State in the business of performing  
12          services for another, other than as an employee, there  
13          is likewise hereby levied and shall be assessed and  
14          collected a tax equal to [~~four~~] 4.5 per cent of the  
15          commissions and other compensation attributable to the  
16          services so rendered by the person.

17       (6)   Tax on service business.

18           (A)   Upon every person engaging or continuing within  
19                  the State in any service business or calling  
20                  including professional services not otherwise  
21                  specifically taxed under this chapter, there is





1 likewise hereby levied and shall be assessed and  
2 collected a tax equal to [~~four~~] 4.5 per cent of  
3 the gross income of the business, and in the case  
4 of a wholesaler under section 237-4(a)(10), the  
5 tax shall be equal to one-half of one per cent of  
6 the gross income of the business.

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

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

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



1                   rendering the sale is exclusively rendering  
2                   services at wholesale.

3           (C)   Where any person is engaged in the business of  
4               selling interstate or foreign common carrier  
5               telecommunication services within and without the  
6               State, other than as a home service provider, the  
7               tax shall be imposed on that portion of gross  
8               income received by a person from service which is  
9               originated or terminated in this State and is  
10              charged to a telephone number, customer, or  
11              account in this State notwithstanding any other  
12              state law (except for the exemption under section  
13              237-23(a)(1)) to the contrary. If, under the  
14              Constitution and laws of the United States, the  
15              entire gross income as determined under this  
16              paragraph of a business selling interstate or  
17              foreign common carrier telecommunication services  
18              cannot be included in the measure of the tax, the  
19              gross income shall be apportioned as provided in  
20              section 237-21; provided that the apportionment



1 factor and formula shall be the same for all  
2 persons providing those services in the State.

3 (D) Where any person is engaged in the business of a  
4 home service provider, the tax shall be imposed  
5 on the gross income received or derived from  
6 providing interstate or foreign mobile  
7 telecommunications services to a customer with a  
8 place of primary use in this State when such  
9 services originate in one state and terminate in  
10 another state, territory, or foreign country;  
11 provided that all charges for mobile  
12 telecommunications services which are billed by  
13 or for the home service provider are deemed to be  
14 provided by the home service provider at the  
15 customer's place of primary use, regardless of  
16 where the mobile telecommunications originate,  
17 terminate, or pass through; provided further that  
18 the income from charges specifically derived from  
19 interstate or foreign mobile telecommunications  
20 services, as determined by books and records that  
21 are kept in the regular course of business by the



1 home service provider in accordance with section  
2 239-24, shall be apportioned under any  
3 apportionment factor or formula adopted under  
4 subparagraph (C). Gross income shall not  
5 include:

6 (i) Gross receipts from mobile  
7 telecommunications services provided to a  
8 customer with a place of primary use outside  
9 this State;

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

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

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

20 For the purposes of this paragraph, "charges for  
21 mobile telecommunications services", "customer",



1 "home service provider", "mobile  
2 telecommunications services", "place of primary  
3 use", and "serving carrier" have the same meaning  
4 as in section 239-22.

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

10 (8) Tax on receipts of sugar benefit payments. Upon the  
11 amounts received from the United States government by  
12 any producer of sugar (or the producer's legal  
13 representative or heirs), as defined under and by  
14 virtue of the Sugar Act of 1948, as amended, or other  
15 Acts of the Congress of the United States relating  
16 thereto, there is hereby levied a tax of one-half of  
17 one per cent of the gross amount received; provided  
18 that the tax levied hereunder on any amount so  
19 received and actually disbursed to another by a  
20 producer in the form of a benefit payment shall be  
21 paid by the person or persons to whom the amount is



1 actually disbursed, and the producer actually making a  
2 benefit payment to another shall be entitled to claim  
3 on the producer's return a deduction from the gross  
4 amount taxable hereunder in the sum of the amount so  
5 disbursed. The amounts taxed under this paragraph  
6 shall not be taxable under any other paragraph,  
7 subsection, or section of this chapter.

8 (9) Tax on other business. Upon every person engaging or  
9 continuing within the State in any business, trade,  
10 activity, occupation, or calling not included in the  
11 preceding paragraphs or any other provisions of this  
12 chapter, there is likewise hereby levied and shall be  
13 assessed and collected, a tax equal to [~~four~~] 4.5 per  
14 cent of the gross income thereof. In addition, the  
15 rate prescribed by this paragraph shall apply to a  
16 business taxable under one or more of the preceding  
17 paragraphs or other provisions of this chapter, as to  
18 any gross income thereof not taxed thereunder as gross  
19 income or gross proceeds of sales or by taxing an  
20 equivalent value of products, unless specifically  
21 exempted."



1       SECTION 2. Section 237-15, Hawaii Revised Statutes, is  
2 amended to read as follows:

3       "**§237-15 Technicians.** When technicians supply dentists or  
4 physicians with dentures, orthodontic devices, braces, and  
5 similar items [~~which~~] that have been prepared by the technician  
6 in accordance with specifications furnished by the dentist or  
7 physician, and [~~such~~] the items are to be used by the dentist or  
8 physician in the dentist's or physician's professional practice  
9 for a particular patient who is to pay the dentist or physician  
10 for the same as a part of the dentist's or physician's  
11 professional services, the technician shall be taxed as though  
12 the technician were a manufacturer selling a product to a  
13 licensed retailer, rather than at the rate of [~~four~~] 4.5 per  
14 cent [~~which~~] that is generally applied to professions and  
15 services."

16       SECTION 3. Section 237-16.5, Hawaii Revised Statutes, is  
17 amended as follows:

18       1. By amending subsection (a) to read:

19       "(a) This section relates to the leasing of real property  
20 by a lessor to a lessee. There is hereby levied, and shall be  
21 assessed and collected annually, a privilege tax against persons



1 engaging or continuing within the State in the business of  
2 leasing real property to another, equal to [~~four~~] 4.5 per cent  
3 of the gross proceeds or gross income received or derived from  
4 the leasing; provided that where real property is subleased by a  
5 lessee to a sublessee, the lessee, as provided in this section,  
6 shall be allowed a deduction from the amount of gross proceeds  
7 or gross income received from its sublease of the real property.  
8 The deduction shall be in the amount allowed under this section.

9 All deductions under this section and the name and general  
10 excise tax number of the lessee's lessor shall be reported on  
11 the general excise tax return. Any deduction allowed under this  
12 section shall only be allowed with respect to leases and  
13 subleases in writing and relating to the same real property."

14 2. By amending subsection (f) to read:

15 "(f) This section shall not cause the tax upon a lessor,  
16 with respect to any item of the lessor's gross proceeds or gross  
17 income, to exceed [~~four~~] 4.5 per cent."

18 SECTION 4. Section 237-18, Hawaii Revised Statutes, is  
19 amended by amending subsection (f) to read as follows:

20 "(f) Where tourism related services are furnished through  
21 arrangements made by a travel agency or tour packager and the





1 gross income is divided between the provider of the services and  
2 the travel agency or tour packager, the tax imposed by this  
3 chapter shall apply to each such person with respect to [~~such~~]  
4 the person's respective portion of the proceeds, and no more.

5 As used in this subsection "tourism related services" means  
6 catamaran cruises, canoe rides, dinner cruises, lei greetings,  
7 transportation included in a tour package, sightseeing tours not  
8 subject to chapter 239, admissions to luaus, dinner shows,  
9 extravaganzas, cultural and educational facilities, and other  
10 services rendered directly to the customer or tourist, but only  
11 if the providers of the services other than air transportation  
12 are subject to a [~~four~~] 4.5 per cent tax under this chapter or  
13 chapter 239."

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

16 "**§237-31 Remittances.** (a) All remittances of taxes  
17 imposed by this chapter shall be made by money, bank draft,  
18 check, cashier's check, money order, or certificate of deposit  
19 to the office of the department of taxation to which the return  
20 was transmitted.



1        (b) The department shall issue its receipts therefor to  
2 the taxpayer and shall pay the moneys into the state treasury as  
3 a state realization, to be kept and accounted for as provided by  
4 law; provided that:

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

9        (2) A sum from all general excise tax revenues realized by  
10 the State that is equal to one-half of the total  
11 amount of funds appropriated or transferred out of the  
12 hurricane reserve trust fund under sections 4 and 5 of  
13 Act 62, Session Laws of Hawaii 2011, shall be  
14 deposited into the hurricane reserve trust fund in  
15 fiscal year 2013-2014 and in fiscal year 2014-2015;  
16 provided that the deposit required in each fiscal year  
17 shall be made by October 1 of that fiscal year; and

18        ~~[+]~~ (3) ~~[+]~~ Commencing with fiscal year 2018-2019, a sum from  
19 all general excise tax revenues realized by the State  
20 that represents the difference between the state  
21 public employer's annual required contribution for the



1 separate trust fund established under section 87A-42  
2 and the amount of the state public employer's  
3 contributions into that trust fund shall be deposited  
4 to the credit of the State's annual required  
5 contribution into that trust fund in each fiscal year,  
6 as provided in section 87A-42.

7 (c) Notwithstanding subsection (b), beginning on January  
8 1, 2019, the additional revenues generated and collected from  
9 the increase in general excise tax rates imposed by sections 1,  
10 2, 3, and 4 of Act , Session Laws of Hawaii 2018, shall be  
11 distributed as follows:

12 (1) Fifty per cent of the revenues shall be deposited into  
13 a special account in the general fund for  
14 appropriation to and expenditure for operations of the  
15 department of education under chapter 302A; and

16 (2) Fifty per cent of the revenues shall be deposited into  
17 a special account in the general fund for  
18 appropriation to and expenditure for programs of the  
19 department of human services that address homelessness  
20 under chapter 346."



SECTION 6. Section 238-2, Hawaii Revised Statutes, is amended to read as follows:

**"§238-2 Imposition of tax on tangible personal property; exemptions.** There is hereby levied an excise tax on the use in this State of tangible personal property which is imported by a taxpayer in this State whether owned, purchased from an unlicensed seller, or however acquired for use in this State. The tax imposed by this chapter shall accrue when the property is acquired by the importer or purchaser and becomes subject to the taxing jurisdiction of the State. The rates of the tax hereby imposed and the exemptions thereof are as follows:

(1) If the importer or purchaser is licensed under chapter 237 and is:

(A) A wholesaler or jobber importing or purchasing for purposes of sale or resale; or

(B) A manufacturer importing or purchasing material or commodities which are to be incorporated by the manufacturer into a finished or saleable product (including the container or package in which the product is contained) wherein it will remain in such form as to be perceptible to the



1           senses, and which finished or saleable product is  
2           to be sold in such manner as to result in a  
3           further tax on the activity of the manufacturer  
4           as the manufacturer or as a wholesaler, and not  
5           as a retailer,

6           there shall be no tax; provided that if the  
7           wholesaler, jobber, or manufacturer is also engaged in  
8           business as a retailer (so classed under chapter 237),  
9           paragraph (2) shall apply to the wholesaler, jobber,  
10          or manufacturer, but the director of taxation shall  
11          refund to the wholesaler, jobber, or manufacturer, in  
12          the manner provided under section 231-23(c) such  
13          amount of tax as the wholesaler, jobber, or  
14          manufacturer shall, to the satisfaction of the  
15          director, establish to have been paid by the  
16          wholesaler, jobber, or manufacturer to the director  
17          with respect to property which has been used by the  
18          wholesaler, jobber, or manufacturer for the purposes  
19          stated in this paragraph;

20          (2) If the importer or purchaser is licensed under chapter  
21          237 and is:



- 1 (A) A retailer or other person importing or  
2 purchasing for purposes of sale or resale, not  
3 exempted by paragraph (1);
- 4 (B) A manufacturer importing or purchasing material  
5 or commodities which are to be incorporated by  
6 the manufacturer into a finished or saleable  
7 product (including the container or package in  
8 which the product is contained) wherein it will  
9 remain in such form as to be perceptible to the  
10 senses, and which finished or saleable product is  
11 to be sold at retail in this State, in such  
12 manner as to result in a further tax on the  
13 activity of the manufacturer in selling such  
14 products at retail;
- 15 (C) A contractor importing or purchasing material or  
16 commodities which are to be incorporated by the  
17 contractor into the finished work or project  
18 required by the contract and which will remain in  
19 such finished work or project in such form as to  
20 be perceptible to the senses;



1 (D) A person engaged in a service business or calling  
2 as defined in section 237-7, or a person  
3 furnishing transient accommodations subject to  
4 the tax imposed by section 237D-2, in which the  
5 import or purchase of tangible personal property  
6 would have qualified as a sale at wholesale as  
7 defined in section 237-4(a)(8) had the seller of  
8 the property been subject to the tax in chapter  
9 237; or

10 (E) A publisher of magazines or similar printed  
11 materials containing advertisements, when the  
12 publisher is under contract with the advertisers  
13 to distribute a minimum number of magazines or  
14 similar printed materials to the public or  
15 defined segment of the public, whether or not  
16 there is a charge to the persons who actually  
17 receive the magazines or similar printed  
18 materials,

19 the tax shall be one-half of one per cent of the  
20 purchase price of the property, if the purchase and  
21 sale are consummated in Hawaii; or, if there is no



1 purchase price applicable thereto, or if the purchase  
2 or sale is consummated outside of Hawaii, then one-  
3 half of one per cent of the value of such property;  
4 and

5 (3) In all other cases, [~~four~~] 4.5 per cent of the value  
6 of the property.

7 For purposes of this section, tangible personal property is  
8 property that is imported by the taxpayer for use in this State,  
9 notwithstanding the fact that title to the property, or the risk  
10 of loss to the property, passes to the purchaser of the property  
11 at a location outside this State. Where plaintiff: (1) caused  
12 consumer electronic goods from various mainland vendors to be  
13 shipped to Hawaii in order to restock plaintiff's retail stores  
14 in this State, constituting importation of goods into the State  
15 for purposes of resale; and (2) used the goods in Hawaii by  
16 "keeping the property" in this State "for sale", plaintiff was  
17 subject to assessment of the use tax under this section. 128 H.  
18 116, 284 P.3d 209 (2012)."

19 SECTION 7. Section 238-2.3, Hawaii Revised Statutes, is  
20 amended to read as follows:





1       "§238-2.3   Imposition of tax on imported services or  
2   contracting; exemptions.   There is hereby levied an excise tax  
3   on the value of services or contracting as defined in section  
4   237-6 that are performed by an unlicensed seller at a point  
5   outside the State and imported or purchased for use in this  
6   State.   The tax imposed by this chapter shall accrue when the  
7   service or contracting as defined in section 237-6 is received  
8   by the importer or purchaser and becomes subject to the taxing  
9   jurisdiction of the State.   The rates of the tax hereby imposed  
10   and the exemptions from the tax are as follows:

11       (1)   If the importer or purchaser is licensed under chapter  
12             237 and is:

13             (A)   Engaged in a service business or calling in which  
14                    the imported or purchased services or contracting  
15                    become identifiable elements, excluding overhead,  
16                    of the services rendered by the importer or  
17                    purchaser, and the gross income of the importer  
18                    or purchaser is subject to the tax imposed under  
19                    chapter 237 on services at the rate of one-half  
20                    of one per cent;



1 (B) A manufacturer importing or purchasing services  
2 or contracting that become identifiable elements,  
3 excluding overhead, of a finished or saleable  
4 product (including the container or package in  
5 which the product is contained) and the finished  
6 or saleable product is to be sold in a manner  
7 that results in a further tax on the manufacturer  
8 as a wholesaler, and not a retailer; or

9 (C) A contractor importing or purchasing contracting  
10 that become identifiable elements, excluding  
11 overhead, of the finished work or project  
12 required under the contract; provided that:

13 (i) The gross proceeds derived by the contractor  
14 are subject to the tax under section 237-  
15 13(3) as a contractor; and

16 (ii) The contractor could have deducted amounts  
17 paid to the subcontractor under section 237-  
18 13(3)(B) if the subcontractor was subject to  
19 general excise tax under chapter 237;

20 there shall be no tax imposed on the value of the  
21 imported or purchased services or contracting;



1 provided that if the manufacturer is also engaged in  
2 business as a retailer as classified under chapter  
3 237, paragraph (2) shall apply to the manufacturer,  
4 but the director of taxation shall refund to the  
5 manufacturer, in the manner provided under section  
6 231-23(c), that amount of tax that the manufacturer,  
7 to the satisfaction of the director, shall establish  
8 to have been paid by the manufacturer to the director  
9 with respect to services that have been used by the  
10 manufacturer for the purposes stated in this  
11 paragraph.

12 (2) If the importer or purchaser is a person licensed  
13 under chapter 237 and is:

14 (A) Engaged in a service business or calling in which  
15 the imported or purchased services or contracting  
16 become identifiable elements, excluding overhead,  
17 of the services rendered by the importer or  
18 purchaser, and the gross income from those  
19 services when sold by the importer or purchaser  
20 is subject to the tax imposed under chapter 237  
21 at the highest rate;



1 (B) A manufacturer importing or purchasing services  
2 or contracting that become identifiable elements,  
3 excluding overhead, of the finished or saleable  
4 manufactured product (including the container or  
5 package in which the product is contained) and  
6 the finished or saleable product is to be sold in  
7 a manner that results in a further tax under  
8 chapter 237 on the activity of the manufacturer  
9 as a retailer; or

10 (C) A contractor importing or purchasing services  
11 that become identifiable elements, excluding  
12 overhead, of the finished work or project  
13 required, under the contract, and where the gross  
14 proceeds derived by the contractor are subject to  
15 the tax under section 237-13(3) as a contractor,  
16 the tax shall be one-half of one per cent of the value  
17 of the imported or purchased services or contracting;  
18 and

19 (3) In all other cases, the importer or purchaser is  
20 subject to the tax at the rate of [~~four~~] 4.5 per cent



1 on the value of the imported or purchased services or  
2 contracting."

3 SECTION 8. This Act does not affect rights and duties that  
4 matured, penalties that were incurred, and proceedings that were  
5 begun before its effective date.

6 SECTION 9. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8 SECTION 10. This Act shall take effect on July 1, 2018 and  
9 shall apply to taxable years beginning after December 31, 2018.

10 This Act is repealed on December 31, 2025 and sections 237-13,  
11 237-15, 237-16.5, 237-18, 237-31, 238-2, and 238-2.3, Hawaii  
12 Revised Statutes, are reenacted in the form in which they read  
13 on the day before the effective date of this Act.

14  
INTRODUCED BY:

*John M. McDermott*  
JAN 18 2018



# H.B. NO. 1898

**Report Title:**

General Excise Tax; Use Tax; Increase

**Description:**

Increases the general excise and use tax by 0.5% for 6 years to provide a dedicated funding source for the department of education and programs of the department of human services addressing homelessness.

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

