

JAN 19 2018

A BILL FOR AN ACT

RELATING TO THE GENERAL EXCISE TAX.

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

1 SECTION 1. The purpose of this Act is to:

- 2 (1) Provide a general excise tax exemption for amounts
3 received from the sale of mobility enhancement
4 equipment, durable medical equipment, prescription
5 drugs sold pursuant to a doctor's prescription,
6 diabetic supplies, prosthetic devices, medical oxygen,
7 and human blood and its derivatives; and
8 (2) Expand the definition of "prosthetic device" to
9 include devices that are worn on the body.

10 These changes will benefit individuals with disabilities
11 and kupuna on limited income by exempting necessary medical
12 devices and the repair of those devices from Hawaii's general
13 excise tax.

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



S.B. NO. 2202

1 "§237-24.3 Additional amounts not taxable. In addition to
2 the amounts not taxable under section 237-24, this chapter shall
3 not apply to:

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

13 (2) Amounts received by the manager, submanager, or board
14 of directors of:

15 (A) An association of a condominium property regime
16 established in accordance with chapter 514B or
17 any predecessor thereto; or

18 (B) A nonprofit homeowners or community association
19 incorporated in accordance with chapter 414D or
20 any predecessor thereto and existing pursuant to
21 covenants running with the land,



1 in reimbursement of sums paid for common expenses;

2 (3) Amounts received or accrued from:

3 (A) The loading or unloading of cargo from ships,
4 barges, vessels, or aircraft, whether or not the
5 ships, barges, vessels, or aircraft travel
6 between the State and other states or countries
7 or between the islands of the State;

8 (B) Tugboat services including pilotage fees
9 performed within the State, and the towage of
10 ships, barges, or vessels in and out of state
11 harbors, or from one pier to another; and

12 (C) The transportation of pilots or governmental
13 officials to ships, barges, or vessels offshore;
14 rigging gear; checking freight and similar
15 services; standby charges; and use of moorings
16 and running mooring lines;

17 (4) Amounts received by an employee benefit plan by way of
18 contributions, dividends, interest, and other income;
19 and amounts received by a nonprofit organization or
20 office, as payments for costs and expenses incurred
21 for the administration of an employee benefit plan;



1 provided that this exemption shall not apply to any
2 gross rental income or gross rental proceeds received
3 after June 30, 1994, as income from investments in
4 real property in this State; and provided further that
5 gross rental income or gross rental proceeds from
6 investments in real property received by an employee
7 benefit plan after June 30, 1994, under written
8 contracts executed prior to July 1, 1994, shall not be
9 taxed until the contracts are renegotiated, renewed,
10 or extended, or until after December 31, 1998,
11 whichever is earlier. For the purposes of this
12 paragraph, "employee benefit plan" means any plan as
13 defined in title 29 United States Code section
14 1002(3), as amended;

- 15 (5) Amounts received for purchases made with United States
16 Department of Agriculture food coupons under the
17 federal food stamp program, and amounts received for
18 purchases made with United States Department of
19 Agriculture food vouchers under the Special
20 Supplemental Foods Program for Women, Infants and
21 Children;



(6) Amounts received ~~[by a hospital, infirmary, medical clinic, health care facility, pharmacy, or a practitioner licensed to administer the drug to an individual for selling prescription drugs or prosthetic devices to an individual; provided that this paragraph shall not apply to any amounts received for services provided in selling prescription drugs or prosthetic devices. As used in this paragraph:]~~ from sales of the following when sold for human use:

(A) Prescription drugs sold pursuant to a doctor's prescription;

(B) Diabetic supplies;

(C) Prosthetic devices;

(D) Medical oxygen;

(E) Human blood and its derivatives;

(F) Durable medical equipment for home use;

(G) Mobility enhancing equipment sold by

prescription; and

(H) Repair and replacement parts for any of the

foregoing exempt devices and equipment;



1 provided that this exemption shall not apply to
2 amounts received for services in selling any of the
3 foregoing.

4 As used in this paragraph:

5 "Durable medical equipment" means the same as in
6 title 42 Code of Federal Regulations section 414.202
7 and includes repair and replacement parts; provided
8 that the term includes bath and shower chairs, bed
9 pans, and raised toilet seats but excludes mobility
10 enhancing equipment.

11 "Mobility enhancing equipment" means equipment,
12 including repair and replacement parts, other than
13 durable medical equipment, that:

14 (A) Is primarily and customarily used to provide or
15 increase the ability to move from one place to
16 another and that is appropriate for use either at
17 home or in a motor vehicle;

18 (B) Is not generally used by persons with normal
19 mobility; and



S.B. NO. 2202

1 (C) Does not include any motor vehicle or equipment
2 on a motor vehicle normally provided by a motor
3 vehicle manufacturer.

4 "Prescription" means an order, formula, or recipe
5 issued in any form of oral, written, electronic, or
6 other means of transmission by a duly licensed
7 practitioner authorized by the laws of this State.

8 "Prescription drugs" are those drugs defined
9 under section 328-1 and dispensed by filling or
10 refilling a written or oral prescription by a
11 practitioner licensed under law to administer the drug
12 and sold by a licensed pharmacist under section 328-16
13 or practitioners licensed to administer drugs[~~+~~
14 ~~provided that "prescription drugs" shall not include~~
15 ~~cannabis or manufactured cannabis products authorized~~
16 ~~pursuant to chapters 329 and 329D, and] .~~

17 "Prosthetic device" means [~~any artificial device~~
18 ~~or appliance, instrument, apparatus, or contrivance,~~
19 ~~including their components, parts, accessories, and~~
20 ~~replacements thereof, used to replace a missing or~~
21 ~~surgically removed part of the human body, which is~~



1 ~~prescribed by a licensed practitioner of medicine,~~
2 ~~osteopathy, or podiatry and that is sold by the~~
3 ~~practitioner or that is dispensed and sold by a dealer~~
4 ~~of prosthetic devices; provided that "prosthetic~~
5 ~~device" shall not mean any auditory, ophthalmic,~~
6 ~~dental, or ocular device or appliance, instrument,~~
7 ~~apparatus, or contrivance;]~~ a replacement, corrective,
8 or supportive device including repair and replacement
9 parts for the device worn on or in the body in order
10 to:

11 (A) Artificially replace a missing portion of the
12 body;

13 (B) Prevent or correct a physical deformity or
14 malfunction; or

15 (C) Support a weak or deformed portion of the body;
16 provided that "prosthetic device" shall not mean any
17 ophthalmic, dental, or ocular device or appliance,
18 instrument, apparatus, or contrivance. Examples of
19 prosthetic devices include the following: heart
20 valves, hearing aids, pacemakers, and artificial
21 limbs;



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

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



S.B. NO. 2202

1 under section 501(c)(5) of the Internal Revenue Code,
2 as amended;

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

7 (11) Amounts received as rent for the rental or leasing of
8 aircraft or aircraft engines used by the lessees or
9 renters for interstate air transportation of
10 passengers and goods. For purposes of this paragraph,
11 payments made pursuant to a lease shall be considered
12 rent regardless of whether the lease is an operating
13 lease or a financing lease. The definition of
14 "interstate air transportation" is the same as in 49
15 U.S.C. section 40102."

16 SECTION 3. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.



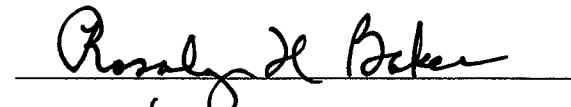
S.B. NO. 2202

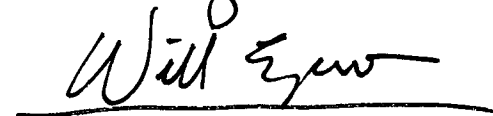
1 SECTION 4. This Act shall take effect on January 1, 2019,
2 and shall apply to taxable years beginning after December 31,
3 2018.

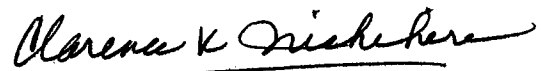
4

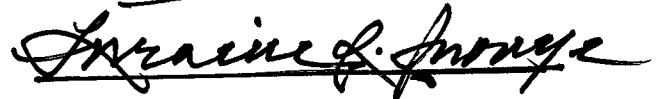
INTRODUCED BY:

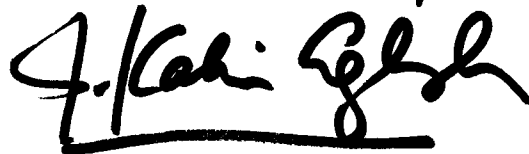




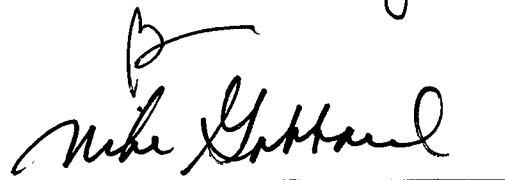


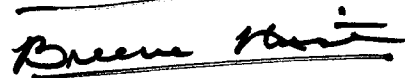


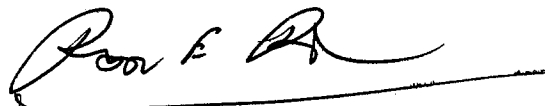


















S.B. NO. 2202

Report Title:

General Excise Tax; Medical Devices; Exemption

Description:

Exempts gross receipts from the sale of mobility enhancing equipment, durable medical equipment, prosthetic devices, prescription drugs sold pursuant to a doctor's prescription, diabetic supplies, medical oxygen, and human blood and its derivatives from the general excise tax. Amends the definition of "prosthetic device" to include devices worn on the body. Amends the definition of "prescription drugs".

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

