

JAN 18 2019

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 prescription drugs sold
4 pursuant to a prescription, diabetic supplies,
5 prosthetic devices, medical oxygen, human blood and
6 its derivatives, and mobility enhancement equipment
7 sold by prescription;
- 8 (2) Repeal the exclusion of cannabis or manufactured
9 cannabis products from the definition of "prescription
10 drugs" for purposes of the tax exemption; and
- 11 (3) Expand the definition of "prosthetic device" to
12 include devices that are worn on the body, such as
13 hearing aids and pacemakers, for purposes of the tax
14 exemption.

15 These changes will benefit individuals with disabilities
16 and kupuna on limited incomes by exempting necessary medical
17 devices from Hawaii's general excise tax.



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

3 "§237-24.3 Additional amounts not taxable. (a) In
4 addition to the amounts not taxable under section 237-24, this
5 chapter shall 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:

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

20 (B) A nonprofit homeowners or community association
21 incorporated in accordance with chapter 414D or



1 any predecessor thereto and existing pursuant to
2 covenants running with the land,

3 in reimbursement of sums paid for common expenses;

4 (3) Amounts received or accrued from:

5 (A) The loading or unloading of cargo from ships,
6 barges, vessels, or aircraft, regardless of
7 whether [~~or not~~] the ships, barges, vessels, or
8 aircraft travel between the State and other
9 states or countries, or between the islands of
10 the State;

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

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

20 (4) Amounts received by an employee benefit plan by way of
21 contributions, dividends, interest, and other income;



1 and amounts received by a nonprofit organization or
2 office, as payments for costs and expenses incurred
3 for the administration of an employee benefit plan;
4 provided that this exemption shall not apply to any
5 gross rental income or gross rental proceeds received
6 after June 30, 1994, as income from investments in
7 real property in this State; [~~and~~] provided further
8 that gross rental income or gross rental proceeds from
9 investments in real property received by an employee
10 benefit plan after June 30, 1994, under written
11 contracts executed prior to July 1, 1994, shall not be
12 taxed until the contracts are renegotiated, renewed,
13 or extended, or until after December 31, 1998,
14 whichever is earlier. For the purposes of this
15 paragraph, "employee benefit plan" means any plan as
16 defined in title 29 United States Code section
17 1002(3), as amended;

- 18 (5) Amounts received for purchases made with United States
19 Department of Agriculture food coupons under the
20 federal food stamp program, and amounts received for
21 purchases made with United States Department of



1 Agriculture food vouchers under the Special
2 Supplemental Foods Program for Women, Infants and
3 Children;

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

13 (A) Prescription drugs sold pursuant to a
14 prescription;

15 (B) Diabetic supplies;

16 (C) Prosthetic devices;

17 (D) Medical oxygen;

18 (E) Human blood and its derivatives;

19 (F) Mobility enhancing equipment sold by
20 prescription; and



1 (G) Repair and replacement parts for any of the
2 exempt devices and equipment under subparagraphs
3 (A) through (F), as applicable;

4 provided that this exemption shall not apply to
5 amounts received for services in selling any of the
6 items under subparagraphs (A) through (G);

7 ~~[As used in this paragraph:~~

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;]~~

8 (7) Taxes on transient accommodations imposed by chapter
9 237D and passed on and collected by operators holding
10 certificates of registration under that chapter;

11 (8) Amounts received as dues by an unincorporated
12 merchants association from its membership for
13 advertising media, promotional, and advertising costs
14 for the promotion of the association for the benefit
15 of its members as a whole and not for the benefit of
16 an individual member or group of members less than the
17 entire membership;

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

20 (A) A labor organization; or



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

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

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

15 (11) Amounts received as rent for the rental or leasing of
16 aircraft or aircraft engines used by the lessees or
17 renters for interstate air transportation of
18 passengers and goods. For purposes of this paragraph,
19 payments made pursuant to a lease shall be considered
20 rent regardless of whether the lease is an operating
21 lease or a financing lease. The definition of



1 "interstate air transportation" is the same as in
2 title 49 [U.S.C.] United States Code section 40102.

3 (b) As used in this section:

4 "Mobility enhancing equipment" means equipment, including
5 repair and replacement parts, that:

6 (1) Is primarily and customarily used to provide or
7 increase the ability to move from one place to another
8 and is appropriate for use either at home or in a
9 motor vehicle;

10 (2) Is not generally used by persons with normal mobility;
11 and

12 (3) Does not include any motor vehicle or equipment on a
13 motor vehicle normally provided by a motor vehicle
14 manufacturer.

15 "Prescription" means an order, formula, or recipe issued in
16 any form of oral, written, electronic, or other means of
17 transmission by a duly licensed practitioner authorized by the
18 laws of this State.

19 "Prescription drugs" are those drugs defined under section
20 328-1 and dispensed by filling or refilling a written or oral
21 prescription by a practitioner licensed under law to administer



1 the drug and sold by a licensed pharmacist under section 328-16
2 or practitioners licensed to administer drugs.

3 "Prosthetic device" means a replacement, corrective, or
4 supportive device, including repair and replacement parts for
5 the device worn on or in the body, to:

- 6 (1) Artificially replace a missing portion of the body;
- 7 (2) Prevent or correct a physical deformity or
8 malfunction; or
- 9 (3) Support a weak or deformed portion of the body.

10 "Prosthetic device" shall not include any ophthalmic, dental, or
11 ocular device or appliance, instrument, apparatus, or
12 contrivance. Examples of prosthetic devices include heart
13 valves, hearing aids, pacemakers, and artificial limbs."

14 SECTION 3. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 4. This Act, upon its approval, shall apply to
17 taxable years beginning after December 31, 2018.

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INTRODUCED BY:

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S.B. NO. 332

Report Title:

General Excise Tax; Medical Devices; Exemption; Deaf and Blind Task Force

Description:

Exempts the sales of mobility enhancing equipment sold by prescription, prosthetic devices, prescription drugs sold pursuant to a prescription, diabetic supplies, medical oxygen, and human blood and its derivatives from the general excise tax for taxable years beginning after December 31, 2018. Amends the definitions of "prosthetic device" and "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.

