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# 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 hearing aids, and prosthetic devices; and

7 (2) Expand the definition of "prosthetic device" to  
8 include devices that are worn on the body.

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

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

15 "§237-24.3 **Additional amounts not taxable.** In addition to  
16 the amounts not taxable under section 237-24, this chapter shall  
17 not apply to:



- 1 (1) Amounts received from the loading, transportation, and  
2 unloading of agricultural commodities shipped for a  
3 producer or produce dealer on one island of this State  
4 to a person, firm, or organization on another island  
5 of this State. The terms "agricultural commodity",  
6 "producer", and "produce dealer" shall be defined in  
7 the same manner as they are defined in section 147-1;  
8 provided that agricultural commodities need not have  
9 been produced in the State;
- 10 (2) Amounts received by the manager, submanager, or board  
11 of directors of:
- 12 (A) An association of a condominium property regime  
13 established in accordance with chapter 514B or  
14 any predecessor thereto; or
- 15 (B) A nonprofit homeowners or community association  
16 incorporated in accordance with chapter 414D or  
17 any predecessor thereto and existing pursuant to  
18 covenants running with the land,  
19 in reimbursement of sums paid for common expenses;
- 20 (3) Amounts received or accrued from:



- 1 (A) The loading or unloading of cargo from ships,  
2 barges, vessels, or aircraft, whether or not the  
3 ships, barges, vessels, or aircraft travel  
4 between the State and other states or countries  
5 or between the islands of the State;
- 6 (B) Tugboat services including pilotage fees  
7 performed within the State, and the towage of  
8 ships, barges, or vessels in and out of state  
9 harbors, or from one pier to another; and
- 10 (C) The transportation of pilots or governmental  
11 officials to ships, barges, or vessels offshore;  
12 rigging gear; checking freight and similar  
13 services; standby charges; and use of moorings  
14 and running mooring lines;
- 15 (4) Amounts received by an employee benefit plan by way of  
16 contributions, dividends, interest, and other income;  
17 and amounts received by a nonprofit organization or  
18 office, as payments for costs and expenses incurred  
19 for the administration of an employee benefit plan;  
20 provided that this exemption shall not apply to any  
21 gross rental income or gross rental proceeds received



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

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

20 (6) Amounts received [~~by a hospital, infirmary, medical~~  
 21 ~~clinic, health care facility, pharmacy, or a~~



1 ~~practitioner licensed to administer the drug to an~~  
2 ~~individual for selling prescription drugs or~~  
3 ~~prosthetic devices to an individual; provided that~~  
4 ~~this paragraph shall not apply to any amounts received~~  
5 ~~for services provided in selling prescription drugs or~~  
6 ~~prosthetic devices.] from sales of the following when~~  
7 sold for human use:

- 8 (A) Prescription drugs sold pursuant to a doctor's  
9 prescription;
- 10 (B) Hearing aids;
- 11 (C) Prosthetic devices;
- 12 (D) Mobility enhancing equipment sold by  
13 prescription;
- 14 (E) Durable medical equipment; and
- 15 (F) Repair and replacement parts for any of the  
16 foregoing exempt devices and equipment;

17 provided that this exemption shall not apply to  
18 amounts received for services in selling any of the  
19 foregoing.

20 As used in this paragraph:

21



1                   "Durable medical equipment" shall be as defined  
2                   in section 321-542.

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

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

9                   (B) Is not generally used by persons with normal  
10                   mobility; and

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

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

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



1 and sold by a licensed pharmacist under section 328-16  
2 or practitioners licensed to administer drugs;  
3 provided that "prescription drugs" shall not include  
4 cannabis or manufactured cannabis products authorized  
5 pursuant to chapters 329 and 329D; and

6 "Prosthetic device" means [~~any artificial device~~  
7 ~~or appliance, instrument, apparatus, or contrivance,~~  
8 ~~including their components, parts, accessories, and~~  
9 ~~replacements thereof, used to replace a missing or~~  
10 ~~surgically removed part of the human body, which is~~  
11 ~~prescribed by a licensed practitioner of medicine,~~  
12 ~~osteopathy, or podiatry and that is sold by the~~  
13 ~~practitioner or that is dispensed and sold by a dealer~~  
14 ~~of prosthetic devices; provided that "prosthetic~~  
15 ~~device" shall not mean any auditory, ophthalmic,~~  
16 ~~dental, or ocular device or appliance, instrument,~~  
17 ~~apparatus, or contrivance;] a replacement, corrective,  
18 or supportive device, including repair and replacement  
19 parts for the device, worn on or in the body in order  
20 to:~~



- 1           (A) Artificially replace a missing portion of the
- 2           body;
- 3           (B) Prevent or correct a physical deformity or
- 4           malfunction; or
- 5           (C) Support a weak or deformed portion of the body,
- 6           such as a hearing aid or artificial limb;
- 7           provided that "prosthetic device" shall not
- 8           include any ophthalmic, dental, or ocular device
- 9           or appliance, instrument, apparatus, or
- 10           contrivance;
- 11       (7) Taxes on transient accommodations imposed by chapter
- 12           237D and passed on and collected by operators holding
- 13           certificates of registration under that chapter;
- 14       (8) Amounts received as dues by an unincorporated
- 15           merchants association from its membership for
- 16           advertising media, promotional, and advertising costs
- 17           for the promotion of the association for the benefit
- 18           of its members as a whole and not for the benefit of
- 19           an individual member or group of members less than the
- 20           entire membership;





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

3 (A) A labor organization; or

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

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

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

18 (11) Amounts received as rent for the rental or leasing of  
19 aircraft or aircraft engines used by the lessees or  
20 renters for interstate air transportation of  
21 passengers and goods. For purposes of this paragraph,



1 payments made pursuant to a lease shall be considered  
2 rent regardless of whether the lease is an operating  
3 lease or a financing lease. The definition of  
4 "interstate air transportation" is the same as in 49  
5 U.S.C. section 40102."

6 SECTION 3. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8 SECTION 4. This Act, upon its approval, shall apply to  
9 taxable years beginning after December 31, 2050.



**Report Title:**

General Excise Tax; Medical Devices; Exemption

**Description:**

Exempts from the general excise tax gross receipts from the sale of mobility enhancing equipment, hearing aids, prosthetic devices, durable medical equipment, and prescription drugs sold pursuant to a doctor's prescription. Amends the definition of "prosthetic device" to include a replacement, corrective, or supportive device worn on or in the body. (SB530 HD1)

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