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# A BILL FOR AN ACT

RELATING TO GENERAL EXCISE TAX.

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

1           SECTION 1. The legislature finds that many businesses have  
2 suffered financial losses due to state mandated closures in  
3 response to the COVID-19 pandemic. Although, these closures were  
4 meant to save lives, they destroyed livelihoods in the process.  
5 In an effort to aid economic recovery and lessen the burden on  
6 businesses, a one year holiday from the general excise tax  
7 should be granted.

8           SECTION 2. Section 237-23, Hawaii Revised Statutes, is  
9 amended to read as follows:

10           "**§237-23 Exemptions, persons exempt, applications for**  
11 **exemption.** (a) This chapter shall not apply to the following  
12 persons:

13           (1) Public service companies as that term is defined in  
14 section 239-2, with respect to the gross income,  
15 either actual gross income or gross income estimated  
16 and adjusted, that is included in the measure of the  
17 tax imposed by chapter 239;



- 1           (2) Public utilities owned and operated by the State or  
2                    any county, or other political subdivision thereof;
- 3           (3) Fraternal benefit societies, orders, or associations,  
4                    operating under the lodge system, or for the exclusive  
5                    benefit of the members of the fraternity itself,  
6                    operating under the lodge system, and providing for  
7                    the payment of death, sick, accident, a legal service  
8                    plan, or other benefits to the members of the  
9                    societies, orders, or associations, and to their  
10                  dependents;
- 11          (4) Corporations, associations, trusts, or societies  
12                  organized and operated exclusively for religious,  
13                  charitable, scientific, or educational purposes, as  
14                  well as that of operating senior citizens housing  
15                  facilities qualifying for a loan under the laws of the  
16                  United States as authorized by section 202 of the  
17                  Housing Act of 1959, as amended, as well as that of  
18                  operating a legal service plan, as well as that of  
19                  operating or managing a homeless facility, or any  
20                  other program for the homeless authorized under part  
21                  XVII of chapter 346;



- 1           (5) Business leagues, chambers of commerce, boards of  
2           trade, civic leagues, agricultural and horticultural  
3           organizations, and organizations operated exclusively  
4           for the benefit of the community and for the promotion  
5           of social welfare that shall include the operation of  
6           a legal service plan, and from which no profit inures  
7           to the benefit of any private stockholder or  
8           individual;
- 9           (6) Hospitals, infirmaries, and sanitararia;
- 10          (7) Companies that provide potable water to residential  
11          communities that lack any access to public utility  
12          water services and are tax exempt under section  
13          501(c)(12) of the Internal Revenue Code of 1986, as  
14          amended;
- 15          (8) Cooperative associations incorporated under chapter  
16          421 or Code section 521 cooperatives which fully meet  
17          the requirements of section 421-23, except Code  
18          section 521 cooperatives need not be organized in  
19          Hawaii; provided that:
- 20                (A) The exemption shall apply only to the gross  
21                income derived from activities that are pursuant



1 to purposes and powers authorized by chapter 421,  
2 except those provisions pertaining to or  
3 requiring corporate organization in Hawaii do not  
4 apply to Code section 521 cooperatives;

5 (B) The exemption shall not relieve any person who  
6 receives any proceeds of sale from the  
7 association of the duty of returning and paying  
8 the tax on the total gross proceeds of the sales  
9 on account of which the payment was made, in the  
10 same amount and at the same rate as would apply  
11 thereto had the sales been made directly by the  
12 person, and all those persons shall be so  
13 taxable; and

14 (C) As used in this paragraph, "Code section 521  
15 cooperatives" mean associations that qualify as a  
16 cooperative under section 521 (with respect to  
17 exemption of farmers' cooperatives from tax) of  
18 the Internal Revenue Code of 1986, as amended;

19 (9) Persons affected with Hansen's disease and kokuas,  
20 with respect to business within the county of Kalawao;



- 1       (10) Corporations, companies, associations, or trusts  
2           organized for the establishment and conduct of  
3           cemeteries no part of the net earnings of which inures  
4           to the financial benefit of any private stockholder or  
5           individual; provided that the exemption shall apply  
6           only to the activities of those persons in the conduct  
7           of cemeteries and shall not apply to any activity the  
8           primary purpose of which is to produce income, even  
9           though the income is to be used for or in the  
10          furtherance of the exempt activities of those persons;  
11          and
- 12       (11) Nonprofit shippers associations operating under part  
13           296 of the Civil Aeronautics Board Economic  
14           Regulations.
- 15       (12) Business owners demonstrating that due to the state  
16       mandated shutdowns, they relied on funding from  
17       county, state, or federal money to sustain their  
18       enterprise. Any business qualifying under this  
19       subsection shall be granted a one-year exemption. If a  
20       business has received this exemption previously, they  
21       are no longer eligible.



1 (b) The exemptions enumerated in subsection (a)(3) to (7)  
2 shall apply only:

3 (1) To those persons who shall have registered with the  
4 department of taxation by filing a written application  
5 for registration in such form as the department shall  
6 prescribe, shall have paid the registration fee of  
7 \$20, and shall have had the exemption allowed by the  
8 department or by a court or tribunal of competent  
9 jurisdiction upon appeal from any assessment resulting  
10 from disallowance of the exemption by the department;

11 (2) To activities from which no profit inures to the  
12 benefit of any private stockholder or individual,  
13 except for death or other benefits to the members of  
14 fraternal societies; and

15 (3) To the fraternal, religious, charitable, scientific,  
16 educational, communal, or social welfare activities of  
17 such persons, or to the activities of hospitals,  
18 infirmaries, sanitarium, and potable water companies,  
19 as such, and not to any activity the primary purpose  
20 of which is to produce income even though the income



1 is to be used for or in furtherance of the exempt  
2 activities of such persons.

3 (c) To obtain allowance of an exemption:

4 (1) A person under subsection (a)(3) to (7), who has  
5 received or applied for recognition of tax exempt  
6 status under section 501(c)(3), (4), (6), (8), or (12)  
7 of the Internal Revenue Code of 1986, as amended, or  
8 who is a subordinate person of a person who has  
9 received a group exemption letter under section  
10 501(c)(3), (4), (6), (8), or (12) of the Internal  
11 Revenue Code of 1986, as amended, shall register with  
12 the department by filing a statement attaching a copy  
13 of the exemption or application for recognition of  
14 exempt status and any particular facts that the  
15 department may require; and

16 (2) All other persons under subsection (a)(3) to (7) shall  
17 file an application for exemption in the form of an  
18 affidavit or affidavits setting forth in general all  
19 facts affecting the right to the exemption and any  
20 particular facts that the department may require, to



1           which shall be attached any records, papers, and other  
2           information as the department may prescribe.

3           (d) For all persons, the statement registering the person  
4 with the department or application for exemption shall be filed  
5 on or before March 31 of the first year of registration or  
6 within three months after the commencement of business. In the  
7 event of allowance of the exemption, no further statement or  
8 application therefor need be filed unless there is a material  
9 change in the facts. In the event of disallowance of the  
10 exemption, a license may be obtained upon payment of the  
11 required fee as provided by section 237-9, less the \$20 already  
12 paid under this section, which shall be credited thereon. In  
13 the event the registrant has a license under this chapter, no  
14 further fee shall be required for registration under this  
15 section.

16           (e) The department for good cause may extend the time for  
17 registration or the time for filing an application for  
18 exemption. "

19           SECTION 3. New statutory material is underscored.

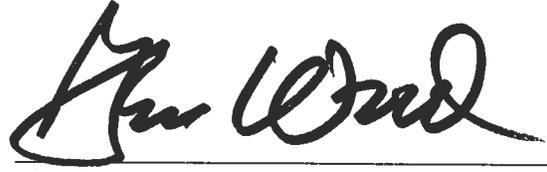
20           SECTION 4. This Act shall take effect on July 1, 2021.

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H.B. NO. 1188

INTRODUCED BY:



JAN 26 2021



# H.B. NO. 1188

**Report Title:**

GET, Tax, General Excise Tax, Exemption, COVID-19

**Description:**

Provides a one-year exemption to any business demonstrating they were dependent on county, state, or federal funding to sustain them during state mandated closures. Business may only qualify for this exemption once.

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

