
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 PART I

2 SECTION 1. The purpose of this part is to temporarily
3 suspend the general excise and use tax exemptions for certain
4 amounts received by certain persons and, instead, require those
5 persons to pay the applicable tax on those amounts at a
6 specified rate. The suspension and imposition of the tax
7 commences on July 1, 2021, and ends on June 30, 2025.

8 SECTION 2. Chapter 237, Hawaii Revised Statutes, is
9 amended by adding two new sections to be appropriately
10 designated and to read as follows:

11 "§237- Temporary suspension of exemption of certain
12 amounts; levy of tax. (a) Notwithstanding any other law to the
13 contrary, the exemption of the following amounts from taxation
14 under this chapter shall be suspended from July 1, 2021, through
15 June 30, 2025:



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- 1 (1) Amounts received or accrued from the loading or
- 2 unloading of cargo as described under section
- 3 237-24.3(3)(A);
- 4 (2) Amounts received or accrued from tugboat and towage
- 5 services as described under section 237-24.3(3)(B);
- 6 (3) Amounts received or accrued from the transportation of
- 7 pilots or government officials and other maritime-
- 8 related services as described under section
- 9 237-24.3(3)(C);
- 10 (4) Amounts received as rent for aircraft or aircraft
- 11 engines used for interstate air transportation as
- 12 described under section 237-24.3(11);
- 13 (5) Amounts received from the servicing and maintenance of
- 14 aircraft or construction of aircraft service and
- 15 maintenance facilities as described under section
- 16 237-24.9;
- 17 (6) Gross proceeds from the sale of the following:
- 18 (A) Intoxicating liquor to the United States
- 19 (including any agency or instrumentality of the
- 20 United States that is wholly owned or otherwise
- 21 so constituted as to be immune from the levy of a



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- 1 tax under chapter 238 or 244D, but not including
2 national banks) or any organization to which the
3 sale is permitted by the proviso of "Class 3" of
4 section 281-31 that is located on any Army, Navy,
5 or Air Force reservation as described under
6 section 237-25(a) (1);
- 7 (B) Tobacco products and cigarettes to the United
8 States (including any agency or instrumentality
9 thereof that is wholly owned or otherwise so
10 constituted as to be immune from the levy of tax
11 under chapter 238 or 245, but not including
12 national banks) as described under section 237-
13 25(a) (2); and
- 14 (C) "Other tangible personal property" to the United
15 States (including any agency, instrumentality, or
16 federal credit union thereof, but not including
17 national banks) and any state-chartered credit
18 union as described under section 237-25(a) (3);
- 19 (7) Gross proceeds received from shipbuilding and ship
20 repairs as described under section 237-28.1;



1 (8) Gross proceeds received by qualified businesses in
2 enterprise zones, as described under section 209E-11,
3 that do not have valid certificates of qualification
4 from the department of business, economic development,
5 and tourism on July 1, 2021; and

6 (9) Gross proceeds received by contractors licensed under
7 chapter 444 for construction within enterprise zones
8 performed for qualified businesses within the
9 enterprise zones or businesses approved by the
10 department of business, economic development, and
11 tourism to enroll into the enterprise zone program, as
12 described under section 209E-11.

13 (b) Except as otherwise provided under subsection (f),
14 (g), or (h), there is levied, assessed, and collected annually
15 against a taxpayer receiving or deriving previously exempt gross
16 income or gross proceeds of sale from July 1, 2021, to June 30,
17 2025, a tax at the rate of four per cent on that previously
18 exempt gross income or gross proceeds of sale.

19 (c) As used in this section, "previously exempt gross
20 income or gross proceeds of sale" means the amount of the gross



1 income or gross proceeds of sale, the exemption for which is
2 suspended under subsection (a).

3 (d) The taxpayer, against whom the tax is levied and
4 assessed under this section, shall be responsible for payment of
5 the tax to the director of taxation.

6 (e) Notwithstanding section 237-8.6, no county surcharge
7 shall be levied, assessed, or collected on any previously exempt
8 gross income or gross proceeds of sale that is subject to
9 taxation under subsection (b).

10 (f) This section shall not apply to gross income or gross
11 proceeds from binding written contracts entered into prior to
12 July 1, 2021, that do not permit the passing on of increased
13 rates of taxes.

14 (g) This section shall not apply to gross income or gross
15 proceeds from stevedoring services and related services, as
16 defined in section 382-1, furnished to a company by its wholly
17 owned subsidiary.

18 (h) The tax imposed under subsection (b) shall not apply
19 to any gross income or gross proceeds of sale that cannot
20 legally be so taxed under the Constitution or laws of the United



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1 States, but only so long as, and only to the extent to which the
2 State is without power to impose the tax.

3 To the extent that any exemption, exclusion, or
4 apportionment is necessary to comply with the preceding
5 sentence, the director of taxation shall:

6 (1) Exempt or exclude the gross income or gross proceeds
7 of sale from the tax under subsection (b); or

8 (2) Apportion the gross income or gross proceeds of sale
9 derived within the State by persons engaged in
10 business both within and without the State to
11 determine the gross income or gross proceeds of sale
12 that is subject to taxation under this chapter for the
13 purposes of section 237-21.

14 (i) This chapter shall apply to the payment, collection,
15 enforcement, and appeal of the tax levied under this section.

16 The director of taxation may establish additional
17 requirements, procedures, and forms pursuant to rules adopted
18 under chapter 91, to effectuate this section.

19 §237- Information reporting. Beginning July 1, 2021,
20 the director of taxation shall require information reporting on



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1 "(c) There is levied and shall be assessed and collected
2 each month, on the occupant of a resort time share vacation
3 unit, a transient accommodations tax of:

4 (1) 7.25 per cent on the [~~fair market rental value~~] until
5 December 31, 2015;

6 (2) 8.25 per cent on the [~~fair market rental value~~] for
7 the period beginning on January 1, 2016, to
8 December 31, 2016; and

9 (3) 9.25 per cent on the [~~fair market rental value~~] for
10 the period beginning on January 1, 2017, and
11 thereafter[];

12 on the gross rental or gross rental proceeds derived from
13 furnishing a resort time share vacation unit."

14 SECTION 6. Section 237D-7.5, Hawaii Revised Statutes, is
15 amended by its title and subsection (a) to read as follows:

16 "**§237D-7.5 Federal assessments; adjustments of gross**
17 **rental, or gross rental proceeds[~~, or fair market rental value~~];**
18 **report to the department.** (a) Any person required to report to
19 the department by section 235-101(b), also shall report to the
20 department any change, correction, adjustment, or recomputation
21 of gross rental, or gross rental proceeds[~~, or fair market~~



1 ~~rental value]~~ subject to the tax imposed by this chapter. This
2 report shall be made in the form of a return amending the
3 person's gross rental[~~7~~] or gross rental proceeds[~~7~~, ~~or fair~~
4 ~~market rental value]~~ as previously reported on a return filed
5 with the department for the taxable year. If no return has been
6 filed with the department for the taxable year, a return shall
7 be filed and shall take into account any change, correction,
8 adjustment, or recomputation of gross rental[~~7~~] or gross rental
9 proceeds[~~7~~, ~~or fair market rental value]~~."

10 SECTION 7. Section 237D-12, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§237D-12 Records to be kept; examination.** Every operator
13 and plan manager shall keep in the English language within the
14 State, and preserve for a period of three years, suitable
15 records of gross rental, or gross rental proceeds[~~7~~, ~~or fair~~
16 ~~market rental value]~~ relating to the business taxed under this
17 chapter, and such other books, records of account, and invoices
18 as may be required by the department, and all such books,
19 records, and invoices shall be open for examination at any time
20 by the department or the Multistate Tax Commission pursuant to
21 chapter 255, or the authorized representative thereof."



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1 SECTION 8. Section 237D-1, Hawaii Revised Statutes, is
2 amended by deleting the definition of "fair market rental
3 value":

4 [~~"Fair market rental value" means an amount equal to one-~~
5 ~~half of the gross daily maintenance fees that are paid by the~~
6 ~~owner and are attributable to the time share unit located in~~
7 ~~Hawaii. Gross daily maintenance fees include maintenance costs,~~
8 ~~operational costs, insurance, repair costs, administrative~~
9 ~~costs, taxes, other than transient accommodations taxes, resort~~
10 ~~fees, and other costs including payments required for reserves~~
11 ~~or sinking funds. Amounts paid for optional goods and services~~
12 ~~such as food and beverage services or beach chair or umbrella~~
13 ~~rentals shall be excluded from fair market rental value."]~~

14 PART III

15 SECTION 9. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 10. This Act shall take effect on July 1, 2021;
18 provided that part I shall take effect on July 1, 2022, and
19 shall be repealed on June 30, 2026.

20

INTRODUCED BY: _____

Amy Demaso

JAN 27 2021



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Report Title:

General Excise Taxes; Temporary Suspension; Exemption for Certain Persons and Gross Amounts; Transient Accommodations Tax; Resort Time Share Vacation Units

Description:

Suspends temporarily the exemptions for certain persons and certain amounts of gross income or proceeds from the general excise tax and requires the payment of both taxes at a four per cent rate. Specifies that the transient accommodations tax collected on resort time share vacation units shall be on the gross rental or gross rental proceeds. Part I effective 7/1/2022, and sunsets on 6/30/2026. Part II effective 7/1/2021.

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

