

JAN 20 2023

---

---

# 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 legislature finds that under the current  
2 general excise tax, there is an incongruity in the way medical  
3 service providers are treated. Medical services rendered at a  
4 nonprofit hospital, infirmary, or sanitarium are exempt from the  
5 general excise tax, while the same services rendered by  
6 individual or group practices or clinics are fully taxable.  
7 Presently, government programs such as medicare, medicaid, and  
8 TRICARE do not compensate for the difference created by the  
9 general excise tax, leading to some inconsistency in the  
10 economic impact to health care providers.

11           Accordingly, the purpose of this Act is to exempt medical  
12 service providers who receive medicare, medicaid, and TRICARE  
13 payments from the general excise tax to encourage cost-effective  
14 patient outcomes.

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



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, including
  - 5                 stevedoring services as defined in section 382-1,
  - 6                 whether or not the ships, barges, vessels, or
  - 7                 aircraft travel between the State and other
  - 8                 states or countries or between the islands of the
  - 9                 State;
  - 10          (B) Tugboat services including pilotage fees
  - 11                 performed within the State, and the towage of
  - 12                 ships, barges, or vessels in and out of state
  - 13                 harbors, or from one pier to another;
  - 14          (C) The transportation of pilots or governmental
  - 15                 officials to ships, barges, or vessels offshore;
  - 16                 rigging gear; checking freight and similar
  - 17                 services; standby charges; and use of moorings
  - 18                 and running mooring lines; and
  - 19          (D) Wharfage and demurrage imposed under chapter 266
  - 20                 that is paid to the department of transportation;



- 1           (4) Amounts received by an employee benefit plan by way of  
2           contributions, dividends, interest, and other income;  
3           and amounts received by a nonprofit organization or  
4           office, as payments for costs and expenses incurred  
5           for the administration of an employee benefit plan;  
6           provided that this exemption shall not apply to any  
7           gross rental income or gross rental proceeds received  
8           after June 30, 1994, as income from investments in  
9           real property in this State; and provided further that  
10          gross rental income or gross rental proceeds from  
11          investments in real property received by an employee  
12          benefit plan after June 30, 1994, under written  
13          contracts executed prior to July 1, 1994, shall not be  
14          taxed until the contracts are renegotiated, renewed,  
15          or extended, or until after December 31, 1998,  
16          whichever is earlier. For the purposes of this  
17          paragraph, "employee benefit plan" means any plan as  
18          defined in title 29 United States Code section  
19          1002(3), as amended;
- 20          (5) Amounts received for purchases made with United States  
21          Department of Agriculture food coupons under the



1 federal food stamp program, and amounts received for  
2 purchases made with United States Department of  
3 Agriculture food vouchers under the Special  
4 Supplemental Foods Program for Women, Infants and  
5 Children;

6 (6) Amounts received by a hospital, infirmary, medical  
7 clinic, health care facility, pharmacy, or a  
8 practitioner licensed to administer the drug to an  
9 individual for selling prescription drugs or  
10 prosthetic devices to an individual; provided that  
11 this paragraph shall not apply to any amounts received  
12 for services provided in selling prescription drugs or  
13 prosthetic devices. As used in this paragraph:

14 "Prescription drugs" are those drugs defined  
15 under section 328-1 and dispensed by filling or  
16 refilling a written or oral prescription by a  
17 practitioner licensed under law to administer the drug  
18 and sold by a licensed pharmacist under section 328-16  
19 or practitioners licensed to administer drugs;  
20 provided that "prescription drugs" shall not include



1           cannabis or manufactured cannabis products authorized  
2           pursuant to chapters 329 and 329D; and

3           "Prosthetic device" means any artificial device  
4           or appliance, instrument, apparatus, or contrivance,  
5           including their components, parts, accessories, and  
6           replacements thereof, used to replace a missing or  
7           surgically removed part of the human body, which is  
8           prescribed by a licensed practitioner of medicine,  
9           osteopathy, or podiatry and that is sold by the  
10          practitioner or that is dispensed and sold by a dealer  
11          of prosthetic devices; provided that "prosthetic  
12          device" shall not mean any auditory, ophthalmic,  
13          dental, or ocular device or appliance, instrument,  
14          apparatus, or contrivance;

15          (7) Taxes on transient accommodations imposed by chapter  
16          237D and passed on and collected by operators holding  
17          certificates of registration under that chapter;

18          (8) Amounts received as dues by an unincorporated  
19          merchants association from its membership for  
20          advertising media, promotional, and advertising costs  
21          for the promotion of the association for the benefit



1 of its members as a whole and not for the benefit of  
2 an individual member or group of members less than the  
3 entire membership;

4 (9) Amounts received by a labor organization for real  
5 property leased to:

6 (A) A labor organization; or

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

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

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



- 1           (11) Amounts received as rent for the rental or leasing of  
2           aircraft or aircraft engines used by the lessees or  
3           renters for interstate air transportation of  
4           passengers and goods. For purposes of this paragraph,  
5           payments made pursuant to a lease shall be considered  
6           rent regardless of whether the lease is an operating  
7           lease or a financing lease. The definition of  
8           "interstate air transportation" is the same as in 49  
9           U.S.C. section 40102[-]; and
- 10          (12) Amounts received by a hospital, infirmary, medical  
11          clinic, health care facility, pharmacy, or a medical  
12          practitioner for health care related goods or services  
13          purchased under the Medicare, Medicaid, or TRICARE  
14          program. For the purposes of this paragraph, the  
15          services need not be performed by a medical  
16          practitioner but may be performed by a physician's  
17          assistant, nurse, or other employee under the medical  
18          practitioner's direction. As used in this paragraph:
- 19          (A) "Medical practitioner" means a physician or  
20          osteopathic physician, licensed pursuant to  
21          chapter 453; an advanced practice registered





# S.B. NO. 1035

- 1            nurse licensed pursuant to chapter 457; or a  
2            pharmacist licensed pursuant to chapter 461;  
3            (B) "Medicaid" means the program established under  
4            Title XIX of the Social Security Act of 1935, as  
5            amended;  
6            (C) "Medicare" means the program established under  
7            Title XVIII of the Social Security Act of 1935,  
8            as amended; and  
9            (D) "TRICARE" means the program of the Department of  
10           Defense military health system managed by the  
11           Defense Health Agency, or any successor program."

12           SECTION 3. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14           SECTION 4. This Act, upon its approval, shall apply to  
15 taxable years beginning after December 31, 2023.

16

INTRODUCED BY: *Frankie & Anny*



# S.B. NO. 1035

**Report Title:**

General Excise Tax; Exemption; Medicare; Medicaid; TRICARE

**Description:**

Exempts medical services provided by health care providers to patients who receive Medicaid, Medicare, or TRICARE benefits from the general excise tax. Applies to taxable years beginning 1/1/2024.

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

