

JAN 18 2024

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 including 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 and dental service providers who receive medicare, medicaid, and
13 TRICARE payments from the general excise tax to encourage cost-
14 effective 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 or dental practitioner for health care related goods
13 or services purchased under the medicare, medicaid, or
14 TRICARE programs. For the purposes of this paragraph,
15 the health care related services need not be performed
16 by a medical or dental practitioner but may be
17 performed by a physician's assistant, nurse, or other
18 employee under the medical or dental practitioner's
19 direction. As used in this paragraph:



1 "Medicaid" means the program established under
2 Title XIX of the Social Security Act of 1935, as
3 amended;

4 "Medical or dental practitioner" means a
5 physician or osteopathic physician licensed pursuant
6 to chapter 453; a dentist licensed under chapter 448;
7 an advanced practice registered nurse licensed
8 pursuant to chapter 457; or a pharmacist licensed
9 pursuant to chapter 461;

10 "Medicare" means the program established under
11 Title XVIII of the Social Security Act of 1935, as
12 amended; and

13 "TRICARE" means the program of the Department of
14 Defense military health system managed by the Defense
15 Health Agency, or any successor program."

16 SECTION 3. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.



S.B. NO. 2169

1 SECTION 4. This Act shall take effect upon its approval
2 and shall apply to taxable years beginning after December 31,
3 2024.

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INTRODUCED BY: *Francis R. Lange*



S.B. NO. 2169

Report Title:

General Excise Tax; Medical and Dental Services; Exemption;
Medicare; Medicaid; TRICARE

Description:

Exempts medical and dental 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 after 12/31/2024.

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

