

---

---

# A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Section 235-2.3, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3 "(b) The following Internal Revenue Code subchapters,  
4 parts of subchapters, sections, subsections, and parts of  
5 subsections shall not be operative for the purposes of this  
6 chapter, unless otherwise provided:

7 (1) Subchapter A (sections 1 to 59A) (with respect to  
8 determination of tax liability), except section  
9 1(h)(2) (relating to net capital gain reduced by the  
10 amount taken into account as investment income),  
11 except sections 2(a), 2(b), and 2(c) (with respect to  
12 the definition of "surviving spouse" and "head of  
13 household"), except section 41 (with respect to the  
14 credit for increasing research activities), except  
15 section 42 (with respect to low-income housing  
16 credit), [~~except sections 47 and 48, as amended, as of~~  
17 ~~December 31, 1984 (with respect to certain depreciable~~



1 ~~tangible personal property),]~~ and except section  
 2 48(d) (3), as amended, as of February 17, 2009 (with  
 3 respect to the treatment of United States Department  
 4 of Treasury grants made under section 1603 of the  
 5 American Recovery and Reinvestment Tax Act of 2009).  
 6 For treatment, see sections 235-110.91 [~~235-110.7,~~]  
 7 and 235-110.8;

8 (2) Section 78 (with respect to dividends received from  
 9 certain foreign corporations by domestic corporations  
 10 choosing foreign tax credit);

11 (3) Section 86 (with respect to social security and tier 1  
 12 railroad retirement benefits);

13 (4) Section 91 (with respect to certain foreign branch  
 14 losses transferred to specified 10-percent owned  
 15 foreign corporations);

16 (5) Section 103 (with respect to interest on state and  
 17 local bonds). For treatment, see section 235-7(b);

18 (6) Section 114 (with respect to extraterritorial income).  
 19 For treatment, any transaction as specified in the  
 20 transitional rule for 2005 and 2006 as specified in  
 21 the American Jobs Creation Act of 2004 section 101(d)



- 1 and any transaction that has occurred pursuant to a  
2 binding contract as specified in the American Jobs  
3 Creation Act of 2004 section 101(f) are inoperative;
- 4 (7) Section 120 (with respect to amounts received under  
5 qualified group legal services plans). For treatment,  
6 see section 235-7(a) (9) to (11);
- 7 (8) Section 122 (with respect to certain reduced uniformed  
8 services retirement pay). For treatment, see  
9 section 235-7(a) (3);
- 10 (9) Section 135 (with respect to income from United States  
11 savings bonds used to pay higher education tuition and  
12 fees). For treatment, see section 235-7(a) (1);
- 13 (10) Section 139C (with respect to COBRA premium  
14 assistance);
- 15 (11) Subchapter B (sections 141 to 150) (with respect to  
16 tax exemption requirements for state and local bonds);
- 17 (12) Section 151 (with respect to allowance of deductions  
18 for personal exemptions). For treatment, see  
19 section 235-54;



- 1 (13) Section 179B (with respect to expensing of capital  
2 costs incurred in complying with Environmental  
3 Protection Agency sulphur regulations);
- 4 (14) Section 181 (with respect to special rules for certain  
5 film and television productions);
- 6 (15) Section 196 (with respect to deduction for certain  
7 unused investment credits);
- 8 (16) Section 199 (with respect to the U.S. production  
9 activities deduction);
- 10 (17) Section 199A (with respect to qualified business  
11 income);
- 12 (18) Section 222 (with respect to qualified tuition and  
13 related expenses);
- 14 (19) Sections 241 to 247 (with respect to special  
15 deductions for corporations). For treatment, see  
16 section 235-7(c);
- 17 (20) Section 250 (with respect to foreign-derived  
18 intangible income and global intangible low-taxed  
19 income);



- 1 (21) Section 267A (with respect to certain related party  
2 amounts paid or accrued in hybrid transactions or with  
3 hybrid entities);
- 4 (22) Section 280C (with respect to certain expenses for  
5 which credits are allowable). For treatment, see  
6 section 235-110.91;
- 7 (23) Section 291 (with respect to special rules relating to  
8 corporate preference items);
- 9 (24) Section 367 (with respect to foreign corporations);
- 10 (25) Section 501(c)(12), (15), (16) (with respect to exempt  
11 organizations); except that section 501(c)(12) shall  
12 be operative for companies that provide potable water  
13 to residential communities that lack any access to  
14 public utility water services;
- 15 (26) Section 515 (with respect to taxes of foreign  
16 countries and possessions of the United States);
- 17 (27) Subchapter G (sections 531 to 565) (with respect to  
18 corporations used to avoid income tax on  
19 shareholders);
- 20 (28) Subchapter H (sections 581 to 597) (with respect to  
21 banking institutions), except section 584 (with



- 1           respect to common trust funds). For treatment, see  
2           chapter 241;
- 3           (29) Section 642(a) and (b) (with respect to special rules  
4           for credits and deductions applicable to trusts). For  
5           treatment, see sections 235-54(b) and 235-55;
- 6           (30) Section 646 (with respect to tax treatment of electing  
7           Alaska Native settlement trusts);
- 8           (31) Section 668 (with respect to interest charge on  
9           accumulation distributions from foreign trusts);
- 10          (32) Subchapter L (sections 801 to 848) (with respect to  
11          insurance companies). For treatment, see sections  
12          431:7-202 and 431:7-204;
- 13          (33) Section 853 (with respect to foreign tax credit  
14          allowed to shareholders). For treatment, see  
15          section 235-55;
- 16          (34) Section 853A (with respect to credits from tax credit  
17          bonds allowed to shareholders);
- 18          (35) Subchapter N (sections 861 to 999) (with respect to  
19          tax based on income from sources within or without the  
20          United States), except sections 985 to 989 (with  
21          respect to foreign currency transactions). For



- 1 treatment, see sections 235-4, 235-5, and 235-7(b),  
2 and 235-55;
- 3 (36) Section 1042(g) (with respect to sales of stock in  
4 agricultural refiners and processors to eligible farm  
5 cooperatives);
- 6 (37) Section 1055 (with respect to redeemable ground  
7 rents);
- 8 (38) Section 1057 (with respect to election to treat  
9 transfer to foreign trust, etc., as taxable exchange);
- 10 (39) Sections 1291 to 1298 (with respect to treatment of  
11 passive foreign investment companies);
- 12 (40) Subchapter Q (sections 1311 to 1351) (with respect to  
13 readjustment of tax between years and special  
14 limitations), except for section 1341 (with respect to  
15 computation of tax where taxpayer restores substantial  
16 amount held under claim of right);
- 17 (41) Subchapter R (sections 1352 to 1359) (with respect to  
18 election to determine corporate tax on certain  
19 international shipping activities using per ton rate);
- 20 (42) Subchapter U (sections 1391 to 1397F) (with respect to  
21 designation and treatment of empowerment zones,



- 1 enterprise communities, and rural development  
2 investment areas). For treatment, see chapter 209E;  
3 (43) Subchapter W (sections 1400 to 1400C) (with respect to  
4 District of Columbia enterprise zone);  
5 (44) Section 14000 (with respect to education tax  
6 benefits);  
7 (45) Section 1400P (with respect to housing tax benefits);  
8 (46) Section 1400R (with respect to employment relief);  
9 (47) Section 1400T (with respect to special rules for  
10 mortgage revenue bonds);  
11 (48) Section 1400U-1 (with respect to allocation of  
12 recovery zone bonds);  
13 (49) Section 1400U-2 (with respect to recovery zone  
14 economic development bonds); and  
15 (50) Section 1400U-3 (with respect to recovery zone  
16 facility bonds)."

17 SECTION 2. Section 235-110.93, Hawaii Revised Statutes, is  
18 amended by amending subsection (d) to read as follows:

19 "(d) The cost upon which the tax credit is computed shall  
20 be determined at the entity level. In the case of a  
21 partnership, S corporation, estate, trust, or other pass through



1 entity, distribution and share of the credit shall be determined  
2 [~~pursuant to section 235-110.7(a).~~] by rule.

3 If a deduction is taken under section 179 (with respect to  
4 election to expense depreciable business assets) of the Internal  
5 Revenue Code, no tax credit shall be allowed for that portion of  
6 the qualified agricultural cost for which a deduction was taken.

7 The basis of eligible property for depreciation or  
8 accelerated cost recovery system purposes for state income taxes  
9 shall be reduced by the amount of credit allowable and claimed.  
10 No deduction shall be allowed for that portion of otherwise  
11 deductible qualified agricultural costs on which a credit is  
12 claimed under this section."

13 SECTION 3. Section 237-16.5, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 "**§237-16.5 Tax on written real property leases [~~;- deduction~~**  
16 **allowed]**. (a) This section relates to the leasing of real  
17 property by a lessor to a lessee. There is hereby levied, and  
18 shall be assessed and collected annually, a privilege tax  
19 against persons engaging or continuing within the State in the  
20 business of leasing real property to another, equal to four per  
21 cent of the gross proceeds or gross income received or derived



1 from the leasing[; ~~provided that where real property is~~  
2 ~~subleased by a lessee to a sublessee, the lessee, as provided in~~  
3 ~~this section, shall be allowed a deduction from the amount of~~  
4 ~~gross proceeds or gross income received from its sublease of the~~  
5 ~~real property. The deduction shall be in the amount allowed~~  
6 ~~under this section].~~

7 [All deductions under this section and the name and general  
8 excise tax number of the lessee's lessor shall be reported on  
9 the general excise tax return. Any deduction allowed under this  
10 section shall only be allowed with respect to leases and  
11 subleases in writing and relating to the same real property.

12 (b) ~~The lessee shall obtain from its lessor a certificate,~~  
13 ~~in the form as the department shall prescribe, certifying that~~  
14 ~~the lessor is subject to tax under this chapter on the gross~~  
15 ~~proceeds or gross income received from the lessee. The absence~~  
16 ~~of the certificate in itself shall give rise to the presumption~~  
17 ~~that the lessee is not allowed the deduction under this section.~~

18 (c) ~~If various real property or space leased to the lessee~~  
19 ~~have different rental values, then the total monetary gross~~  
20 ~~proceeds or gross income paid to a lessor for all real property~~  
21 ~~or space shall first be allocated to the fair rental value for~~



1 ~~each real property or space. If the lessee leases less than one~~  
2 ~~hundred per cent of real property or space that was leased from~~  
3 ~~the lessor to a sublessee, then the total monetary gross~~  
4 ~~proceeds or gross income paid by the lessee for that real~~  
5 ~~property or space to its lessor shall be allocated. The~~  
6 ~~percentage of real property or space subleased shall be~~  
7 ~~multiplied by the monetary gross proceeds or gross income paid~~  
8 ~~for the real property or space by the lessee to its lessor. The~~  
9 ~~product of the preceding multiplication shall be deducted from~~  
10 ~~the monetary gross proceeds or gross income received for real~~  
11 ~~property or space by the lessee.~~

12 ~~Once the allocations are made, the appropriate deduction~~  
13 ~~under subsection (g) shall be made.~~

14 ~~(d) The lessor shall make allocations under this section~~  
15 ~~at the time the sublease is entered into and the allocations~~  
16 ~~shall not be changed during the term of the sublease. There~~  
17 ~~shall be a reasonable basis for the allocations, taking into~~  
18 ~~consideration the size, quality, and location of the real~~  
19 ~~property or space subleased. In no event shall the total amount~~  
20 ~~allocated to all subleases exceed the total monetary gross~~  
21 ~~proceeds paid by the lessee to its lessor. The director may~~



1 ~~redetermine the amount of the deduction under this section if~~  
2 ~~the director finds that the basis for allocation is not~~  
3 ~~reasonable or that redetermination is necessary to prevent the~~  
4 ~~avoidance of taxes.~~

5 ~~(e)]~~ (b) As used in this section:

6 "Lease" means the rental of real property under an  
7 instrument in writing by which one conveys real property for a  
8 specified term and for a specified consideration, and includes  
9 the written extension or renegotiation of a lease, and any  
10 holdover tenancy.

11 "Lessee" means one who holds real property under lease, and  
12 includes a sublessee.

13 "Lessor" means one who conveys real property by lease, and  
14 includes a sublessor.

15 "Real property or space" means the area actually rented and  
16 used by the lessee, and includes common elements as defined in  
17 section 514B-3.

18 ~~["Sublease" includes the rental of real property which is~~  
19 ~~held under a lease and is made in a written document by which~~  
20 ~~one conveys real property for a specified term and for a~~  
21 ~~specified consideration. A sublease includes the written~~



1 ~~extension or renegotiation of a sublease and any holdover~~  
2 ~~tenancy under the written sublease.~~

3 ~~"Sublessee" means one who holds real property under a~~  
4 ~~sublease.~~

5 ~~"Sublessor" means one who conveys real property by~~  
6 ~~sublease.~~

7 ~~(f) This section shall not cause the tax upon a lessor,~~  
8 ~~with respect to any item of the lessor's gross proceeds or gross~~  
9 ~~income, to exceed four per cent.~~

10 ~~(g) After allocation under subsection (c), if necessary,~~  
11 ~~the deduction under this section shall be allowed from the gross~~  
12 ~~proceeds or gross income of the lessee received from its~~  
13 ~~sublease in an amount calculated by multiplying the gross~~  
14 ~~proceeds or gross income paid by the lessee to its lessor for~~  
15 ~~the lease of the real property by .875.~~

16 ~~The amount calculated shall be deducted by the lessee from~~  
17 ~~the lessee's total reported gross proceeds or gross income. The~~  
18 ~~deduction allowed by this subsection may be taken by the fiscal~~  
19 ~~and calendar year lessees.]"~~

20 SECTION 4. Section 237-22, Hawaii Revised Statutes, is  
21 amended by amending subsection (b) to read as follows:



1           "(b) To the extent that any deduction, allocation, or  
2 other method to determine tax liability is necessary to comply  
3 with subsection (a), each taxpayer liable for the tax imposed by  
4 this chapter shall be entitled to full offset for the amount of  
5 legally imposed sales, gross receipts, or use taxes paid by the  
6 taxpayer with respect to the imported property, service, or  
7 contracting to another state and any subdivision thereof;  
8 provided that such offset shall not exceed the amount of general  
9 excise tax imposed under this chapter upon the gross proceeds of  
10 sales or gross income from the sale and subsequent sale of the  
11 imported property, service, or contracting. The amount of  
12 legally imposed sales, gross receipts, or use taxes paid by the  
13 taxpayer with respect to the import shall be first applied  
14 against any use tax, as permitted under section [~~238-3(i),~~  
15 238-3(h)], and any remaining amount may be applied under this  
16 section for the same imported property, service, or contracting.

17           The director of taxation shall have the authority to  
18 implement this offset by prescribing tax forms and instructions  
19 that require tax reporting and payment by deduction, allocation,  
20 or any other method to determine tax liability to the extent  
21 necessary to comply with the foregoing.



1           The director of taxation may require the taxpayer to  
2 produce the necessary receipts or vouchers indicating the  
3 payment of the sales, gross receipts, or use taxes to another  
4 state or subdivision as a condition for the allowance of this  
5 offset."

6           SECTION 5. Section 237-24, Hawaii Revised Statutes, is  
7 amended to read as follows:

8           "**§237-24 Amounts not taxable.** This chapter shall not  
9 apply to the following amounts:

- 10           (1) Amounts received under life insurance policies and  
11           contracts paid by reason of the death of the insured;
- 12           (2) Amounts received (other than amounts paid by reason of  
13           death of the insured) under life insurance, endowment,  
14           or annuity contracts, either during the term or at  
15           maturity or upon surrender of the contract;
- 16           (3) Amounts received under any accident insurance or  
17           health insurance policy or contract or under workers'  
18           compensation acts or employers' liability acts, as  
19           compensation for personal injuries, death, or  
20           sickness, including also the amount of any damages or  
21           other compensation received, whether as a result of



- 1           action or by private agreement between the parties on  
2           account of the personal injuries, death, or sickness;
- 3           (4) The value of all property of every kind and sort  
4           acquired by gift, bequest, or devise, and the value of  
5           all property acquired by descent or inheritance;
- 6           (5) Amounts received by any person as compensatory damages  
7           for any tort injury to the person, or to the person's  
8           character reputation, or received as compensatory  
9           damages for any tort injury to or destruction of  
10          property, whether as the result of action or by  
11          private agreement between the parties (provided that  
12          amounts received as punitive damages for tort injury  
13          or breach of contract injury shall be included in  
14          gross income);
- 15          (6) Amounts received as salaries or wages for services  
16          rendered by an employee to an employer;
- 17          (7) Amounts received as alimony and other similar payments  
18          and settlements;
- 19          (8) Amounts collected by distributors as fuel taxes on  
20          "liquid fuel" imposed by chapter 243, and the amounts



- 1 collected by such distributors as a fuel tax imposed  
2 by any Act of the Congress of the United States;
- 3 (9) Taxes on liquor imposed by chapter 244D on dealers  
4 holding permits under that chapter;
- 5 (10) The amounts of taxes on cigarettes and tobacco  
6 products imposed by chapter 245 on wholesalers or  
7 dealers holding licenses under that chapter and  
8 selling the products at wholesale;
- 9 (11) Federal excise taxes imposed on articles sold at  
10 retail and collected from the purchasers thereof and  
11 paid to the federal government by the retailer;
- 12 (12) The amounts of federal taxes under chapter 37 of the  
13 Internal Revenue Code, or similar federal taxes,  
14 imposed on sugar manufactured in the State, paid by  
15 the manufacturer to the federal government;
- 16 (13) An amount up to, but not in excess of, \$2,000 a year  
17 of gross income received by any blind, deaf, or  
18 totally disabled person engaging, or continuing, in  
19 any business, trade, activity, occupation, or calling  
20 within the State; a corporation all of whose  
21 outstanding shares are owned by an individual or



1 individuals who are blind, deaf, or totally disabled;  
2 a general, limited, or limited liability partnership,  
3 all of whose partners are blind, deaf, or totally  
4 disabled; or a limited liability company, all of whose  
5 members are blind, deaf, or totally disabled;

6 ~~[(14) Amounts received by a producer of sugarcane from the~~  
7 ~~manufacturer to whom the producer sells the sugarcane,~~  
8 ~~where:~~

9 ~~(A) The producer is an independent cane farmer, so~~  
10 ~~classified by the Secretary of Agriculture under the~~  
11 ~~Sugar Act of 1948 (61 Stat. 922, chapter 519) as~~  
12 ~~the Act may be amended or supplemented;~~

13 ~~(B) The value or gross proceeds of sale of the sugar,~~  
14 ~~and other products manufactured from the~~  
15 ~~sugarcane, is included in the measure of the tax~~  
16 ~~levied on the manufacturer under section~~  
17 ~~237-13(1) or (2);~~

18 ~~(C) The producer's gross proceeds of sales are~~  
19 ~~dependent upon the actual value of the products~~  
20 ~~manufactured therefrom or the average value of~~



- 1           ~~all similar products manufactured by the~~  
2           ~~manufacturer; and~~
- 3           ~~(D) The producer's gross proceeds of sales are~~  
4           ~~reduced by reason of the tax on the value or sale~~  
5           ~~of the manufactured products;~~
- 6       ~~(15)]~~ (14) Money paid by the State or eleemosynary  
7           child-placing organizations to foster parents for  
8           their care of children in foster homes;
- 9       ~~[(16)]~~ (15) Amounts received by a cooperative housing  
10           corporation from its shareholders in reimbursement of  
11           funds paid by such corporation for lease rental, real  
12           property taxes, and other expenses of operating and  
13           maintaining the cooperative land and improvements;  
14           provided that such a cooperative corporation is a  
15           corporation:
- 16           (A) Having one and only one class of stock  
17           outstanding;
- 18           (B) Each of the stockholders of which is entitled  
19           solely by reason of the stockholder's ownership  
20           of stock in the corporation, to occupy for



1 dwelling purposes a house, or an apartment in a  
2 building owned or leased by the corporation; and  
3 (C) No stockholder of which is entitled (either  
4 conditionally or unconditionally) to receive any  
5 distribution not out of earnings and profits of  
6 the corporation except in a complete or partial  
7 liquidation of the corporation; and

8 ~~[(17)]~~ (16) Amounts received by a contractor of the  
9 Patient-Centered Community Care program that is  
10 established by the United States Department of  
11 Veterans Affairs pursuant to title 38 United States  
12 Code section 8153, as amended, for the actual costs or  
13 advancements to third party health care providers  
14 pursuant to a contract with the United States."

15 SECTION 6. Section 237-24.3, Hawaii Revised Statutes, is  
16 amended to read as follows:

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

20 ~~[(1)]~~ Amounts received from the loading, transportation, and  
21 unloading of agricultural commodities shipped for a



1 ~~producer or produce dealer on one island of this State~~  
2 ~~to a person, firm, or organization on another island~~  
3 ~~of this State. The terms "agricultural commodity",~~  
4 ~~"producer", and "produce dealer" shall be defined in~~  
5 ~~the same manner as they are defined in section 147-1;~~  
6 ~~provided that agricultural commodities need not have~~  
7 ~~been produced in the State;~~

8 ~~(2)]~~ (1) Amounts received by the manager, submanager, or  
9 board of directors of:

10 (A) An association of a condominium property regime  
11 established in accordance with chapter 514B or  
12 any predecessor thereto; or

13 (B) A nonprofit homeowners or community association  
14 incorporated in accordance with chapter 414D or  
15 any predecessor thereto and existing pursuant to  
16 covenants running with the land,

17 in reimbursement of sums paid for common expenses;

18 ~~[(3)]~~ (2) Amounts received or accrued from:

19 (A) The loading or unloading of cargo from ships,  
20 barges, vessels, or aircraft, including  
21 stevedoring services as defined in section 382-1,



1           whether or not the ships, barges, vessels, or  
2           aircraft travel between the State and other  
3           states or countries or between the islands of the  
4           State;

5           (B) Tugboat services including pilotage fees  
6           performed within the State, and the towage of  
7           ships, barges, or vessels in and out of state  
8           harbors, or from one pier to another;

9           (C) The transportation of pilots or governmental  
10          officials to ships, barges, or vessels offshore;  
11          rigging gear; checking freight and similar  
12          services; standby charges; and use of moorings  
13          and running mooring lines; and

14          (D) Wharfage and demurrage imposed under chapter 266  
15          that is paid to the department of transportation;

16          [~~(4)~~] (3) Amounts received by an employee benefit plan by  
17          way of contributions, dividends, interest, and other  
18          income; and amounts received by a nonprofit  
19          organization or office, as payments for costs and  
20          expenses incurred for the administration of an  
21          employee benefit plan; provided that this exemption



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

14 [~~5~~] (4) Amounts received for purchases made with United  
15 States Department of Agriculture food coupons under  
16 the federal food stamp program, and amounts received  
17 for purchases made with United States Department of  
18 Agriculture food vouchers under the Special  
19 Supplemental Foods Program for Women, Infants and  
20 Children;



1        [~~(6)~~] (5) Amounts received by a hospital, infirmary,  
2                    medical clinic, health care facility, pharmacy, or a  
3                    practitioner licensed to administer the drug to an  
4                    individual for selling prescription drugs or  
5                    prosthetic devices to an individual; provided that  
6                    this paragraph shall not apply to any amounts received  
7                    for services provided in selling prescription drugs or  
8                    prosthetic devices. As used in this paragraph:

9                    "Prescription drugs" are those drugs defined  
10                    under section 328-1 and dispensed by filling or  
11                    refilling a written or oral prescription by a  
12                    practitioner licensed under law to administer the drug  
13                    and sold by a licensed pharmacist under section 328-16  
14                    or practitioners licensed to administer drugs;  
15                    provided that "prescription drugs" shall not include  
16                    cannabis or manufactured cannabis products authorized  
17                    pursuant to chapters 329 and 329D; and

18                    "Prosthetic device" means any artificial device  
19                    or appliance, instrument, apparatus, or contrivance,  
20                    including their components, parts, accessories, and  
21                    replacements thereof, used to replace a missing or



1 surgically removed part of the human body, which is  
2 prescribed by a licensed practitioner of medicine,  
3 osteopathy, or podiatry and that is sold by the  
4 practitioner or that is dispensed and sold by a dealer  
5 of prosthetic devices; provided that "prosthetic  
6 device" shall not mean any auditory, ophthalmic,  
7 dental, or ocular device or appliance, instrument,  
8 apparatus, or contrivance;

9 ~~[-7-]~~ (6) Taxes on transient accommodations imposed by  
10 chapter 237D and passed on and collected by operators  
11 holding certificates of registration under that  
12 chapter;

13 ~~[-8-]~~ (7) Amounts received as dues by an unincorporated  
14 merchants association from its membership for  
15 advertising media, promotional, and advertising costs  
16 for the promotion of the association for the benefit  
17 of its members as a whole and not for the benefit of  
18 an individual member or group of members less than the  
19 entire membership;

20 ~~[-9-]~~ (8) Amounts received by a labor organization for real  
21 property leased to:



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

8 As used in this paragraph, "labor organization" means

9 a labor organization exempt from federal income tax

10 under section 501(c)(5) of the Internal Revenue Code,

11 as amended;

12 ~~[-(10)]~~ (9) Amounts received from foreign diplomats and

13 consular officials who are holding cards issued or

14 authorized by the United States Department of State

15 granting them an exemption from state taxes; and

16 ~~[-(11)]~~ ~~Amounts received as rent for the rental or leasing of~~

17 ~~aircraft or aircraft engines used by the lessees or~~

18 ~~renters for interstate air transportation of~~

19 ~~passengers and goods. For purposes of this paragraph,~~

20 ~~payments made pursuant to a lease shall be considered~~

21 ~~rent regardless of whether the lease is an operating~~



~~lease or a financing lease. The definition of  
"interstate air transportation" is the same as in 49  
U.S.C. section 40102; and~~

~~(12)]~~ (10) Amounts received by a hospital, infirmary,  
medical clinic, health care facility, or pharmacy, or  
a medical or dental practitioner, for  
healthcare-related goods or services purchased under  
the medicare, medicaid, or TRICARE programs. For the  
purposes of this paragraph, the healthcare-related  
services need not be performed by a medical or dental  
practitioner but may be performed by a physician's  
assistant, nurse, or other employee under the medical  
or dental practitioner's direction. As used in this  
paragraph:

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

"Medical or dental practitioner" means a  
physician or osteopathic physician licensed pursuant  
to chapter 453; a dentist licensed under chapter 448;  
an advanced practice registered nurse licensed



1           pursuant to chapter 457; or a pharmacist licensed  
2           pursuant to chapter 461;

3                   "Medicare" means the program established under  
4           Title XVIII of the Social Security Act of 1935, as  
5           amended; and

6                   "TRICARE" means the program of the Department of  
7           Defense military health system managed by the Defense  
8           Health Agency, or any successor program."

9           SECTION 7. Section 237-25, Hawaii Revised Statutes, is  
10   amended by amending subsection (a) to read as follows:

11           "(a) Any provision of law to the contrary notwithstanding,  
12   there shall be exempted from, and excluded from the measures of,  
13   the tax imposed by chapter 237 all sales, and the gross proceeds  
14   of all sales, of:

15           (1) Intoxicating liquor, as defined in chapter 281,  
16           hereafter sold by any person licensed under chapter  
17           281 to the United States (including any agency or  
18           instrumentality of the United States that is wholly  
19           owned or otherwise so constituted as to be immune from  
20           the levy of a tax under chapter 238 or 244D but not  
21           including national banks), or to any organization to



1 which that sale is permitted by the proviso of  
2 "Class 3" of section 281-31, located on any Army,  
3 Navy, or Air Force reservation, but the person making  
4 the sale shall nevertheless, within the meaning of  
5 chapters 237, 244D, and 281 be deemed to be a licensed  
6 seller;

7 (2) Tobacco products and cigarettes, as defined in chapter  
8 245, sold by any person licensed under the chapter to  
9 the United States (including any agency or  
10 instrumentality thereof that is wholly owned or  
11 otherwise so constituted as to be immune from the levy  
12 of a tax under chapter 238 or 245 but not including  
13 national banks), but the person making the sale shall  
14 nevertheless, within the meaning of chapters 237 and  
15 245, be deemed to be a licensed seller;

16 ~~[(3) Other tangible personal property sold by any person~~  
17 ~~licensed under this chapter to the United States~~  
18 ~~(including any agency, instrumentality, or federal~~  
19 ~~credit union thereof but not including national~~  
20 ~~banks), and to any state chartered credit union, but~~  
21 ~~the person making such sale shall nevertheless, within~~



1           ~~the meaning of this chapter, be deemed a licensed~~  
2           ~~seller,~~] and  
3        ~~[-(4)]~~ (3) When the amount of property sold by a licensee  
4           turns upon the amount of the property sold through a  
5           vending machine or similar device to the customer  
6           using the device, there shall not be deemed to have  
7           occurred any sale covered by an exemption under  
8           paragraph (1) [~~7~~] or (2) [~~7~~ ~~or~~ ~~(3)~~]."

9           SECTION 8. Section 237-29.5, Hawaii Revised Statutes, is  
10        amended by amending subsection (a) to read as follows:

11           "(a) There shall be exempted from, and excluded from the  
12        measure of, the taxes imposed by this chapter all of the value  
13        or gross proceeds arising from the manufacture, production, or  
14        sale of tangible personal property:

15           (1) Shipped by the manufacturer, producer, or seller to a  
16           point outside the State where the property is resold  
17           or otherwise consumed or used outside the State; or  
18           (2) The sale of which is exempt under section  
19           ~~[237-24.3(2)-.]~~ 237-24.3(1)."

20           SECTION 9. Section 238-1, Hawaii Revised Statutes, is  
21        amended by amending the definition of "use" to read as follows:



1        ""Use" (and any nounal, verbal, adjectival, adverbial, and  
2 other equivalent form of the term) herein used interchangeably  
3 means any use, whether the use is of such nature as to cause the  
4 property, services, or contracting to be appreciably consumed or  
5 not, or the keeping of the property or services for such use or  
6 for sale, the exercise of any right or power over tangible or  
7 intangible personal property incident to the ownership of that  
8 property, and shall include control over tangible or intangible  
9 property by a seller who is licensed or who should be licensed  
10 under chapter 237, who directs the importation of the property  
11 into the State for sale and delivery to a purchaser in the  
12 State, liability and free on board (FOB) to the contrary  
13 notwithstanding, regardless of where title passes, but the term  
14 "use" shall not include:

15        (1) Temporary use of property, not of a perishable or  
16            quickly consumable nature, where the property is  
17            imported into the State for temporary use (not sale)  
18            therein by the person importing the same and is not  
19            intended to be, and is not, kept permanently in the  
20            State. For example, without limiting the generality  
21            of the foregoing language:



- 1 (A) In the case of a contractor importing permanent
- 2 equipment for the performance of a construction
- 3 contract, with intent to remove, and who does
- 4 remove, the equipment out of the State upon
- 5 completing the contract;
- 6 (B) In the case of moving picture films imported for
- 7 use in theaters in the State with intent or under
- 8 contract to transport the same out of the State
- 9 after completion of such use; and
- 10 (C) In the case of a transient visitor importing an
- 11 automobile or other belongings into the State to
- 12 be used by the transient visitor while therein
- 13 but which are to be used and are removed upon the
- 14 transient visitor's departure from the State;
- 15 (2) Use by the taxpayer of property acquired by the
- 16 taxpayer solely by way of gift;
- 17 (3) Use which is limited to the receipt of articles and
- 18 the return thereof, to the person from whom acquired,
- 19 immediately or within a reasonable time either after
- 20 temporary trial or without trial;



- 1           (4) Use of goods imported into the State by the owner of a  
2           vessel or vessels engaged in interstate or foreign  
3           commerce and held for and used only as ship stores for  
4           the vessels;
- 5           (5) The use or keeping for use of household goods,  
6           personal effects, and private automobiles imported  
7           into the State for nonbusiness use by a person who:  
8           (A) Acquired them in another state, territory,  
9           district, or country;
- 10           (B) At the time of the acquisition was a bona fide  
11           resident of another state, territory, district,  
12           or country;
- 13           (C) Acquired the property for use outside the State;  
14           and
- 15           (D) Made actual and substantial use thereof outside  
16           this State;
- 17           provided that as to an article acquired less than  
18           three months prior to the time of its importation into  
19           the State it shall be presumed, until and unless  
20           clearly proved to the contrary, that it was acquired



1 for use in the State and that its use outside the  
2 State was not actual and substantial;

3 ~~[(6) The leasing or renting of any aircraft or the keeping~~  
4 ~~of any aircraft solely for leasing or renting to~~  
5 ~~lessees or renters using the aircraft for commercial~~  
6 ~~transportation of passengers and goods or the~~  
7 ~~acquisition or importation of any such aircraft or~~  
8 ~~aircraft engines by any lessee or renter engaged in~~  
9 ~~interstate air transportation. For purposes of this~~  
10 ~~paragraph, "leasing" includes all forms of lease,~~  
11 ~~regardless of whether the lease is an operating lease~~  
12 ~~or financing lease. The definition of "interstate air~~  
13 ~~transportation" is the same as in 49 U.S.C. 40102;~~

14 ~~-(7)]~~ (6) The use of oceangoing vehicles for passenger or  
15 passenger and goods transportation from one point to  
16 another within the State as a public utility as  
17 defined in chapter 269;

18 ~~[(8) The use of material, parts, or tools imported or~~  
19 ~~purchased by a person licensed under chapter 237 which~~  
20 ~~are used for aircraft service and maintenance, or the~~  
21 ~~construction of an aircraft service and maintenance~~



1 ~~facility as those terms are defined in section~~  
2 ~~237-24.9;~~  
3 ~~(9)]~~ (7) The use of services or contracting imported for  
4 resale where the contracting or services are for  
5 resale, consumption, or use outside the State pursuant  
6 to section 237-29.53(a); and  
7 ~~[(10)]~~ (8) The use of property, services, or contracting  
8 imported by foreign diplomats and consular officials  
9 who are holding cards issued or authorized by the  
10 United States Department of State granting them an  
11 exemption from state taxes.

12 With regard to purchases made and distributed under the  
13 authority of chapter 421, a cooperative association shall be  
14 deemed the user thereof."

15 SECTION 10. Section 238-3, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "**§238-3 Application of tax, etc.** (a) The tax imposed by  
18 this chapter shall not apply to any property, services, or  
19 contracting or to any use of the property, services, or  
20 contracting that cannot legally be so taxed under the  
21 Constitution or laws of the United States, but only so long as,



1 and only to the extent to which the State is without power to  
2 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 from the tax under this chapter,  
7 property, services, or contracting or the use of  
8 property, services, or contracting exempted under  
9 chapter 237; or

10 (2) Apportion the gross value of services or contracting  
11 sold to customers within the State by persons engaged  
12 in business both within and without the State to  
13 determine the value of that portion of the services or  
14 contracting that is subject to taxation under chapter  
15 237 for the purposes of section 237-21.

16 (b) The tax imposed by this chapter shall not apply to any  
17 use of property, services, or contracting the transfer of which  
18 property, services, or contracting to, or the acquisition of  
19 which by, the person so using the same, has actually been or  
20 actually is taxed under chapter 237.



1 (c) The tax imposed by this chapter shall be paid only  
2 once upon or in respect of the same property, services, or  
3 contracting; provided that nothing in this chapter contained  
4 shall be construed to exempt any property, services, or  
5 contracting, or the use thereof from taxation under any other  
6 law of the State.

7 (d) The tax imposed by this chapter shall be in addition  
8 to any other taxes imposed by any other laws of the State,  
9 except as otherwise specifically provided herein; provided that  
10 if it be finally held by any court of competent jurisdiction,  
11 that the tax imposed by this chapter may not legally be imposed  
12 in addition to any other tax or taxes imposed by any other law  
13 or laws with respect to the same property, services, or  
14 contracting, or the use thereof, then this chapter shall be  
15 deemed not to apply to the property, services, or contracting,  
16 or the use thereof under such specific circumstances, but such  
17 other laws shall be given full effect with respect to the  
18 property, services, or contracting, or use.

19 (e) The tax imposed by this chapter shall not apply to any  
20 use of property exempted by section 238-4.



1 (f) The tax imposed by this chapter shall not apply to any  
2 use or consumption of aircraft and vessels, the transfer of  
3 which aircraft or vessel to, or the acquisition of which by, the  
4 person so using or consuming the same, or the rental for the use  
5 of the aircraft or vessel, has actually been or actually is  
6 taxed under chapter 237.

7 (g) The tax imposed by this chapter shall not apply to any  
8 intoxicating liquor as defined in chapter 244D and cigarettes  
9 and tobacco products as defined in chapter 245, imported into  
10 the State and sold to any person or common carrier in interstate  
11 commerce, whether ocean-going or air, for consumption  
12 out-of-state by the person, crew, or passengers on the shipper's  
13 vessels or airplanes.

14 ~~[(h) The tax imposed by this chapter shall not apply to~~  
15 ~~any use of vessels constructed under section 189-25 prior to~~  
16 ~~July 1, 1969.~~

17 ~~(i)]~~ (h) Each taxpayer liable for the tax imposed by this  
18 chapter on property, services, or contracting shall be entitled  
19 to full credit for the combined amount or amounts of legally  
20 imposed sales or use taxes paid by the taxpayer with respect to  
21 the same transaction and property, services, or contracting to



1 another state and any subdivision thereof, but the credit shall  
2 not exceed the amount of the use tax imposed under this chapter  
3 on account of the transaction and property, services, or  
4 contracting. The director of taxation may require the taxpayer  
5 to produce the necessary receipts or vouchers indicating the  
6 payment of the sales or use tax to another state or subdivision  
7 as a condition for the allowance of the credit.

8       ~~[(j)]~~ (i) The tax imposed by this chapter shall not apply  
9 to any use of property, services, or contracting exempted by  
10 section 237-26 or section 237-29.

11       ~~[(k) The tax imposed by this chapter shall not apply to  
12 any use of air pollution control facility exempted by section  
13 237-27.5.]"~~

14       SECTION 11. Section 421H-4, Hawaii Revised Statutes, is  
15 amended by amending subsection (c) to read as follows:

16       "(c) The membership shares and cooperative fees are  
17 interests in real property for purposes of:

18       (1) Cooperative housing corporations under section 216 of  
19 the federal Internal Revenue Code of 1954, as amended;  
20 and



1 (2) Exemption from state general excise tax under section  
2 [237-24(16).] 237-24(15)."

3 SECTION 12. Section 209E-11, Hawaii Revised Statutes, is  
4 repealed.

5 [~~"§209E-11 State general excise exemptions. The~~  
6 ~~department shall certify annually to the department of taxation~~  
7 ~~that any qualified business is exempt from the payment of~~  
8 ~~general excise taxes on the gross proceeds from an eligible~~  
9 ~~business activity as defined in this chapter; provided that~~  
10 ~~agricultural businesses other than those engaged in the~~  
11 ~~production of genetically engineered agricultural products shall~~  
12 ~~not be exempt from the payment of general excise taxes on the~~  
13 ~~gross proceeds of agricultural retail sales. The gross proceeds~~  
14 ~~received by a contractor licensed under chapter 444 shall be~~  
15 ~~exempt from the general excise tax for construction within an~~  
16 ~~enterprise zone performed for a qualified business within an~~  
17 ~~enterprise zone or a business that has been approved by the~~  
18 ~~department to enroll into the enterprise zone program. The~~  
19 ~~exemption shall extend for a period not to exceed seven years;~~  
20 ~~provided that for qualified businesses engaged in the~~  
21 ~~manufacturing of tangible personal property or the producing or~~



1 ~~processing of agricultural products, the exemption shall extend~~  
2 ~~for a period not to exceed ten years; provided further that if a~~  
3 ~~force majeure event occurs, then the period of time shall be~~  
4 ~~tolled until the force majeure event ceases." ]~~

5 SECTION 13. Section 235-110.7, Hawaii Revised Statutes, is  
6 repealed.

7 [~~§235-110.7 Capital goods excise tax credit.~~ (a) There  
8 shall be allowed to each taxpayer subject to the tax imposed by  
9 this chapter a capital goods excise tax credit, which shall be  
10 deductible from the taxpayer's net income tax liability, if any,  
11 imposed by this chapter for the taxable year in which the credit  
12 is properly claimed.

13 ~~The amount of the tax credit shall be four per cent of the~~  
14 ~~cost of the eligible depreciable tangible personal property used~~  
15 ~~by the taxpayer in a trade or business and placed in service~~  
16 ~~within Hawaii after December 31, 2009.~~

17 ~~In the case of a partnership, S corporation, estate, or~~  
18 ~~trust, the tax credit allowable is for eligible depreciable~~  
19 ~~tangible personal property that is placed in service by the~~  
20 ~~entity. The cost upon which the tax credit is computed shall be~~



1 ~~determined at the entity level. Distribution and share of~~  
2 ~~credit shall be determined by rules.~~

3 ~~In the case of eligible depreciable tangible personal~~  
4 ~~property for which a credit for sales or use taxes paid to~~  
5 ~~another state is allowable under section 238-3(i), the amount of~~  
6 ~~the tax credit allowed under this section shall not exceed the~~  
7 ~~amount of use tax actually paid under chapter 238 relating to~~  
8 ~~the tangible personal property.~~

9 ~~If a deduction is taken under section 179 (with respect to~~  
10 ~~election to expense certain depreciable business assets) of the~~  
11 ~~Internal Revenue Code of 1954, as amended, no tax credit shall~~  
12 ~~be allowed for that portion of the cost of property for which~~  
13 ~~the deduction was taken.~~

14 ~~(b) If the capital goods excise tax credit allowed under~~  
15 ~~subsection (a) exceeds the taxpayer's net income tax liability,~~  
16 ~~the excess of credit over liability shall be refunded to the~~  
17 ~~taxpayer; provided that no refunds or payment on account of the~~  
18 ~~tax credit allowed by this section shall be made for amounts~~  
19 ~~less than \$1.~~

20 ~~All claims for tax credits under this section, including~~  
21 ~~any amended claims, must be filed on or before the end of the~~



1 ~~twelfth month following the close of the taxable year for which~~  
2 ~~the credits may be claimed. Failure to comply with the~~  
3 ~~foregoing provision shall constitute a waiver of the right to~~  
4 ~~claim the credit.~~

5 ~~(c) Application for the capital goods excise tax credit~~  
6 ~~shall be upon forms provided by the department of taxation.~~

7 ~~(d) Sections 47 (with respect to dispositions of section~~  
8 ~~38 property and the recapture percentages) of the Internal~~  
9 ~~Revenue Code of 1954, as amended, as of December 31, 1984, and~~  
10 ~~280F as operative for this chapter (with respect to limitation~~  
11 ~~on investment tax credit and depreciation for luxury~~  
12 ~~automobiles; limitation where certain property used for personal~~  
13 ~~purposes) of the Internal Revenue Code of 1954, as amended,~~  
14 ~~shall be operative for purposes of this section.~~

15 ~~(e) As used in this section, the definition of section 38~~  
16 ~~property (with respect to investment in depreciable tangible~~  
17 ~~personal property) as defined by section 48(a)(1)(A), (a)(1)(B),~~  
18 ~~(a)(3), (a)(4), (a)(7), (a)(8), (a)(10)(A), (b), (c), (f), (l),~~  
19 ~~(m), and (s) of the Internal Revenue Code of 1954, as amended as~~  
20 ~~of December 31, 1984, is operative for the purposes of this~~  
21 ~~section only.~~



1 ~~(f) As used in this section:~~

2 ~~"Cost" means the:~~

3 ~~(1) Actual invoice price of the tangible personal~~  
4 ~~property; or~~

5 ~~(2) Basis from which depreciation is taken under section~~  
6 ~~167 (with respect to depreciation) or from which a~~  
7 ~~deduction may be taken under section 168 (with respect~~  
8 ~~to accelerated cost recovery system) of the Internal~~  
9 ~~Revenue Code of 1954, as amended,~~

10 ~~whichever is less.~~

11 ~~"Eligible depreciable tangible personal property" is~~  
12 ~~section 38 property as defined by the operative provisions of~~  
13 ~~section 48 and having a depreciable life under section 167 or~~  
14 ~~for which a deduction may be taken under section 168 of the~~  
15 ~~Internal Revenue Code of 1954, as amended.~~

16 ~~"Placed in service" means the earliest of the following~~  
17 ~~taxable years:~~

18 ~~(1) The taxable year in which, under the:~~

19 ~~(A) Taxpayer's depreciation practice, the period for~~  
20 ~~depreciation; or~~





1 ~~renewable fuels production tax credit that shall be applied to~~  
2 ~~the taxpayer's net income tax liability, if any, imposed by this~~  
3 ~~chapter for the taxable year in which the credit is properly~~  
4 ~~claimed.~~

5 ~~For each taxpayer producing renewable fuels, the annual~~  
6 ~~dollar amount of the renewable fuels production tax credit~~  
7 ~~during the ten-year credit period shall be equal to 20 cents per~~  
8 ~~seventy-six thousand British thermal units of renewable fuels~~  
9 ~~using the lower heating value sold for distribution in the~~  
10 ~~State; provided that the taxpayer's production of renewable~~  
11 ~~fuels is not less than two billion five hundred million British~~  
12 ~~thermal units of renewable fuels per calendar year; provided~~  
13 ~~further that the amount of the tax credit claimed under this~~  
14 ~~section by a taxpayer shall not exceed \$3,500,000 per taxable~~  
15 ~~year; provided further that the tax credit shall only be claimed~~  
16 ~~for fuels with lifecycle emissions below that of fossil fuels.~~  
17 ~~No other tax credit may be claimed under this chapter for the~~  
18 ~~costs incurred to produce the renewable fuels that are used to~~  
19 ~~properly claim a tax credit under this section for the taxable~~  
20 ~~year.~~



1       ~~Each taxpayer, together with all of its related entities as~~  
2 ~~determined under section 267(b) of the Internal Revenue Code and~~  
3 ~~all business entities under common control, as determined under~~  
4 ~~sections 414(b), 414(c), and 1563(a) of the Internal Revenue~~  
5 ~~Code, shall not be eligible for more than a single ten year~~  
6 ~~credit period.~~

7       ~~(b) In the case of a partnership, S corporation, estate,~~  
8 ~~or trust, distribution and share of the renewable fuels~~  
9 ~~production tax credit shall be determined pursuant to section~~  
10 ~~704(b) (with respect to a partner's distributive share) of the~~  
11 ~~Internal Revenue Code of 1986, as amended. For a fiscal year~~  
12 ~~taxpayer, the taxpayer shall report the credit in the taxable~~  
13 ~~year in which the calendar year end is included.~~

14       ~~(c) No later than thirty days following the close of the~~  
15 ~~calendar year, every taxpayer claiming a credit under this~~  
16 ~~section shall complete and file an independent, third party~~  
17 ~~certified statement, at the taxpayer's sole expense, with and in~~  
18 ~~the form prescribed by the Hawaii state energy office, providing~~  
19 ~~the following information:~~

20       ~~(1) The type, quantity, and British thermal unit value,~~  
21       ~~using the lower heating value, of each qualified fuel,~~



- 1 ~~broken down by the type of fuel, produced and sold~~  
2 ~~during the previous calendar year;~~
- 3 ~~(2) The feedstock used for each type of qualified fuel;~~
- 4 ~~(3) The proposed total amount of credit to which the~~  
5 ~~taxpayer is entitled for each calendar year and the~~  
6 ~~cumulative amount of the tax credit the taxpayer~~  
7 ~~received during the credit period;~~
- 8 ~~(4) The number of full-time and number of part-time~~  
9 ~~employees of the facility and those employees' states~~  
10 ~~of residency, totaled per state;~~
- 11 ~~(5) The number and location of all renewable fuel~~  
12 ~~production facilities within and outside of the State;~~  
13 ~~and~~
- 14 ~~(6) The lifecycle greenhouse gas emissions per British~~  
15 ~~thermal units for each type of qualified fuel~~  
16 ~~produced.~~
- 17 ~~(d) Within thirty calendar days after the due date of the~~  
18 ~~statement required under subsection (c), the Hawaii state energy~~  
19 ~~office shall:~~
- 20 ~~(1) Acknowledge, in writing, receipt of the statement;~~



1       ~~(2) Issue a certificate to the taxpayer reporting the~~  
2           ~~amount of renewable fuels produced and sold, the~~  
3           ~~amount of credit that the taxpayer is entitled to~~  
4           ~~claim for the previous calendar year, and the~~  
5           ~~cumulative amount of the tax credit during the credit~~  
6           ~~period; and~~

7       ~~(3) Provide the taxpayer with a determination of whether~~  
8           ~~the lifecycle greenhouse gas emissions for each type~~  
9           ~~of qualified fuel produced is lower than that of~~  
10          ~~fossil fuels.~~

11       ~~(e) The taxpayer shall file the certificate issued under~~  
12       ~~subsection (d) with the taxpayer's tax return with the~~  
13       ~~department of taxation. The director of taxation may audit and~~  
14       ~~adjust the certification to conform to the facts.~~

15       ~~(f) The total amount of tax credits allowed under this~~  
16       ~~section shall not exceed \$20,000,000 for all eligible taxpayers~~  
17       ~~in any calendar year. In the event that the credit claims under~~  
18       ~~this section exceed \$20,000,000 for all eligible taxpayers in~~  
19       ~~any given calendar year, the \$20,000,000 shall be divided~~  
20       ~~between all eligible taxpayers for that year in proportion to~~  
21       ~~the total amount of renewable fuels produced by all eligible~~



1 ~~taxpayers. Upon reaching \$20,000,000 in the aggregate, the~~  
2 ~~Hawaii state energy office shall immediately discontinue issuing~~  
3 ~~certificates and notify the department of taxation. In no~~  
4 ~~instance shall the total dollar amount of certificates issued~~  
5 ~~exceed \$20,000,000 per calendar year.~~

6 ~~(g) Notwithstanding any other law to the contrary, the~~  
7 ~~information collected and compiled by the Hawaii state energy~~  
8 ~~office under subsections (c) and (d) for the purposes of the~~  
9 ~~renewable fuels production tax credit shall be available for~~  
10 ~~public inspection and dissemination, subject to chapter 92F.~~

11 ~~(h) If the credit under this section exceeds the~~  
12 ~~taxpayer's net income tax liability, the excess of the credit~~  
13 ~~over liability may be used as a credit against the taxpayer's~~  
14 ~~net income tax liability in subsequent years until exhausted,~~  
15 ~~unless otherwise elected by the taxpayer pursuant to subsections~~  
16 ~~(i) or (j). All claims for a credit under this section shall be~~  
17 ~~properly filed on or before the end of the twelfth month~~  
18 ~~following the close of the taxable year for which the credit may~~  
19 ~~be claimed. Failure to comply with the foregoing provision or~~  
20 ~~to provide the certified statement required under subsection (c)~~  
21 ~~shall constitute a waiver of the right to claim the credit.~~



1       ~~(i) A taxpayer may elect to reduce the eligible credit~~  
2 ~~amount by thirty per cent and if this reduced amount exceeds the~~  
3 ~~amount of income tax payment due from the taxpayer, the excess~~  
4 ~~of the credit amount over payments due shall be refunded to the~~  
5 ~~taxpayer; provided that tax credit amounts properly claimed by a~~  
6 ~~taxpayer who has no income tax liability shall be paid to the~~  
7 ~~taxpayer; provided further that no refund on account of the tax~~  
8 ~~credit allowed by this section shall be made for amounts less~~  
9 ~~than \$1.~~

10       ~~The election required by this subsection shall be made in a~~  
11 ~~manner prescribed by the director on the taxpayer's return for~~  
12 ~~the taxable year in which the credit is claimed. An election~~  
13 ~~once made is irrevocable.~~

14       ~~(j) Notwithstanding subsection (i), an individual taxpayer~~  
15 ~~may elect to have any excess of the credit over payments due~~  
16 ~~refunded to the taxpayer, if:~~

17       ~~(1) All of the taxpayer's income is exempt from taxation~~  
18       ~~under section 235-7(a)(2) or (3); or~~

19       ~~(2) The taxpayer's adjusted gross income is \$20,000 or~~  
20       ~~less (or \$40,000 or less if filing a tax return as~~  
21       ~~married filing jointly);~~



1 ~~provided that tax credits properly claimed by a taxpayer who has~~  
2 ~~no income tax liability shall be paid to the taxpayer; provided~~  
3 ~~further that no refund on account of the tax credit allowed by~~  
4 ~~this section shall be made for amounts less than \$1.~~

5 ~~A married couple who does not file a joint tax return shall~~  
6 ~~only be entitled to make this election to the extent that they~~  
7 ~~would have been entitled to make the election had they filed a~~  
8 ~~joint tax return.~~

9 ~~The election required by this subsection shall be made in a~~  
10 ~~manner prescribed by the director on the taxpayer's return for~~  
11 ~~the taxable year in which the credit is claimed. An election~~  
12 ~~once made is irrevocable.~~

13 ~~(k) Before the production of any renewable fuels for the~~  
14 ~~calendar year, the taxpayer shall provide written notice of the~~  
15 ~~taxpayer's intention to begin production of renewable fuels.~~

16 ~~The written notice shall be provided to the department of~~  
17 ~~taxation and the Hawaii state energy office and shall include~~  
18 ~~information on the taxpayer, facility location, facility~~  
19 ~~production capacity, anticipated production start date, and the~~  
20 ~~taxpayer's contact information. Notwithstanding any other law~~  
21 ~~to the contrary, the written notice described in this~~



1 ~~subsection, including taxpayer and facility information, shall~~  
2 ~~be available for public inspection and dissemination, subject to~~  
3 ~~chapter 92F.~~

4 ~~(1) The taxpayer shall provide written notice to the~~  
5 ~~director of taxation and the chief energy officer of the Hawaii~~  
6 ~~state energy office within thirty days following the start of~~  
7 ~~production. The notice shall include the production start date~~  
8 ~~and expected renewable fuels production for the next twelve~~  
9 ~~months. Notwithstanding any other law to the contrary, the~~  
10 ~~written notice described in this subsection shall be available~~  
11 ~~for public inspection and dissemination, subject to chapter 92F.~~

12 ~~(m) Following each calendar year in which a credit under~~  
13 ~~this section has been claimed, the chief energy officer of the~~  
14 ~~Hawaii state energy office shall submit a written report to the~~  
15 ~~governor and legislature regarding the production and sale of~~  
16 ~~renewable fuels. The report shall include:~~

17 ~~(1) The number and location of renewable fuels production~~  
18 ~~facilities in the State and outside the State that~~  
19 ~~have claimed a credit under this section;~~



- 1       ~~(2) The total number of British thermal units of renewable~~  
2           ~~fuels, itemized by type of fuel produced and sold~~  
3           ~~during the previous calendar year; and~~
- 4       ~~(3) The projected number of British thermal units of~~  
5           ~~renewable fuels production for the succeeding year.~~
- 6       ~~(n) The director of taxation:~~
- 7           ~~(1) Shall prepare any forms that may be necessary to claim~~  
8           ~~a tax credit under this section;~~
- 9           ~~(2) May require the taxpayer to furnish reasonable~~  
10           ~~information to ascertain the validity of the claim for~~  
11           ~~the tax credit made under this section; and~~
- 12           ~~(3) May adopt rules pursuant to chapter 91 necessary to~~  
13           ~~effectuate the purposes of this section.~~
- 14       ~~(o) As used in this section:~~
- 15           ~~"Credit period" means a maximum period of ten consecutive~~  
16           ~~years, beginning from the first taxable year in which a taxpayer~~  
17           ~~begins renewable fuels production at a level of at least two~~  
18           ~~billion five hundred million British thermal units of renewable~~  
19           ~~fuels per calendar year.~~
- 20           ~~"Net income tax liability" means income tax liability~~  
21           ~~reduced by all other credits allowed under this chapter.~~



1 ~~"Renewable feedstocks" means:~~

2 ~~(1) Biomass crops and other renewable organic material,~~  
3 ~~including but not limited to logs, wood chips, wood~~  
4 ~~pellets, and wood bark;~~

5 ~~(2) Agricultural residue;~~

6 ~~(3) Oil crops, including but not limited to algae, canola,~~  
7 ~~jatropha, palm, soybean, and sunflower;~~

8 ~~(4) Sugar and starch crops, including but not limited to~~  
9 ~~sugar cane and cassava;~~

10 ~~(5) Other agricultural crops;~~

11 ~~(6) Grease and waste cooking oil;~~

12 ~~(7) Food wastes;~~

13 ~~(8) Municipal solid wastes and industrial wastes;~~

14 ~~(9) Water, including wastewater; and~~

15 ~~(10) Animal residues and wastes,~~

16 ~~that can be used to generate energy.~~

17 ~~"Renewable fuels" means fuels produced from renewable~~  
18 ~~feedstocks; provided that the fuel:~~

19 ~~(1) Is sold as a fuel in the State; and~~



1       ~~(2) Meets the relevant ASTM International specifications~~  
2       ~~or other industry specifications for the particular~~  
3       ~~fuel, including but not limited to:~~

4       ~~(A) Methanol, ethanol, or other alcohols;~~

5       ~~(B) Hydrogen;~~

6       ~~(C) Biodiesel or renewable diesel;~~

7       ~~(D) Biogas;~~

8       ~~(E) Other biofuels;~~

9       ~~(F) Renewable jet fuel or renewable gasoline; or~~

10       ~~(G) Logs, wood chips, wood pellets, or wood bark." ]~~

11       SECTION 15. Section 237-16.8, Hawaii Revised Statutes, is  
12       repealed.

13       ~~["§237-16.8] Exemption of certain convention, conference,~~  
14       ~~and trade show fees.~~ In addition to any other applicable  
15       ~~exemption provided under this chapter, there shall be exempted~~  
16       ~~from the measure of taxes imposed by this chapter all of the~~  
17       ~~value or gross income derived by a fraternal benefit, religious,~~  
18       ~~charitable, scientific, educational, or other nonprofit~~  
19       ~~organization under section 501(c) of the Internal Revenue Code~~  
20       ~~of 1986, as amended, from fees for convention, conference, or~~  
21       ~~trade show exhibit or display spaces; provided that the gross~~



1 ~~proceeds of sales by a vendor through the use of exhibit or~~  
2 ~~display space at a conference, convention, or trade show shall~~  
3 ~~be subject to the imposition of the general excise tax under~~  
4 ~~section 237-13." ]~~

5 SECTION 16. Section 237-24.5, Hawaii Revised Statutes, is  
6 repealed.

7 [~~"§237-24.5 Additional exemptions. (a) In addition to~~  
8 ~~the amounts exempt under section 237-24, this chapter shall not~~  
9 ~~apply to amounts received by:~~

10 ~~(1) An exchange from:~~

11 ~~(A) Transaction fees charged exchange members by the~~  
12 ~~exchange for:~~

13 ~~(i) The sale or purchase of securities or~~  
14 ~~products, or both, bought or sold on an~~  
15 ~~exchange by exchange members for their own~~  
16 ~~account or an account for which they have~~  
17 ~~responsibility as an agent, broker, or~~  
18 ~~fiduciary;~~

19 ~~(ii) Order book executions made for purposes of~~  
20 ~~effecting transactions; and~~



- 1           ~~(iii) Trade processing performed by an exchange in~~  
2                           ~~matching trades, keypunching, record~~  
3                           ~~keeping, post cashiering, and notarization;~~
- 4           ~~(B) Membership dues, fees, charges, assessments, and~~  
5                           ~~finer from individuals or firms, including~~  
6                           ~~charges for firm symbols (member identification),~~  
7                           ~~application processing, registration, initiation,~~  
8                           ~~membership transfers, floor or post privileges,~~  
9                           ~~transaction time extensions, expediting~~  
10                          ~~transactions, crossover trades (trading out of~~  
11                          ~~assigned functions) and rule infractions;~~
- 12           ~~(C) Service fees charged to members including fees~~  
13                           ~~for communications, badges, forms, documents, and~~  
14                           ~~reports;~~
- 15           ~~(D) Listing fees and listing maintenance fees charged~~  
16                           ~~to companies that wish to be listed and have~~  
17                           ~~their securities or products traded on the~~  
18                           ~~exchange; and~~
- 19           ~~(E) Participation in the communication network~~  
20                           ~~consortium operated collectively by United States~~  
21                           ~~exchanges or other markets recognized by the~~



1                   ~~Securities and Exchange Commission, the~~  
2                   ~~Commodities Futures Trading Commission, or~~  
3                   ~~similar regulatory authorities outside the United~~  
4                   ~~States that provides last sale and quote~~  
5                   ~~securities information to subscribers or that~~  
6                   ~~connects such markets or exchanges for purposes~~  
7                   ~~of data transmission;~~

8           ~~(2) Exchange members by reason of executing a securities~~  
9           ~~or product transaction on an exchange; provided that~~  
10           ~~this exemption shall apply only to amounts received by~~  
11           ~~exchange members from brokers or dealers registered~~  
12           ~~with the Securities and Exchange Commission, from~~  
13           ~~futures commission merchants, brokers, or associates~~  
14           ~~registered with the Commodities Futures Trading~~  
15           ~~Commission, or from similar individuals or firms~~  
16           ~~registered with similar regulatory authorities outside~~  
17           ~~the United States; and~~

18           ~~(3) Exchange members as proceeds from the sale of their~~  
19           ~~exchange memberships.~~

20           ~~(b) As used in this section:~~



1       ~~"Exchange" means an exchange or board of trade as defined~~  
2 ~~in 15 United States Code section 78c(a)(1) or in 7 United States~~  
3 ~~Code section 7, respectively, which is subject to regulation by~~  
4 ~~the Securities and Exchange Commission or the Commodities~~  
5 ~~Futures Trading Commission or an organization subject to similar~~  
6 ~~regulation under the laws of a jurisdiction outside the United~~  
7 ~~States.~~

8       ~~"Exchange member" means an individual or firm that is~~  
9 ~~qualified by an exchange as a member and pays membership dues to~~  
10 ~~an exchange in order to trade securities or products on an~~  
11 ~~exchange.~~

12       ~~"Securities" means securities as defined in 15 United~~  
13 ~~States Code section 78c and "products" means contracts of sale~~  
14 ~~of commodities for future delivery, futures contracts, options,~~  
15 ~~calls, puts, and similar rights as defined in 7 United States~~  
16 ~~Code section 2, which securities or products are permitted to be~~  
17 ~~traded on an exchange." ]~~

18       SECTION 17. Section 237-24.9, Hawaii Revised Statutes, is  
19 repealed.

20       ~~["§237-24.9 Aircraft service and maintenance facility.~~  
21 ~~(a) This chapter shall not apply to amounts received from the~~



1 ~~servicing and maintenance of aircraft or from the construction~~  
2 ~~of an aircraft service and maintenance facility in the State.~~

3 ~~(b) As used in this section:~~

4 ~~"Aircraft" means any craft or artificial contrivance of~~  
5 ~~whatever description engaged in intrastate, interstate, or~~  
6 ~~international scheduled commercial use as defined in chapter~~  
7 ~~263, that operates with two or more jet engines.~~

8 ~~"Aircraft service and maintenance" means all scheduled and~~  
9 ~~unscheduled tasks performed within an aircraft service and~~  
10 ~~maintenance facility for the inspection, modification,~~  
11 ~~maintenance, and repair of aircraft and related components~~  
12 ~~including engines, hydraulic and electrical systems, and all~~  
13 ~~other components which are an integral part of an aircraft.~~

14 ~~"Aircraft service and maintenance facility" means a~~  
15 ~~facility for aircraft service and maintenance that is not less~~  
16 ~~than thirty thousand square feet in area, and which may include~~  
17 ~~ancillary space which is integral to the facility, such as parts~~  
18 ~~and inventory warehouse space, tool rooms, and related~~  
19 ~~administrative and employee space.~~

20 ~~"Construction of an aircraft service and maintenance~~  
21 ~~facility" means all design, engineering, labor, and material~~



1 ~~costs associated with the construction of facilities the~~  
2 ~~{principal} purpose of which is the provision of facilities for~~  
3 ~~aircraft service and maintenance.~~

4 ~~"Maintenance" means the upkeep of aircraft engines,~~  
5 ~~hydraulic and electrical systems, and all other components which~~  
6 ~~are an integral part of an aircraft, but does not include~~  
7 ~~refueling, janitorial services or cleaning, restocking of~~  
8 ~~aircraft and passenger supplies, or loading or unloading of~~  
9 ~~cargo and passenger baggage." ]~~

10 SECTION 18. Section 237-27, Hawaii Revised Statutes, is  
11 repealed.

12 ~~["§237-27 Exemption of certain petroleum refiners. (a)~~  
13 ~~As used in this section:~~

14 ~~"Petroleum products" means petroleum; any distillate,~~  
15 ~~fraction, or derivative of petroleum; natural gas or its~~  
16 ~~components; gas manufactured from a petroleum product; and any~~  
17 ~~product derived from the gas or from the manufacture thereof,~~  
18 ~~such as benzene, xylene, toluene, acetylene, tars, components of~~  
19 ~~tars, and ammonia.~~

20 ~~"Refiner" means any person who, in the State, engages in~~  
21 ~~the business of refining petroleum products and is taxable under~~



1 ~~this chapter, upon the value or gross proceeds of sales of the~~  
2 ~~petroleum products resultant from the business. A person who is~~  
3 ~~engaged in business as a refiner and also in other business~~  
4 ~~shall be deemed a refiner only in respect of the business that~~  
5 ~~produces the products included in the measure of the tax imposed~~  
6 ~~by this chapter.~~

7 "Refining" means:

- 8 ~~(1) Any process performed by a refiner that includes a~~  
9 ~~change in the character or properties of a petroleum~~  
10 ~~product through the application of heat; or~~  
11 ~~(2) The compounding by a refiner of a petroleum product~~  
12 ~~with a product that has been refined by the refiner by~~  
13 ~~the process stated in paragraph (1).~~
- 14 ~~(b) There shall be excluded from the measure of the tax on~~  
15 ~~a refiner such part of the petroleum products resultant from the~~  
16 ~~refiner's business as is to be further refined by another~~  
17 ~~refiner, to the extent that the petroleum products resultant~~  
18 ~~from such further refining will be (or but for this subsection~~  
19 ~~would be) included in the measure of the tax on such other~~  
20 ~~refiner, and where petroleum products are to be used partly for~~  
21 ~~such refining and partly for other purposes, the proportion used~~



1 ~~for each purpose shall be determined upon the basis of weight or~~  
2 ~~BTU content." ]~~

3 SECTION 19. Section 237-27.5, Hawaii Revised Statutes, is  
4 repealed.

5 [~~"§237-27.5 Air pollution control facility. (a) As used~~  
6 ~~in this section, "air pollution control facility" shall mean a~~  
7 ~~new identifiable treatment facility, equipment, device, or the~~  
8 ~~like, which is used to abate or control atmospheric pollution or~~  
9 ~~contamination by removing, reducing, or rendering less noxious~~  
10 ~~air contaminants emitted into the atmosphere from a point~~  
11 ~~immediately preceding the point of such removal, reduction, or~~  
12 ~~rendering to the point of discharge of air, meeting emission~~  
13 ~~standards as established by the department of health, excluding~~  
14 ~~air conditioner, fan, or other similar facility for the comfort~~  
15 ~~of persons at a place of business.~~

16 ~~(b) Any provision of law to the contrary notwithstanding,~~  
17 ~~and upon receipt of the certification required by subsection~~  
18 ~~(c), there shall be exempted from, and excluded from the measure~~  
19 ~~of, the taxes imposed by this chapter, all of the gross proceeds~~  
20 ~~arising from, and all of the amount of tangible personal~~  
21 ~~property furnished in conjunction with, the construction,~~



1 ~~reconstruction, erection, operation, use, or maintenance of an~~  
2 ~~air pollution control facility.~~

3 ~~(c) Application for the exemption provided by this section~~  
4 ~~shall first be made with the director of health who, if~~  
5 ~~satisfied that the facility meets the pollution emission~~  
6 ~~criteria established by the department of health, shall certify~~  
7 ~~to that fact. A new certificate shall be obtained from the~~  
8 ~~director of health and filed with the director of taxation every~~  
9 ~~five years certifying that the pollution control facility~~  
10 ~~complies with the pollutant emission criteria established by the~~  
11 ~~department of health." ]~~

12 SECTION 20. Section 237-28.1, Hawaii Revised Statutes, is  
13 repealed.

14 ~~["~~§237-28.1~~ **Exemption of certain shipbuilding and ship**~~  
15 ~~**repair business.** There shall be exempted from, and excluded~~  
16 ~~from the measure of, the taxes imposed by this chapter all of~~  
17 ~~the gross proceeds arising from shipbuilding and ship repairs~~  
18 ~~rendered to surface vessels federally owned or engaged in~~  
19 ~~interstate or international trade." ]~~

20 SECTION 21. Section 241-4.5, Hawaii Revised Statutes, is  
21 repealed.



1        [~~"§241-4.5 Capital goods excise tax credit. The capital~~  
2 ~~goods excise tax credit provided under section 235-110.7 shall~~  
3 ~~be operative for this chapter after December 31, 1987; provided~~  
4 ~~that the capital goods excise tax credit shall be inoperative~~  
5 ~~after December 31, 2008, and before January 1, 2010."~~]

6        SECTION 22. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8        SECTION 23. This Act shall take effect on July 1, 3000,  
9 and shall not apply to written property leases and subleases  
10 entered into, aircraft and aircraft engine leases and rental  
11 agreements entered into, state enterprise zone qualified  
12 businesses qualified prior to, renewable fuels production tax  
13 credits certified prior to, and air pollution control facilities  
14 certified prior to, December 31, 2025.



**Report Title:**

Taxation; Income Tax; General Excise Tax; Use Tax

**Description:**

Repeals certain credits, deductions, and exemptions under the income tax, general excise tax, and use tax laws. Effective 7/1/3000. (HD1)

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

