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# A BILL FOR AN ACT

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RELATING TO GENERAL EXCISE TAX.

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

1       SECTION 1. The legislature finds that small businesses are  
2 a critical foundation of Hawaii's economy, providing employment  
3 opportunities, essential goods and services, and contributing to  
4 the vitality and character of local communities. Small  
5 businesses are disproportionately impacted by Hawaii's high cost  
6 of doing business, particularly the cost of leasing commercial  
7 real property.

8       The legislature further finds that Hawaii's general excise  
9 tax is a broad-based tax that is frequently passed through to  
10 small business tenants as an additional cost embedded in  
11 commercial rent or common area maintenance charges. This tax  
12 burden increases monthly operating expenses for small  
13 businesses, reduces cash flow, and limits their ability to hire  
14 employees, invest in growth, or remain in operation.

15       The legislature recognizes that commercial rent is a fixed  
16 and unavoidable expense for most small businesses, and that  
17 relief from general excise tax on rent can provide immediate,



1 predictable, and meaningful financial support. Reducing this  
2 tax burden can improve the survivability of small businesses,  
3 particularly locally owned enterprises that lack the market  
4 power to absorb rising costs.

5 The legislature further finds that providing targeted tax  
6 relief to small businesses leasing real property is consistent  
7 with the State's economic development goals and supports  
8 entrepreneurship, job creation, and long-term economic  
9 resilience. Ensuring that tax policy does not  
10 disproportionately disadvantage small businesses is essential to  
11 maintaining a diverse and competitive local economy.

12 Accordingly, the purpose of this Act is to exempt gross  
13 income from real property leases from the general excise tax  
14 when the lessee is a small business, in order to reduce  
15 operating costs, promote economic stability, and support the  
16 continue operation and growth of small businesses throughout the  
17 State.

18 SECTION 2. Section 237-24.75, Hawaii Revised Statutes, is  
19 amended to read as follows:



1       "**§237-24.75 Additional exemptions.** In addition to the  
2 amounts exempt under section 237-24, this chapter shall not  
3 apply to:

4       (1) Amounts received as a beverage container deposit  
5 collected under chapter 342G, part VIII;

6       (2) Amounts received by the operator of the Hawaii  
7 convention center for reimbursement of costs or  
8 advances made pursuant to a contract with the Hawaii  
9 tourism authority under section 201B-7; [~~and~~]

10       (3) Amounts received by a professional employer  
11 organization that is registered with the department of  
12 labor and industrial relations pursuant to chapter  
13 373L, from a client company equal to amounts that are  
14 disbursed by the professional employer organization  
15 for employee wages, salaries, payroll taxes, insurance  
16 premiums, and benefits, including retirement,  
17 vacation, sick leave, health benefits, and similar  
18 employment benefits with respect to covered employees  
19 at a client company; provided that this exemption  
20 shall not apply to amounts received by a professional  
21 employer organization after:



1 (A) Notification from the department of labor and  
2 industrial relations that the professional  
3 employer organization has not fulfilled or  
4 maintained the registration requirements under  
5 this chapter; or

6 (B) A determination by the department that the  
7 professional employer organization has failed to  
8 pay any tax withholding for covered employees or  
9 any federal or state taxes for which the  
10 professional employer organization is  
11 responsible[-];

12 As used in this paragraph, "professional employer  
13 organization", "client company", and "covered  
14 employee" shall have the meanings provided in section  
15 373L-1[-]; and

16 (4) Amounts received in the business of leasing real  
17 property to another, provided that the lessee is a  
18 small business.

19 As used in this paragraph, "small business" means a  
20 business that:



- 1           (A) Has gross receipts of \$3,000,000 or less in the  
2           aggregate during the preceding taxable year;
- 3           (B) Employs twenty-five or fewer full time equivalent  
4           employees in the State;
- 5           (C) Is independently owned and operated and is not a  
6           subsidiary, affiliate, or division of another  
7           business entity;
- 8           (D) Is not owned or controlled, directly or  
9           indirectly, by a person or entity that owns or  
10          controls one or more businesses that, in the  
11          aggregate, exceed the gross receipts or employee  
12          thresholds of this section; and
- 13          (E) Is not a franchisee, licensee, or operator of a  
14          business operating under a national or  
15          international brand with more than fifty  
16          locations globally.

17          For purposes of this paragraph, gross receipts and  
18          employee counts shall be aggregated across all  
19          commonly owned or controlled business entities."

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



1       "§237-16.5   **Tax on written real property leases; deduction**  
2 **allowed.**   (a)   This section relates to the leasing of real  
3 property by a lessor to a lessee.  There is hereby levied, and  
4 shall be assessed and collected annually, a privilege tax  
5 against persons engaging or continuing within the State in the  
6 business of leasing real property to another, equal to four per  
7 cent of the gross proceeds or gross income received or derived  
8 from the leasing, except as otherwise provided in section 237-  
9 24.75; provided that where real property is subleased by a  
10 lessee to a sublessee, the lessee, as provided in this section,  
11 shall be allowed a deduction from the amount of gross proceeds  
12 or gross income received from its sublease of the real property.  
13 The deduction shall be in the amount allowed under this section.  
14       All deductions under this section and the name and general  
15 excise tax number of the lessee's lessor shall be reported on  
16 the general excise tax return.  Any deduction allowed under this  
17 section shall only be allowed with respect to leases and  
18 subleases in writing and relating to the same real property.  
19       (b)   The lessee shall obtain from its lessor a certificate,  
20 in the form as the department shall prescribe, certifying that  
21 the lessor is subject to tax under this chapter on the gross



1 proceeds or gross income received from the lessee. The absence  
2 of the certificate in itself shall give rise to the presumption  
3 that the lessee is not allowed the deduction under this section.

4 (c) If various real property or space leased to the lessee  
5 have different rental values, then the total monetary gross  
6 proceeds or gross income paid to a lessor for all real property  
7 or space shall first be allocated to the fair rental value for  
8 each real property or space. If the lessee leases less than one  
9 hundred per cent of real property or space that was leased from  
10 the lessor to a sublessee, then the total monetary gross  
11 proceeds or gross income paid by the lessee for that real  
12 property or space to its lessor shall be allocated. The  
13 percentage of real property or space subleased shall be  
14 multiplied by the monetary gross proceeds or gross income paid  
15 for the real property or space by the lessee to its lessor. The  
16 product of the preceding multiplication shall be deducted from  
17 the monetary gross proceeds or gross income received for real  
18 property or space by the lessee.

19 Once the allocations are made, the appropriate deduction  
20 under subsection (g) shall be made.



1           (d) The lessor shall make allocations under this section  
2 at the time the sublease is entered into and the allocations  
3 shall not be changed during the term of the sublease. There  
4 shall be a reasonable basis for the allocations, taking into  
5 consideration the size, quality, and location of the real  
6 property or space subleased. In no event shall the total amount  
7 allocated to all subleases exceed the total monetary gross  
8 proceeds paid by the lessee to its lessor. The director may  
9 redetermine the amount of the deduction under this section if  
10 the director finds that the basis for allocation is not  
11 reasonable or that redetermination is necessary to prevent the  
12 avoidance of taxes.

13           (e) As used in this section:

14           "Lease" means the rental of real property under an  
15 instrument in writing by which one conveys real property for a  
16 specified term and for a specified consideration, and includes  
17 the written extension or renegotiation of a lease, and any  
18 holdover tenancy.

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





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

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

6 "Sublease" includes the rental of real property which is  
7 held under a lease and is made in a written document by which  
8 one conveys real property for a specified term and for a  
9 specified consideration. A sublease includes the written  
10 extension or renegotiation of a sublease and any holdover  
11 tenancy under the written sublease.

12 "Sublessee" means one who holds real property under a  
13 sublease.

14 "Sublessor" means one who conveys real property by  
15 sublease.

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

19 (g) After allocation under subsection (c), if necessary,  
20 the deduction under this section shall be allowed from the gross  
21 proceeds or gross income of the lessee received from its



1 sublease in an amount calculated by multiplying the gross  
2 proceeds or gross income paid by the lessee to its lessor for  
3 the lease of the real property by .875.

4 The amount calculated shall be deducted by the lessee from  
5 the lessee's total reported gross proceeds or gross income. The  
6 deduction allowed by this subsection may be taken by the fiscal  
7 and calendar year lessees."

8 SECTION 4. Section 237-30.5, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 **"§237-30.5 Collection of rental by third party; filing**  
11 **with department; statement required.** (a) Every person  
12 authorized under an agreement by the owner of real property  
13 located within this State to collect rent on behalf of the owner  
14 shall be subject to this section.

15 (b) Every written rental collection agreement shall have  
16 on the first page of the agreement the name, address, social  
17 security number, and, if available, the general excise tax  
18 number of the owner of the real property being rented, the  
19 address of the property being rented, and the following  
20 statement that shall be set forth in bold print and in ten-point  
21 type size:



1  
2 "HAWAII GENERAL EXCISE TAXES MUST BE PAID ON THE GROSS RENTS  
3 COLLECTED BY ANY PERSON RENTING REAL PROPERTY IN THE STATE OF  
4 HAWAII. A COPY OF THE FIRST PAGE OF THIS AGREEMENT, OR OF  
5 FEDERAL INTERNAL REVENUE FORM 1099 STATING THE AMOUNT OF RENTS  
6 COLLECTED, SHALL BE FILED WITH THE HAWAII DEPARTMENT OF  
7 TAXATION."

8  
9 Every person entering an oral rental collection agreement  
10 shall furnish the department of taxation the information  
11 required under this subsection and shall give the owner of the  
12 property a copy of the notice required by this subsection.

13 (c) Every person authorized to collect rent for another  
14 person shall file a copy of the first page of the rental  
15 collection agreement with the department of taxation within  
16 thirty days after entering into the agreement, or shall file a  
17 copy of federal Internal Revenue form 1099, the property owner's  
18 social security number, and, if available, the general excise  
19 tax license number of the owner of the property being rented  
20 with the department of taxation at the same time that the forms  
21 must be filed with the Internal Revenue Service.



1 (d) Every person authorized under an agreement by the  
2 owner of real property located within this State to collect rent  
3 on behalf of the owner within ninety days after the effective  
4 date of this section shall furnish the department of taxation  
5 with the information required in subsection (b) and in the case  
6 of federal form 1099 the form for the taxable year 1983. The  
7 person also shall notify the owner that the information is being  
8 furnished and give the owner a copy of the notice required by  
9 subsection (b).

10 (e) Failure to comply with any provision of this section  
11 shall be unlawful, except as otherwise exempted by section 237-  
12 24.75. The department of taxation may issue a citation to any  
13 person who fails to comply with any provision of this section.  
14 A citation issued pursuant to this subsection shall include a  
15 monetary fine of no more than \$500 per violation. Any fine  
16 assessed under this subsection shall be due and payable thirty  
17 days after issuance, subject to appeal rights provided under  
18 this subsection. Citations may be appealed to the director or  
19 the director's designee, and the determination of the director  
20 may be appealed to the circuit court pursuant to chapter 91."

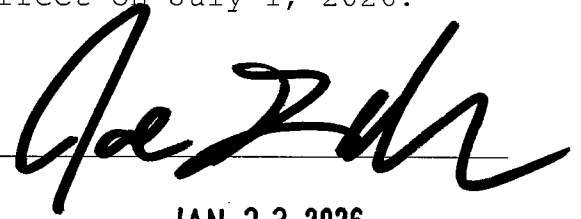


1       SECTION 5. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3       SECTION 6. This Act shall take effect on July 1, 2026.

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INTRODUCED BY: \_\_\_\_\_



JAN 23 2026



# H.B. NO. 2134

**Report Title:**

GET; Exemption; Small Businesses; Real Property; Lease

**Description:**

Exempts gross income from real property leases from the general excise tax when the lessee is a small business. Makes conforming amendments.

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