

JAN 23 2026

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# A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Section 235-17, Hawaii Revised Statutes, is  
2 amended by amending subsection (o) to read as follows:  
3 " (o) For the purposes of this section:  
4 "Commercial":  
5 (1) Means an advertising message that is filmed using  
6 film, videotape, or digital media, for dissemination  
7 via television broadcast or theatrical distribution;  
8 (2) Includes a series of advertising messages if all parts  
9 are produced at the same time over the course of six  
10 consecutive weeks; and  
11 (3) Does not include an advertising message with  
12 Internet-only distribution.  
13 "Digital media" means production methods and platforms  
14 directly related to the creation of cinematic imagery and  
15 content, specifically using digital means, including but not  
16 limited to digital cameras, digital sound equipment, and



1 computers, to be delivered via film, videotape, interactive game  
2 platform, or other digital distribution media.

3 "Post-production" means production activities and services  
4 conducted after principal photography is completed, including  
5 but not limited to editing, film and video transfers,  
6 duplication, transcoding, dubbing, subtitling, credits, closed  
7 captioning, audio production, special effects (visual and  
8 sound), graphics, and animation.

9 "Production" means a series of activities that are directly  
10 related to the creation of visual and cinematic imagery to be  
11 delivered via film, videotape, or digital media and to be sold,  
12 distributed, or displayed as entertainment or the advertisement  
13 of products for mass public consumption, including but not  
14 limited to scripting, casting, set design and construction,  
15 transportation, videography, photography, sound recording,  
16 interactive game design, and post-production.

17 "Qualified production":

18 (1) Means a production, with expenditures in the State,  
19 for the total or partial production of a  
20 feature-length motion picture, short film,  
21 made-for-television movie, commercial, music video,



1                   interactive game, television series pilot, single  
2                   season (up to twenty-two episodes) of a television  
3                   series regularly filmed in the State (if the number of  
4                   episodes per single season exceeds twenty-two,  
5                   additional episodes for the same season shall  
6                   constitute a separate qualified production),  
7                   television special, single television episode that is  
8                   not part of a television series regularly filmed or  
9                   based in the State, national magazine show, or  
10                  national talk show. For the purposes of subsections  
11                  (d) and (l), each of the aforementioned qualified  
12                  production categories shall constitute separate,  
13                  individual qualified productions; and

14                  (2) Does not include:

15                   (A) News;

16                   (B) Public affairs programs;

17                   (C) Non-national magazine or talk shows;

18                   (D) Televised sporting events or activities;

19                   (E) Productions that solicit funds;



1 (F) Productions produced primarily for industrial,  
2 corporate, institutional, or other private  
3 purposes; and

4 (G) Productions that include any material or  
5 performance prohibited by chapter 712.

"Qualified production costs" means the costs incurred by a  
qualified production within the State that are subject to the  
general excise tax under chapter 237 [at the highest rate of  
tax] or income tax under this chapter [if the costs are not  
subject to general excise tax] and that have not been financed  
by any investments for which a credit was or will be claimed  
pursuant to section 235-110.9. Qualified production costs  
include but are not limited to:

14 (1) Costs incurred during preproduction such as location  
15 scouting and related services;

16 (2) Costs of set construction and operations, purchases or  
17 rentals of wardrobe, props, accessories, food, office  
18 supplies, transportation, equipment, and related  
19 services;

**20** (3) Wages or salaries of cast, crew, and musicians;



- (4) Costs of photography, sound synchronization, lighting, and related services;
- (5) Costs of editing, visual effects, music, other post-production, and related services;
- (6) Rentals and fees for use of local facilities and locations, including rentals and fees for use of state and county facilities and locations that are not subject to general excise tax under chapter 237 or income tax under this chapter;
- (7) Rentals of vehicles and lodging for cast and crew;
- (8) Airfare for flights to or from Hawaii, and interisland flights;
- (9) Insurance and bonding;
- (10) Shipping of equipment and supplies to or from Hawaii, and interisland shipments; and
- (11) Other direct production costs specified by the department in consultation with the department of business, economic development, and tourism; provided that any government-imposed fines, penalties, or interest that are incurred by a qualified production within the State shall not be "qualified production costs". "Qualified



1 production costs" does not include any costs funded by any  
2 grant, forgivable loan, or other amounts not included in gross  
3 income for purposes of this chapter."

4 SECTION 2. Section 237-13, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 **"\$237-13 Imposition of tax.** There is hereby levied and  
7 shall be assessed and collected annually privilege taxes against  
8 persons on account of their business and other activities in the  
9 State measured by the application of rates against values of  
10 products, gross proceeds of sales, or gross income, whichever is  
11 specified, as follows:

12 (1) Tax on manufacturers.

13 (A) Upon every person engaging or continuing within  
14 the State in the business of manufacturing,  
15 including compounding, canning, preserving,  
16 packing, printing, publishing, production as  
17 defined in section 235-17, milling, processing,  
18 refining, or preparing for sale, profit, or  
19 commercial use, either directly or through the  
20 activity of others, in whole or in part, any  
21 article or articles, substance or substances,



1 commodity or commodities, the amount of the tax  
2 to be equal to the value of the articles,  
3 substances, or commodities, manufactured,  
4 compounded, canned, preserved, packed, printed,  
5 milled, processed, refined, or prepared for sale,  
6 as shown by the gross proceeds derived from the  
7 sale thereof by the manufacturer or person  
8 compounding, preparing, or printing them,  
9 multiplied by one-half of one per cent.

10 (B) The measure of the tax on manufacturers is the  
11 value of the entire product for sale.

12 (2) Tax on business of selling tangible personal property;  
13 producing.

14 (A) Upon every person engaging or continuing in the  
15 business of selling any tangible personal  
16 property whatsoever, there is likewise hereby  
17 levied, and shall be assessed and collected, a  
18 tax equivalent to four per cent of the gross  
19 proceeds of sales of the business; provided that,  
20 in the case of a wholesaler, the tax shall be  
21 equal to one-half of one per cent of the gross



1                   proceeds of sales of the business; and provided  
2                   further that insofar as the sale of tangible  
3                   personal property is a wholesale sale under  
4                   section 237-4(a)(8), the tax shall be one-half of  
5                   one per cent of the gross proceeds. Upon every  
6                   person engaging or continuing within this State  
7                   in the business of a producer, the tax shall be  
8                   equal to one-half of one per cent of the gross  
9                   proceeds of sales of the business, or the value  
10                  of the products, for sale.

11                 (B) Gross proceeds of sales of tangible property in  
12                  interstate and foreign commerce shall constitute  
13                  a part of the measure of the tax imposed on  
14                  persons in the business of selling tangible  
15                  personal property, to the extent, under the  
16                  conditions, and in accordance with the provisions  
17                  of the Constitution of the United States and the  
18                  Acts of the Congress of the United States which  
19                  may be now in force or may be hereafter adopted,  
20                  and whenever there occurs in the State an  
21                  activity to which, under the Constitution and



1                   Acts of Congress, there may be attributed gross  
2                   proceeds of sales, the gross proceeds shall be so  
3                   attributed.

4                   (C) No manufacturer or producer, engaged in such  
5                   business in the State and selling the  
6                   manufacturer's or producer's products for  
7                   delivery outside of the State (for example,  
8                   consigned to a mainland purchaser via common  
9                   carrier f.o.b. Honolulu), shall be required to  
10                  pay the tax imposed in this chapter for the  
11                  privilege of so selling the products, and the  
12                  value or gross proceeds of sales of the products  
13                  shall be included only in determining the measure  
14                  of the tax imposed upon the manufacturer or  
15                  producer.

16                  (D) A manufacturer or producer, engaged in such  
17                  business in the State, shall pay the tax imposed  
18                  in this chapter for the privilege of selling its  
19                  products in the State, and the value or gross  
20                  proceeds of sales of the products, thus subjected  
21                  to tax, may be deducted insofar as duplicated as .



1 to the same products by the measure of the tax  
2 upon the manufacturer or producer for the  
3 privilege of manufacturing or producing in the  
4 State; provided that no producer of agricultural  
5 products who sells the products to a purchaser  
6 who will process the products outside the State  
7 shall be required to pay the tax imposed in this  
8 chapter for the privilege of producing or selling  
9 those products.

10 (E) A taxpayer selling to a federal cost-plus  
11 contractor may make the election provided for by  
12 paragraph (3)(C), and in that case the tax shall  
13 be computed pursuant to the election,  
14 notwithstanding this paragraph or paragraph (1)  
15 to the contrary.

16 (F) The department, by rule, may require that a  
17 seller take from the purchaser of tangible  
18 personal property a certificate, in a form  
19 prescribed by the department, certifying that the  
20 sale is a sale at wholesale; provided that:





1                   paragraph shall be required to show in the  
2                   person's return the name and general excise  
3                   number of the person paying the tax on the amount  
4                   deducted by the person.

5                   (C) In computing the tax levied under this paragraph  
6                   against any federal cost-plus contractor, there  
7                   shall be excluded from the gross income of the  
8                   contractor so much thereof as fulfills the  
9                   following requirements:

10                  (i) The gross income exempted shall constitute  
11                   reimbursement of costs incurred for  
12                   materials, plant, or equipment purchased  
13                   from a taxpayer licensed under this chapter,  
14                   not exceeding the gross proceeds of sale of  
15                   the taxpayer on account of the transaction;  
16                   and

17                  (ii) The taxpayer making the sale shall have  
18                   certified to the department that the  
19                   taxpayer is taxable with respect to the  
20                   gross proceeds of the sale, and that the  
21                   taxpayer elects to have the tax on gross



3 (D) A person who, as a business or as a part of a  
4 business in which the person is engaged, erects,  
5 constructs, or improves any building or  
6 structure, of any kind or description, or makes,  
7 constructs, or improves any road, street,  
8 sidewalk, sewer, or water system, or other  
9 improvements on land held by the person (whether  
10 held as a leasehold, fee simple, or otherwise),  
11 upon the sale or other disposition of the land or  
12 improvements, even if the work was not done  
13 pursuant to a contract, shall be liable to the  
14 same tax as if engaged in the business of  
15 contracting, unless the person shows that at the  
16 time the person was engaged in making the  
17 improvements the person intended, and for the  
18 period of at least one year after completion of  
19 the building, structure, or other improvements  
20 the person continued to intend to hold and not  
21 sell or otherwise dispose of the land or



1                   improvements. The tax in respect of the  
2                   improvements shall be measured by the amount of  
3                   the proceeds of the sale or other disposition  
4                   that is attributable to the erection,  
5                   construction, or improvement of such building or  
6                   structure, or the making, constructing, or  
7                   improving of the road, street, sidewalk, sewer,  
8                   or water system, or other improvements. The  
9                   measure of tax in respect of the improvements  
10                  shall not exceed the amount which would have been  
11                  taxable had the work been performed by another,  
12                  subject as in other cases to the deductions  
13                  allowed by subparagraph (B). Upon the election  
14                  of the taxpayer, this paragraph may be applied  
15                  notwithstanding that the improvements were not  
16                  made by the taxpayer, or were not made as a  
17                  business or as a part of a business, or were made  
18                  with the intention of holding the same. However,  
19                  this paragraph shall not apply in respect of any  
20                  proceeds that constitute or are in the nature of  
21                  rent, which shall be taxable under paragraph (9);



1 provided that insofar as the business of renting  
2 or leasing real property under a lease is taxed  
3 under section 237-16.5, the tax shall be levied  
4 by section 237-16.5.

5 (4) Tax upon theaters, amusements, radio broadcasting  
6 stations, etc.

18 (B) The department may require that the person  
19 rendering an amusement at wholesale take from the  
20 licensed seller a certificate, in a form



9 (ii) The absence of a certificate in itself shall  
10 give rise to the presumption that the sale  
11 is not at wholesale unless the person  
12 rendering the sale is exclusively rendering  
13 the amusement at wholesale.

14 (5) Tax upon sales representatives, etc. Upon every  
15 person classified as a representative or purchasing  
16 agent under section 237-1, engaging or continuing  
17 within the State in the business of performing  
18 services for another, other than as an employee, there  
19 is likewise hereby levied and shall be assessed and  
20 collected a tax equal to four per cent of the



1                   commissions and other compensation attributable to the  
2                   services so rendered by the person.

3                 (6) Tax on service business.

4                   (A) Upon every person engaging or continuing within  
5                   the State in any service business or calling  
6                   including professional services not otherwise  
7                   specifically taxed under this chapter, there is  
8                   likewise hereby levied and shall be assessed and  
9                   collected a tax equal to four per cent of the  
10                  gross income of the business, and in the case of  
11                  a wholesaler under section 237-4(a)(10), the tax  
12                  shall be equal to one-half of one per cent of the  
13                  gross income of the business.

14                 (B) The department may require that the person  
15                  rendering a service at wholesale take from the  
16                  licensed seller a certificate, in a form  
17                  prescribed by the department, certifying that the  
18                  sale is a sale at wholesale; provided that:

19                   (i) Any licensed seller who furnishes a  
20                  certificate shall be obligated to pay to the  
21                  person rendering the service, upon demand,



1 the amount of additional tax that is imposed  
2 upon the seller whenever the sale is not at  
3 wholesale; and

4 (ii) The absence of a certificate in itself shall  
5 give rise to the presumption that the sale  
6 is not at wholesale unless the person  
7 rendering the sale is exclusively rendering  
8 services at wholesale.

9 (C) Where any person is engaged in the business of  
10 selling interstate or foreign common carrier  
11 telecommunication services within and without the  
12 State, other than as a home service provider, the  
13 tax shall be imposed on that portion of gross  
14 income received by a person from service which is  
15 originated or terminated in this State and is  
16 charged to a telephone number, customer, or  
17 account in this State notwithstanding any other  
18 state law (except for the exemption under section  
19 237-23(a)(1)) to the contrary. If, under the  
20 Constitution and laws of the United States, the  
21 entire gross income as determined under this



1                   paragraph of a business selling interstate or  
2                   foreign common carrier telecommunication services  
3                   cannot be included in the measure of the tax, the  
4                   gross income shall be apportioned as provided in  
5                   section 237-21; provided that the apportionment  
6                   factor and formula shall be the same for all  
7                   persons providing those services in the State.

8                   (D) Where any person is engaged in the business of a  
9                   home service provider, the tax shall be imposed  
10                  on the gross income received or derived from  
11                  providing interstate or foreign mobile  
12                  telecommunications services to a customer with a  
13                  place of primary use in this State when the  
14                  services originate in one state and terminate in  
15                  another state, territory, or foreign country;  
16                  provided that all charges for mobile  
17                  telecommunications services which are billed by  
18                  or for the home service provider are deemed to be  
19                  provided by the home service provider at the  
20                  customer's place of primary use, regardless of  
21                  where the mobile telecommunications originate,



1 terminate, or pass through; provided further that  
2 the income from charges specifically derived from  
3 interstate or foreign mobile telecommunications  
4 services, as determined by books and records that  
5 are kept in the regular course of business by the  
6 home service provider in accordance with section  
7 239-24, shall be apportioned under any  
8 apportionment factor or formula adopted under  
9 subparagraph (C). Gross income shall not  
10 include:

- 11 (i) Gross receipts from mobile  
12 telecommunications services provided to a  
13 customer with a place of primary use outside  
14 this State;
- 15 (ii) Gross receipts from mobile  
16 telecommunications services that are subject  
17 to the tax imposed by chapter 239;
- 18 (iii) Gross receipts from mobile  
19 telecommunications services taxed under  
20 section 237-13.8; and



1 (iv) Gross receipts of a home service provider  
2 acting as a serving carrier providing mobile  
3 telecommunications services to another home  
4 service provider's customer.

5 For the purposes of this paragraph, "charges for  
6 mobile telecommunications services", "customer",  
7 "home service provider", "mobile  
8 telecommunications services", "place of primary  
9 use", and "serving carrier" have the same meaning  
10 as in section 239-22.

11 (7) Tax on insurance producers. Upon every person engaged  
12 as a licensed producer pursuant to chapter 431, there  
13 is hereby levied and shall be assessed and collected a  
14 tax equal to 0.15 per cent of the commissions due to  
15 that activity.

16 (8) Tax on receipts of sugar benefit payments. Upon the  
17 amounts received from the United States government by  
18 any producer of sugar (or the producer's legal  
19 representative or heirs), as defined under and by  
20 virtue of the Sugar Act of 1948, as amended, or other  
21 Acts of the Congress of the United States relating



1 thereto, there is hereby levied a tax of one-half of  
2 one per cent of the gross amount received; provided  
3 that the tax levied hereunder on any amount so  
4 received and actually disbursed to another by a  
5 producer in the form of a benefit payment shall be  
6 paid by the person or persons to whom the amount is  
7 actually disbursed, and the producer actually making a  
8 benefit payment to another shall be entitled to claim  
9 on the producer's return a deduction from the gross  
10 amount taxable hereunder in the sum of the amount so  
11 disbursed. The amounts taxed under this paragraph  
12 shall not be taxable under any other paragraph,  
13 subsection, or section of this chapter.

14 (9) Tax on other business. Upon every person engaging or  
15 continuing within the State in any business, trade,  
16 activity, occupation, or calling not included in the  
17 preceding paragraphs or any other provisions of this  
18 chapter, there is likewise hereby levied and shall be  
19 assessed and collected, a tax equal to four per cent  
20 of the gross income thereof. In addition, the rate  
21 prescribed by this paragraph shall apply to a business



1                   taxable under one or more of the preceding paragraphs  
2                   or other provisions of this chapter, as to any gross  
3                   income thereof not taxed thereunder as gross income or  
4                   gross proceeds of sales or by taxing an equivalent  
5                   value of products, unless specifically exempted."

6                   SECTION 3. Section 237-24.75, Hawaii Revised Statutes, is  
7                   amended to read as follows:

8                   **"§237-24.75 Additional exemptions.** In addition to the  
9                   amounts exempt under section 237-24, this chapter shall not  
10                   apply to:

- 11                   (1) Amounts received as a beverage container deposit  
12                   collected under chapter 342G, part VIII;
- 13                   (2) Amounts received by the operator of the Hawaii  
14                   convention center for reimbursement of costs or  
15                   advances made pursuant to a contract with the Hawaii  
16                   tourism authority under section 201B-7; **[and]**
- 17                   (3) Amounts received by a professional employer  
18                   organization that is registered with the department of  
19                   labor and industrial relations pursuant to  
20                   chapter 373L, from a client company equal to amounts  
21                   that are disbursed by the professional employer



1 organization for employee wages, salaries, payroll  
2 taxes, insurance premiums, and benefits, including  
3 retirement, vacation, sick leave, health benefits, and  
4 similar employment benefits with respect to covered  
5 employees at a client company; provided that this  
6 exemption shall not apply to amounts received by a  
7 professional employer organization after:

8 (A) Notification from the department of labor and  
9 industrial relations that the professional  
10 employer organization has not fulfilled or  
11 maintained the registration requirements under  
12 this chapter; or

13 (B) A determination by the department that the  
14 professional employer organization has failed to  
15 pay any tax withholding for covered employees or  
16 any federal or state taxes for which the  
17 professional employer organization is  
18 responsible.

19 As used in this paragraph, "professional employer  
20 organization", "client company", and "covered



1           employee" shall have the meanings provided in  
2           section 373L-1[.]; and

3           (4) Amounts received by a motion picture project employer  
4           from a client company equal to amounts that are  
5           disbursed by the motion picture project employer for  
6           employee wages, salaries, payroll taxes, insurance  
7           premiums, and benefits, including retirement,  
8           vacation, sick leave, health benefits, and similar  
9           employment benefits with respect to motion picture  
10           project workers at a client company and for payments  
11           to loan-out companies.

12           As used in this paragraph, "motion picture  
13           project employer" and "motion picture project worker"  
14           have the same meanings as in section 3512 of the  
15           Internal Revenue Code of 1986, as amended."

16           SECTION 4. Statutory material to be repealed is bracketed  
17           and stricken. New statutory material is underscored.

18           SECTION 5. This Act shall take effect upon its approval;  
19           provided that:

20           (1) Section 1 shall apply to taxable years beginning after  
21           December 31, 2026; and



1 (2) Sections 2 and 3 shall take effect on January 1, 2027.

2

INTRODUCED BY:

Lyn DeCote



# S.B. NO. 2796

**Report Title:**

Income Tax; Motion Picture, Digital Media, and Film Production Income Tax Credit; General Excise Tax; Partial Exemption for Motion Picture Project Employers

**Description:**

Imposes the manufacturing general excise tax rate on motion picture, digital media, and film productions and repeals the provision in the definition of "qualified production costs" that applied the term to mean costs incurred that are subject to the highest general excise tax rate. Exempts from the general excise tax amounts received by a motion picture project employer from a client company equal to amounts that are disbursed by the motion picture project employer for employee wages, salaries, payroll taxes, insurance premiums, and employment benefits and payments to loan-out companies.

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

