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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 23-75, Hawaii Revised Statutes, is  
2 amended by amending subsection (c) to read as follows:
- 3 "(c) This section shall apply to the following:
- 4 (1) Section 237-24.3(1)--Amounts received from loading,  
5 transporting, and unloading agricultural commodities  
6 shipped interisland;
- 7 (2) Section 237-24.3(3) (A)--Amounts received from cargo  
8 loading or unloading;
- 9 (3) Section 237-24.3(3) (B)--Amounts received from tugboat  
10 and towage services;
- 11 (4) Section 237-24.3(3) (C)--Amounts received from the  
12 transportation of pilots or government officials and  
13 other maritime-related services;
- 14 (5) Section 238-1, paragraph (7) of the definition of  
15 "use"--The value of oceangoing vehicles for  
16 transportation from one point to another in the State;



1 (6) Section 238-3(g)--The value of imported intoxicating  
2 liquor and cigarettes and tobacco products for sale to  
3 persons or common carriers in interstate commerce;

4 [~~(7)~~ ~~Section 238-3(h)--The value of vessels constructed~~  
5 ~~under section 189-25, relating to commercial fishing~~  
6 ~~vessel loans, prior to July 1, 1969;~~] and

7 [~~(8)~~] (7) Section 237-28.1--Gross proceeds from  
8 shipbuilding and ship repair."

9 SECTION 2. Section 23-77, Hawaii Revised Statutes, is  
10 amended by amending subsection (c) to read as follows:

11 "(c) This section shall apply to the following:

12 (1) Section 237-24.3(2)--Reimbursements to associations of  
13 owners of condominium property regimes or nonprofit  
14 homeowners or community associations for common  
15 expenses;

16 [~~(2)~~ ~~Section 237-24.5--Amounts received by exchanges or~~  
17 ~~exchange members;~~

18 ~~(3)~~] (2) Section 237-25(a)(3)--Gross income received from  
19 tangible personal property sales to state-chartered  
20 credit unions;



1        [~~4~~] (3) Section 237-24.8--Amounts received by financial  
2                    institutions, trust companies, trust departments, or  
3                    financial corporations acting as interbank brokers;

4        [~~5~~] (4) Section 237-26--Gross proceeds of scientific  
5                    contractors and subcontractors;

6        [~~6~~] (5) Section [~~238-3(j)~~] 238-3(i)--The value of  
7                    property or services exempted by section 237-26,  
8                    relating to scientific contracts; and

9        [~~7~~] (6) Section 237-27--Amounts received by petroleum  
10                   product refiners from other refiners."

11        SECTION 3. Section 23-79, Hawaii Revised Statutes, is  
12        amended by amending subsection (c) to read as follows:

13        "(c) This section shall apply to the following:

14        (1) Section 237-27.5--Gross proceeds from air pollution  
15                    control facility construction, reconstruction,  
16                    operation, use, maintenance, or furnishing;

17        (2) Section [~~238-3(k)~~] 238-3(j)--The value of air  
18                    pollution control facilities;

19        (3) Section 237-27.6--Amounts received by solid waste  
20                    processing, disposal, and electric generating facility



- 1 operators under sale and leaseback transactions with
- 2 political subdivisions that involve the facilities;
- 3 (4) Section 237-29--Gross income of qualified persons or
- 4 firms or nonprofits or limited distribution mortgagors
- 5 for certified or approved low-income housing projects;
- 6 (5) Section [~~238-3(j)~~] 238-3(i)--The value of property,
- 7 services, or contracting exempted by section 237-29,
- 8 relating to certified or approved housing projects;
- 9 (6) Section 431:7-208--Credit for low-income housing;
- 10 (7) Section 46-15.1(a)--Gross income from county
- 11 low-income housing projects; and
- 12 (8) Section 346-369--Compensation received by provider
- 13 agencies for homeless services or homeless facility
- 14 management."

15 SECTION 4. Section 235-110.7, Hawaii Revised Statutes, is  
 16 amended by amending subsection (a) to read as follows:

17 "(a) There shall be allowed to each taxpayer subject to  
 18 the tax imposed by this chapter a capital goods excise tax  
 19 credit, which shall be deductible from the taxpayer's net income  
 20 tax liability, if any, imposed by this chapter for the taxable  
 21 year in which the credit is properly claimed.



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

5           In the case of a partnership, S corporation, estate, or  
6 trust, the tax credit allowable is for eligible depreciable  
7 tangible personal property that is placed in service by the  
8 entity. The cost upon which the tax credit is computed shall be  
9 determined at the entity level. Distribution and share of  
10 credit shall be determined by rules.

11           In the case of eligible depreciable tangible personal  
12 property for which a credit for sales or use taxes paid to  
13 another state is allowable under section [~~238-3(i)~~], 238-3(h),  
14 the amount of the tax credit allowed under this section shall  
15 not exceed the amount of use tax actually paid under chapter 238  
16 relating to the tangible personal property.

17           If a deduction is taken under section 179 (with respect to  
18 election to expense certain depreciable business assets) of the  
19 Internal Revenue Code of 1954, as amended, no tax credit shall  
20 be allowed for that portion of the cost of property for which  
21 the deduction was taken."



1 SECTION 5. Section 237-22, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3 "(b) To the extent that any deduction, allocation, or  
4 other method to determine tax liability is necessary to comply  
5 with subsection (a), each taxpayer liable for the tax imposed by  
6 this chapter shall be entitled to full offset for the amount of  
7 legally imposed sales, gross receipts, or use taxes paid by the  
8 taxpayer with respect to the imported property, service, or  
9 contracting to another state and any subdivision thereof;  
10 provided that such offset shall not exceed the amount of general  
11 excise tax imposed under this chapter upon the gross proceeds of  
12 sales or gross income from the sale and subsequent sale of the  
13 imported property, service, or contracting. The amount of  
14 legally imposed sales, gross receipts, or use taxes paid by the  
15 taxpayer with respect to the import shall be first applied  
16 against any use tax, as permitted under section  
17 [~~238-3(i),~~] 238-3(h), and any remaining amount may be applied  
18 under this section for the same imported property, service, or  
19 contracting.

20 The director of taxation shall have the authority to  
21 implement this offset by prescribing tax forms and instructions



1 that require tax reporting and payment by deduction, allocation,  
2 or any other method to determine tax liability to the extent  
3 necessary to comply with the foregoing.

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

9 SECTION 6. Section 238-3, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 "**§238-3 Application of tax, etc.** (a) The tax imposed by  
12 this chapter shall not apply to any property, services, or  
13 contracting or to any use of the property, services, or  
14 contracting that cannot legally be so taxed under the  
15 Constitution or laws of the United States, but only so long as,  
16 and only to the extent to which the State is without power to  
17 impose the tax.

18 To the extent that any exemption, exclusion, or  
19 apportionment is necessary to comply with the preceding  
20 sentence, the director of taxation shall:



- 1           (1) Exempt or exclude from the tax under this chapter,  
2           property, services, or contracting or the use of  
3           property, services, or contracting exempted under  
4           chapter 237; or
- 5           (2) Apportion the gross value of services or contracting  
6           sold to customers within the State by persons engaged  
7           in business both within and without the State to  
8           determine the value of that portion of the services or  
9           contracting that is subject to taxation under  
10          chapter 237 for the purposes of section 237-21.
- 11          (b) The tax imposed by this chapter shall not apply to any  
12          use of property, services, or contracting the transfer of which  
13          property, services, or contracting to, or the acquisition of  
14          which by, the person so using the same, has actually been or  
15          actually is taxed under chapter 237.
- 16          (c) The tax imposed by this chapter shall be paid only  
17          once upon or in respect of the same property, services, or  
18          contracting; provided that nothing in this chapter contained  
19          shall be construed to exempt any property, services, or  
20          contracting, or the use thereof from taxation under any other  
21          law of the State.



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

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

15           (f) The tax imposed by this chapter shall not apply to any  
16 use or consumption of aircraft and vessels, the transfer of  
17 which aircraft or vessel to, or the acquisition of which by, the  
18 person so using or consuming the same, or the rental for the use  
19 of the aircraft or vessel, has actually been or actually is  
20 taxed under chapter 237.



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

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

11           ~~(i)]~~ (h) Each taxpayer liable for the tax imposed by this  
12 chapter on property, services, or contracting shall be entitled  
13 to full credit for the combined amount or amounts of legally  
14 imposed sales or use taxes paid by the taxpayer with respect to  
15 the same transaction and property, services, or contracting to  
16 another state and any subdivision thereof, but the credit shall  
17 not exceed the amount of the use tax imposed under this chapter  
18 on account of the transaction and property, services, or  
19 contracting. The director of taxation may require the taxpayer  
20 to produce the necessary receipts or vouchers indicating the



1 payment of the sales or use tax to another state or subdivision  
2 as a condition for the allowance of the credit.

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

6 ~~[(k)]~~ (j) The tax imposed by this chapter shall not apply  
7 to any use of air pollution control facility exempted by section  
8 237-27.5."

9 SECTION 7. Section 237-24.5, Hawaii Revised Statutes, is  
10 repealed.

11 ~~["§237-24.5 Additional exemptions. (a) In addition to  
12 the amounts exempt under section 237-24, this chapter shall not  
13 apply to amounts received by:~~

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

15 ~~(A) Transaction fees charged exchange members by the  
16 exchange for:~~

17 ~~(i) The sale or purchase of securities or  
18 products, or both, bought or sold on an  
19 exchange by exchange members for their own  
20 account or an account for which they have~~



1                    ~~responsibility as an agent, broker, or~~  
2                    ~~fiduciary;~~

3                    ~~(ii) Order book executions made for purposes of~~  
4                    ~~effecting transactions; and~~

5                    ~~(iii) Trade processing performed by an exchange in~~  
6                    ~~matching trades, keypunching, record~~  
7                    ~~keeping, post cashiering, and notarization;~~

8                    ~~(B) Membership dues, fees, charges, assessments, and~~  
9                    ~~finer from individuals or firms, including~~  
10                   ~~charges for firm symbols (member identification),~~  
11                   ~~application processing, registration, initiation,~~  
12                   ~~membership transfers, floor or post privileges,~~  
13                   ~~transaction time extensions, expediting~~  
14                   ~~transactions, crossover trades (trading out of~~  
15                   ~~assigned functions) and rule infractions;~~

16                   ~~(C) Service fees charged to members including fees~~  
17                   ~~for communications, badges, forms, documents, and~~  
18                   ~~reports;~~

19                   ~~(D) Listing fees and listing maintenance fees charged~~  
20                   ~~to companies that wish to be listed and have~~



1                   ~~their securities or products traded on the~~  
2                   ~~exchange; and~~

3           ~~(E) Participation in the communication network~~  
4                   ~~consortium operated collectively by United States~~  
5                   ~~exchanges or other markets recognized by the~~  
6                   ~~Securities and Exchange Commission, the~~  
7                   ~~Commodities Futures Trading Commission, or~~  
8                   ~~similar regulatory authorities outside the United~~  
9                   ~~States that provides last sale and quote~~  
10                  ~~securities information to subscribers or that~~  
11                  ~~connects such markets or exchanges for purposes~~  
12                  ~~of data transmission;~~

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



1 ~~registered with similar regulatory authorities outside~~  
2 ~~the United States; and~~

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

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

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

13 ~~"Exchange member" means an individual or firm that is~~  
14 ~~qualified by an exchange as a member and pays membership dues to~~  
15 ~~an exchange in order to trade securities or products on an~~  
16 ~~exchange.~~

17 ~~"Securities" means securities as defined in 15 United~~  
18 ~~States Code section 78c and "products" means contracts of sale~~  
19 ~~of commodities for future delivery, futures contracts, options,~~  
20 ~~calls, puts, and similar rights as defined in 7 United States~~



1 ~~Code section 2, which securities or products are permitted to be~~  
2 ~~traded on an exchange." ]~~

3 SECTION 8. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 9. This Act shall take effect on July 1, 3000.



**Report Title:**

Taxation; GET; General Excise Tax; Use Tax; Vessel Use;  
Securities Exchange Fees, Dues, and Amounts Received

**Description:**

Amends and repeals certain exemptions under the general excise  
tax and use tax laws. Effective 7/1/3000. (HD1)

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not legislation or evidence of legislative intent.*

