
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.

6 "Qualified production costs" means the costs incurred by a
7 qualified production within the State that are subject to the
8 general excise tax under chapter 237 [~~at the highest rate of~~
9 ~~tax~~] or income tax under this chapter [~~if the costs are not~~
10 ~~subject to general excise tax~~] and that have not been financed
11 by any investments for which a credit was or will be claimed
12 pursuant to section 235-110.9. Qualified production costs
13 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;



- 1 (4) Costs of photography, sound synchronization, lighting,
2 and related services;
- 3 (5) Costs of editing, visual effects, music, other
4 post-production, and related services;
- 5 (6) Rentals and fees for use of local facilities and
6 locations, including rentals and fees for use of state
7 and county facilities and locations that are not
8 subject to general excise tax under chapter 237 or
9 income tax under this chapter;
- 10 (7) Rentals of vehicles and lodging for cast and crew;
- 11 (8) Airfare for flights to or from Hawaii, and interisland
12 flights;
- 13 (9) Insurance and bonding;
- 14 (10) Shipping of equipment and supplies to or from Hawaii,
15 and interisland shipments; and
- 16 (11) Other direct production costs specified by the
17 department in consultation with the department of
18 business, economic development, and tourism;
- 19 provided that any government-imposed fines, penalties, or
20 interest that are incurred by a qualified production within the
21 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 (i) Any purchaser who furnishes a certificate
- 2 shall be obligated to pay to the seller,
- 3 upon demand, the amount of the additional
- 4 tax that is imposed upon the seller whenever
- 5 the sale in fact is not at wholesale; and
- 6 (ii) The absence of a certificate in itself shall
- 7 give rise to the presumption that the sale
- 8 is not at wholesale unless the sales of the
- 9 business are exclusively at wholesale.
- 10 (3) Tax upon contractors.
- 11 (A) Upon every person engaging or continuing within
- 12 the State in the business of contracting, the tax
- 13 shall be equal to four per cent of the gross
- 14 income of the business.
- 15 (B) In computing the tax levied under this paragraph,
- 16 there shall be deducted from the gross income of
- 17 the taxpayer so much thereof as has been included
- 18 in the measure of the tax levied under
- 19 subparagraph (A), on another taxpayer who is a
- 20 contractor, as defined in section 237-6; provided
- 21 that any person claiming a deduction under this



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



1 income computed the same as upon a sale to
2 the state government.

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.

7 (A) Upon every person engaging or continuing within
8 the State in the business of operating a theater,
9 opera house, moving picture show, vaudeville,
10 amusement park, dance hall, skating rink, radio
11 broadcasting station, or any other place at which
12 amusements are offered to the public, the tax
13 shall be equal to four per cent of the gross
14 income of the business, and in the case of a sale
15 of an amusement at wholesale under section
16 237-4(a)(13), the tax shall be one-half of one
17 per cent of the gross income.

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



1 prescribed by the department, certifying that the
2 sale is a sale at wholesale; provided that:
3 (i) Any licensed seller who furnishes a
4 certificate shall be obligated to pay to the
5 person rendering the amusement, upon demand,
6 the amount of additional tax that is imposed
7 upon the seller whenever the sale is not at
8 wholesale; and
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; provided that this exemption
12 shall apply only to amounts that are separately stated
13 and documented as reimbursements for actual wages,
14 payroll taxes, insurance premiums, and benefits paid
15 to motion picture project workers or loan-out
16 companies and shall not apply to other amounts,
17 including service fees, administrative fees, or
18 markups.

19 As used in this paragraph, "motion picture
20 project employer" and "motion picture project worker"



1 have the same meanings as in section 3512 of the
2 Internal Revenue Code of 1986, as amended."

3 SECTION 4. Section 237-30.7, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) Every person making payment to a loan-out company and
6 claiming a tax credit pursuant to section 235-17 shall deduct
7 and withhold an amount equal to the highest rate of tax under
8 this chapter plus any applicable county surcharge for all
9 payments made to the loan-out company for services performed in
10 the State[-]; provided that the amount withheld shall exceed the
11 amount actually due. The amounts withheld shall be remitted
12 pursuant to subsection (b). The amounts withheld under this
13 section shall be deemed to be a general excise tax withholding
14 for the benefit of the loan-out company performing the service."

15 SECTION 5. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 6. This Act shall take effect on July 1, 3000;
18 provided that:

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



1 (2) Sections 2, 3, and 4 shall take effect on January 1, 2027.



Report Title:

Income Tax; Motion Picture, Digital Media, and Film Production
Income Tax Credit; General Excise Tax; Partial Exemption for
Motion Picture Project Employers; Loan-out Companies;
Withholding

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 certain 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. Requires persons making payment to a loan-out company and claiming the Motion Picture, Digital Media, and Film Production Tax Credit to deduct and withhold an amount exceeding the amount actually due for all payments made to the loan-out company for services performed in the State. Applies to taxable years beginning after 12/31/2026. 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.

