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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 (1), 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, creating a  
17 production as defined in section 235-17, milling,  
18 processing, refining, or preparing for sale,  
19 profit, or commercial use, either directly or  
20 through the activity of others, in whole or in  
21 part, any article or articles, substance or



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

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

14 (2) Tax on business of selling tangible personal property;  
15 producing.

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



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

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



1 and whenever there occurs in the State an  
2 activity to which, under the Constitution and  
3 Acts of Congress, there may be attributed gross  
4 proceeds of sales, the gross proceeds shall be so  
5 attributed.

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

18 (D) A manufacturer or producer, engaged in [~~such~~]  
19 business in the State, shall pay the tax imposed  
20 in this chapter for the privilege of selling its  
21 products in the State, and the value or gross



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

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

18 (F) The department, by rule, may require that a  
19 seller take from the purchaser of tangible  
20 personal property 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 purchaser who furnishes a certificate  
4                   shall be obligated to pay to the seller,  
5                   upon demand, the amount of the additional  
6                   tax that is imposed upon the seller whenever  
7                   the sale in fact is not at wholesale; and

8                   (ii) The absence of a certificate in itself shall  
9                   give rise to the presumption that the sale  
10                  is not at wholesale unless the sales of the  
11                  business are exclusively at wholesale.

12               (3) Tax upon contractors.

13               (A) Upon every person engaging or continuing within  
14               the State in the business of contracting, the tax  
15               shall be equal to four per cent of the gross  
16               income of the business.

17               (B) In computing the tax levied under this paragraph,  
18               there shall be deducted from the gross income of  
19               the taxpayer so much thereof as has been included  
20               in the measure of the tax levied under  
21               subparagraph (A), on another taxpayer who is a



1 contractor, as defined in section 237-6; provided  
2 that any person claiming a deduction under this  
3 paragraph shall be required to show in the  
4 person's return the name and general excise  
5 number of the person paying the tax on the amount  
6 deducted by the person.

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

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

19 (ii) The taxpayer making the sale shall have  
20 certified to the department that the  
21 taxpayer is taxable with respect to the



1 gross proceeds of the sale, and that the  
2 taxpayer elects to have the tax on gross  
3 income computed the same as upon a sale to  
4 the state government.

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



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



1 proceeds that constitute or are in the nature of  
2 rent, which shall be taxable under paragraph (9);  
3 provided that insofar as the business of renting  
4 or leasing real property under a lease is taxed  
5 under section 237-16.5, the tax shall be levied  
6 by section 237-16.5.

7 (4) Tax upon theaters, amusements, radio broadcasting  
8 stations, etc.

9 (A) Upon every person engaging or continuing within  
10 the State in the business of operating a theater,  
11 opera house, moving picture show, vaudeville,  
12 amusement park, dance hall, skating rink, radio  
13 broadcasting station, or any other place at which  
14 amusements are offered to the public, the tax  
15 shall be equal to four per cent of the gross  
16 income of the business, and in the case of a sale  
17 of an amusement at wholesale under section  
18 237-4(a)(13), the tax shall be one-half of one  
19 per cent of the gross income.

20 (B) The department may require that the person  
21 rendering an amusement at wholesale take from the



1 licensed seller a certificate, in a form  
2 prescribed by the department, certifying that the  
3 sale is a sale at wholesale; provided that:

4 (i) Any licensed seller who furnishes a  
5 certificate shall be obligated to pay to the  
6 person rendering the amusement, upon demand,  
7 the amount of additional tax that is imposed  
8 upon the seller whenever the sale is not at  
9 wholesale; and

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

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

13 (A) Shall only apply to amounts that are separately  
14 stated and documented as reimbursements for  
15 actual wages, payroll taxes, insurance premiums,  
16 and benefits paid to motion picture project  
17 workers or loan-out companies; and

18 (B) Shall not apply to other amounts, including  
19 service fees, administrative fees, or markups.

20 For the purposes of this paragraph, "motion picture  
21 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. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5           SECTION 5. This Act shall take effect upon on January 1,  
6 2050; provided that:

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

9           (2) Sections 2 and 3 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

**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. Effective 1/1/2050. (SD1)

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