

## ACT 134

S. B. NO. 1007

A Bill for an Act Relating to Tax Exemptions for Air Pollution Control Devices.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 237, Hawaii Revised Statutes, is amended by adding thereto a new section to be appropriately numbered and to read as follows:

**“Section 237- . Air pollution control facility.** (a) As used in this section, ‘air pollution control facility’ shall mean a new identifiable treatment facility, equipment, device, or the like, which is used to abate or control atmospheric pollution or contamination by removing, reducing, or rendering less noxious air contaminants emitted into the atmosphere from a point immediately preceding the point of such removal, reduction, or rendering to the point of discharge of air, meeting emission standards as established by the department of health, excluding air conditioner, fan, or other similar facility for the comfort of persons at a place of business.

(b) Any provision of law to the contrary notwithstanding, there shall be exempted from, and excluded from the measure of, the taxes imposed by chapter 237, all of the gross proceeds arising from, and all of the amount of tangible personal property furnished in conjunction with, the construction, reconstruction, erection, operation, use or maintenance of air pollution control facility; provided that application for exemption shall first be made with the director of health and the director of taxation in the manner prescribed by section 246- .”

SECTION 2. Section 238-3, Hawaii Revised Statutes, is amended to read as follows:

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**“Section 238-3. Application of tax, etc.** (a) The tax imposed by this chapter shall not apply to any property, or to any use of the property, which cannot legally be so taxed under the Constitution or the laws of the United States, but only so long as, and only to the extent to which, the State is without power to impose the tax.

(b) The tax imposed by this chapter shall not apply to any use of property the transfer of which property to, or the acquisition of which by, the person so using the same, has actually been or actually is taxed under chapter 237.

(c) The tax imposed by this chapter shall be paid only once upon or in respect of the same property; provided, that nothing in this chapter contained shall be construed to exempt any property or the use thereof from taxation under any other law of the State.

(d) The tax imposed by this chapter shall be in addition to any other taxes imposed by any other laws of the State, except as otherwise specifically provided herein; provided, that if it be finally held by any court of competent jurisdiction, that the tax imposed by this chapter may not legally be imposed in addition to any other tax or taxes imposed by any other law or laws with respect to the same property or the use thereof, then this chapter shall be deemed not to apply to the property and the use thereof under such specific circumstances, but such other laws shall be given full effect with respect to the property and use.

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

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

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

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

(h) Each taxpayer liable for the tax imposed by this chapter on tangible personal property shall be entitled to full credit for the combined amount or amounts of legally imposed sales or use taxes paid by him with respect to the same transaction and property to another state and any subdivision thereof, but such credit shall not exceed the amount of the use tax imposed under this chapter on account of the transaction and property. The director of taxation may require the taxpayer to produce the necessary receipts or vouchers indicating the payment of the sales or use tax to another state or subdivision as a condition for the allowance of the credit.

( ) The tax imposed by this chapter shall not apply to any use of air pollution control facility exempted by section 237- .”

SECTION 3. Chapter 246, Hawaii Revised Statutes, is amended by adding thereto a new section to be appropriately numbered and to read as follows:

**“Section 246- . Exemptions for air pollution control facility.** The value of all property in the State (not including a building and its structural components, other than a building which is exclusively a treatment facility) actually and solely used or to be used as an air pollution control facility as the term is defined in chapter 237 shall be exempted from the measure of the taxes imposed by this chapter; provided, however, the property exemption shall be applicable only with respect to a certified facility which is property (1) the construction, reconstruction or erection of which is completed by the taxpayer after June 30, 1969, or, (2) acquired by the taxpayer after June 30, 1969, if the original use of the property commences with the taxpayer after June 30, 1969; provided, further, the facility is placed in service by the taxpayer before July 1, 1975.

Application for the exemption provided herein shall first be made with the director of health who shall, if satisfied that the facility meets the pollution emission criteria established by the department of health, certify to that fact. Upon receipt of the certification from the department of health, the director of taxation shall exempt the facility from the tax imposed by this chapter. A new certificate shall be obtained from the director of health and filed with the director of taxation every two years certifying that the pollution control facility complies with the pollutant emission criteria established by the department of health. The director of taxation shall furnish all forms required by this section.

The director of taxation shall, pursuant to chapter 91, promulgate rules and regulations necessary to administer this section.”

SECTION 4. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 5. Sections 1 and 2, upon their approval, shall be effective for taxable years beginning on or after January 1, 1971. Section 3, upon its approval, shall be effective for taxable years beginning July 1, 1971.

(Approved June 22, 1970.)

A Bill for an Act Making an Appropriation for the Preparation of a Plan Relating to the Preservation of Open Space in Hawaii.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$150,000.00, or so much thereof as may be necessary, to develop a statewide comprehensive open space plan. This plan will include the intensive studies of existing conditions, influences, implementing methods and techniques and policy matters in providing for public use or enjoyment of certain lands for open space purposes.

The plan will formulate appropriate recommendations, based on its find-