

## ACT 144

H.B. NO. 2981-74

A Bill for an Act Relating to the Use Tax Law.

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

SECTION 1. **Purpose.** The purpose of this bill is to encourage private industry to participate in and help solve the State's water borne transportation problems by exempting from use taxes those high-speed oceangoing vehicles used for passenger transportation from one point to another within the State.

SECTION 2. The definition of "use" in section 238-1, Hawaii Revised Statutes, is amended to read:

"Use" (and any noun, verbal, adjective, adverbial, and other equivalent form of the term, herein used interchangeably) means any use, whether the use is of such nature as to cause the property to be appreciably consumed or not, or the keeping of the property for such use or sale, and shall include the exercise of any right or power over tangible personal property incident to the ownership of that property, but the term "use" shall not include:

- (1) Temporary use of property, not of a perishable or quickly consumable nature, where the property is imported into the State for temporary use (not sale) therein by the person importing the same and is not intended to be, and is not, kept permanently in the State (as for example without limiting the generality of the foregoing language: (A) in the case of a contractor importing permanent equipment for the performance of a construction contract, with intent to remove, and who does remove, the equipment out of the State upon completing the contract; (B) in the case of moving picture films imported for use in theaters in the State with intent or under contract to transport the same out of the State after completion of such use; (C) in the case of a transient visitor importing an automobile or other belongings into the State to be used by him while therein but which are to be used and are removed upon his departure from the State).
- (2) Use by the taxpayer of property acquired by him solely by way of gift.

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- (3) Use which is limited to the receipt of articles and the return thereof, to the person from whom acquired, immediately or within a reasonable time either after temporary trial or without trial.
- (4) Use of goods imported into the State by the owner of a vessel or vessels engaged in interstate or foreign commerce and held for and used only as ship stores for the vessels.
- (5) The use of keeping for use of household goods, personal effects, and private automobiles imported into the State for nonbusiness use by a person who (A) acquired them in another State, territory, district, or country, (B) at the time of the acquisition was a bona fide resident of another state, territory, district, or country, (C) acquired the property for use outside the State, and (D) made actual and substantial use thereof outside this State; provided, that, as to an article acquired less than three months prior to the time of its importation into the State it shall be presumed, until the unless clearly proved to the contrary, that it was acquired for use in the State and that its use outside the State was not actual and substantial.
- (6) The leasing or renting of any aircraft or the keeping of any aircraft solely for leasing or renting to lessees or renters using the aircraft as a public utility as defined in chapter 269.
- (7) The use of oceangoing vehicles for passenger or passenger and goods transportation from one point to another within the State as a public utility as defined in chapter 269.

With regard to purchases made and distributed under the authority of chapter 421 or under the authority of the Fish Marketing Act under chapter 422, a cooperative association shall be deemed the user thereof.

SECTION 3. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 3, 1974.)

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\*Edited accordingly.