

A Bill for an Act Relating to Taxation.

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

SECTION 1. Section 237-24, Hawaii Revised Statutes, is amended to read:

“**Sec. [237-24]† Amounts not taxable.** This chapter shall not apply to the following amounts:

- (1) Amounts received under life insurance policies and contracts paid by reason of the death of the insured;
- (2) Amounts received (other than amounts paid by reason of death of the insured) under life insurance, endowment, or annuity contracts, either during the term or at maturity or upon surrender of the contract;
- (3) Amounts received under any accident insurance or health insurance policy or contract or under workers’ compensation acts or employers’ liability acts, as compensation for personal injuries, death, or sickness, including also the amount of any damages or other compensation received, whether as a result of action or by private agreement between the parties on account of the personal injuries, death, or sickness;
- (4) The value of all property of every kind and sort acquired by gift, bequest, or devise, and the value of all property acquired by descent or inheritance;
- (5) Amounts received by any person as compensatory damages for any tort injury to him, or to his character reputation, or received as compensatory damages for any tort injury to or destruction of property, whether as the result of action or by private agreement between the parties (provided that amounts received as punitive damages for tort injury or breach of contract injury shall be included in gross income);

† “237-24” substituted for “237-4” to correct obvious clerical error.

- (6) Amounts received as salaries or wages for services rendered by an employee to an employer;
- (7) Amounts received as alimony and other similar payments and settlements;
- (8) Amounts collected by distributors as fuel taxes on "liquid fuel" imposed by chapter 243, and the amounts collected by such distributors as a fuel tax imposed by any act of the Congress of the United States;
- (9) Taxes on liquor imposed by chapter 244 on dealers holding permits under that chapter;
- (10) The amounts of taxes on tobacco products imposed by chapter 245 on wholesalers or dealers holding licenses under that chapter and selling the products at wholesale, and the amounts of taxes on tobacco products collected from a wholesaler by another where the wholesaler makes separate charges for the amounts so collected from him and collects the same from those purchasing from him as provided by chapter 245;
- (11) Federal excise taxes imposed on articles sold at retail and collected from the purchasers thereof and paid to the federal government by the retailer;
- (12) The amounts of federal taxes under chapter 37 of the Internal Revenue Code, or similar federal taxes, imposed on sugar manufactured in the State, paid by the manufacturer to the federal government;
- (13) An amount up to, but not in excess of, \$2,000 a year of gross income received by any blind, deaf, or totally disabled person engaging, or continuing, in any business, trade, activity, occupation, or calling within the State;
- (14) Amounts received by an organization enumerated under section 237-23(a)(5) to (8) from the sale of brooms which are manufactured by blind persons working at the adult blind broom shop;
- (15) Amounts received by a producer of sugarcane from the manufacturer to whom he sells the sugarcane, where (A) the producer is an independent cane farmer, so classed by the secretary of agriculture under the Sugar Act of 1948 (61 Stat. 922, Chapter 519) as the Act may be amended or supplemented, and (B) the value of the sugar, and other products manufactured from the sugarcane, is included in the measure of the tax levied on the manufacturer under section 237-13(1), and (C) the producer's gross proceeds of sales are dependent upon the actual value of the products manufactured therefrom or the average value of all similar products manufactured by the manufacturer, and (D) the producer's gross proceeds of sales are reduced by reason of the tax on the value of the manufactured products;
- (16) Money paid by the State or eleemosynary child-placing organizations to foster parents for their care of children in foster homes;
- (17) Amounts received by a cooperative housing corporation from its shareholders in reimbursement of funds paid by such corporation for lease rental, real property taxes, and other expenses of operating and maintaining the cooperative land and improvements, provided that such a cooperative corporation is a corporation:
 - (A) Having one and only one class of stock outstanding;
 - (B) Each of the stockholders of which is entitled solely by reason of his ownership of stock in the corporation, to occupy for dwelling purposes

- a house, or an apartment in a building owned or leased by the corporation;
- (C) No stockholder of which is entitled (either conditionally or unconditionally) to receive any distribution not out of earnings and profits of the corporation except in a complete or partial liquidation of the corporation;
 - (18) Amounts received from the loading, transportation, and unloading of agricultural commodities shipped for a producer or produce dealer on one island of this State to a person, firm, or organization on another island of the State. The terms "agricultural commodity", "producer", and "produce dealer" shall be defined in the same manner as they are defined in section 147-1;
 - (19) Amounts received from sales of (A) intoxicating liquor as defined in chapter 244, (B) tobacco products as defined in chapter 245, and (C) agricultural, meat, or fish products grown, raised, or caught in Hawaii, when such sales are made to any person or common carrier in interstate or foreign commerce, or both, whether ocean-going or air, for consumption out-of-state by such person, crew, or passengers on such shipper's vessels or airplanes;
 - (20) Amounts received by the manager or board of directors of an association of apartment owners of a horizontal property regime established in accordance with chapter 514A in reimbursement of sums paid for common expenses;
 - (21) Any provision of law to the contrary notwithstanding, exemptions or exclusions from tax under this chapter allowed on or before April 1, 1978 for amounts received by any person or common carrier engaged in interstate or foreign commerce, or both, whether ocean-going or air, shall continue undiminished and be available thereafter to the extent and under the conditions such exemptions or exclusions have theretofore been previously allowed in the State under the provisions of the Constitution of the United States or an act of the Congress of the United States."

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

"Sec. 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 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.

Any provision of law to the contrary notwithstanding, exemptions or exclusions from tax under this chapter allowed on or before April 1, 1978 under the provisions of the Constitution of the United States or an act of the Congress of the United States to persons or common carriers engaged in interstate or foreign commerce, or both, whether ocean-going or air, shall continue undiminished and be available thereafter.

(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 and vessels, the transfer of which aircraft or vessel to, or the acquisition of which by, the person so using or consuming the same, or the rental for the use of the aircraft or vessel, 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.

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

(i) 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.

(j) The tax imposed by this chapter shall not apply to any use of property exempted by section 237-26.

(k) The tax imposed by this chapter shall not apply to any use of air pollution control facility exempted by section 237-27.5.''

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.*

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

(Approved May 17, 1979.)

*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.