

ACT 295

S.B. NO. 3062

A Bill for an Act Relating to the General Excise Tax.

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

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

“§237- Additional exemptions. (a) In addition to the amounts exempt under section 237-24, this chapter shall not apply to amounts:

(1) Received by a stock exchange from:

(A) Transaction fees charged exchange members by the exchange for:

(i) The sale or purchase of stocks or option contracts bought or sold on the exchange by exchange members;

- (ii) Order book official entries made by exchange employees in an official order book for accounting and monitoring purposes; and
- (iii) Data entries performed by exchange employees which entries match trades for buy and sell purposes;
- (B) Membership dues from individuals or firms, including charges for firm symbols (member identification);
- (C) Listing fees charged to companies that wish to be listed and have their securities traded on the exchange; and
- (D) Participation in the communication network consortium owned and operated collectively by United States exchanges that provides securities information to subscribers; and
- (2) Amounts received by any stock exchange member by reason of executing a transaction relating to securities on the floor of a stock exchange; provided that this exclusion shall not apply to amounts received by any person for transactions preceding or succeeding a transaction on the floor of the stock exchange.

(b) As used in this section:

“Securities” means securities as defined in section 485-1.

“Stock exchange” means a stock exchange organized under the laws of, or authorized to do business in, this State.

“Stock exchange member” means an individual or firm that pays membership dues to the exchange in order to trade securities on the floor of the exchange.”

SECTION 2. Section 237-3, Hawaii Revised Statutes, is amended to read as follows:

“§237-3 “Gross income”, “gross proceeds of sale”, defined. (a) “Gross income” means the gross receipts, cash or accrued, of the taxpayer received as compensation for personal services and the gross receipts of the taxpayer derived from trade, business, commerce, or sales and the value proceeding or accruing from the sale of tangible personal property, or service, or both, and all receipts, actual or accrued as hereinafter provided, by reason of the investment of the capital of the business engaged in, including interest, discount, rentals, royalties, fees, or other emoluments however designated and without any deductions on account of the cost of property sold, the cost of materials used, labor cost, taxes, royalties, interest, or discount paid or any other expenses whatsoever. Every taxpayer shall be presumed to be dealing on a cash basis unless the taxpayer proves to the satisfaction of the department of taxation that the taxpayer is dealing on an accrual basis and the taxpayer’s books are so kept, or unless the taxpayer employs or is required to employ the accrual basis for the purposes of the tax imposed by chapter 235 for any taxable year in which event the taxpayer shall report the taxpayer’s gross income for the purposes of this chapter on the accrual basis for the same period.

“Gross proceeds of sale” means the value actually proceeding from the sale of tangible personal property without any deduction on account of the cost of property sold or expenses of any kind.

(b) The words “gross income” and “gross proceeds of sales” shall not be construed to include: gross receipts from the sale of [bonds] securities as defined in section 485-1 or other evidence of indebtedness [or stocks] or, except as otherwise provided, from the sale of land in fee simple, improved or unimproved, dividends as defined by chapter 235; cash discounts allowed and taken on sales; the proceeds of sale of goods, wares, or merchandise returned by customers when the sale price

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is refunded either in cash or by credit; or the sale price of any article accepted as part payment on any new article sold, if the full sale price of the new article is included in the "gross income" or "gross proceeds of sales"; gross receipts from the sale or transfer of materials or supplies, interest on loans, or the provision of engineering, construction, maintenance, or managerial services by one "member" of an "affiliated public service company group" to another "member" of the same group as such terms are defined in section 239-2(6). Accounts found to be worthless and actually charged off for income tax purposes may, at corresponding periods, be deducted from gross proceeds of sale, or gross income, within this chapter, so far as they reflect taxable sales made, or gross income earned, after July 1, 1935, but shall be added to gross proceeds of sale or gross income when and if afterwards collected."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon approval, and Section 1 shall be repealed on June 30, 1989.

(Approved June 13, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.