

## ACT 331

S.B. NO. 927

A Bill for an Act Relating to Taxation.

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

SECTION 1. Section 245-3, Hawaii Revised Statutes, is amended to read as follows:

**“§245-3 Taxes; limitations.** (a) Every wholesaler or dealer, in addition to any other taxes provided by law, shall pay for the privilege of conducting business and other activities in the State an:

(1) Excise tax equal to [3.00]:

(A) 4.00 cents for each cigarette sold, used, or possessed by the wholesaler or dealer, after [June 30, 1993,] August 31, 1997; and

(B) 5.00 cents for each cigarette sold, used, or possessed by a wholesaler or dealer after June 30, 1998,

whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer; [such excise tax to increase to 3.50 cents per cigarette on the first day of the month one hundred eighty days after a United States congressional act is signed into law which requires military installations to purchase cigarettes in Hawaii in a manner similar to that required of alcoholic beverages under 10 United

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States Code, section 2488 (nonappropriated fund instrumentalities, purchase of alcoholic beverages);] and

- (2) Excise tax equal to forty per cent of the wholesale price of each article or item of tobacco products sold by the wholesaler or dealer, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer.

Where the tax imposed has been paid on cigarettes or tobacco products which thereafter become the subject of a casualty loss deduction allowable under chapter 235, the tax paid shall be refunded or credited to the account of the wholesaler or dealer. In applying the tax, the tax shall be applied against the latest of the activities of selling, using, or possessing. The tax shall be imposed at the time of the last of the following activities to occur: the sale; the use; or the possession of cigarettes or tobacco products.

(b) The taxes, however, are subject to the following limitations:

- (1) The measure of the taxes shall not include any cigarettes or tobacco products exempted, and so long as the same are exempted, from the imposition of taxes by the Constitution or laws of the United States; and
- (2) The taxes shall be paid only once in respect of the same cigarettes or tobacco product. This limitation shall not prohibit the imposition of the excise tax on receipts from sales of tobacco products under subsection (a)(2); provided that the amount subject to the tax on each sale shall not include amounts previously taxed under this chapter.”

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

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

SECTION 4. This Act shall take effect on September 1, 1997.

(Approved July 2, 1997.)