

ACT 245

S.B. NO. 2026

A Bill for an Act Relating to Small Business Innovation Research Grants.

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

SECTION 1. To make Hawaii small business competitive with mainland applicants for federal phase II awards, Act 196, Session Laws of Hawaii 1989, authorized the high technology development corporation to make grants supplementing federal small business innovation research phase I awards or contracts.

The purpose of this Act is to acknowledge that grants awarded by the high technology development corporation to supplement federal small business innovation research phase I awards or contracts were intended to be exempt from the general excise tax as an extension of the exemption allowed under section 237-26, Hawaii Revised Statutes (exemption of certain scientific contracts with the United States).

SECTION 2. Section 237-24.7, Hawaii Revised Statutes, is amended to read as follows:

“§237-24.7 Additional amounts not taxable. In addition to the amounts not taxable under section 237-24, this chapter shall not apply to:

- (1) Amounts received by the operator of a hotel from the owner of the hotel in amounts equal to and which are disbursed by the operator for employee wages, salaries, payroll taxes, insurance premiums, and benefits, including retirement, vacation, sick pay, and health benefits.

As used in this paragraph:

“Employee” means employees directly engaged in the [day to day] day-to-day operation of the hotel and employed by the operator.

“Hotel” means an operation licensed under section 445-92.

“Operator” means any person who, pursuant to a written contract with the owner of a hotel, operates or manages the hotel for the owner.

“Owner” means the fee owner or lessee under a recorded lease of a hotel;

- (2) Amounts received by the operator of a county transportation system operated under an operating contract with a political subdivision, where

the political subdivision is the owner of the county transportation system. As used in this paragraph:

“County transportation system” means a mass transit system of motorized buses providing regularly scheduled transportation within a county.

“Operating contract” or “contract” means a contract to operate and manage a political subdivision’s county transportation system, which provides that:

- (A) The political subdivision shall exercise substantial control over all aspects of the operator’s operation;
- (B) The political subdivision controls the development of transit policy, service planning, routes, and fares; and
- (C) The operator develops in advance a draft budget in the same format as prescribed for agencies of the political subdivision. The budget must be subject to the same constraints and controls regarding the lawful expenditure of public funds as any public sector agency, and deviations from the budget must be subject to approval by the appropriate political subdivision officials involved in the budgetary process.

“Operator” means any person who, pursuant to an operating contract with a political subdivision, operates or manages a county transportation system.

“Owner” means a political subdivision that owns or is the lessee of all the properties and facilities of the county transportation system (including buses, real estate, parking garages, fuel pumps, maintenance equipment, office supplies, etc.), and that owns all revenues derived therefrom;

- (3) Surcharge taxes on rental motor vehicles imposed by chapter 251 and passed on and collected by persons holding certificates of registration under that chapter;
- (4) Amounts received by the operator of orchard properties from the owner of the orchard property in amounts equal to and which are disbursed by the operator for employee wages, salaries, payroll taxes, insurance premiums, and benefits, including retirement, vacation, sick pay, and health benefits. As used in this paragraph:

“Employee” means an employee directly engaged in the [day to day] day-to-day operations of the orchard properties and employed by the operator.

“Operator” means a producer who, pursuant to a written contract with the owner of the orchard property, operates or manages the orchard property for the owner where the property contains an area sufficient to make the undertaking economically feasible.

“Orchard property” means any real property that is used to raise trees with a production life cycle of fifteen years or more producing fruits or nuts having a normal period of development from the initial planting to the first commercially saleable harvest of not less than three years.

“Owner” means a fee owner or lessee under a recorded lease of orchard property;

- (5) Taxes on nursing facility income imposed by chapter 346E and passed on and collected by operators of nursing facilities;
- (6) Amounts received under property and casualty insurance policies for damage or loss of inventory used in the conduct of a trade or business

- located within the State or a portion thereof that is declared a natural disaster area by the governor pursuant to section 209-2;
- (7) Amounts received as compensation by community organizations, school booster clubs, and nonprofit organizations under a contract with the chief election officer for the provision and compensation of precinct officials and other [election related] election-related personnel, services, and activities, pursuant to section 11-5; [and]
 - (8) Interest received by a person domiciled outside the State from a trust company (as defined in section 412:8-101) acting as payment agent or trustee on behalf of the issuer or payees of an interest bearing instrument or obligation, if the interest would not have been subject to tax under this chapter if paid directly to the person domiciled outside the State without the use of a paying agent or trustee; provided that if the interest would otherwise be taxable under this chapter if paid directly to the person domiciled outside the State, it shall not be exempt solely because of the use of a Hawaii trust company as a paying agent or trustee[.]; and
 - (9) Amounts received as grants under section 206M-15.''

SECTION 3. Any refunds that may be due shall be paid according to section 231-23, Hawaii Revised Statutes, and the three-year limitation period set out in section 237-40, Hawaii Revised Statutes, shall not apply for the purposes of general excise tax payments on amounts received as grants under section 206M-15, Hawaii Revised Statutes. All claims for tax refunds under this Act, including any amended claims, must be filed on or before December 31, 1999. Failure to comply with the foregoing section shall constitute a waiver of the right to claim the refund.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 1998.

(Approved July 20, 1998.)