

A Bill for an Act Relating to General Excise Tax.

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

SECTION 1. The legislature finds that many contractors, particularly those engaged in long-term building contracts, use an accrual basis accounting system as opposed to a cash basis accounting system. One particular disadvantage to the accrual basis system is that the contractor-taxpayer must pay the general excise tax on sales that it accrues even if the contractor-taxpayer has not yet received the proceeds of the sales. This leaves the contractor-taxpayer in the financially undesirable position of having to pay the general excise tax whether the contractor-taxpayer has collected any sales proceeds.

This Act gives equality and fairness to the contractor-taxpayers by allowing them to elect to pay the tax on a cash basis, like most other taxpayers, while continuing to use an accrual based accounting system.

The purpose of this Act is to provide tax relief for the construction industry, that has been one of the hardest hit sectors of the down economy in Hawaii. This Act is not a tax reduction for the industry but rather a tax deferral.

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 securities as defined in 15 United States Code section 78c or similar laws of jurisdictions outside the United States, contracts for the sale of a commodity for future delivery and other agreements, options, and rights as defined in 7 United States Code section 2 that are permitted to be traded on a board of trade designated by the Commodities Futures Trading Commission under the Commodity Exchange Act, or evidence of indebted-

ness 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 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. Accounts found to be worthless and actually charged off for income tax purposes may[, at corresponding periods,] be deducted, at corresponding periods, 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.

(c) For purposes of the tax imposed by this chapter, a taxpayer under section 237-13(3) may report on a cash basis; provided the taxpayer notifies the department of taxation of the basis upon which the tax imposed by this chapter is to be reported.'

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 Statutory material to be repealed is bracketed.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

SECTION 4. This Act shall take effect on January 1, 2001, and shall apply to general excise taxes imposed under chapter 237, Hawaii Revised Statutes, on gross proceeds or gross income arising after January 1, 2001.

(Approved June 20, 2000.)