

ACT 110

H.B. NO. 2571

A Bill for an Act Relating to Taxation of Persons with Impaired Sight or Hearing or Who are Totally Disabled that are Engaged in Business.

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

SECTION 1. The purpose of this Act is to provide persons with impaired sight or hearing or who are totally disabled the same general excise tax benefits regardless of the entity in which they choose to do business.

Certain state tax benefits are available to persons with impaired sight or hearing or who are totally disabled. These provisions, however, may not be applicable depending on the entity in which impaired persons choose to do business. Currently, section 237-17, Hawaii Revised Statutes, provides a one-half per cent general excise tax rate for individuals with impaired sight or hearing or who are totally disabled, or corporations all of whose outstanding shares are owned by individuals with impaired sight or hearing or who are totally disabled. Similarly, section 237-24(13), Hawaii Revised Statutes, exempts from the general excise tax \$2,000 a year of gross income received by any blind, deaf, or totally disabled person engaging in business.

This Act will provide the same general excise tax benefits to these persons regardless of the entity in which they choose to do business.

SECTION 2. Section 237-17, Hawaii Revised Statutes, is amended to read as follows:

“§237-17 Persons with impaired sight, hearing, or who are totally disabled. Anything in section 237-13 to the contrary notwithstanding, the privilege tax levied, assessed, and collected on account of the business or other activities of individuals who are blind, deaf, or totally disabled, [or] corporations all of whose outstanding shares are owned by individuals who are blind, deaf, or totally disabled, general, limited, or limited liability partnerships, all of whose partners are blind, deaf, or totally disabled, or limited liability companies, all of whose members are blind, deaf, or totally disabled, shall not exceed one-half of one per cent of the proceeds, sales, income, or other receipts subject to tax. For the purpose of this chapter “blind”, “deaf”, or “totally disabled” is defined as in section 235-1. The impairment of sight or hearing, or the disability, shall be certified to as provided in section 235-1.”

SECTION 3. Section 237-24, Hawaii Revised Statutes, is amended to read as follows:

“§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 the person, or to the person's 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);
- (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 244D on dealers holding permits under that chapter;
- (10) The amounts of taxes on cigarettes and tobacco products imposed by chapter 245 on wholesalers or dealers holding licenses under that chapter and selling the products at wholesale;
- (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; a corporation all of whose outstanding shares are owned by an individual or individuals who are blind, deaf, or totally disabled; a general, limited, or limited liability partnership, all of whose partners are blind, deaf, or totally disabled; or a limited liability company, all of whose members are blind, deaf, or totally disabled;
- (14) Amounts received by a producer of sugarcane from the manufacturer to whom the producer 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;
 - (B) The value or gross proceeds of sale 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) or [237-13](2);
 - (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 or sale of the manufactured products;
- (15) Money paid by the State or eleemosynary child-placing organizations to foster parents for their care of children in foster homes; and
- (16) 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 the stockholder's 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; and
 - (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."

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

SECTION 5. This Act shall take effect on July 1, 2002, and shall apply to gross income and gross proceeds received after June 30, 2002.

(Approved May 31, 2002.)