

ACT 70

S.B. NO. 427

A Bill for an Act Relating to General Excise Taxation.

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

SECTION 1. The legislature finds that pursuant to the authority granted by Congress under title 10 United States Code section 1071 et seq., the United States Department of Defense established the TRICARE program as the managed care component of the Military Health System, a federal government program that provides health care services to over nine million Americans, composed of active duty, reserve, and retired members of the United States uniformed services, their family members, and survivors, including approximately one hundred fifty thousand current and former service members and their family members who reside in Hawaii.

The legislature further finds that the purpose and mission of the TRICARE program is to ensure the availability of high-quality, low-cost health care services to members of the uniformed services and their families, which is crucial to ensuring military readiness, national defense, and the health and welfare of the residents of the State.

The TRICARE program augments the health care services provided by the United States Department of Defense personnel at military treatment facilities. TRICARE is a program of the Department of Defense, TRICARE Management Activity, which contracts with third-party administrators, known as “managed care support contractors”, to establish and maintain networks of TRICARE-authorized civilian health care providers in various regions of the United States. On behalf of the United States Department of Defense, managed care support contractors make advances to health care providers, including doctors, hospitals, and other providers, for costs of health care services provided to TRICARE beneficiaries. The United States Department of Defense reimburses managed care support contractors for the actual cost or advancement made to third party health care providers.

The legislature understands that some uncertainty may exist about whether the amounts received by a managed care support contractor of the TRICARE program for the actual cost or advancement to third party health care providers, on behalf of the federal government, are subject to the state general excise tax. The legislature finds that, to avoid increasing the costs of health care services delivered through the TRICARE program and any adverse consequences to members of our uniformed services and their families from the increased costs, it is desirable to clarify that the amounts received by a managed care support contractor of the TRICARE program are not subject to the state general excise tax.

The purpose of this Act is to clarify that the amounts received by a managed care support contractor of the TRICARE program for the actual cost or advancement to third party health care providers, pursuant to a contract with the United States for the administration of the TRICARE program, are excluded from the state general excise tax.

SECTION 2. 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 the sale of the sugar, and other products manufactured from the sugarcane, [is] are included in the measure of the tax levied on the manufacturer under section 237-13(1) or (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~~ the corporation for lease rental, real property taxes, and other expenses of operating and maintaining the cooperative land and improvements; provided that ~~such a~~ the 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[-]; and
- (17) Amounts received by a managed care support contractor of the TRICARE program that is established under Title 10 United States Code Chapter 55, as amended, for the actual cost or advancement to third party health care providers pursuant to a contract with the United States."

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

SECTION 4. This Act shall take effect on July 1, 2009 and shall be repealed as of December 31, 2013; provided that section 237-24, Hawaii Revised Statutes, shall be reenacted in the form in which it read on June 30, 2009.

(Approved May 22, 2009.)