

A Bill for an Act Relating to Taxation.

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

SECTION 1. The legislature finds that tax exemptions, exclusions, and credits require periodic review to determine their tax expenditures, benefits, and continued merit and necessity. The legislature further finds that tax expenditures from the exemptions, exclusions, and credits reduce revenues to the State. This requires ordinary taxpayers who do not benefit from the exemptions, exclusions, and credits to compensate for the reduced revenues. Alternatively, funding for important state programs must be curtailed. The legislature further finds that good tax policy requires the equal treatment of similarly-situated taxpayers for the sake of equity and efficiency. When certain taxpayers receive special benefits to the detriment of others, it may generate resentment that leads to the loss of the general public's confidence in fair treatment by the state government.

However, the legislature also believes that certain tax exemptions, exclusions, and credits are worthy of continuation for equity, efficiency, and economic and social policy. The legislature finds that review by the state auditor would help the legislature to identify and affirm the exemptions, exclusions, and credits that represent good public policy.

Accordingly, the purpose of this Act is to require the state auditor to periodically review certain tax exemptions, exclusions, and credits under the general excise and use taxes, public service company tax, and insurance premium

tax. These taxes are generally imposed on gross income or a similar measure. The legislature finds that this Act is necessary to promote tax equity and efficiency, adequacy of state revenues, public transparency, and confidence in a fair state government.

SECTION 2. Chapter 23, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**“PART . REVIEW OF TAX EXEMPTIONS, EXCLUSIONS, AND CREDITS**

**§23-A Review of certain exemptions, exclusions, and credits under the general excise and use taxes, public service company tax, and insurance premium tax.** (a) The auditor shall conduct a review of the tax exemptions, exclusions, and credits listed in sections 23-B to 23-K.

(b) In the review of an exemption, exclusion, or credit, the auditor shall:

(1) Determine the amount of tax expenditure for the exemption, exclusion, or credit for each of the previous three fiscal years;

(2) Estimate the amount of tax expenditure for the exemption, exclusion, or credit for the current fiscal year and the next two fiscal years;

(3) Determine whether the exemption, exclusion, or credit has achieved and continues to achieve the purpose for which it was enacted by the legislature;

(4) Determine whether the exemption, exclusion, or credit is necessary to promote or preserve tax equity or efficiency;

(5) If the exemption, exclusion, or credit was enacted because of its purported economic or employment benefit to the State:

(A) Determine whether a benefit has resulted, and if so, quantify to the extent possible the estimated benefit directly attributable to the exemption, exclusion, or credit; and

(B) Comment on whether the benefit, if any, outweighs the cost of the exemption, exclusion, or credit; and

(6) Estimate the annual cost of the exemption, exclusion, or credit per low-income resident of the State. For purposes of this paragraph, a “low-income resident of the State” means an individual who is a resident of the State and:

(A) Is the only member of a family of one and has an income of not more than eighty per cent of the area median income for a family of one; or

(B) Is part of a family with an income of not more than eighty per cent of the area median income for a family of the same size.

The cost shall be estimated by dividing the annual tax expenditure for the exemption, exclusion, or credit for each fiscal year under review by the number of low-income residents of the State in the fiscal year. The estimate determined pursuant to this paragraph is intended to display the effect on low-income residents of the State if they directly receive, either through tax reduction or negative tax, the dollars saved by elimination of the exemption, exclusion, or credit.

(c) Based on the review, the auditor shall recommend whether the exemption, exclusion, or credit should be retained without modification, amended, or repealed.

The auditor may recommend that an exemption, exclusion, or credit be removed from review under sections 23-B through 23-K.

**§23-B Review for 2018 and every tenth year thereafter.** (a) The exemptions and exclusions under the general excise and use taxes listed in subsection (c) shall be reviewed in 2018 and every tenth year thereafter.

(b) The auditor shall submit the findings and recommendations of the reviews to the legislature and governor no later than twenty days prior to the convening of the immediately following regular session.

(c) This section shall apply to the following:

- (1) Section 237-3(b)—Gross receipts from the following:
  - (A) Sales of securities;
  - (B) Sales of commodity futures;
  - (C) Sales of evidences of indebtedness;
  - (D) Fee simple sales of improved or unimproved land;
  - (E) Dividends; and
  - (F) Sales or transfers of materials and supplies, interest on loans, and provision of services among members of an affiliated public service company group;
- (2) Section 237-13(3)(B)—Gross income of contractors from subcontractors;
- (3) Section 237-13(3)(C)—Reimbursements to federal cost-plus contractors;
- (4) Section 237-13(6)(D)(i), (ii), (iii), and (iv)—Gross receipts of home service providers acting as service carriers;
- (5) Section 237-24.3(11)—Amounts received from aircraft and aircraft engine rental or leasing;
- (6) Section 237-24.9—Amounts received from aircraft servicing and maintenance and aircraft service and maintenance facility construction;
- (7) Section 238-1, paragraph (6) of the definition of “use”—The value of aircraft leases or rental and acquired or imported aircrafts and aircraft engines; and
- (8) Section 238-1, paragraph (8) of the definition of “use”—The value of material, parts, or tools for aircraft service and maintenance and aircraft service and maintenance facility construction.

**§23-C Review for 2019 and every tenth year thereafter.** (a) The exemptions, exclusions, and credits under the general excise tax listed in subsection (c) shall be reviewed in 2019 and every tenth year thereafter.

(b) The auditor shall submit the findings and recommendations of the reviews to the legislature and governor no later than twenty days prior to the convening of the immediately following regular session.

(c) This section shall apply to the following:

- (1) Section 237-16.5—Gross income of real property lessees from sublessees;
- (2) Section 237-16.8—Value or gross income of nonprofit organizations from conventions, conferences, trade shows, and display spaces;
- (3) Section 349-10—Proceeds earned from annual senior citizen’s fairs;
- (4) Section 237-23.5—Amounts received from common payments of related entities;
- (5) Section 237-24(13)—Amounts received by blind, deaf, or totally disabled persons from their business;

- (6) Section 237-24(14)—Amounts received by independent cane farmers who are sugarcane producers;
- (7) Section 237-24(15)—Amounts received by foster parents;
- (8) Section 237-24(16)—Reimbursements to cooperative housing corporations for operating and maintenance expenses;
- (9) Section 237-24(17)—Amounts received by TRICARE managed care support contractors; and
- (10) Section 237-24(18)—Amounts received by patient-centered community care program contractors.

**§23-D Review for 2020 and every tenth year thereafter.** (a) The exemptions and exclusions under the general excise tax, public service company tax, or insurance premium tax listed in subsection (c) shall be reviewed in 2020 and every tenth year thereafter.

(b) The auditor shall submit the findings and recommendations of the reviews to the legislature and governor no later than twenty days prior to the convening of the immediately following regular session.

(c) This section shall apply to the following:

- (1) Section 239-2, paragraph (5) of the definition of “gross income”—Gross income of home service providers of mobile telecommunications services;
- (2) Section 239-2, exclusions under the definition of “gross income”—Dividends paid by one member to another member of an affiliated public service company group or gross income from the sale or transfer of materials and supplies, interest on loans, and provision of services among members of an affiliated public service company group;
- (3) Section 237-3(b)—Gross receipts from the sale or transfer of materials and supplies, interest on loans, and provision of services among members of an affiliated public service company group;
- (4) Section 239-5.5—Gross income of utilities from monthly surcharges;
- (5) Section 239-5.6—Gross income of electric utility companies from cable surcharges;
- (6) Section 239-6.5—Tax credit for lifeline telephone service subsidies;
- (7) Section 269-172—Green infrastructure charges received by electric utilities;
- (8) Section 237-29.7—Gross income or gross proceeds received by insurance companies;
- (9) Section 431:7-207—Tax credit to facilitate regulatory oversight;
- (10) Section 432:1-403—Exemption for nonprofit medical indemnity or hospital service associations or societies specifically from the general excise tax, public service company tax, or insurance premium tax; and
- (11) Section 432:2-503—Exemption for fraternal benefit societies specifically from the general excise tax, public service company tax, or insurance premium tax.

**§23-E Review for 2021 and every tenth year thereafter.** (a) The exemptions or exclusions under the general excise and use taxes listed in subsection (c) shall be reviewed in 2021 and every tenth year thereafter.

(b) The auditor shall submit the findings and recommendations of the reviews to the legislature and governor no later than twenty days prior to the convening of the immediately following regular session.

(c) This section shall apply to the following:

- (1) Section 237-24.3(1)—Amounts received from loading, transporting, and unloading agricultural commodities shipped interisland;
- (2) Section 237-24.3(3)(A)—Amounts received from cargo loading or unloading;
- (3) Section 237-24.3(3)(B)—Amounts received from tugboat and towage services;
- (4) Section 237-24.3(3)(C)—Amounts received from the transportation of pilots or government officials and other maritime-related services;
- (5) Section 238-1, paragraph (7) of the definition of “use”—The value of oceangoing vehicles for transportation from one point to another in the State;
- (6) Section 238-3(g)—The value of imported intoxicating liquor and cigarettes and tobacco products for sale to persons or common carriers in interstate commerce;
- (7) Section 238-3(h)—The value of vessels constructed under section 189-25, relating to commercial fishing vessel loans, prior to July 1, 1969; and
- (8) Section 237-28.1—Gross proceeds from shipbuilding and ship repair.

**§23-F Review for 2022 and every tenth year thereafter.** (a) The exemptions or exclusions under the general excise tax listed in subsection (c) shall be reviewed in 2022 and every tenth year thereafter.

(b) The auditor shall submit the findings and recommendations of the reviews to the legislature and governor no later than twenty days prior to the convening of the immediately following regular session.

(c) This section shall apply to the following:

- (1) Section 237-24.3(4)—Amounts received by employment benefit plans and amounts received by nonprofit organizations or offices for the administration of employee benefit plans;
- (2) Section 237-24.3(5)—Amounts received from food coupons under the federal food stamp program or vouchers under the Special Supplemental Foods Program for Women, Infants and Children;
- (3) Section 237-24.3(6)—Amounts received from the sale of prescription drugs or prosthetic devices;
- (4) Section 237-24.3(8)—Amounts received as dues by unincorporated merchants associations for advertising or promotion;
- (5) Section 237-24.3(9)—Amounts received by labor organizations from real property leases;
- (6) Section 237-24.75(2)—Reimbursements to the Hawaii convention center operator from the Hawaii tourism authority;
- (7) Section 237-24.75(3)—Reimbursements to professional employer organizations from client companies for employee wages and fringe benefits; and
- (8) Section 209E-11—Amounts received by qualified businesses in enterprise zones.

**§23-G Review for 2023 and every tenth year thereafter.** (a) The exemptions or exclusions under the general excise and use taxes listed in subsection (c) shall be reviewed in 2023 and every tenth year thereafter.

(b) The auditor shall submit the findings and recommendations of the reviews to the legislature and governor no later than twenty days prior to the convening of the immediately following regular session.

- (c) This section shall apply to the following:
- (1) Section 237-24.3(2)—Reimbursements to associations of owners of condominium property regimes or nonprofit homeowners or community associations for common expenses;
  - (2) Section 237-24.5—Amounts received by exchanges or exchange members;
  - (3) Section 237-25(a)(3)—Gross income received from tangible personal property sales to state-chartered credit unions;
  - (4) Section 237-24.8—Amounts received by financial institutions, trust companies, trust departments, or financial corporations acting as interbank brokers;
  - (5) Section 237-26—Gross proceeds of scientific contractors and subcontractors;
  - (6) Section 238-3(j)—The value of property or services exempted by section 237-26, relating to scientific contracts; and
  - (7) Section 237-27—Amounts received by petroleum product refiners from other refiners.

**§23-H Review for 2024 and every tenth year thereafter.** (a) The exemptions or exclusions under the general excise tax listed in subsection (c) shall be reviewed in 2024 and every tenth year thereafter.

(b) The auditor shall submit the findings and recommendations of the reviews to the legislature and governor no later than twenty days prior to the convening of the immediately following regular session.

- (c) This section shall apply to the following:
- (1) Section 237-24.7(1)—Amounts received by hotel operators and hotel suboperators for employee wages and fringe benefits;
  - (2) Section 237-24.7(2)—Amounts received by a county transportation system operator under a contract with the county;
  - (3) Section 237-24.7(4)—Amounts received by orchard property operators for employee wages and fringe benefits;
  - (4) Section 237-24.7(6)—Amounts received from insurers for damage or loss of inventory of businesses located in a natural disaster area;
  - (5) Section 237-24.7(7)—Amounts received by community organizations, school booster clubs, and nonprofit organizations for precinct and other election-related activities;
  - (6) Section 237-24.7(8)—Interest received by persons domiciled outside the State from trust companies acting as payment agents or trustees on behalf of issuers or payees of interest-bearing instruments or obligations;
  - (7) Section 237-24.7(9)—Amounts received by management companies from related entities engaged in interstate or foreign common carrier telecommunications services for employee wages and fringe benefits; and
  - (8) Section 237-24.7(10)—Amounts received from high technology research and development grants.

**§23-I Review for 2025 and every tenth year thereafter.** (a) The exemptions, exclusions, or credits under the general excise and use taxes and insurance premium tax listed in subsection (c) shall be reviewed in 2025 and every tenth year thereafter.

(b) The auditor shall submit the findings and recommendations of the reviews to the legislature and governor no later than twenty days prior to the convening of the immediately following regular session.

- (c) This section shall apply to the following:
  - (1) Section 237-27.5—Gross proceeds from air pollution control facility construction, reconstruction, operation, use, maintenance, or furnishing;
  - (2) Section 238-3(k)—The value of air pollution control facilities;
  - (3) Section 237-27.6—Amounts received by solid waste processing, disposal, and electric generating facility operators under sale and leaseback transactions with political subdivisions that involve the facilities;
  - (4) Section 237-29—Gross income of qualified persons or firms or non-profits or limited distribution mortgagors for certified or approved low-income housing projects;
  - (5) Section 238-3(j)—The value of property, services, or contracting exempted by section 237-29, relating to certified or approved housing projects;
  - (6) Section 431:7-208—Credit for low-income housing;
  - (7) Section 46-15.1(a)—Gross income from county low-income housing projects; and
  - (8) Section 346-369—Compensation received by provider agencies for homeless services or homeless facility management.

**§23-J Review for 2026 and every tenth year thereafter.** (a) The exemptions or exclusions under the general excise and use taxes listed in subsection (c) shall be reviewed in 2026 and every tenth year thereafter.

(b) The auditor shall submit the findings and recommendations of the reviews to the legislature and governor no later than twenty days prior to the convening of the immediately following regular session.

- (c) This section shall apply to the following:
  - (1) Section 237-29.5—Value or gross proceeds from tangible personal property shipped out of State;
  - (2) Section 237-29.53—Value or gross income from contracting or services performed for use outside the State;
  - (3) Section 238-1, paragraph (9) of the definition of “use”—The value of services or contracting imported for resale, consumption, or use outside the State; and
  - (4) Section 237-29.55—Gross proceeds or gross income from the sale of tangible personal property imported into the State for subsequent resale.

**§23-K Review for 2027 and every tenth year thereafter.** (a) The exemptions or exclusions under the general excise tax listed in subsection (c) shall be reviewed in 2027 and every tenth year thereafter.

(b) The auditor shall submit the findings and recommendations of the reviews to the legislature and governor no later than twenty days prior to the convening of the immediately following regular session.

- (c) This section shall apply to the following:
  - (1) Section 237-23(a)(3)—Fraternal benefit societies, orders, or associations for the payment of benefits to members;
  - (2) Section 237-23(a)(4)—Corporations, associations, trusts, or societies:
    - (A) Organized and operated exclusively for religious, charitable, scientific, or educational purposes;
    - (B) Operating senior citizens housing facilities qualifying for loans under the United States Housing Act of 1959, as amended;

- (C) Operating legal service plans; or
- (D) Operating or managing homeless facilities or other programs for the homeless;
- (3) Section 237-23(a)(5)—Business leagues, chambers of commerce, boards of trade, civic leagues, agricultural and horticultural organizations, and organizations operated exclusively for the benefit of the community or promotion of social welfare, including legal service plans;
- (4) Section 237-23(a)(6)—Hospitals, infirmaries, and sanitarium;
- (5) Section 237-23(a)(7)—Tax-exempt potable water companies serving residential communities lacking access to public utility water services;
- (6) Section 237-23(a)(8)—Agricultural cooperative associations incorporated under state or federal law;
- (7) Section 237-23(a)(9)—Persons affected with Hansen’s disease and kokuas with respect to business within the county of Kalawao;
- (8) Section 237-23(a)(10)—Corporations, companies, associations, or trusts organized for cemeteries; and
- (9) Section 237-23(a)(11)—Nonprofit shippers.”

SECTION 3. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 4. This Act shall take effect on July 1, 2017.

(Approved July 12, 2016.)