
A BILL FOR AN ACT

RELATING TO TAXATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 PART I.

2 SECTION 1. Chapter 237, Hawaii Revised Statutes, is
3 amended by adding a new section to be appropriately designated
4 and to read as follows:

5 "§237- General excise tax; rate reduction. (a)
6 Notwithstanding any other law to the contrary, from July 1, 2011
7 to June 30, 2015, the general excise tax liability of taxpayers
8 who own eligible businesses shall be reduced by ten per cent,
9 with respect to those businesses.

10 For the purposes of this section "eligible business" means
11 a business:

- 12 (1) That is subject to this chapter;
13 (2) That has been located in the State for the past five
14 or more consecutive years;
15 (3) That is in good standing and is current with all taxes
16 owed and other tax obligations under title 14; and



1 (4) Where at least seventy-five per cent of the business'
 2 employees are residents of the State.

3 (b) The department of taxation may adopt rules pursuant to
 4 chapter 91 to effectuate this section."

5 SECTION 2. Section 235-55.85, Hawaii Revised Statutes, is
 6 amended by amending subsection (b) to read as follows:

7 "(b) Each resident individual taxpayer may claim a
 8 refundable food/excise tax credit multiplied by the number of
 9 qualified exemptions to which the taxpayer is entitled in
 10 accordance with the table below; provided that a husband and
 11 wife filing separate tax returns for a taxable year for which a
 12 joint return could have been filed by them shall claim only the
 13 tax credit to which they would have been entitled had a joint
 14 return been filed.

15	Adjusted gross income	Credit per exemption
16	Under \$5,000	[85] <u>\$100</u>
17	\$5,000 under \$10,000	[75] <u>90</u>
18	\$10,000 under \$15,000	[65] <u>80</u>
19	\$15,000 under \$20,000	[55] <u>70</u>
20	\$20,000 under \$30,000	[45] <u>60</u>
21	\$30,000 under \$40,000	[35] <u>50</u>
22	\$40,000 under \$50,000	[25] <u>40</u>



1 packed, printed, milled, processed, refined, or
2 prepared for sale, as shown by the gross proceeds
3 derived from the sale thereof by the manufacturer
4 or person compounding, preparing, or printing
5 them, multiplied by one-half of one per cent.

6 (B) The measure of the tax on manufacturers is the
7 value of the entire product for sale, regardless
8 of the place of sale or the fact that deliveries
9 may be made to points outside the State.

10 (C) If any person liable for the tax on manufacturers
11 ships or transports the person's product, or any
12 part thereof, out of the State, whether in a
13 finished or unfinished condition, or sells the
14 same for delivery to points outside the State
15 (for example, consigned to a mainland purchaser
16 via common carrier f.o.b. Honolulu), the value of
17 the products in the condition or form in which
18 they exist immediately before entering interstate
19 or foreign commerce, determined as hereinafter
20 provided, shall be the basis for the assessment
21 of the tax imposed by this paragraph. This tax
22 shall be due and payable as of the date of entry



1 of the products into interstate or foreign
2 commerce, whether the products are then sold or
3 not. The department shall determine the basis
4 for assessment, as provided by this paragraph, as
5 follows:

6 (i) If the products at the time of their entry
7 into interstate or foreign commerce already
8 have been sold, the gross proceeds of sale,
9 less the transportation expenses, if any,
10 incurred in realizing the gross proceeds for
11 transportation from the time of entry of the
12 products into interstate or foreign
13 commerce, including insurance and storage in
14 transit, shall be the measure of the value
15 of the products;

16 (ii) If the products have not been sold at the
17 time of their entry into interstate or
18 foreign commerce, and in cases governed by
19 clause (i) in which the products are sold
20 under circumstances such that the gross
21 proceeds of sale are not indicative of the
22 true value of the products, the value of the



1 products constituting the basis for
2 assessment shall correspond as nearly as
3 possible to the gross proceeds of sales for
4 delivery outside the State, adjusted as
5 provided in clause (i), or if sufficient
6 data are not available, sales in the State,
7 of similar products of like quality and
8 character and in similar quantities, made by
9 the taxpayer (unless not indicative of the
10 true value) or by others. Sales outside the
11 State, adjusted as provided in clause (i),
12 may be considered when they constitute the
13 best available data. The department shall
14 prescribe uniform and equitable rules for
15 ascertaining the values;

16 (iii) At the election of the taxpayer and with the
17 approval of the department, the taxpayer may
18 make the taxpayer's returns under clause (i)
19 even though the products have not been sold
20 at the time of their entry into interstate
21 or foreign commerce; and



1 (iv) In all cases in which products leave the
2 State in an unfinished condition, the basis
3 for assessment shall be adjusted so as to
4 deduct the portion of the value as is
5 attributable to the finishing of the goods
6 outside the State.

7 (2) Tax on business of selling tangible personal property;
8 producing.

9 (A) Upon every person engaging or continuing in the
10 business of selling any tangible personal
11 property whatsoever (not including, however,
12 bonds or other evidence of indebtedness, or
13 stocks), there is likewise hereby levied, and
14 shall be assessed and collected, a tax equivalent
15 to four per cent of the gross proceeds of sales
16 of the business; provided that, for taxable years
17 beginning on or after January 1, 2011 and ending
18 on or before December 31, 2016, the tax assessed
19 and collected shall equal five per cent of the
20 gross proceeds of sales of the business; provided
21 further that insofar as the sale of tangible
22 personal property is a wholesale sale under



1 section [‡]237-4(a)(8)[‡], the sale shall be
2 subject to section 237-13.3. Upon every person
3 engaging or continuing within this State in the
4 business of a producer, the tax shall be equal to
5 one-half of one per cent of the gross proceeds of
6 sales of the business, or the value of the
7 products, for sale, if sold for delivery outside
8 the State or shipped or transported out of the
9 State, and the value of the products shall be
10 determined in the same manner as the value of
11 manufactured products covered in the cases under
12 paragraph (1)(C).

13 (B) Gross proceeds of sales of tangible property in
14 interstate and foreign commerce shall constitute
15 a part of the measure of the tax imposed on
16 persons in the business of selling tangible
17 personal property, to the extent, under the
18 conditions, and in accordance with the provisions
19 of the Constitution of the United States and the
20 Acts of the Congress of the United States which
21 may be now in force or may be hereafter adopted,
22 and whenever there occurs in the State an



1 activity to which, under the Constitution and
2 Acts of Congress, there may be attributed gross
3 proceeds of sales, the gross proceeds shall be so
4 attributed.

5 (C) No manufacturer or producer, engaged in such
6 business in the State and selling the
7 manufacturer's or producer's products for
8 delivery outside of the State (for example,
9 consigned to a mainland purchaser via common
10 carrier f.o.b. Honolulu), shall be required to
11 pay the tax imposed in this chapter for the
12 privilege of so selling the products, and the
13 value or gross proceeds of sales of the products
14 shall be included only in determining the measure
15 of the tax imposed upon the manufacturer or
16 producer.

17 (D) When a manufacturer or producer, engaged in such
18 business in the State, also is engaged in selling
19 the manufacturer's or producer's products in the
20 State at wholesale, retail, or in any other
21 manner, the tax for the privilege of engaging in
22 the business of selling the products in the State



1 shall apply to the manufacturer or producer as
2 well as the tax for the privilege of
3 manufacturing or producing in the State, and the
4 manufacturer or producer shall make the returns
5 of the gross proceeds of the wholesale, retail,
6 or other sales required for the privilege of
7 selling in the State, as well as making the
8 returns of the value or gross proceeds of sales
9 of the products required for the privilege of
10 manufacturing or producing in the State. The
11 manufacturer or producer shall pay the tax
12 imposed in this chapter for the privilege of
13 selling its products in the State, and the value
14 or gross proceeds of sales of the products, thus
15 subjected to tax, may be deducted insofar as
16 duplicated as to the same products by the measure
17 of the tax upon the manufacturer or producer for
18 the privilege of manufacturing or producing in
19 the State; provided that no producer of
20 agricultural products who sells the products to a
21 purchaser who will process the products outside
22 the State shall be required to pay the tax



1 imposed in this chapter for the privilege of
2 producing or selling those products.

3 (E) A taxpayer selling to a federal cost-plus
4 contractor may make the election provided for by
5 paragraph (3)(C), and in that case the tax shall
6 be computed pursuant to the election,
7 notwithstanding this paragraph or paragraph (1)
8 to the contrary.

9 (F) The department, by rule, may require that a
10 seller take from the purchaser of tangible
11 personal property a certificate, in a form
12 prescribed by the department, certifying that the
13 sale is a sale at wholesale; provided that:

14 (i) Any purchaser who furnishes a certificate
15 shall be obligated to pay to the seller,
16 upon demand, the amount of the additional
17 tax that is imposed upon the seller whenever
18 the sale in fact is not at wholesale; and

19 (ii) The absence of a certificate in itself shall
20 give rise to the presumption that the sale
21 is not at wholesale unless the sales of the
22 business are exclusively at wholesale.



- 1 (3) Tax upon contractors.
- 2 (A) Upon every person engaging or continuing within
- 3 the State in the business of contracting, the tax
- 4 shall be equal to four per cent of the gross
- 5 income of the business[-]; provided that, for
- 6 taxable years beginning on or after January 1,
- 7 2011 and ending on or before December 31, 2016,
- 8 the tax shall be equal to five per cent of the
- 9 gross income of the business.
- 10 (B) In computing the tax levied under this paragraph,
- 11 there shall be deducted from the gross income of
- 12 the taxpayer so much thereof as has been included
- 13 in the measure of the tax levied under
- 14 subparagraph (A), on:
- 15 (i) Another taxpayer who is a contractor, as
- 16 defined in section 237-6;
- 17 (ii) A specialty contractor, duly licensed by the
- 18 department of commerce and consumer affairs
- 19 pursuant to section 444-9, in respect of the
- 20 specialty contractor's business; or
- 21 (iii) A specialty contractor who is not licensed
- 22 by the department of commerce and consumer



1 affairs pursuant to section 444-9, but who
2 performs contracting activities on federal
3 military installations and nowhere else in
4 this State;

5 provided that any person claiming a deduction
6 under this paragraph shall be required to show in
7 the person's return the name and general excise
8 number of the person paying the tax on the amount
9 deducted by the person.

10 (C) In computing the tax levied under this paragraph
11 against any federal cost-plus contractor, there
12 shall be excluded from the gross income of the
13 contractor so much thereof as fulfills the
14 following requirements:

15 (i) The gross income exempted shall constitute
16 reimbursement of costs incurred for
17 materials, plant, or equipment purchased
18 from a taxpayer licensed under this chapter,
19 not exceeding the gross proceeds of sale of
20 the taxpayer on account of the transaction;
21 and



1 (ii) The taxpayer making the sale shall have
2 certified to the department that the
3 taxpayer is taxable with respect to the
4 gross proceeds of the sale, and that the
5 taxpayer elects to have the tax on gross
6 income computed the same as upon a sale to
7 the state government.

8 (D) A person who, as a business or as a part of a
9 business in which the person is engaged, erects,
10 constructs, or improves any building or
11 structure, of any kind or description, or makes,
12 constructs, or improves any road, street,
13 sidewalk, sewer, or water system, or other
14 improvements on land held by the person (whether
15 held as a leasehold, fee simple, or otherwise),
16 upon the sale or other disposition of the land or
17 improvements, even if the work was not done
18 pursuant to a contract, shall be liable to the
19 same tax as if engaged in the business of
20 contracting, unless the person shows that at the
21 time the person was engaged in making the
22 improvements the person intended, and for the



1 period of at least one year after completion of
2 the building, structure, or other improvements
3 the person continued to intend to hold and not
4 sell or otherwise dispose of the land or
5 improvements. The tax in respect of the
6 improvements shall be measured by the amount of
7 the proceeds of the sale or other disposition
8 that is attributable to the erection,
9 construction, or improvement of such building or
10 structure, or the making, constructing, or
11 improving of the road, street, sidewalk, sewer,
12 or water system, or other improvements. The
13 measure of tax in respect of the improvements
14 shall not exceed the amount which would have been
15 taxable had the work been performed by another,
16 subject as in other cases to the deductions
17 allowed by subparagraph (B). Upon the election
18 of the taxpayer, this paragraph may be applied
19 notwithstanding that the improvements were not
20 made by the taxpayer, or were not made as a
21 business or as a part of a business, or were made
22 with the intention of holding the same. However,



1 this paragraph shall not apply in respect of any
2 proceeds that constitute or are in the nature of
3 rent; all such gross income shall be taxable
4 under paragraph (9); provided that insofar as the
5 business of renting or leasing real property
6 under a lease is taxed under section 237-16.5,
7 the tax shall be levied by section 237-16.5.

8 (4) Tax upon theaters, amusements, radio broadcasting
9 stations, etc.

10 (A) Upon every person engaging or continuing within
11 the State in the business of operating a theater,
12 opera house, moving picture show, vaudeville,
13 amusement park, dance hall, skating rink, radio
14 broadcasting station, or any other place at which
15 amusements are offered to the public, the tax
16 shall be equal to four per cent of the gross
17 income of the business, and in the case of a sale
18 of an amusement at wholesale under section 237-
19 4(a)(13), the tax shall be subject to section
20 237-13.3[-]; provided that, for taxable years
21 beginning on or after January 1, 2011 and ending
22 on or before December 31, 2016, the tax shall be



1 equal to five per cent of the gross income of the
2 business.

3 (B) The department may require that the person
4 rendering an amusement at wholesale take from the
5 licensed seller a certificate, in a form
6 prescribed by the department, certifying that the
7 sale is a sale at wholesale; provided that:

8 (i) Any licensed seller who furnishes a
9 certificate shall be obligated to pay to the
10 person rendering the amusement, upon demand,
11 the amount of additional tax that is imposed
12 upon the seller whenever the sale is not at
13 wholesale; and

14 (ii) The absence of a certificate in itself shall
15 give rise to the presumption that the sale
16 is not at wholesale unless the person
17 rendering the sale is exclusively rendering
18 the amusement at wholesale.

19 (5) Tax upon sales representatives, etc. Upon every
20 person classified as a representative or purchasing
21 agent under section 237-1, engaging or continuing
22 within the State in the business of performing



1 services for another, other than as an employee, there
2 is likewise hereby levied and shall be assessed and
3 collected a tax equal to four per cent of the
4 commissions and other compensation attributable to the
5 services so rendered by the person[-]; provided that,
6 for taxable years beginning on or after January 1,
7 2011 and ending on or before December 31, 2016, the
8 tax shall equal five per cent of the commissions and
9 other compensation attributable to the services
10 rendered by the person.

11 (6) Tax on service business.

12 (A) Upon every person engaging or continuing within
13 the State in any service business or calling
14 including professional services not otherwise
15 specifically taxed under this chapter, there is
16 likewise hereby levied and shall be assessed and
17 collected a tax equal to four per cent of the
18 gross income of the business[~~, and~~]; provided
19 that for taxable years beginning on or after
20 January 1, 2011 and ending on or before December
21 31, 2016, the tax shall be equal to five per cent
22 of the gross income of the business; provided



1 further that in the case of a wholesaler under
2 section 237-4(a)(10), the tax shall be equal to
3 one-half of one per cent of the gross income of
4 the business. Notwithstanding the foregoing, a
5 wholesaler under section 237-4(a)(10) shall be
6 subject to section 237-13.3.

7 (B) The department may require that the person
8 rendering a service at wholesale take from the
9 licensed seller a certificate, in a form
10 prescribed by the department, certifying that the
11 sale is a sale at wholesale; provided that:

12 (i) Any licensed seller who furnishes a
13 certificate shall be obligated to pay to the
14 person rendering the service, upon demand,
15 the amount of additional tax that is imposed
16 upon the seller whenever the sale is not at
17 wholesale; and

18 (ii) The absence of a certificate in itself shall
19 give rise to the presumption that the sale
20 is not at wholesale unless the person
21 rendering the sale is exclusively rendering
22 services at wholesale.



1 (C) Where any person is engaged in the business of
2 selling interstate or foreign common carrier
3 [~~telecommunication~~] telecommunications services
4 within and without the State, other than as a
5 home service provider, the tax shall be imposed
6 on that portion of gross income received by a
7 person from service which is originated or
8 terminated in this State and is charged to a
9 telephone number, customer, or account in this
10 State notwithstanding any other state law (except
11 for the exemption under section 237-23(a)(1)) to
12 the contrary. If, under the Constitution and
13 laws of the United States, the entire gross
14 income as determined under this paragraph of a
15 business selling interstate or foreign common
16 carrier telecommunication services cannot be
17 included in the measure of the tax, the gross
18 income shall be apportioned as provided in
19 section 237-21; provided that the apportionment
20 factor and formula shall be the same for all
21 persons providing those services in the State.



1 (D) Where any person is engaged in the business of a
2 home service provider, the tax shall be imposed
3 on the gross income received or derived from
4 providing interstate or foreign mobile
5 telecommunications services to a customer with a
6 place of primary use in this State when such
7 services originate in one state and terminate in
8 another state, territory, or foreign country;
9 provided that all charges for mobile
10 telecommunications services which are billed by
11 or for the home service provider are deemed to be
12 provided by the home service provider at the
13 customer's place of primary use, regardless of
14 where the mobile telecommunications originate,
15 terminate, or pass through; provided further that
16 the income from charges specifically derived from
17 interstate or foreign mobile telecommunications
18 services, as determined by books and records that
19 are kept in the regular course of business by the
20 home service provider in accordance with section
21 239-24, shall be apportioned under any
22 apportionment factor or formula adopted under



1 subparagraph (C). Gross income shall not
2 include:

3 (i) Gross receipts from mobile
4 telecommunications services provided to a
5 customer with a place of primary use outside
6 this State;

7 (ii) Gross receipts from mobile
8 telecommunications services that are subject
9 to the tax imposed by chapter 239;

10 (iii) Gross receipts from mobile
11 telecommunications services taxed under
12 section 237-13.8; and

13 (iv) Gross receipts of a home service provider
14 acting as a serving carrier providing mobile
15 telecommunications services to another home
16 service provider's customer.

17 For the purposes of this paragraph, "charges for
18 mobile telecommunications services", "customer",
19 "home service provider", "mobile
20 telecommunications services", "place of primary
21 use", and "serving carrier" have the same meaning
22 as in section 239-22.



1 (7) Tax on insurance producers. Upon every person engaged
2 as a licensed producer pursuant to chapter 431, there
3 is hereby levied and shall be assessed and collected a
4 tax equal to 0.15 per cent of the commissions due to
5 that activity.

6 (8) Tax on receipts of sugar benefit payments. Upon the
7 amounts received from the United States government by
8 any producer of sugar (or the producer's legal
9 representative or heirs), as defined under and by
10 virtue of the Sugar Act of 1948, as amended, or other
11 Acts of the Congress of the United States relating
12 thereto, there is hereby levied a tax of one-half of
13 one per cent of the gross amount received; provided
14 that the tax levied hereunder on any amount so
15 received and actually disbursed to another by a
16 producer in the form of a benefit payment shall be
17 paid by the person or persons to whom the amount is
18 actually disbursed, and the producer actually making a
19 benefit payment to another shall be entitled to claim
20 on the producer's return a deduction from the gross
21 amount taxable hereunder in the sum of the amount so
22 disbursed. The amounts taxed under this paragraph



1 shall not be taxable under any other paragraph,
2 subsection, or section of this chapter.

3 (9) Tax on other business. Upon every person engaging or
4 continuing within the State in any business, trade,
5 activity, occupation, or calling not included in the
6 preceding paragraphs or any other provisions of this
7 chapter, there is likewise hereby levied and shall be
8 assessed and collected, a tax equal to four per cent
9 of the gross income thereof[-]; provided that, for
10 taxable years beginning on or after January 1, 2011
11 and ending on or before December 31, 2016, the tax
12 shall equal five per cent of the gross income thereof.

13 In addition, the rate prescribed by this paragraph
14 shall apply to a business taxable under one or more of
15 the preceding paragraphs or other provisions of this
16 chapter, as to any gross income thereof not taxed
17 thereunder as gross income or gross proceeds of sales
18 or by taxing an equivalent value of products, unless
19 specifically exempted."

20 SECTION 4. Section 237-16.5, Hawaii Revised Statutes, is
21 amended as follows:

22 1. By amending subsection (a) to read:



1 "(a) This section relates to the leasing of real property
2 by a lessor to a lessee. There is hereby levied, and shall be
3 assessed and collected annually, a privilege tax against persons
4 engaging or continuing within the State in the business of
5 leasing real property to another, equal to four per cent of the
6 gross proceeds or gross income received or derived from the
7 leasing; provided that, for taxable years beginning on or after
8 January 1, 2011 and ending on or before December 31, 2016, the
9 tax shall equal five per cent of the gross proceeds or gross
10 income received or derived from the leasing; provided further
11 that where real property is subleased by a lessee to a
12 sublessee, the lessee, as provided in this section, shall be
13 allowed a deduction from the amount of gross proceeds or gross
14 income received from its sublease of the real property. The
15 deduction shall be in the amount allowed under this section.

16 All deductions under this section and the name and general
17 excise tax number of the lessee's lessor shall be reported on
18 the general excise tax return. Any deduction allowed under this
19 section shall only be allowed with respect to leases and
20 subleases in writing and relating to the same real property."

21 2. By amending subsection (f) to read:



1 "(f) This section shall not cause the tax upon a lessor,
2 with respect to any item of the lessor's gross proceeds or gross
3 income, to exceed four per cent[-]; provided that, for taxable
4 years beginning on or after January 1, 2011 and ending on or
5 before December 31, 2016, the tax upon the lessor, with respect
6 to any item of the lessor's gross proceeds or gross income shall
7 not exceed five per cent."

8 SECTION 5. Section 237-18, Hawaii Revised Statutes, is
9 amended by amending subsection (f) to read as follows:

10 "(f) Where tourism related services are furnished through
11 arrangements made by a travel agency or tour packager and the
12 gross income is divided between the provider of the services and
13 the travel agency or tour packager, the tax imposed by this
14 chapter shall apply to each such person with respect to such
15 person's respective portion of the proceeds, and no more.

16 As used in this subsection, "tourism related services"
17 means catamaran cruises, canoe rides, dinner cruises, lei
18 greetings, transportation included in a tour package,
19 sightseeing tours not subject to chapter 239, admissions to
20 luaus, dinner shows, extravaganzas, cultural and educational
21 facilities, and other services rendered directly to the customer
22 or tourist, but only if the providers of the services other than



1 air transportation are subject to a four per cent tax under this
2 chapter, or a five per cent tax under this chapter for taxable
3 years beginning on or after January 1, 2011 and ending on or
4 before December 31, 2016, or the applicable tax under chapter
5 239."

6 SECTION 6. Section 238-2, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§238-2 Imposition of tax on tangible personal property;**
9 **exemptions.** There is hereby levied an excise tax on the use in
10 this State of tangible personal property which is imported by a
11 taxpayer in this State whether owned, purchased from an
12 unlicensed seller, or however acquired for use in this State.
13 The tax imposed by this chapter shall accrue when the property
14 is acquired by the importer or purchaser and becomes subject to
15 the taxing jurisdiction of the State. The rates of the tax
16 hereby imposed and the exemptions thereof are as follows:

17 (1) If the importer or purchaser is licensed under chapter
18 237 and is:

19 (A) A wholesaler or jobber importing or purchasing
20 for purposes of sale or resale; or

21 (B) A manufacturer importing or purchasing material
22 or commodities which are to be incorporated by



1 the manufacturer into a finished or saleable
2 product (including the container or package in
3 which the product is contained) wherein it will
4 remain in such form as to be perceptible to the
5 senses, and which finished or saleable product is
6 to be sold in such manner as to result in a
7 further tax on the activity of the manufacturer
8 as the manufacturer or as a wholesaler, and not
9 as a retailer,

10 there shall be no tax; provided that if the
11 wholesaler, jobber, or manufacturer is also engaged in
12 business as a retailer (so classed under chapter 237),
13 paragraph (2) shall apply to the wholesaler, jobber,
14 or manufacturer, but the director of taxation shall
15 refund to the wholesaler, jobber, or manufacturer, in
16 the manner provided under section 231-23(c) such
17 amount of tax as the wholesaler, jobber, or
18 manufacturer shall, to the satisfaction of the
19 director, establish to have been paid by the
20 wholesaler, jobber, or manufacturer to the director
21 with respect to property which has been used by the



1 wholesaler, jobber, or manufacturer for the purposes
2 stated in this paragraph;

3 (2) If the importer or purchaser is licensed under chapter
4 237 and is:

5 (A) A retailer or other person importing or
6 purchasing for purposes of sale or resale, not
7 exempted by paragraph (1);

8 (B) A manufacturer importing or purchasing material
9 or commodities which are to be incorporated by
10 the manufacturer into a finished or saleable
11 product (including the container or package in
12 which the product is contained) wherein it will
13 remain in such form as to be perceptible to the
14 senses, and which finished or saleable product is
15 to be sold at retail in this State, in such
16 manner as to result in a further tax on the
17 activity of the manufacturer in selling such
18 products at retail;

19 (C) A contractor importing or purchasing material or
20 commodities which are to be incorporated by the
21 contractor into the finished work or project
22 required by the contract and which will remain in



1 such finished work or project in such form as to
2 be perceptible to the senses;

3 (D) A person engaged in a service business or calling
4 as defined in section 237-7, or a person
5 furnishing transient accommodations subject to
6 the tax imposed by section 237D-2, in which the
7 import or purchase of tangible personal property
8 would have qualified as a sale at wholesale as
9 defined in section 237-4(a)(8) had the seller of
10 the property been subject to the tax in chapter
11 237; or

12 (E) A publisher of magazines or similar printed
13 materials containing advertisements, when the
14 publisher is under contract with the advertisers
15 to distribute a minimum number of magazines or
16 similar printed materials to the public or
17 defined segment of the public, whether or not
18 there is a charge to the persons who actually
19 receive the magazines or similar printed
20 materials,

21 the tax shall be one-half of one per cent of the
22 purchase price of the property, if the purchase and



1 sale are consummated in Hawaii; or, if there is no
2 purchase price applicable thereto, or if the purchase
3 or sale is consummated outside of Hawaii, then one-
4 half of one per cent of the value of such property;
5 and

6 (3) In all other cases, four per cent of the value of the
7 property[-]; provided that, for taxable years
8 beginning on or after January 1, 2011 and ending on or
9 before December 31, 2016, the tax shall be equal to
10 five per cent of the value of the property.

11 For purposes of this section, tangible personal property is
12 property that is imported by the taxpayer for use in this State,
13 notwithstanding the fact that title to the property, or the risk
14 of loss to the property, passes to the purchaser of the property
15 at a location outside this State."

16 SECTION 7. Section 238-2.3, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§238-2.3 Imposition of tax on imported services or**
19 **contracting; exemptions.** There is hereby levied an excise tax
20 on the value of services or contracting as defined in section
21 237-6 that are performed by an unlicensed seller at a point
22 outside the State and imported or purchased for use in this



1 State. The tax imposed by this chapter shall accrue when the
2 service or contracting as defined in section 237-6 is received
3 by the importer or purchaser and becomes subject to the taxing
4 jurisdiction of the State. The rates of the tax hereby imposed
5 and the exemptions from the tax are as follows:

6 (1) If the importer or purchaser is licensed under chapter
7 237 and is:

8 (A) Engaged in a service business or calling in which
9 the imported or purchased services or contracting
10 become identifiable elements, excluding overhead,
11 of the services rendered by the importer or
12 purchaser, and the gross income of the importer
13 or purchaser is subject to the tax imposed under
14 chapter 237 on services at the rate of one-half
15 of one per cent or the rate of tax imposed under
16 section 237-13.3; or

17 (B) A manufacturer importing or purchasing services
18 or contracting that become identifiable elements,
19 excluding overhead, of a finished or saleable
20 product (including the container or package in
21 which the product is contained) and the finished
22 or saleable product is to be sold in a manner



1 that results in a further tax on the manufacturer
2 as a wholesaler, and not a retailer;
3 there shall be no tax imposed on the value of the
4 imported or purchased services or contracting;
5 provided that if the manufacturer is also engaged in
6 business as a retailer as classified under chapter
7 237, paragraph (2) shall apply to the manufacturer,
8 but the director of taxation shall refund to the
9 manufacturer, in the manner provided under section
10 231-23(c), that amount of tax that the manufacturer,
11 to the satisfaction of the director, shall establish
12 to have been paid by the manufacturer to the director
13 with respect to services that have been used by the
14 manufacturer for the purposes stated in this
15 paragraph.

16 (2) If the importer or purchaser is a person licensed
17 under chapter 237 and is:

18 (A) Engaged in a service business or calling in which
19 the imported or purchased services or contracting
20 become identifiable elements, excluding overhead,
21 of the services rendered by the importer or
22 purchaser, and the gross income from those



1 services when sold by the importer or purchaser
2 is subject to the tax imposed under chapter 237
3 at the highest rate;

4 (B) A manufacturer importing or purchasing services
5 or contracting that become identifiable elements,
6 excluding overhead, of the finished or saleable
7 manufactured product (including the container or
8 package in which the product is contained) and
9 the finished or saleable product is to be sold in
10 a manner that results in a further tax under
11 chapter 237 on the activity of the manufacturer
12 as a retailer; or

13 (C) A contractor importing or purchasing services or
14 contracting that become identifiable elements,
15 excluding overhead, of the finished work or
16 project required, under the contract, and where
17 the gross proceeds derived by the contractor are
18 subject to the tax under section 237-13(3) as a
19 contractor,

20 the tax shall be one-half of one per cent of the value
21 of the imported or purchased services or contracting;
22 and



1 subsection (d). "Corporation" includes any professional
2 corporation incorporated pursuant to chapter 415A.

3 [The] In the case of any taxable year beginning or ending
4 before December 31, 2010, the tax on all taxable income shall be
5 at the rate of 4.4 per cent if the taxable income is not over
6 \$25,000, 5.4 per cent if over \$25,000 but not over \$100,000, and
7 on all over \$100,000, 6.4 per cent.

8 In the case of the taxable year beginning after December
9 31, 2010, and ending December 31, 2011, the tax on all taxable
10 income shall be at the rate of 3.3 per cent if the taxable
11 income is not over \$25,000, 4.05 per cent if over \$25,000 but
12 not over \$100,000, and on all over \$100,000, 4.8 per cent.

13 In the case of the taxable year beginning after December
14 31, 2011, and ending December 31, 2012, the tax on all taxable
15 income shall be at the rate of 2.2 per cent if the taxable
16 income is not over \$25,000, 2.7 per cent if over \$25,000 but not
17 over \$100,000, and on all over \$100,000, 3.2 per cent.

18 In the case of the taxable year beginning after December
19 31, 2012, and ending December 31, 2013, the tax on all taxable
20 income shall be at the rate of 1.1 per cent if the taxable
21 income is not over \$25,000, 1.35 per cent if over \$25,000 but
22 not over \$100,000, and on all over \$100,000, 1.6 per cent.



1 In the case of any taxable year beginning after December
2 31, 2013, no tax shall be levied on the taxable income of
3 corporations.

4 (b) In the case of a regulated investment company there is
5 imposed on the taxable income, computed as provided in sections
6 852 and 855 of the Internal Revenue Code but with the changes
7 and adjustments made by this chapter (without prejudice to the
8 generality of the foregoing, the deduction for dividends paid is
9 limited to [such] the amount of dividends as is attributable to
10 income taxable under this chapter), a tax consisting in the sum
11 of the following:

12 (1) In the case of any taxable year beginning or ending
13 before December 31, 2010, 4.4 per cent if the taxable
14 income is not over \$25,000, 5.4 per cent if over
15 \$25,000 but not over \$100,000, and on all over
16 \$100,000, 6.4 per cent[-];

17 (2) In the case of the taxable year beginning after
18 December 31, 2010, and ending December 31, 2011, 3.3
19 per cent if the taxable income is not over \$25,000,
20 4.05 per cent if over \$25,000 but not over \$100,000,
21 and on all over \$100,000, 4.8 per cent;



- 1 (3) In the case of the taxable year beginning after
2 December 31, 2011, and ending December 31, 2012, 2.2
3 per cent if the taxable income is not over \$25,000,
4 2.7 per cent if over \$25,000 but not over \$100,000,
5 and on all over \$100,000, 3.2 per cent;
- 6 (4) In the case of the taxable year beginning after
7 December 31, 2012, and ending December 31, 2013, 1.1
8 per cent if the taxable income is not over \$25,000,
9 1.35 per cent if over \$25,000 but not over \$100,000,
10 and on all over \$100,000, 1.6 per cent; and
- 11 (5) In the case of any taxable year beginning after
12 December 31, 2013, no tax shall be imposed on the
13 taxable income of regulated investment companies.
- 14 (c) In the case of a shareholder of a regulated investment
15 company, there is [hereby] allowed a credit in the amount of the
16 tax imposed on the amount of capital gains which by section
17 852(b)(3)(D) of the Internal Revenue Code is required to be
18 included in the shareholder's return and on which there has been
19 paid to the State by the regulated investment company the tax at
20 the rate imposed by subsection (b); the amount of this credit
21 may be applied or refunded as provided in section 235-110.



1 (d) In the case of a real estate investment trust there is
2 imposed on the taxable income, computed as provided in sections
3 857 and 858 of the Internal Revenue Code but with the changes
4 and adjustments made by this chapter (without prejudice to the
5 generality of the foregoing, the deduction for dividends paid is
6 limited to [~~such~~] the amount of dividends as is attributable to
7 income taxable under this chapter), a tax consisting in the sum
8 of the following:

9 (1) In the case of any taxable year beginning or ending
10 before December 31, 2010, 4.4 per cent if the taxable
11 income is not over \$25,000, 5.4 per cent if over
12 \$25,000 but not over \$100,000, and on all over
13 \$100,000, 6.4 per cent[-];

14 (2) In the case of the taxable year beginning after
15 December 31, 2010, and ending December 31, 2011, 3.3
16 per cent if the taxable income is not over \$25,000,
17 4.05 per cent if over \$25,000 but not over \$100,000,
18 and on all over \$100,000, 4.8 per cent;

19 (3) In the case of the taxable year beginning after
20 December 31, 2011, and ending December 31, 2012, 2.2
21 per cent if the taxable income is not over \$25,000,



- 1 2.7 per cent if over \$25,000 but not over \$100,000,
2 and on all over \$100,000, 3.2 per cent;
- 3 (4) In the case of the taxable year beginning after
4 December 31, 2012, and ending December 31, 2013, 1.1
5 per cent if the taxable income is not over \$25,000,
6 1.35 per cent if over \$25,000 but not over \$100,000,
7 and on all over \$100,000, 1.6 per cent; and
- 8 (5) In the case of any taxable year beginning after
9 December 31, 2013, no tax shall be imposed on the
10 taxable income of real estate investment trusts.

11 In addition to any other penalty provided by law any real
12 estate investment trust whose tax liability for any taxable year
13 is deemed to be increased pursuant to section 859(b)(2)(A) or
14 860(c)(1)(A) after December 31, 1978, (relating to interest and
15 additions to tax determined with respect to the amount of the
16 deduction for deficiency dividends allowed) of the Internal
17 Revenue Code shall pay a penalty in an amount equal to the
18 amount of interest for which [~~such~~] the trust is liable that is
19 attributable solely to [~~such~~] the increase. The penalty payable
20 under this subsection with respect to any determination shall
21 not exceed one-half of the amount of the deduction allowed by



1 section 859(a), or 860(a) after December 31, 1978, of the
2 Internal Revenue Code for such taxable year.

3 (e) Any corporation acting as a business entity in more
4 than one state [~~and which~~] that is required by this chapter to
5 file a return and whose only activities in this State consist of
6 sales and [~~which~~] does not own or rent real estate or tangible
7 personal property and whose annual gross sales in or into this
8 State during the tax year are not in excess of \$100,000 may
9 elect to report and pay a tax of .5 per cent of [~~such~~] the
10 annual gross sales."

11 SECTION 10. This part does not affect rights and duties
12 that matured, penalties that were incurred, and proceedings that
13 were begun before its effective date.

14 SECTION 11. This part shall apply to taxable years
15 beginning after December 31, 2009:

16 PART III.

17 SECTION 12. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 13. This Act shall take effect on July 1, 2010.

20

INTRODUCED BY:

~~DC. Keith~~
~~DAVA~~
SL7. De



Mark Takashima

JAN 22 2010



Report Title:

Taxation; General Excise Tax; Refundable Food/General Excise Tax Credit; Corporation Income Tax

Description:

Reduces the general excise tax liability of eligible businesses in the State by 10% for 4 years. Increases the general excise tax and use tax by 1% for 6 years. Increases the amount of the refundable food/general excise tax credit. Phases out the corporation income tax on corporations, regulated investment companies, and real estate investment trusts over 4 years by reducing the tax rate each year.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

