
A BILL FOR AN ACT

RELATING TO GENERAL EXCISE TAX.

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

1 SECTION 1. Section 237-24.7, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§237-24.7 Additional amounts not taxable.** In addition to
4 the amounts not taxable under section 237-24, this chapter shall
5 not apply to:

6 (1) Amounts received by the operator of a hotel from the
7 owner of the hotel or [~~from~~] a time share association,
8 and amounts received by the suboperator of a hotel
9 from the owner of the hotel, [~~from~~] a time share
10 association, or [~~from~~] the operator of the hotel, in
11 amounts equal to and which are disbursed by the
12 operator or suboperator for employee wages, salaries,
13 payroll taxes, insurance premiums, and benefits,
14 including retirement, vacation, sick pay, and health
15 benefits[-]; provided that the aggregate tax otherwise
16 due and owing on amounts received by the operator of a
17 hotel from a time share association and on amounts
18 received by the suboperator of a hotel from the owner



1 of the hotel, a time share association, or the
2 operator of the hotel exempted under this paragraph,
3 shall not exceed \$400,000 per calendar year beginning
4 after December 31, 2009. As used in this paragraph:

5 "Employee" means employees directly engaged in
6 the day-to-day operation of the hotel and employed by
7 the operator or suboperator.

8 "Hotel" means an operation as defined in section
9 445-90 or a time share plan as defined in section
10 514E-1.

11 "Operator" means any person who, pursuant to a
12 written contract with the owner of a hotel or time
13 share association, operates or manages the hotel for
14 the owner or time share association.

15 "Owner" means the fee owner or lessee under a
16 recorded lease of a hotel.

17 "Suboperator" means any person who, pursuant to a
18 written contract with the operator, operates or
19 manages the hotel as a subcontractor of the operator.

20 "Time share association" means an "association"
21 as that term is defined in section 514E-1;



1 (2) Amounts received by the operator of a county
2 transportation system operated under an operating
3 contract with a political subdivision, where the
4 political subdivision is the owner of the county
5 transportation system. As used in this paragraph:

6 "County transportation system" means a mass
7 transit system of motorized buses providing regularly
8 scheduled transportation within a county.

9 "Operating contract" or "contract" means a
10 contract to operate and manage a political
11 subdivision's county transportation system, which
12 provides that:

13 (A) The political subdivision shall exercise
14 substantial control over all aspects of the
15 operator's operation;

16 (B) The political subdivision controls the
17 development of transit policy, service
18 planning, routes, and fares; and

19 (C) The operator develops in advance a draft
20 budget in the same format as prescribed for
21 agencies of the political subdivision. The
22 budget must be subject to the same



1 constraints and controls regarding the
2 lawful expenditure of public funds as any
3 public sector agency, and deviations from
4 the budget must be subject to approval by
5 the appropriate political subdivision
6 officials involved in the budgetary process.

7 "Operator" means any person who, pursuant to an
8 operating contract with a political subdivision,
9 operates or manages a county transportation system.

10 "Owner" means a political subdivision that owns
11 or is the lessee of all the properties and facilities
12 of the county transportation system (including buses,
13 real estate, parking garages, fuel pumps, maintenance
14 equipment, office supplies, etc.), and that owns all
15 revenues derived therefrom;

16 (3) Surcharge taxes on rental motor vehicles imposed by
17 chapter 251 and passed on and collected by persons
18 holding certificates of registration under that
19 chapter;

20 (4) Amounts received by the operator of orchard properties
21 from the owner of the orchard property in amounts
22 equal to and which are disbursed by the operator for



1 employee wages, salaries, payroll taxes, insurance
2 premiums, and benefits, including retirement,
3 vacation, sick pay, and health benefits. As used in
4 this paragraph:

5 "Employee" means an employee directly engaged in
6 the day-to-day operations of the orchard properties
7 and employed by the operator.

8 "Operator" means a producer who, pursuant to a
9 written contract with the owner of the orchard
10 property, operates or manages the orchard property for
11 the owner where the property contains an area
12 sufficient to make the undertaking economically
13 feasible.

14 "Orchard property" means any real property that
15 is used to raise trees with a production life cycle of
16 fifteen years or more producing fruits or nuts having
17 a normal period of development from the initial
18 planting to the first commercially saleable harvest of
19 not less than three years.

20 "Owner" means a fee owner or lessee under a
21 recorded lease of orchard property;



- 1 (5) Taxes on nursing facility income imposed by chapter
2 346E and passed on and collected by operators of
3 nursing facilities;
- 4 (6) Amounts received under property and casualty insurance
5 policies for damage or loss of inventory used in the
6 conduct of a trade or business located within the
7 State or a portion thereof that is declared a natural
8 disaster area by the governor pursuant to section 209-
9 2;
- 10 (7) Amounts received as compensation by community
11 organizations, school booster clubs, and nonprofit
12 organizations under a contract with the chief election
13 officer for the provision and compensation of precinct
14 officials and other election-related personnel,
15 services, and activities, pursuant to section 11-5;
- 16 (8) Interest received by a person domiciled outside the
17 State from a trust company (as defined in section
18 412:8-101) acting as payment agent or trustee on
19 behalf of the issuer or payees of an interest bearing
20 instrument or obligation, if the interest would not
21 have been subject to tax under this chapter if paid
22 directly to the person domiciled outside the State



1 without the use of a paying agent or trustee; provided
2 that if the interest would otherwise be taxable under
3 this chapter if paid directly to the person domiciled
4 outside the State, it shall not be exempt solely
5 because of the use of a Hawaii trust company as a
6 paying agent or trustee;

7 (9) Amounts received by a management company from related
8 entities engaged in the business of selling interstate
9 or foreign common carrier telecommunications services
10 in amounts equal to and which are disbursed by the
11 management company for employee wages, salaries,
12 payroll taxes, insurance premiums, and benefits,
13 including retirement, vacation, sick pay, and health
14 benefits. As used in this paragraph:

15 "Employee" means employees directly engaged in
16 the day-to-day operation of related entities engaged
17 in the business of selling interstate or foreign
18 common carrier telecommunications services and
19 employed by the management company.

20 "Management company" means any person who,
21 pursuant to a written contract with a related entity
22 engaged in the business of selling interstate or



1 foreign common carrier telecommunications services,
2 provides managerial or operational services to that
3 entity.

4 "Related entities" means:

5 (A) An affiliated group of corporations within
6 the meaning of section 1504 (with respect to
7 affiliated group defined) of the federal
8 Internal Revenue Code of 1986, as amended;

9 (B) A controlled group of corporations within
10 the meaning of section 1563 (with respect to
11 definitions and special rules) of the
12 federal Internal Revenue Code of 1986, as
13 amended;

14 (C) Those entities connected through ownership
15 of at least eighty per cent of the total
16 value and at least eighty per cent of the
17 total voting power of each such entity (or
18 combination thereof), including
19 partnerships, associations, trusts, S
20 corporations, nonprofit corporations,
21 limited liability partnerships, or limited
22 liability companies; and



1 (D) Any group or combination of the entities
 2 described in paragraph (C) constituting a
 3 unitary business for income tax purposes;
 4 whether or not the entity is located within or without
 5 the State or licensed under this chapter; and
 6 (10) Amounts received as grants under section 206M-15. "

7 SECTION 2. Act 239, Session Laws of Hawaii 2007, as
 8 amended by section 5 of Act 196, Session Laws of Hawaii 2009, is
 9 amended by amending section 4 to read as follows:

10 "SECTION 4. This Act shall take effect on January 1, 2008;
 11 provided that [~~this Act shall be repealed on December 31, 2010,~~
 12 ~~and section 237-24.3, Hawaii Revised Statutes, and section 237-~~
 13 ~~24.7, Hawaii Revised Statutes, shall be reenacted in the form in~~
 14 ~~which they read on December 31, 2007.] section 1 of this Act
 15 shall take effect retroactive to July 1, 2006."~~

16 SECTION 3. Act 196, Session Laws of Hawaii 2009, is
 17 amended by repealing section 6.

18 [~~"SECTION 6. The aggregate tax exemption from the~~
 19 ~~amendment in Act 239, Session Laws of Hawaii 2007, shall not~~
 20 ~~exceed \$400,000 per taxable year ending on or between January 1,~~
 21 ~~2010 and January 1, 2011."]~~



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

3 SECTION 5. This Act shall take effect upon its approval
4 and sections 1 and 3 shall apply to taxable years beginning
5 after December 31, 2009; provided that this Act shall be
6 repealed on June 30, 2015.



Report Title:

General Excise Tax; Condominium Property Regimes; Timeshares

Description:

Caps and removes the sunset date of the GET exemption for certain hotel and timeshare association transactions. Sunsets June 30, 2015. (HB2783 HD2)

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

