A BILL FOR AN ACT

RELATING TO TAXATION.

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

PART I

SECTION 1. The purpose of this Act is to address the projected $1,200,000,000 revenue shortfall that the State of Hawaii faces in the biennium operating budget for fiscal years 2011-2013.

During the 2010 regular session, the state legislature reduced government spending by over $1,200,000,000 in general fund budget cuts. In 2009, it reduced tax credits or imposed new taxes in the amount of over $550,000,000, added $115,000,000 in federal stimulus funds, and made over $150,000,000 worth of transfers from special funds in order to tackle the original $2,100,000,000 revenue shortfall.

The legislature finds, however, that the range of alternative solutions is severely limited during the 2011 session. The legislature has already relied on one-time revenue enhancements and the reduction of government services through furloughs and lay-offs in critically-needed areas. Given these
actions, reducing government spending by another $1,200,000,000 in general fund cuts would be difficult.

PART II

SECTION 2. The purpose of this part is to temporarily suspend the general excise and use tax exemptions for certain amounts received by certain persons and, instead, require those persons to pay the applicable tax on those amounts at a specified rate. The suspension and imposition of the tax commences on January 1, 2012, and ends on June 30, 2015.

This part does not suspend the existing general excise tax exemption for nonprofit organizations with the exception of the value or gross income received by nonprofit organizations from certain conventions, conferences, trade shows, or display spaces.

SECTION 3. Chapter 237, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

"§237- Temporary suspension of exemption of certain amounts; levy of tax. (a) Notwithstanding any other law to the contrary, the exemption of the following amounts from taxation under this chapter shall be suspended from January 1, 2012, through June 30, 2015:
(1) Amounts deducted from the gross income received by contractors as described under section 237-13(3)(B);

(2) Reimbursements received by federal cost-plus contractors for the costs of purchased materials, plant, and equipment as described under section 237-13(3)(C);

(3) Gross receipts of home service providers acting as service carriers providing mobile telecommunications services to other home service providers as described under section 237-13(6)(D);

(4) Amounts deducted from the gross income of real property lessees because of receipt from sublessees as described under section 237-16.5;

(5) The value or gross income received by nonprofit organizations from certain conventions, conferences, trade shows, or display spaces as described under section 237-16.8;

(6) Amounts received by sugarcane producers as described under section 237-24(14);

(7) Amounts received from the loading, transportation, and unloading of agricultural commodities shipped interisland as described under section 237-24.3(1);
(8) Amounts received from the sale of intoxicating liquor, cigarettes and tobacco products, and agricultural, meat, or fish products to persons or common carriers engaged in interstate or foreign commerce as described under section 237-24.3(2);

(9) Amounts received or accrued from the loading or unloading of cargo as described under section 237-24.3(4)(A);

(10) Amounts received or accrued from tugboat and towage services as described under section 237-24.3(4)(B);

(11) Amounts received or accrued from the transportation of pilots or government officials and other maritime-related services as described under section 237-24.3(4)(C);

(12) Amounts received by labor organizations for real property leases as described under section 237-24.3(10);

(13) Amounts received as rent for aircraft or aircraft engines used for interstate air transportation as described under section 237-24.3(12);

(14) Amounts received by exchanges and exchange members as described under section 237-24.5;
(15) Amounts received as high technology development grants under section 206M-15 as described under section 237-24.7(10);

(16) Amounts received from the servicing and maintenance of aircraft or construction of aircraft service and maintenance facilities as described under section 237-24.9;

(17) Amounts received by petroleum product refiners from other refiners for further refining of petroleum products as described under section 237-27;

(18) Gross proceeds received from the construction, reconstruction, erection, operation, use, maintenance, or furnishing of air pollution control facilities, as described under section 237-27.5, that do not have valid certificates of exemption on January 1, 2012;

(19) Gross proceeds received from shipbuilding and ship repairs as described under section 237-28.1;

(20) Amounts received by telecommunications common carriers from call center operators for interstate or foreign telecommunications services as described under section 237-29.8;
(21) Gross proceeds received by qualified businesses in enterprise zones, as described under section 209E-11, that do not have valid certificates of qualification from the department of business, economic development, and tourism on January 1, 2012; and

(22) Gross proceeds received by contractors licensed under chapter 444 for construction within enterprise zones performed for qualified businesses within the enterprise zones or businesses approved by the department of business, economic development, and tourism to enroll into the enterprise zone program, as described under section 209E-11.

(b) Except as otherwise provided under subsection (f) or (g), there is levied, assessed, and collected annually against the persons under subsection (a), a tax at the rate of four percent on the previously exempt gross income or gross proceeds of sale derived from January 1, 2012, to June 30, 2015.

(c) As used in this section, "previously exempt gross income or gross proceeds of sale" means the amount of the gross income or gross proceeds of sale, the exemption for which is suspended under subsection (a). The term also includes the value received by a nonprofit organization from conventions, ....
conferences, trade show exhibits, and display spaces, the
exemption for which is suspended under subsection (a)(5).

(d) The persons exempted under subsection (a), against
whom the tax is levied and assessed under this section, shall be
responsible for payment of the tax to the director of taxation.

(e) Notwithstanding section 237-8.6, no county surcharge
shall be levied, assessed, or collected on any previously exempt
gross income or gross proceeds of sale that is subject to
taxation under subsection (b).

(f) This section shall not apply to gross income or gross
proceeds from binding written contracts entered into prior to
July 1, 2011, that do not permit the passing on of increased
rates of taxes.

(g) The tax imposed under subsection (b) shall not apply
to any gross income or gross proceeds of sale that cannot
legally be so taxed under the Constitution or laws of the United
States, but only so long as, and only to the extent to which the
State is without power to impose the tax.

To the extent that any exemption, exclusion, or
apportionment is necessary to comply with the preceding
sentence, the director of taxation shall:
(1) Exempt or exclude the gross income or gross proceeds of sale from the tax under subsection (b); or

(2) Apportion the gross income or gross proceeds of sale derived within the State by persons engaged in business both within and without the State to determine the gross income or gross proceeds of sale that are subject to taxation under this chapter for the purposes of section 237-21.

(h) This chapter shall apply to the payment, collection, enforcement, and appeal of the tax levied under this section.

The director of taxation may establish additional requirements, procedures, and forms pursuant to rules adopted under chapter 91, to effectuate this section.

§237- Information reporting. From January 1, 2012, the director shall require information reporting on all exclusions or exemptions of all amounts, persons, or transactions from this chapter, except for the following:

(1) Amounts received that are exempt under section 237-24(1) through (7); and

(2) Any other amounts, persons, or transactions as determined by the director to be in the best interest
of tax administration and made by official
pronouncement."

SECTION 4. Chapter 238, Hawaii Revised Statutes, is
amended by adding two new sections to be appropriately
designated and to read as follows:

"§238- Temporary suspension of exemption of certain
amounts; levy of tax. (a) Notwithstanding any other law to the
contrary, the exemption of the following from taxation under
this chapter shall be suspended from January 1, 2012, through
June 30, 2015:

(1) The leasing or renting of aircraft or keeping of
aircraft solely for leasing or renting for commercial
transportation of passengers and goods or the
acquisition or importation of aircraft or aircraft
engines by a lessee or renter engaged in interstate
air transportation, as described under paragraph (6)
of the definition of "use" in section 238-1;

(2) The use of oceangoing vehicles for passenger or
passenger and goods transportation from one point to
another within the State as a public utility, as
described under paragraph (7) of the definition of
"use" in section 238-1;
(3) The use of material, parts, or tools imported or purchased by a person licensed under chapter 237 which are used for aircraft service and maintenance or the construction of an aircraft service and maintenance facility, as described under paragraph (8) of the definition of "use" in section 238-1;

(4) The use or sale of intoxicating liquor and cigarette and tobacco products imported into the State and sold to any person or common carrier in interstate commerce, whether ocean-going or air, for consumption out of State by the person, crew, or passengers on the shipper's vessels or airplanes, as described under section 238-3(g);

(5) The use of any vessel constructed under section 189-25 prior to July 1, 1969, as described under section 238-3(h); and

(6) The use of any air pollution control facility subject to section 237-27.5 as described under section 238-3(k).

(b) Except as otherwise provided under subsection (f) or (g), there is levied, assessed, and collected annually against the persons under subsection (a), a tax at the rate of four per...
cent on the previously exempt value of property, services, or contracting that becomes subject to the State's taxing jurisdiction from January 1, 2012, to June 30, 2015.

(c) As used in this section, "previously exempt value of property, services, or contracting" means the value of property, services, or contracting, the exemption for which is suspended under subsection (a).

(d) The persons exempted under subsection (a), against whom the tax is levied and assessed under this section, shall be responsible for payment of the tax to the director of taxation.

(e) Notwithstanding section 238-2.6, no county surcharge shall be levied, assessed, or collected on any previously exempt value of property, services, or contracting that is subject to taxation under subsection (b).

(f) This section shall not apply to the value of property, services, or contracting from binding written contracts entered into prior to July 1, 2011, that do not permit the passing on of increased rates of taxes.

(g) The tax imposed under subsection (b) shall not apply to any property, services, or contracting or to any use of the property, services, or contracting that cannot legally be so taxed under the Constitution or laws of the United States, but
1 only so long as, and only to the extent to which the State is
2 without power to impose the tax.
3 To the extent that any exemption, exclusion, or
4 apportionment is necessary to comply with the preceding
5 sentence, the director of taxation shall:
6 (1) Exempt or exclude the property, services, or
7 contracting or the use of the property, services, or
8 contracting, from the tax under subsection (b); or
9 (2) Apportion the gross value of services or contracting
10 sold to customers within the State by persons engaged
11 in business both within and without the State to
determine the value of that portion of the services or
13 contracting that is subject to taxation under chapter
14 237 for the purposes of section 237-21.
15 (h) This chapter shall apply to the payment, collection,
enforcement, and appeal of the tax levied under this section.
17 The director of taxation may establish additional
18 requirements, procedures, and forms pursuant to rules adopted
19 under chapter 91, to effectuate this section.
20 §238- Information reporting. From January 1, 2012, the
21 director shall require information reporting on all exclusions
22 or exemptions of all amounts, persons, or transactions from this
chapter, except for any amounts, persons, or transactions as
determined by the director to be in the best interest of tax
administration and made by official pronouncement."

PART III

SECTION 5. The purpose of this part is to institute
temporary tax provisions for two years to raise revenue for the
State while lowering the total tax burden for working families
by:

(1) Doubling the standard deduction amounts;
(2) Doubling the tax credit for household and dependent
care services necessary for gainful employment;
(3) Doubling the income tax credit for low-income
household renters;
(4) Doubling the refundable food/excise tax credit;
(5) Increasing the capital goods excise tax credit;
(6) Raising the general excise and use tax rates; and
(7) Raising various public service company tax rates.

PART IV

SECTION 6. Section 235-2.4, Hawaii Revised Statutes, is
amended by amending subsection (a) to read as follows:
"(a) Section 63 (with respect to taxable income defined) of the Internal Revenue Code shall be operative for the purposes of this chapter, subject to the following:

1. Sections 63(c)(1)(B) (relating to the additional standard deduction), 63(c)(1)(C) (relating to the real property tax deduction), 63(c)(1)(D) (relating to the disaster loss deduction), 63(c)(1)(E) (relating to the motor vehicle sales tax deduction), 63(c)(4) (relating to inflation adjustments), 63(c)(7) (defining the real property tax deduction), 63(c)(8) (defining the disaster loss deduction), 63(c)(9) (defining the motor vehicle sales tax deduction), and 63(f) (relating to additional amounts for the aged or blind) of the Internal Revenue Code shall not be operative for purposes of this chapter;

2. Section 63(c)(2) (relating to the basic standard deduction) of the Internal Revenue Code shall be operative, except that the standard deduction amounts provided therein shall instead mean:

   (A) \[\$4,400\] \$8,800 in the case of:

   (i) A joint return as provided by section 235-93; or
(ii) A surviving spouse (as defined in section 2(a) of the Internal Revenue Code);

(B) $6,424 in the case of a head of household (as defined in section 2(b) of the Internal Revenue Code);

(C) $4,400 in the case of an individual who is not married and who is not a surviving spouse or head of household; or

(D) $4,400 in the case of a married individual filing a separate return;

(3) Section 63(c)(5) (limiting the basic standard deduction in the case of certain dependents) of the Internal Revenue Code shall be operative, except that the limitation shall be the greater of $500 or such individual's earned income; and

(4) The standard deduction amount for nonresidents shall be calculated pursuant to section 235-5."

SECTION 7. Act 60, Session Laws of Hawaii 2009, is amended by amending section 6 to read as follows:

"SECTION 6. This Act shall take effect upon approval,
(1) Section 2 shall apply to taxable years beginning after December 31, 2008;

(2) [Sections 1-] Section 3 shall apply to taxable years beginning after December 31, 2010; [and]

(3) Section 1 shall apply to taxable years beginning after December 31, 2013; and

[(4)] (4) On December 31, 2015, this Act shall be repealed and sections 235-2.4(a), 235-51(a), (b), and (c), and 235-54(a), Hawaii Revised Statutes, shall be reenacted in the form in which they read on the day before the effective date of this Act."

PART V

SECTION 8. Section 235-55.6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Allowance of credit.

(1) In general. For each resident taxpayer, who files an individual income tax return for a taxable year, and who is not claimed or is not otherwise eligible to be claimed as a dependent by another taxpayer for federal or Hawaii state individual income tax purposes, who maintains a household which includes as a member one or more qualifying individuals (as defined in
subsection (b)(1)), there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable percentage of the employment-related expenses (as defined in subsection (b)(2)) paid by such individual during the taxable year. If the tax credit claimed by a resident taxpayer exceeds the amount of income tax payment due from the resident taxpayer, the excess of the credit over payments due shall be refunded to the resident taxpayer; provided that tax credit properly claimed by a resident individual who has no income tax liability shall be paid to the resident individual; and provided further that no refunds or payment on account of the tax credit allowed by this section shall be made for amounts less than $1.

(2) Applicable percentage defined. For purposes of paragraph (1), the term "applicable percentage" [means twenty-five per cent reduced (but not below fifteen per cent) by one percentage point of each $2,000 (or fraction thereof) by which the taxpayer's adjusted gross income for the taxable year exceeds $22,000] means:
<table>
<thead>
<tr>
<th>Adjusted gross income</th>
<th>Applicable percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0 through $22,000</td>
<td>50%</td>
</tr>
<tr>
<td>$22,001 through $24,000</td>
<td>48%</td>
</tr>
<tr>
<td>$24,001 through $26,000</td>
<td>46%</td>
</tr>
<tr>
<td>$26,001 through $28,000</td>
<td>44%</td>
</tr>
<tr>
<td>$28,001 through $30,000</td>
<td>42%</td>
</tr>
<tr>
<td>$30,001 through $32,000</td>
<td>40%</td>
</tr>
<tr>
<td>$32,001 through $34,000</td>
<td>38%</td>
</tr>
<tr>
<td>$34,001 through $36,000</td>
<td>36%</td>
</tr>
<tr>
<td>$36,001 through $38,000</td>
<td>34%</td>
</tr>
<tr>
<td>$38,001 through $40,000</td>
<td>32%</td>
</tr>
<tr>
<td>$40,001 and over</td>
<td>30%</td>
</tr>
</tbody>
</table>

PART VI

SECTION 9. Section 235-55.7, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Each taxpayer with an adjusted gross income of less than $30,000 who has paid more than $1,000 in rent during the taxable year for which the credit is claimed may claim a tax credit of [$59] $100 multiplied by the number of qualified exemptions to which the taxpayer is entitled; provided each taxpayer sixty-five years of age or over may claim double the tax credit; and provided that a resident individual who has no
income or no income taxable under this chapter may also claim
the tax credit as set forth in this section."

PART VII

SECTION 10. Section 235-55.85, Hawaii Revised Statutes, is
amended by amending subsection (b) to read as follows:
"(b) Each resident individual taxpayer may claim a
refundable food/excise tax credit multiplied by the number of
qualified exemptions to which the taxpayer is entitled in
accordance with the table below; provided that a husband and
wife filing separate tax returns for a taxable year for which a
joint return could have been filed by them shall claim only the
tax credit to which they would have been entitled had a joint
return been filed.

<table>
<thead>
<tr>
<th>Adjusted gross income</th>
<th>Credit per exemption</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under $5,000</td>
<td>[$85] $170</td>
</tr>
<tr>
<td>$5,000 under $10,000</td>
<td>[75] 150</td>
</tr>
<tr>
<td>$10,000 under $15,000</td>
<td>[65] 130</td>
</tr>
<tr>
<td>$15,000 under $20,000</td>
<td>[55] 110</td>
</tr>
<tr>
<td>$20,000 under $30,000</td>
<td>[45] 90</td>
</tr>
<tr>
<td>$30,000 under $40,000</td>
<td>[35] 70</td>
</tr>
<tr>
<td>$40,000 under $50,000</td>
<td>[25] 50</td>
</tr>
<tr>
<td>$50,000 and over</td>
<td>0&quot;</td>
</tr>
</tbody>
</table>
PART VIII

SECTION 11. Section 235-110.7, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) There shall be allowed to each taxpayer subject to the tax imposed by this chapter a capital goods excise tax credit which shall be deductible from the taxpayer's net income tax liability, if any, imposed by this chapter for the taxable year in which the credit is properly claimed.

The amount of the tax credit shall be determined by the application of the following rates against the cost of the eligible depreciable tangible personal property used by the taxpayer in a trade or business and placed in service within Hawaii after December 31, 1987. For calendar years beginning after:

(1) December 31, 1987, the applicable rate shall be three per cent;

(2) December 31, 1988, the applicable rate shall be four per cent;

(3) December 31, 2008, the applicable rate shall be zero per cent; [and]
(4) December 31, 2009, [and thereafter] the applicable rate shall be four per cent; and
(5) October 1, 2011, and thereafter, the applicable rate shall be five per cent.

For taxpayers with fiscal taxable years, the applicable rate shall be the rate for the calendar year in which the eligible depreciable tangible personal property used in the trade or business is placed in service within Hawaii.

In the case of a partnership, S corporation, estate, or trust, the tax credit allowable is for eligible depreciable tangible personal property which is placed in service by the entity. The cost upon which the tax credit is computed shall be determined at the entity level. Distribution and share of credit shall be determined by rules.

In the case of eligible depreciable tangible personal property for which a credit for sales or use taxes paid to another state is allowable under section 238-3(i), the amount of the tax credit allowed under this section shall not exceed the amount of use tax actually paid under chapter 238 relating to such tangible personal property.

If a deduction is taken under section 179 (with respect to election to expense certain depreciable business assets) of the
Internal Revenue Code of 1954, as amended, no tax credit shall be allowed for that portion of the cost of property for which the deduction was taken."

2. By amending subsection (e) to read:

"(e) As used in this section, the definition of section 38 property (with respect to investment in depreciable tangible personal property) as defined by section 48(a)(1)(A), (a)(1)(B), (a)(3), (a)(4), (a)(7), (a)(8), (a)(10)(A), (b), (c), (f), (l), (m), and (s) of the Internal Revenue Code of 1954, as amended as of December 31, 1984, is operative for the purposes of this section only.

As used in this section:

"Cost" means (1) the actual invoice price of the tangible personal property, or (2) the basis from which depreciation is taken under section 167 (with respect to depreciation) or from which a deduction may be taken under section 168 (with respect to accelerated cost recovery system) of the Internal Revenue Code of 1954, as amended, whichever is less.

"Eligible depreciable tangible personal property" is section 38 property as defined by the operative provisions of section 48 and having a depreciable life under section 167 or
for which a deduction may be taken under section 168 of the federal Internal Revenue Code of 1954, as amended.

"Placed in service" means the earliest of the following taxable years:

(1) The taxable year in which, under the:
   (A) Taxpayer's depreciation practice, the period for depreciation; or
   (B) Accelerated cost recovery system, a claim for recovery allowances; with respect to such property begins; or

(2) The taxable year in which the property is placed in a condition or state of readiness and availability for a specifically assigned function.

"Purchase" means an acquisition of property.

"Tangible personal property" means tangible personal property which is placed in service within Hawaii after December 31, 1987, and the purchase or importation of which resulted in a transaction which was subject to the imposition and payment of tax at the rate of five per cent under chapter 237 or 238. "Tangible personal property" does not include tangible personal property which is an integral part of
a building or structure or tangible personal property used in a foreign trade zone, as defined under chapter 212."

SECTION 12. Section 237-13, Hawaii Revised Statutes, is amended to read as follows:

"§237-13 Imposition of tax. There is hereby levied and shall be assessed and collected annually privilege taxes against persons on account of their business and other activities in the State measured by the application of rates against values of products, gross proceeds of sales, or gross income, whichever is specified, as follows:

(1) Tax on manufacturers.

(A) Upon every person engaging or continuing within the State in the business of manufacturing, including compounding, canning, preserving, packing, printing, publishing, milling, processing, refining, or preparing for sale, profit, or commercial use, either directly or through the activity of others, in whole or in part, any article or articles, substance or substances, commodity or commodities, the amount of the tax to be equal to the value of the articles, substances, or commodities,
manufactured, compounded, canned, preserved, packed, printed, milled, processed, refined, or prepared for sale, as shown by the gross proceeds derived from the sale thereof by the manufacturer or person compounding, preparing, or printing them, multiplied by one-half of one per cent.

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

(C) If any person liable for the tax on manufacturers ships or transports the person's product, or any part thereof, out of the State, whether in a finished or unfinished condition, or sells the same for delivery to points outside the State (for example, consigned to a mainland purchaser via common carrier f.o.b. Honolulu), the value of the products in the condition or form in which they exist immediately before entering interstate or foreign commerce, determined as hereinafter provided, shall be the basis for the assessment of the tax imposed by this paragraph. This tax
shall be due and payable as of the date of entry
of the products into interstate or foreign
commerce, whether the products are then sold or
not. The department shall determine the basis
for assessment, as provided by this paragraph, as
follows:

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

(ii) If the products have not been sold at the
time of their entry into interstate or
foreign commerce, and in cases governed by
clause (i) in which the products are sold
under circumstances such that the gross
proceeds of sale are not indicative of the
true value of the products, the value of the
products constituting the basis for
assessment shall correspond as nearly as
possible to the gross proceeds of sales for
delivery outside the State, adjusted as
provided in clause (i), or if sufficient
data are not available, sales in the State,
of similar products of like quality and
character and in similar quantities, made by
the taxpayer (unless not indicative of the
true value) or by others. Sales outside the
State, adjusted as provided in clause (i),
may be considered when they constitute the
best available data. The department shall
prescribe uniform and equitable rules for
ascertaining the values;

(iii) At the election of the taxpayer and with the
approval of the department, the taxpayer may
make the taxpayer's returns under clause (i)
even though the products have not been sold
at the time of their entry into interstate
or foreign commerce; and
(iv) In all cases in which products leave the State in an unfinished condition, the basis for assessment shall be adjusted so as to deduct the portion of the value as is attributable to the finishing of the goods outside the State.

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

(A) Upon every person engaging or continuing in the business of selling any tangible personal property whatsoever (not including, however, bonds or other evidence of indebtedness, or stocks), there is likewise hereby levied, and shall be assessed and collected, a tax equivalent to [five] five per cent of the gross proceeds of sales of the business; provided that insofar as the sale of tangible personal property is a wholesale sale under section [237-4(a)(8)], the sale shall be subject to section 237-13.3.

Upon every person engaging or continuing within this State in the business of a producer, the tax shall be equal to one-half of one per cent of the
gross proceeds of sales of the business, or the
value of the products, for sale, if sold for
delivery outside the State or shipped or
transported out of the State, and the value of
the products shall be determined in the same
manner as the value of manufactured products
covered in the cases under paragraph (1)(C).

(B) Gross proceeds of sales of tangible property in
interstate and foreign commerce shall constitute
a part of the measure of the tax imposed on
persons in the business of selling tangible
personal property, to the extent, under the
conditions, and in accordance with the provisions
of the Constitution of the United States and the
Acts of the Congress of the United States which
may be now in force or may be hereafter adopted,
and whenever there occurs in the State an
activity to which, under the Constitution and
Acts of Congress, there may be attributed gross
proceeds of sales, the gross proceeds shall be so
attributed.
(C) No manufacturer or producer, engaged in such business in the State and selling the manufacturer's or producer's products for delivery outside of the State (for example, consigned to a mainland purchaser via common carrier f.o.b. Honolulu), shall be required to pay the tax imposed in this chapter for the privilege of so selling the products, and the value or gross proceeds of sales of the products shall be included only in determining the measure of the tax imposed upon the manufacturer or producer.

(D) When a manufacturer or producer, engaged in such business in the State, also is engaged in selling the manufacturer's or producer's products in the State at wholesale, retail, or in any other manner, the tax for the privilege of engaging in the business of selling the products in the State shall apply to the manufacturer or producer as well as the tax for the privilege of manufacturing or producing in the State, and the manufacturer or producer shall make the returns
of the gross proceeds of the wholesale, retail, or other sales required for the privilege of selling in the State, as well as making the returns of the value or gross proceeds of sales of the products required for the privilege of manufacturing or producing in the State. The manufacturer or producer shall pay the tax imposed in this chapter for the privilege of selling its products in the State, and the value or gross proceeds of sales of the products, thus subjected to tax, may be deducted insofar as duplicated as to the same products by the measure of the tax upon the manufacturer or producer for the privilege of manufacturing or producing in the State; provided that no producer of agricultural products who sells the products to a purchaser who will process the products outside the State shall be required to pay the tax imposed in this chapter for the privilege of producing or selling those products.

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

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

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

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

(3) Tax upon contractors.

(A) Upon every person engaging or continuing within the State in the business of contracting, the tax
shall be equal to five per cent of the
gross income of the business.

(B) In computing the tax levied under this paragraph,
there shall be deducted from the gross income of
the taxpayer so much thereof as has been included
in the measure of the tax levied under
subparagraph (A), on:

(i) Another taxpayer who is a contractor, as
defined in section 237-6;

(ii) A specialty contractor, duly licensed by the
department of commerce and consumer affairs
pursuant to section 444-9, in respect of the
specialty contractor's business; or

(iii) A specialty contractor who is not licensed
by the department of commerce and consumer
affairs pursuant to section 444-9, but who
performs contracting activities on federal
military installations and nowhere else in
this State;

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

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

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

(ii) The taxpayer making the sale shall have
certified to the department that the
taxpayer is taxable with respect to the
gross proceeds of the sale, and that the
taxpayer elects to have the tax on gross
income computed the same as upon a sale to
the state government.
(D) A person who, as a business or as a part of a business in which the person is engaged, erects, constructs, or improves any building or structure, of any kind or description, or makes, constructs, or improves any road, street, sidewalk, sewer, or water system, or other improvements on land held by the person (whether held as a leasehold, fee simple, or otherwise), upon the sale or other disposition of the land or improvements, even if the work was not done pursuant to a contract, shall be liable to the same tax as if engaged in the business of contracting, unless the person shows that at the time the person was engaged in making the improvements the person intended, and for the period of at least one year after completion of the building, structure, or other improvements the person continued to intend to hold and not sell or otherwise dispose of the land or improvements. The tax in respect of the improvements shall be measured by the amount of the proceeds of the sale or other disposition.
that is attributable to the erection, construction, or improvement of such building or structure, or the making, constructing, or improving of the road, street, sidewalk, sewer, or water system, or other improvements. The measure of tax in respect of the improvements shall not exceed the amount which would have been taxable had the work been performed by another, subject as in other cases to the deductions allowed by subparagraph (B). Upon the election of the taxpayer, this paragraph may be applied notwithstanding that the improvements were not made by the taxpayer, or were not made as a business or as a part of a business, or were made with the intention of holding the same. However, this paragraph shall not apply in respect of any proceeds that constitute or are in the nature of rent; all such gross income shall be taxable under paragraph (9); provided that insofar as the business of renting or leasing real property under a lease is taxed under section 237-16.5, the tax shall be levied by section 237-16.5.
(4) Tax upon theaters, amusements, radio broadcasting stations, etc.

(A) Upon every person engaging or continuing within the State in the business of operating a theater, opera house, moving picture show, vaudeville, amusement park, dance hall, skating rink, radio broadcasting station, or any other place at which amusements are offered to the public, the tax shall be equal to five per cent of the gross income of the business, and in the case of a sale of an amusement at wholesale under section 237-4(a)(13), the tax shall be subject to section 237-13.3.

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

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

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

(5) Tax upon sales representatives, etc. Upon every person classified as a representative or purchasing agent under section 237-1, engaging or continuing within the State in the business of performing services for another, other than as an employee, there is likewise hereby levied and shall be assessed and collected a tax equal to five per cent of the commissions and other compensation attributable to the services so rendered by the person.

(6) Tax on service business.

(A) Upon every person engaging or continuing within the State in any service business or calling including professional services not otherwise specifically taxed under this chapter, there is likewise hereby levied and shall be assessed and
collected a tax equal to [five] five per cent of
the gross income of the business, and in the case
of a wholesaler under section 237-4(a)(10), the
tax shall be equal to one-half of one per cent of
the gross income of the business.
Notwithstanding the foregoing, a wholesaler under
section 237-4(a)(10) shall be subject to section
237-13.3.

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

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

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

(C) Where any person is engaged in the business of
selling interstate or foreign common carrier
telecommunication services within and without the
State, other than as a home service provider, the
tax shall be imposed on that portion of gross
income received by a person from service which is
originated or terminated in this State and is
charged to a telephone number, customer, or
account in this State notwithstanding any other
state law (except for the exemption under section
237-23(a)(1)) to the contrary. If, under the
Constitution and laws of the United States, the
entire gross income as determined under this
paragraph of a business selling interstate or
foreign common carrier telecommunication services
cannot be included in the measure of the tax, the
gross income shall be apportioned as provided in
section 237-21; provided that the apportionment
factor and formula shall be the same for all
persons providing those services in the State.
(D) Where any person is engaged in the business of a home service provider, the tax shall be imposed on the gross income received or derived from providing interstate or foreign mobile telecommunications services to a customer with a place of primary use in this State when such services originate in one state and terminate in another state, territory, or foreign country; provided that all charges for mobile telecommunications services which are billed by or for the home service provider are deemed to be provided by the home service provider at the customer's place of primary use, regardless of where the mobile telecommunications originate, terminate, or pass through; provided further that the income from charges specifically derived from interstate or foreign mobile telecommunications services, as determined by books and records that are kept in the regular course of business by the home service provider in accordance with section 239-24, shall be apportioned under any apportionment factor or formula adopted under
subparagraph (C). Gross income shall not include:

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

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

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

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

For the purposes of this paragraph, "charges for mobile telecommunications services", "customer", "home service provider", "mobile telecommunications services", "place of primary use", and "serving carrier" have the same meaning as in section 239-22.
(7) Tax on insurance producers. Upon every person engaged
as a licensed producer pursuant to chapter 431, there
is hereby levied and shall be assessed and collected a
tax equal to 0.15 per cent of the commissions due to
that activity.

(8) Tax on receipts of sugar benefit payments. Upon the
amounts received from the United States government by
any producer of sugar (or the producer's legal
representative or heirs), as defined under and by
virtue of the Sugar Act of 1948, as amended, or other
Acts of the Congress of the United States relating
thereto, there is hereby levied a tax of one-half of
one per cent of the gross amount received; provided
that the tax levied hereunder on any amount so
received and actually disbursed to another by a
producer in the form of a benefit payment shall be
paid by the person or persons to whom the amount is
actually disbursed, and the producer actually making a
benefit payment to another shall be entitled to claim
on the producer's return a deduction from the gross
amount taxable hereunder in the sum of the amount so
disbursed. The amounts taxed under this paragraph
shall not be taxable under any other paragraph,
subsection, or section of this chapter.

(9) Tax on other business. Upon every person engaging or
continuing within the State in any business, trade,
activity, occupation, or calling not included in the
preceding paragraphs or any other provisions of this
chapter, there is likewise hereby levied and shall be
assessed and collected, a tax equal to \[\text{five percent} \] of the gross income thereof. In addition, the
rate prescribed by this paragraph shall apply to a
business taxable under one or more of the preceding
paragraphs or other provisions of this chapter, as to
any gross income thereof not taxed thereunder as gross
income or gross proceeds of sales or by taxing an
equivalent value of products, unless specifically
exempted."

SECTION 13. Section 237-15, Hawaii Revised Statutes, is
amended to read as follows:

"§237-15 Technicians. When technicians supply dentists or
physicians with dentures, orthodontic devices, braces, and
similar items which have been prepared by the technician in
accordance with specifications furnished by the dentist or
physician, and such items are to be used by the dentist or physician in the dentist's or physician's professional practice for a particular patient who is to pay the dentist or physician for the same as a part of the dentist's or physician's professional services, the technician shall be taxed as though the technician were a manufacturer selling a product to a licensed retailer, rather than at the rate of five per cent which is generally applied to professions and services."

SECTION 14. Section 237-16.5, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) This section relates to the leasing of real property by a lessor to a lessee. There is hereby levied, and shall be assessed and collected annually, a privilege tax against persons engaging or continuing within the State in the business of leasing real property to another, equal to five per cent of the gross proceeds or gross income received or derived from the leasing; provided that where real property is subleased by a lessee to a sublessee, the lessee, as provided in this section, shall be allowed a deduction from the amount of gross proceeds or gross income received from its sublease of the real property. The deduction shall be in the amount allowed under this section.
All deductions under this section and the name and general excise tax number of the lessee's lessor shall be reported on the general excise tax return. Any deduction allowed under this section shall only be allowed with respect to leases and subleases in writing and relating to the same real property."

2. By amending subsection (f) to read:

"(f) This section shall not cause the tax upon a lessor, with respect to any item of the lessor's gross proceeds or gross income, to exceed five per cent."

SECTION 15. Section 237-18, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

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

As used in this subsection "tourism related services" means catamaran cruises, canoe rides, dinner cruises, lei greetings, transportation included in a tour package, sightseeing tours not subject to chapter 239, admissions to luaus, dinner shows, extravaganzas, cultural and educational facilities, and other
services rendered directly to the customer or tourist, but only
if the providers of the services other than air transportation
are subject to a [four] five per cent tax under this chapter or
chapter 239."

SECTION 16. Section 238-2, Hawaii Revised Statutes, is
amended to read as follows:

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

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

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

(B) A manufacturer importing or purchasing material
or commodities which are to be incorporated by
the manufacturer into a finished or saleable
product (including the container or package in
which the product is contained) wherein it will
remain in such form as to be perceptible to the
senses, and which finished or saleable product is
to be sold in such manner as to result in a
further tax on the activity of the manufacturer
as the manufacturer or as a wholesaler, and not
as a retailer,
there shall be no tax; provided that if the
wholesaler, jobber, or manufacturer is also engaged in
business as a retailer (so classed under chapter 237),
paragraph (2) shall apply to the wholesaler, jobber,
or manufacturer, but the director of taxation shall
refund to the wholesaler, jobber, or manufacturer, in
the manner provided under section 231-23(c) such
amount of tax as the wholesaler, jobber, or
manufacturer shall, to the satisfaction of the
director, establish to have been paid by the
wholesaler, jobber, or manufacturer to the director
with respect to property which has been used by the
wholesaler, jobber, or manufacturer for the purposes
stated in this paragraph;
(2) If the importer or purchaser is licensed under chapter 237 and is:

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

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

(C) A contractor importing or purchasing material or commodities which are to be incorporated by the contractor into the finished work or project required by the contract and which will remain in such finished work or project in such form as to be perceptible to the senses;
(D) A person engaged in a service business or calling as defined in section 237-7, or a person furnishing transient accommodations subject to the tax imposed by section 237D-2, in which the import or purchase of tangible personal property would have qualified as a sale at wholesale as defined in section 237-4(a)(8) had the seller of the property been subject to the tax in chapter 237; or

(E) A publisher of magazines or similar printed materials containing advertisements, when the publisher is under contract with the advertisers to distribute a minimum number of magazines or similar printed materials to the public or defined segment of the public, whether or not there is a charge to the persons who actually receive the magazines or similar printed materials, the tax shall be one-half of one per cent of the purchase price of the property, if the purchase and sale are consummated in Hawaii; or, if there is no purchase price applicable thereto, or if the purchase
or sale is consummated outside of Hawaii, then one-half of one per cent of the value of such property; and

(3) In all other cases, five per cent of the value of the property.

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

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

"§238-2.3 Imposition of tax on imported services or contracting; exemptions. There is hereby levied an excise tax on the value of services or contracting as defined in section 237-6 that are performed by an unlicensed seller at a point outside the State and imported or purchased for use in this State. The tax imposed by this chapter shall accrue when the service or contracting as defined in section 237-6 is received by the importer or purchaser and becomes subject to the taxing jurisdiction of the State. The rates of the tax hereby imposed and the exemptions from the tax are as follows:

2011-1990 HB793 SD1 SMA-1.doc
(1) If the importer or purchaser is licensed under chapter 237 and is:

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

(B) A manufacturer importing or purchasing services or contracting that become identifiable elements, excluding overhead, of a finished or saleable product (including the container or package in which the product is contained) and the finished or saleable product is to be sold in a manner that results in a further tax on the manufacturer as a wholesaler, and not a retailer; there shall be no tax imposed on the value of the imported or purchased services or contracting; provided that if the manufacturer is also engaged in
business as a retailer as classified under chapter 237, paragraph (2) shall apply to the manufacturer, but the director of taxation shall refund to the manufacturer, in the manner provided under section 231-23(c), that amount of tax that the manufacturer, to the satisfaction of the director, shall establish to have been paid by the manufacturer to the director with respect to services that have been used by the manufacturer for the purposes stated in this paragraph.

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

(A) Engaged in a service business or calling in which the imported or purchased services or contracting become identifiable elements, excluding overhead, of the services rendered by the importer or purchaser, and the gross income from those services when sold by the importer or purchaser is subject to the tax imposed under chapter 237 at the highest rate;

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

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

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

and

(3) In all other cases, the importer or purchaser is subject to the tax at the rate of [five] per cent on the value of the imported or purchased services or contracting."
SECTION 18. Section 239-5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) There shall be levied and assessed upon each public utility, except airlines, motor carriers, common carriers by water, and contract carriers taxed by section 239-6, a tax of such rate per cent of its gross income each year from its public utility business as shall be determined in the manner hereinafter provided. The tax imposed by this section is in lieu of all taxes other than those below set out, and is a means of taxing the personal property of the public utility, tangible and intangible, including going concern value. In addition to the tax imposed by this chapter there also are imposed income taxes, the specific taxes imposed by chapter 249, the fees prescribed by chapter 269, any tax specifically imposed by the terms of the public utility's franchise or under chapter 240, the use or consumption tax imposed by chapter 238, and employment taxes.

The rate of the tax upon the gross income of the public utility shall be [five] five per cent; provided that if:

(1) A county provides by ordinance for a real property tax exemption for real property used by a public utility in its public utility business and owned by the public
utility (or leased to it by a lease under which the 
public utility is required to pay the taxes upon the 
property), and

(2) The county has not denied the exemption to the public 
utility, but excluding a denial based upon a dispute 
as to the ownership, lease, or use of a specific 
parcel of real property,

then there shall be levied and assessed a tax in excess of the 
[\textit{five}] five per cent rate determined in the manner hereinafter 
provided upon the gross income allocable to such county. The 
revenues generated from the tax in excess of the [\textit{five}] five per 
cent rate hereinbefore established shall be paid by the public 
utility directly to such county based upon the proportion of 
gross income from its public utility business attributable to 
such county, based upon the allocation made in the public 
utility's filings with the State of Hawaii; provided that if the 
gross income from the public utility business attributable to 
such county is not so allocated in the public utility's State 
filings, then the gross income from the public utility business 
shall be equitably allocated to each county. The relative 
number of access lines in each county shall be deemed an
acceptable basis of equitable allocation for telecommunication companies.

The rate of the tax in excess of the five per cent rate hereinbefore established upon the gross income from the public utility business shall be determined as follows:

If the ratio of the net income of the company to its gross income is fifteen per cent or less, the rate of tax in excess of the five per cent rate on gross income shall be 1.885 per cent; for all companies having net income in excess of fifteen per cent of the gross, the rate of the tax on gross income shall increase continuously in proportion to the increase in ratio of net income to gross, at such rate that for each increase of one per cent in the ratio of net income to gross, there shall be an increase of .2675 per cent in the rate of the tax.

The following formula may be used to determine the rate, in which formula the term "R" is the ratio of net income to gross income, and "X" is the required rate of the tax on gross income for the utility in question:

\[ X = (26.75R - 2.1275)\%; \]

provided that in no case governed by the formula shall "X" be less than 1.885 per cent or more than 4.2 per cent.
However, if the gross income is apportioned under section 239-8(b) or (c), there shall be no adjustment of the rate of tax on the amount of gross income so apportioned to the State on account of the ratio of the net income to the gross income being in excess of fifteen per cent, and it shall be assumed in such case that the ratio is fifteen per cent or less.

SECTION 19. Section 239-6, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) There shall be levied and assessed upon each airline a tax of five per cent of its gross income each year from the airline business; provided that if an airline adopts a rate schedule for students in grade twelve or below traveling in school groups providing such students at reasonable hours a rate less than one-half of the regular adult fare, the tax shall be three per cent of its gross income each year from the airline business.

(b) There shall be levied and assessed upon each motor carrier, each common carrier by water, and upon each contract carrier other than a motor carrier, a tax of five per cent of its gross income each year from the motor carrier or contract carrier business."
SECTION 20. Section 239-7, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) The tax imposed by this chapter shall be assessed against each public service company in the manner provided by this chapter, and shall be paid to the department of taxation at the times and in the manner (in installments or otherwise) provided by this section, except as provided in section 239-5(a), where there is levied and assessed a tax in excess of [≥ 5%] five per cent upon gross income, the revenues generated from the tax in excess of the [≥ 5%] five per cent rate shall be paid to the respective county director of finance at the times and in the manner (in installments or otherwise) provided by this section."

2. By amending subsection (c) to read:

"(c) The department shall prescribe the forms in which returns shall be made so as to reflect clearly the liability of each public service company subject to this tax, and may provide in the forms for such additional information as it may deem necessary. All provisions of the laws, not inapplicable and not inconsistent with this chapter, relating to returns for income tax purposes, the assessment (including additional assessments),
collection, and payment (in installments or otherwise) of income taxes and the powers and duties of the department and the state director of finance in connection therewith, and relating to appeals from or other adjustments of such assessments, limitation periods for assessments, enforcement of attendance of witnesses, and the production of evidence, examination of witnesses and records, the effect of assessments, tax books, and lists and other official tax records as evidence, delinquent dates and penalties, and the rights and liabilities (civil and criminal) of taxpayers and other persons in connection with any matters dealt with by chapter 235, are made applicable (1) to the taxes and the assessment, payment, and collection thereof, provided by this chapter, and (2) to the department and the state director of finance in connection with the taxes and the assessment, payment, or enforcement of payment and collection thereof, and (3) to taxpayers and other persons affected by this chapter, as the case may be. The provisions of chapter 235 regarding the limitation period for assessment and refunds shall run from the filing of the return for the taxable year, or the due date prescribed for the filing of the return, whichever is later. With respect to payments due to a county of the revenues generated from the tax in excess of the [four] five per cent

2011-1990 HB793 SD1 SMA-1.doc
rate imposed under section 239-5(a), a county director of
finance shall be afforded such rights and procedures of the
department in the enforcement of payment and collection of the
taxes assessed and levied under this chapter."

SECTION 21. Section 239-9, Hawaii Revised Statutes, is
amended by amending subsection (c) to read as follows:

"(c) First year of doing business. The measure of the tax
for the year in which the company begins business is an estimate
of the gross income of the public service company for that year
or for the part of that year in which it is in business.

The tax thereon for the year in which the company begins
business shall be at the following rate:

(1) If subsection (a)(2) applies, at the rate of [feur]
five per cent, or

(2) If subsection (a)(1) applies but the company though in
business at the commencement of the calendar year was
not in business during any part of the preceding year,
the tax shall be at the rate provided by sections
239-5 and 239-6, except that there shall be no
adjustment of the rate of tax on account of the ratio
of the net income to the gross income being in excess
of fifteen per cent and it shall be assumed for
purposes of this subsection and subsection (e) that

the ratio is fifteen per cent or less.

The estimate shall be made and the tax returned on or
before the twentieth day of the third month after the month in
which the company begins business and shall be subject to
adjustment by the filing of an amended return as provided in
subsection (e). Payment of the tax shall accompany the return
unless time for payment is extended by the director of taxation.
The extension may be granted by the director in order to provide
for payment of the tax in installments during the remainder of
the taxable year."

SECTION 22. Section 239-10, Hawaii Revised Statutes, is
amended to read as follows:

"§239-10 Disposition of revenues. All taxes collected
under this chapter shall be state realizations; provided that
where a tax in excess of the five per cent rate upon
gross income is levied and assessed under section 239-5(a), such
tax revenues to be paid to the county shall be realizations of
such county."

PART IX

SECTION 23. There is appropriated out of the general
revenues of the State of Hawaii the sum of $ or so
much thereof as may be necessary for fiscal year 2011-2012 for
the department of taxation to implement procedures necessary to
expedite the tax provisions of this Act.

The sum appropriated shall be expended by the department of
taxation for the purposes of this Act.

PART X

SECTION 24. Statutory material to be repealed is bracketed
and stricken. New statutory material is underscored.

SECTION 25. This Act shall take effect on July 1, 2011,
and shall be repealed on June 30, 2015; provided that:

(1) The department of taxation shall have the authority to
postpone the payment of the tax imposed under this Act
until the deadline to file the general excise or use
tax annual return and reconciliation form, as
applicable, without regard to any extension;

(2) The suspension of the exemption from taxation of
amounts described under section 237-24(14), Hawaii
Revised Statutes, pursuant to section 3 of this Act,
shall not be affected by the repeal and reenactment of
that section on December 31, 2013, pursuant to Act 70,
Session Laws of Hawaii 2009;
(3) The suspension of certain exemptions from taxation of amounts described under sections 237-24.3 and 237-24.7, Hawaii Revised Statutes, pursuant to section 3 of this Act, shall not be affected by the repeal and reenactment of those sections on December 31, 2014, pursuant to Act 91, Session Laws of Hawaii 2010;

(4) Sections 6, 8, 9, and 10 shall apply to taxable years beginning after December 31, 2011, and shall be repealed on December 31, 2013, and sections 235-55.6(a), 235-55.7(c), and 235-55.85(b), Hawaii Revised Statutes, shall be reenacted in the form in which they read on the day before the effective date of this Act; and

(5) Sections 11 through 22 shall take effect on October 1, 2011, and shall be repealed on September 30, 2013, and sections 235-110.7(a), 235-110.7(e), 237-13, 237-15, 237-16.5(a), 237-16.5(f), 237-18(f), 238-2, 238-2.3, 239-5(a), 239-6(a), 239-6(b), 239-7(a), 239-7(c), 239-9(c), and 239-10, Hawaii Revised Statutes, shall be reenacted in the form in which they read on the day before the effective date of this Act.
Report Title:
Taxation

Description:
Suspends from January 1, 2012, to June 30, 2015, the exemptions for certain persons and certain amounts of gross income or proceeds from the general excise and use tax and requires the payment of the tax at a graduated rate. For two years: doubles the standard deduction amounts, the tax credit for household and dependent care services necessary for gainful employment, the income tax credit for low-income household renters, and the refundable food/excise tax credit; increases the capital goods excise tax credit, general excise and use tax rates, and various public service company tax rates by one per cent; appropriates funds to expedite implementation. (Proposed SD1)

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