May 1, 2015

The Honorable Donna Mercado Kim, The Honorable Joseph M. Souki, 
President Speaker and Members of the 
and Members of the Senate House of Representatives 
Twenty-Eighth State Legislature Twenty-Eighth State Legislature 
State Capitol, Room 409 State Capitol, Room 431 
Honolulu, Hawaii 96813 Honolulu, Hawaii 96813

Dear President Kim, Speaker Souki, and Members of the Legislature:

This is to inform you that on May 1, 2015, the following bill was signed into law:

SB1212 SD1 RELATING TO AMENDING OR REPEALING VARIOUS PROVISIONS OF HAWAII TAX LAWS FOR THE PURPOSE OF DELETING OBSOLETE OR UNNECESSARY PROVISIONS ACT 022 (15)

Sincerely,

DAVID Y. IGE
Governor, State of Hawaii
A BILL FOR AN ACT

RELATING TO AMENDING OR REPEALING VARIOUS PROVISIONS OF HAWAII TAX LAWS FOR THE PURPOSE OF DELETING OBSOLETE OR UNNECESSARY PROVISIONS.

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

SECTION 1. The legislature finds that sections of the general excise tax and public service company tax laws contain provisions that were to phase in the effect of certain amendments over several years. However, the phase-in periods for those provisions have long since ended, making those provisions obsolete.

The purpose of this Act is to repeal the obsolete provisions in the general excise tax and public service company tax laws.

SECTION 2. Section 237-4, Hawaii Revised Statutes, is amended to read as follows:

"§237-4 Wholesaler", "jobber", defined. (a) "Wholesaler" or "jobber" applies only to a person making sales at wholesale. Only the following are sales at wholesale:

(1) Sales to a licensed retail merchant, jobber, or other licensed seller for purposes of resale;
(2) Sales to a licensed manufacturer of materials or commodities that are to be incorporated by the manufacturer into a finished or saleable product (including the container or package in which the product is contained) during the course of its preservation, manufacture, or processing, including preparation for market, and that will remain in such finished or saleable product in such form as to be perceptible to the senses, which finished or saleable product is to be sold and not otherwise used by the manufacturer;

(3) Sales to a licensed producer or cooperative association of materials or commodities that are to be incorporated by the producer or by the cooperative association into a finished or saleable product that is to be sold and not otherwise used by the producer or cooperative association, including specifically materials or commodities expended as essential to the planting, growth, nurturing, and production of commodities that are sold by the producer or by the cooperative association;
(4) Sales to a licensed contractor, of materials or commodities that are to be incorporated by the contractor into the finished work or project required by the contract and that will remain in such finished work or project in such form as to be perceptible to the senses;

(5) Sales to a licensed producer, or to a cooperative association described in section 237-23(a)(7) for sale to a licensed producer, or to a licensed person operating a feed lot, of poultry or animal feed, hatching eggs, semen, replacement stock, breeding services for the purpose of raising or producing animal or poultry products for disposition as described in section 237-5 or for incorporation into a manufactured product as described in paragraph (2) or for the purpose of breeding, hatching, milking, or egg laying other than for the customer's own consumption of the meat, poultry, eggs, or milk so produced; provided that in the case of a feed lot operator, only the segregated cost of the feed furnished by the feed lot operator as part of the feed lot operator's
service to a licensed producer of poultry or animals
to be butchered or to a cooperative association
described in section 237-23(a)(7) of such licensed
producers shall be deemed to be a sale at wholesale;
and provided further that any amount derived from the
furnishing of feed lot services, other than the
segregated cost of feed, shall be deemed taxable at
the service business rate. This paragraph shall not
apply to the sale of feed for poultry or animals to be
used for hauling, transportation, or sports purposes;

(6) Sales to a licensed producer, or to a cooperative
association described in section 237-23(a)(7) for sale
to the producer, of seed or seedstock for producing
agricultural and aquacultural products, or bait for
catching fish (including the catching of bait for
catching fish), which agricultural and aquacultural
products or fish are to be disposed of as described in
section 237-5 or to be incorporated in a manufactured
product as described in paragraph (2);

(7) Sales to a licensed producer, or to a cooperative
association described in section 237-23(a)(7) for sale
to such producer; of polypropylene shade cloth; of polyfilm; of polyethylene film; of cartons and such other containers, wrappers, and sacks, and binders to be used for packaging eggs, vegetables, fruits, and other agricultural and aquacultural products; of seedlings and cuttings for producing nursery plants or aquacultural products; or of chick containers; which cartons and such other containers, wrappers, and sacks, binders, seedlings, cuttings, and containers are to be used as described in section 237-5, or to be incorporated in a manufactured product as described in paragraph (2);

(8) Sales of tangible personal property where:

(A) Tangible personal property is sold upon the order or request of a licensed seller for the purpose of rendering a service in the course of the person's service business or calling, or upon the order or request of a person subject to tax under section 237D-2 for the purpose of furnishing transient accommodations;
(B) The tangible personal property becomes or is used as an identifiable element of the service rendered; and

(C) The cost of the tangible personal property does not constitute overhead to the licensed seller; [the sale shall be subject to section 237-13.37]

9) Sales to a licensed leasing company of capital goods that have a depreciable life, are purchased by the leasing company for lease to its customers, and are thereafter leased as a service to others;

10) Sales of services to a licensed seller engaging in a business or calling whenever:

(A) Either:

   (i) In the context of a service-to-service transaction, a service is rendered upon the order or request of a licensed seller for the purpose of rendering another service in the course of the seller's service business or calling, including a dealer's furnishing of goods or services to the purchaser of tangible personal property to fulfill a
warranty obligation of the manufacturer of
the property;

(ii) In the context of a service-to-tangible
personal property transaction, a service is
rendered upon the order or request of a
licensed seller for the purpose of
manufacturing, producing, or preparing
tangible personal property to be sold;

(iii) In the context of a services-to-contracting
transaction, a service is rendered upon the
order or request of a licensed contractor as
defined in section 237-6 for the purpose of
assisting that licensed contractor; or

(iv) In the context of a services-to-transient
accommodations rental transaction, a service
is rendered upon the order or request of a
person subject to tax under section 237D-2
for the purpose of furnishing transient
accommodations;

(B) The benefit of the service passes to the customer
of the licensed seller, licensed contractor, or
person furnishing transient accommodations as an
identifiable element of the other service or
property to be sold, the contracting, or the
furnishing of transient accommodations;
(C) The cost of the service does not constitute
overhead to the licensed seller, licensed
contractor, or person furnishing transient
accommodations;
(D) The gross income of the licensed seller is not
divided between the licensed seller and another
licensed seller, contractor, or person furnishing
transient accommodations for imposition of the
tax under this chapter;
(E) The gross income of the licensed seller is not
subject to a deduction under this chapter or
chapter 237D; and
(F) The resale of the service, tangible personal
property, contracting, or transient
accommodations is subject to the tax imposed
under this chapter at the highest tax rate.
[Sales subject to this paragraph shall be subject to section 237-13.3;]

(11) Sales to a licensed retail merchant, jobber, or other licensed seller of bulk condiments or prepackaged single-serving packets of condiments that are provided to customers by the licensed retail merchant, jobber, or other licensed seller;

(12) Sales to a licensed retail merchant, jobber, or other licensed seller of tangible personal property that will be incorporated or processed by the licensed retail merchant, jobber, or other licensed seller into a finished or saleable product during the course of its preparation for market (including disposable, nonreturnable containers, packages, or wrappers, in which the product is contained and that are generally known and most commonly used to contain food or beverage for transfer or delivery), and which finished or saleable product is to be sold and not otherwise used by the licensed retail merchant, jobber, or other licensed seller;
Sales of amusements subject to taxation under section 237-13(4) to a licensed seller engaging in a business or calling whenever:

(A) Either:

(i) In the context of an amusement-to-service transaction, an amusement is rendered upon the order or request of a licensed seller for the purpose of rendering another service in the course of the seller's service business or calling;

(ii) In the context of an amusement-to-tangible personal property transaction, an amusement is rendered upon the order or request of a licensed seller for the purpose of selling tangible personal property; or

(iii) In the context of an amusement-to-amusement transaction, an amusement is rendered upon the order or request of a licensed seller for the purpose of rendering another amusement in the course of the person's amusement business;
(B) The benefit of the amusement passes to the customer of the licensed seller as an identifiable element of the other service, tangible personal property to be sold, or amusement;

(C) The cost of the amusement does not constitute overhead to the licensed seller;

(D) The gross income of the licensed seller is not divided between the licensed seller and another licensed seller, person furnishing transient accommodations, or person rendering an amusement for imposition of the tax under chapter 237;

(E) The gross income of the licensed seller is not subject to a deduction under this chapter; and

(F) The resale of the service, tangible personal property, or amusement is subject to the tax imposed under this chapter at the highest rate.

As used in this paragraph, "amusement" means entertainment provided as part of a show for which there is an admission charge[...Sales subject to this paragraph shall be subject to section 237-13.3]; and
(14) Sales by a printer to 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.

(b) If the use tax law is finally held by a court of competent jurisdiction to be unconstitutional or invalid insofar as it purports to tax the use or consumption of tangible personal property imported into the State in interstate or foreign commerce or both, wholesalers and jobbers shall be taxed thereafter under this chapter in accordance with the following definition (which shall supersede the preceding paragraph otherwise defining "wholesaler" or "jobber"): "Wholesaler" or "jobber" means a person, or a definitely organized division thereof, definitely organized to render and rendering a general distribution service that buys and maintains at the person's place of business a stock or lines of merchandise that the person distributes; and that the person, through salespersons,
advertising, or sales promotion devices, sells to licensed
retailers, to institutional or licensed commercial or industrial
users, in wholesale quantities and at wholesale rates. A
corporation deemed not to be carrying on a trade or business in
this State under section 235-6 shall nevertheless be deemed to
be a wholesaler and shall be subject to the tax imposed by this
chapter."

SECTION 3. 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 four per cent of the gross proceeds of sales of the business; provided that, in the case of a wholesaler, the tax shall be equal to one-half of one per cent of the gross proceeds of sales of the business; and provided further 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.] tax shall be one-half of one per cent of the gross proceeds. 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 four 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
paragraph (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 four 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-] one-half of one per cent of the gross
income.

(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 four 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 four 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. [Netwithstanding 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 four per cent 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 4. Section 237-16.5, Hawaii Revised Statutes, is
amended by amending subsection (g) to read as follows:

"(g) After allocation under subsection (c), if necessary,
the deduction under this section shall be allowed from the gross
proceeds or gross income of the lessee received from its
sublease in an amount calculated by multiplying the gross
proceeds or gross income paid by the lessee to its lessor for
the lease of the real property by [the following amounts:]

(1) In calendar year 1998, .125;
(2) In calendar year 1999, .25;
(3) In calendar year 2000, .375;
(4) In calendar year 2001, .50;
(5) In calendar year 2002, .625;
(6) In calendar year 2003, .75; and
(7) In calendar year 2004, and thereafter,] .875.

The amount calculated [under paragraphs (1) to (7)] shall
be deducted by the lessee from the lessee's total reported gross
proceeds or gross income. The deduction allowed by this
subsection may be taken by the fiscal and calendar year lessees."

SECTION 5. 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:

(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 [ex the rate of tax imposed under section 237-13.3];

(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; or

(C) A contractor importing or purchasing contracting that become identifiable elements, excluding overhead, of the finished work or project required under the contract; provided that:

(i) The gross proceeds derived by the contractor are subject to the tax under section 237-13(3) as a contractor; and

(ii) The contractor could have deducted amounts paid to the subcontractor under section 237-
13(3)(B) if the subcontractor was subject to

general excise tax under chapter 237;

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 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 four per cent on the value of the imported or purchased services or contracting."

SECTION 6. Section 239-5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Notwithstanding subsection (a), the rate of tax upon the portion of the gross income of:

(1) A public utility that consists of the receipts from the sale of its products or services to another public utility that resells such products or services shall be one-half of one per cent; or

(2) A public utility engaged in the business of selling telecommunication services to a person defined in section 237-13(6)(C) who resells such products or services, shall be [as follows:]

(A) In calendar year 2000, 5.5 per cent;

(B) In calendar year 2001, 5.0 per cent;
(C) In calendar year 2002, 4.5 per cent;

(D) In calendar year 2003, 4.0 per cent;

(E) In calendar year 2004, 3.5 per cent;

(F) In calendar year 2005, 3.0 per cent;

(G) In calendar year 2006, 2.5 per cent; and

(H) In calendar year 2007, and thereafter, 0.5 per cent; one-half of one per cent;

provided that the resale of the products, services, or telecommunication services is subject to taxation under this section or subject to taxation at the highest rate under section 237-13(6); and provided further that the public utility's exemption from real property taxes imposed by chapter 246 shall be reduced by the proportion that its public utility gross income described herein bears to its total public utility gross income. Whenever the public utility has other public utility gross income, the gross income from the sale of its products or services to another public utility or a person subject to section 237-13(6)(C) shall be included in applying subsection (a) in determining the rate of tax upon the other public utility gross income. The department shall have the authority to implement the tax rate changes in paragraph (2) by prescribing
tax forms and instructions that require tax reporting and
payment by deduction, allocation, or any other method to
determine tax liability with due regard to the tax rate
changes."

SECTION 7. Section 239-6, Hawaii Revised Statutes, is
amended by amending subsection (d) to read as follows:
"(d) Notwithstanding subsections (a), (b), and (c), the
rate of tax upon the portion of the gross income of a motor
carrier which consists of the receipts from the sale of its
products or services to a contractor shall be [as follows:]

(1) In calendar year 2000, 3.5 per cent;
(2) In calendar year 2001, 3.0 per cent;
(3) In calendar year 2002, 2.5 per cent;
(4) In calendar year 2003, 2.0 per cent;
(5) In calendar year 2004, 1.5 per cent;
(6) In calendar year 2005, 1.0 per cent; and
(7) In calendar year 2006, and thereafter, 0.5 per cent;]

one-half of one per cent;

provided that there is a resale of the products or services and
the resale by the contractor is subject to taxation at the
highest rate under section 237-13; the gross income of the motor
carrier is not divided as provided in the definition of "gross income" in section 239-2 for the tax imposed under this chapter or chapter 237; and the gross income of the motor carrier from the sale of its products or services to the contractor is not subject to a deduction under chapter 237 by the contractor; and in the case of services provided by the motor carrier, the benefit of the service passes to the customer of the contractor as an identifiable element of the contracting or service provided by the contractor and does not constitute overhead as defined in section 237-1.

[The department shall have the authority to implement the tax-rate changes in paragraphs (1) through (7) by prescribing tax forms and instructions that require tax reporting and payment by deduction, allocation, or any other method to determine tax liability with due regard to the tax-rate changes.]

For purposes of this subsection, "contractor" has the same meaning as defined in section 237-6."

SECTION 8. Section 237-13.3, Hawaii Revised Statutes, is repealed.
\[\text{\textsection 237-13.3} \ Application \ of \ sections \ 237-4(a)(8), \ 237-4(a)(10), \ 237-4(a)(13), \ 237-13(2)(A), \ 237-13(4)(A), \ \text{and} \ 237-13(6)(A). \]

(a) Sections 237-4(a)(8), 237-4(a)(10), 237-4(a)(13), 237-13(2)(A), 237-13(4)(A), and 237-13(6)(A) to the contrary notwithstanding, instead of the tax levied under section 237-13(2)(A) on wholesale sales subject to section 237-4(a)(8)(B), under section 237-13(4)(A) on a wholesaler subject to section 237-4(a)(13), and under section 237-13(6)(A) on a wholesaler subject to section 237-4(a)(10) at one-half of one per cent, during the period January 1, 2000, to December 31, 2005, the tax shall be as follows:

(1) In calendar year 2000, 3.5 per cent;

(2) In calendar year 2001, 3.0 per cent;

(3) In calendar year 2002, 2.5 per cent;

(4) In calendar year 2003, 2.0 per cent;

(5) In calendar year 2004, 1.5 per cent;

(6) In calendar year 2005, 1.0 per cent; and

(7) In calendar year 2006 and thereafter, the tax shall be 0.5 per cent.

(b) The department shall have the authority to implement the tax rate changes in subsection (a) by prescribing tax forms...
and instructions that require tax reporting and payment by
deduction, allocation, or any other method to determine tax
liability with due regard to the tax rate changes."

SECTION 9. Statutory material to be repealed is bracketed
and stricken. New statutory material is underscored.

SECTION 10. This Act shall take effect on July 1, 2015.

APPROVED this  1  day of  MAY  , 2015

GOVERNOR OF THE STATE OF HAWAII