
A BILL FOR AN ACT

RELATING TO THE GENERAL EXCISE TAX.

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

1 SECTION 1. The legislature finds that Hawaii residents
2 continue to face a high cost-of-living. Various reports have
3 highlighted the financial challenges of living in Hawaii. In a
4 2014 report, Hawaii had a cost-of-living rank of forty-nine,
5 making it the second most expensive state in America. In
6 another 2014 report, Hawaii was ranked as the most expensive
7 state in the nation. Furthermore, in 2014, Honolulu's cost-of-
8 living was ranked as the second most expensive in the country:
9 utilities, groceries, transportation, and gasoline costs are all
10 higher than the national average, at 71.5 per cent, 55.2 per
11 cent, 26.9 per cent, and 21.7 per cent, respectively.

12 Statewide, Hawaii's cost-of-living is 69.1 per cent higher than
13 the national average. Moreover, Hawaii's general excise tax has
14 been deemed the most burdensome in the country when equated to a
15 sales tax.

16 One way to address this high cost-of-living is to create an
17 exemption from the general excise tax on essential items and
18 services, namely food and medical services. These are basic



1 necessities for all residents in our state. While our general
2 excise tax is not identical to a sales tax, excluding food and
3 medical services from sales tax is a common practice: thirty-
4 three states exempt food from state sales tax, while an
5 additional six states tax food at a lower rate. Furthermore,
6 certain states, such as California and New York, exempt medical
7 and health care services from state sales tax.

8 The purpose of this Act is to help reduce the impact of the
9 general excise tax and thereby reduce the cost-of-living for
10 Hawaii residents by exempting amounts received for food and
11 medical services. The exemption for food shall not include
12 alcoholic beverages, soft drinks, tobacco, or prepared foods,
13 except for prepared foods served to the elderly and disabled,
14 and prepared foods for certain human services programs.

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

18 "§237-A Amounts not taxable for food. (a) The excise tax
19 assessed under this chapter shall not apply to amounts received
20 for food or food ingredients.



1 (b) The excise tax assessed under this chapter shall apply
2 to food or food ingredients that are furnished, prepared, or
3 served as meals, except:

4 (1) In the case of persons sixty years of age or over or
5 who receive supplemental security income benefits or
6 disability or blindness payments under title I, II, X,
7 XIV, or XVI of the Social Security Act (42 U.S.C. 301.
8 et seq., 401 et seq., 1201 et seq., 1351 et seq., 1381
9 et seq.) and their spouses, meals prepared by and
10 served in senior citizens' centers, apartment
11 buildings occupied primarily by such persons, public
12 or private nonprofit establishments, eating or
13 otherwise, that feed such persons, private
14 establishments that contract with the appropriate
15 agency of the State to offer meals for such persons at
16 concessional prices, and meals prepared for and served
17 to residents of federally subsidized housing for the
18 elderly;

19 (2) In the case of persons sixty years of age or over and
20 persons who are physically or mentally handicapped or
21 otherwise so disabled that they are unable to
22 adequately prepare all of their meals, meals prepared



1 for and delivered to them and their spouses at their
2 home by a public or private nonprofit organization or
3 by a private establishment that contracts with the
4 appropriate state agency to perform such services at
5 concessional prices;

6 (3) In the case of disabled or blind recipients of
7 benefits under title I, II, X, XIV, or XVI of the
8 Social Security Act (42 U.S.C. 301 et seq., 401 et
9 seq., 1201 et seq., 1351 et seq., 1381 et seq.), who
10 are residents in a public or private nonprofit group
11 living arrangement that serves no more than sixteen
12 residents and is certified by the appropriate state
13 agency or agencies, meals prepared and served under
14 such arrangement;

15 (4) In the case of women and children temporarily residing
16 in public or private nonprofit shelters for battered
17 women and children, meals prepared and served by such
18 shelters; and

19 (5) In the case of households that do not reside in
20 permanent dwellings and households that have no fixed
21 mailing addresses, meals prepared for and served by a
22 public or private nonprofit establishment approved by



1 an appropriate state or local agency that feeds such
2 individuals and by private establishments that
3 contract with the appropriate agency of the State to
4 offer meals for such individuals at concessional
5 prices.

6 (c) As used in this section:

7 "Alcoholic beverages" means beverages that are suitable for
8 human consumption and contain one-half of one per cent or more
9 of alcohol by volume.

10 "Dietary supplement" means any product, other than tobacco,
11 intended to supplement the diet that:

12 (1) Contains one or more of the following dietary
13 ingredients:

14 (A) A vitamin;

15 (B) A mineral;

16 (C) An herb or other botanical element;

17 (D) An amino acid; or

18 (E) A dietary substance for use by humans to
19 supplement a person's diet by increasing the

20 total dietary intake; or a concentrate,

21 metabolite, constituent, extract, or combination

22 of any ingredient described in this definition;



1 (2) Is intended for ingestion in tablet, capsule, powder,
2 softgel, gelcap, or liquid form, or if not intended
3 for ingestion in such form, is not represented as
4 conventional food and is not represented for use as a
5 sole item of a meal or of a diet; and

6 (3) Is required to be labeled as a dietary supplement,
7 identifiable by the "supplement facts" box found on
8 the label as required pursuant to title 21 Code of
9 Federal Regulations section 101.36, as amended or
10 renumbered.

11 "Food" or "food ingredients" mean substances, whether in
12 liquid, concentrated, solid, frozen, dried, or dehydrated form,
13 that are sold for ingestion or chewing by humans and are
14 consumed for their taste or nutritional value. Food or food
15 ingredients does not include alcoholic beverages, tobacco,
16 prepared food, soft drinks, dietary supplements, or food or food
17 ingredients sold from a vending machine, whether cold or hot;
18 provided that food or food ingredients sold from a vending
19 machine that is subsequently heated shall be subject to this
20 chapter.

21 "Prepared food" means:

22 (1) Food sold in a heated state or heated by the seller;



1 (2) Food sold with eating utensils provided by the seller,
2 including plates, knives, forks, spoons, glasses,
3 cups, napkins, or straws. A plate does not include a
4 container or packaging used to transport the food; or

5 (3) Two or more food ingredients mixed or combined by the
6 seller for sale as a single item, except:

7 (A) Food that is only cut, repackaged, or pasteurized
8 by the seller; or

9 (B) Raw eggs, fish, meat, poultry, or foods
10 containing these raw animal foods requiring
11 cooking by the consumer as recommended by the
12 federal Food and Drug Administration in chapter
13 3, part 401.11 of the Food Code, published by the
14 Food and Drug Administration, as amended or
15 renumbered, to prevent foodborne illness.

16 Prepared food does not include the following food or food
17 ingredients:

18 (1) Food sold in an unheated state by weight or volume as
19 a single item; or

20 (2) Bakery items, such as bread, rolls, buns, biscuits,
21 bagels, croissants, pastries, donuts, Danish, cakes,



1 tortes, pies, tarts, muffins, bars, cookies, or
2 tortillas.

3 "Soft drinks" means nonalcoholic beverages that contain
4 natural or artificial sweeteners. Soft drinks do not include
5 beverages that contain:

6 (1) Milk or milk products;

7 (2) Soy, rice, or similar milk substitutes; or

8 (3) Greater than fifty per cent vegetable or fruit juice
9 by volume.

10 "Tobacco" means cigarettes, cigars, chewing or pipe
11 tobacco, or any other item that contains tobacco."

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

15 "§237-B Exemption for medical services. (a) There shall
16 be exempted from, and excluded from the measure of, the taxes
17 imposed by this chapter all of the gross proceeds arising from
18 the sale of medical services.

19 (b) As used in this section, "medical services" means:
20 Professional services provided by hospitals and medical clinics
21 and facilities that are licensed by the appropriate state
22 agencies and services rendered under chapters 436E, 442, 447,



1 448, 448B, 451A, 451J, 452, 453, 455, 457, 457A, 457G, 458, 459,
2 460, 461, 461J, 463E, 465, 466J, 468E."

3 SECTION 4. Section 237-24.3, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§237-24.3 Additional amounts not taxable.** In addition to
6 the amounts not taxable under section 237-24, this chapter shall
7 not apply to:

8 (1) Amounts received from the loading, transportation, and
9 unloading of agricultural commodities shipped for a
10 producer or produce dealer on one island of this State
11 to a person, firm, or organization on another island
12 of this State. The terms "agricultural commodity",
13 "producer", and "produce dealer" shall be defined in
14 the same manner as they are defined in section 147-1;
15 provided that agricultural commodities need not have
16 been produced in the State;

17 (2) Amounts received by the manager, submanager, or board
18 of directors of:

19 (A) An association of owners of a condominium
20 property regime established in accordance with
21 chapter 514A or 514B; or



- 1 (B) A nonprofit homeowners or community association
2 incorporated in accordance with chapter 414D or
3 any predecessor thereto and existing pursuant to
4 covenants running with the land,
5 in reimbursement of sums paid for common expenses;
- 6 (3) Amounts received or accrued from:
- 7 (A) The loading or unloading of cargo from ships,
8 barges, vessels, or aircraft, whether or not the
9 ships, barges, vessels, or aircraft travel
10 between the State and other states or countries
11 or between the islands of the State;
- 12 (B) Tugboat services including pilotage fees
13 performed within the State, and the towage of
14 ships, barges, or vessels in and out of state
15 harbors, or from one pier to another; and
- 16 (C) The transportation of pilots or governmental
17 officials to ships, barges, or vessels offshore;
18 rigging gear; checking freight and similar
19 services; standby charges; and use of moorings
20 and running mooring lines;
- 21 (4) Amounts received by an employee benefit plan by way of
22 contributions, dividends, interest, and other income;



1 and amounts received by a nonprofit organization or
2 office, as payments for costs and expenses incurred
3 for the administration of an employee benefit plan;
4 provided that this exemption shall not apply to any
5 gross rental income or gross rental proceeds received
6 after June 30, 1994, as income from investments in
7 real property in this State; and provided further that
8 gross rental income or gross rental proceeds from
9 investments in real property received by an employee
10 benefit plan after June 30, 1994, under written
11 contracts executed prior to July 1, 1994, shall not be
12 taxed until the contracts are renegotiated, renewed,
13 or extended, or until after December 31, 1998,
14 whichever is earlier. For the purposes of this
15 paragraph, "employee benefit plan" means any plan as
16 defined in section 1002(3) of title 29 of the United
17 States Code, as amended;

18 ~~[(5) Amounts received for purchases made with United States~~
19 ~~Department of Agriculture food coupons under the~~
20 ~~federal food stamp program, and amounts received for~~
21 ~~purchases made with United States Department of~~
22 ~~Agriculture food vouchers under the Special~~



1 ~~Supplemental Foods Program for Women, Infants and~~
2 ~~Children;~~

3 ~~(6)]~~ (5) Amounts received by a hospital, infirmary, medical
4 clinic, health care facility, pharmacy, or a
5 practitioner licensed to administer the drug to an
6 individual for selling prescription drugs or
7 prosthetic devices to an individual; provided that
8 this paragraph shall not apply to any amounts received
9 for services provided in selling prescription drugs or
10 prosthetic devices. As used in this paragraph:

11 "Prescription drugs" are those drugs defined under
12 section 328-1 and dispensed by filling or refilling a
13 written or oral prescription by a practitioner
14 licensed under law to administer the drug and sold by
15 a licensed pharmacist under section 328-16 or
16 practitioners licensed to administer drugs; and

17 "Prosthetic device" means any artificial device or
18 appliance, instrument, apparatus, or contrivance,
19 including their components, parts, accessories, and
20 replacements thereof, used to replace a missing or
21 surgically removed part of the human body, which is
22 prescribed by a licensed practitioner of medicine,



1 osteopathy, or podiatry and which is sold by the
2 practitioner or which is dispensed and sold by a
3 dealer of prosthetic devices; provided that
4 "prosthetic device" shall not mean any auditory,
5 ophthalmic, dental, or ocular device or appliance,
6 instrument, apparatus, or contrivance;

7 [~~(7)~~] (6) Taxes on transient accommodations imposed by
8 chapter 237D and passed on and collected by operators
9 holding certificates of registration under that
10 chapter;

11 [~~(8)~~] (7) Amounts received as dues by an unincorporated
12 merchants association from its membership for
13 advertising media, promotional, and advertising costs
14 for the promotion of the association for the benefit
15 of its members as a whole and not for the benefit of
16 an individual member or group of members less than the
17 entire membership;

18 [~~(9)~~] (8) Amounts received by a labor organization for real
19 property leased to:

20 (A) A labor organization; or

21 (B) A trust fund established by a labor organization
22 for the benefit of its members, families, and



1 dependents for medical or hospital care, pensions
2 on retirement or death of employees,
3 apprenticeship and training, and other membership
4 service programs.

5 As used in this paragraph, "labor organization" means
6 a labor organization exempt from federal income tax
7 under section 501(c)(5) of the Internal Revenue Code,
8 as amended;

9 ~~[(10)]~~ (9) Amounts received from foreign diplomats and
10 consular officials who are holding cards issued or
11 authorized by the United States Department of State
12 granting them an exemption from state taxes; and

13 ~~[(11)]~~ (10) Amounts received as rent for the rental or
14 leasing of aircraft or aircraft engines used by the
15 lessees or renters for interstate air transportation
16 of passengers and goods. For purposes of this
17 paragraph, payments made pursuant to a lease shall be
18 considered rent regardless of whether the lease is an
19 operating lease or a financing lease. The definition
20 of "interstate air transportation" is the same as in
21 49 U.S.C. section 40102."



1 SECTION 5. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 6. In codifying the new sections added by sections
4 2 and 3 of this Act, the revisor of statutes shall substitute
5 appropriate section numbers for the letters used in designating
6 the new sections in this Act.

7 SECTION 7. This Act shall take effect upon its approval,
8 provided that section 2 shall apply to taxable years beginning
9 after December 31, 2019, and section 3 shall apply to taxable
10 years beginning after December 31, 2017.

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INTRODUCED BY:

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H.B. NO. 419

Report Title:

General Excise Tax; Food and Medical Services

Description:

Provides a general excise tax exemption for food after December 31, 2019, and for medical services after December 31, 2017.

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

