
A BILL FOR AN ACT

RELATING TO GENERAL EXCISE TAX EXEMPTIONS.

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, housing, and medical services. These are



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

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

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



1 "§237-A Amounts not taxable for food. (a) The excise tax
2 assessed under this chapter shall not apply to amounts received
3 for food or food ingredients.

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

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



1 (2) In the case of persons sixty years of age or over and
2 persons who are physically or mentally handicapped or
3 otherwise so disabled that they are unable to
4 adequately prepare all of their meals, meals prepared
5 for and delivered to them and their spouses at their
6 home by a public or private nonprofit organization or
7 by a private establishment that contracts with the
8 appropriate state agency to perform such services at
9 concessional prices;

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

19 (4) In the case of women and children temporarily residing
20 in public or private nonprofit shelters for battered
21 women and children, meals prepared and served by such
22 shelters; and



1 (5) In the case of households that do not reside in
2 permanent dwellings and households that have no fixed
3 mailing addresses, meals prepared for and served by a
4 public or private nonprofit establishment approved by
5 an appropriate state or local agency that feeds such
6 individuals and by private establishments that
7 contract with the appropriate agency of the State to
8 offer meals for such individuals at concessional
9 prices.

10 (c) As used in this section:

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

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

16 (1) Contains one or more of the following dietary
17 ingredients:

18 (A) A vitamin;

19 (B) A mineral;

20 (C) An herb or other botanical element;

21 (D) An amino acid; or



1 (E) A dietary substance for use by humans to
2 supplement a person's diet by increasing the
3 total dietary intake; or a concentrate,
4 metabolite, constituent, extract, or combination
5 of any ingredient described in this definition;

6 (2) Is intended for ingestion in tablet, capsule, powder,
7 softgel, gelcap, or liquid form, or if not intended
8 for ingestion in such form, is not represented as
9 conventional food and is not represented for use as a
10 sole item of a meal or of a diet; and

11 (3) Is required to be labeled as a dietary supplement,
12 identifiable by the "supplement facts" box found on
13 the label as required pursuant to title 21 Code of
14 Federal Regulations section 101.36, as amended or
15 renumbered.

16 "Food" or "food ingredients" mean substances, whether in
17 liquid, concentrated, solid, frozen, dried, or dehydrated form,
18 that are sold for ingestion or chewing by humans and are
19 consumed for their taste or nutritional value. Food or food
20 ingredients does not include alcoholic beverages, tobacco,
21 prepared food, soft drinks, dietary supplements, or food or food
22 ingredients sold from a vending machine, whether cold or hot;



1 provided that food or food ingredients sold from a vending
2 machine that is subsequently heated shall be subject to this
3 chapter.

4 "Prepared food" means:

- 5 (1) Food sold in a heated state or heated by the seller;
- 6 (2) Food sold with eating utensils provided by the seller,
7 including plates, knives, forks, spoons, glasses,
8 cups, napkins, or straws. A plate does not include a
9 container or packaging used to transport the food; or
- 10 (3) Two or more food ingredients mixed or combined by the
11 seller for sale as a single item, except:
 - 12 (A) Food that is only cut, repackaged, or pasteurized
13 by the seller; or
 - 14 (B) Raw eggs, fish, meat, poultry, or foods
15 containing these raw animal foods requiring
16 cooking by the consumer as recommended by the
17 federal Food and Drug Administration in chapter
18 3, part 401.11 of the Food Code, published by the
19 Food and Drug Administration, as amended or
20 renumbered, to prevent foodborne illness.

21 Prepared food does not include the following food or food
22 ingredients:

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

3 (2) Bakery items, such as bread, rolls, buns, biscuits,
4 bagels, croissants, pastries, donuts, Danish, cakes,
5 tortes, pies, tarts, muffins, bars, cookies, or
6 tortillas.

7 "Soft drinks" means nonalcoholic beverages that contain
8 natural or artificial sweeteners. Soft drinks do not include
9 beverages that contain:

- 10 (1) Milk or milk products;
- 11 (2) Soy, rice, or similar milk substitutes; or
- 12 (3) Greater than fifty per cent vegetable or fruit juice
13 by volume.

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

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

19 "§237-B Exemption for medical services. (a) There shall
20 be exempted from, and excluded from the measure of, the taxes
21 imposed by this chapter all of the gross proceeds arising from
22 the sale of medical services.



1 (b) As used in this section, "medical services" means:
2 Professional services provided by hospitals and medical clinics
3 and facilities that are licensed by the appropriate state
4 agencies and services rendered under chapters 436E, 442, 447,
5 448, 448B, 451A, 451J, 452, 453, 455, 457, 457A, 457G, 458, 459,
6 460, 461, 461J, 463E, 465, 466J, and 468E."

7 SECTION 4. Section 237-23, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

9 **"§237-23 Exemptions, persons exempt, applications for**
10 **exemption.** (a) This chapter shall not apply to the following
11 persons:

- 12 (1) Public service companies as that term is defined in
13 section 239-2, with respect to the gross income,
14 either actual gross income or gross income estimated
15 and adjusted, that is included in the measure of the
16 tax imposed by chapter 239;
- 17 (2) Public utilities owned and operated by the State or
18 any county, or other political subdivision thereof;
- 19 (3) Fraternal benefit societies, orders, or associations,
20 operating under the lodge system, or for the exclusive
21 benefit of the members of the fraternity itself,
22 operating under the lodge system, and providing for



1 the payment of death, sick, accident, a legal service
2 plan, or other benefits to the members of the
3 societies, orders, or associations, and to their
4 dependents;

5 (4) Corporations, associations, trusts, or societies
6 organized and operated exclusively for religious,
7 charitable, scientific, or educational purposes, as
8 well as that of operating senior citizens housing
9 facilities qualifying for a loan under the laws of the
10 United States as authorized by section 202 of the
11 Housing Act of 1959, as amended, as well as that of
12 operating a legal service plan, as well as that of
13 operating or managing a homeless facility, or any
14 other program for the homeless authorized under part
15 XVII of chapter 346;

16 (5) Business leagues, chambers of commerce, boards of
17 trade, civic leagues, agricultural and horticultural
18 organizations, and organizations operated exclusively
19 for the benefit of the community and for the promotion
20 of social welfare that shall include the operation of
21 a legal service plan, and from which no profit inures



- 1 to the benefit of any private stockholder or
- 2 individual;
- 3 (6) Hospitals, infirmaries, and sanitararia;
- 4 (7) Companies that provide potable water to residential
- 5 communities that lack any access to public utility
- 6 water services and are tax exempt under section
- 7 501(c)(12) of the Internal Revenue Code of 1986, as
- 8 amended;
- 9 (8) Cooperative associations incorporated under chapter
- 10 421 or Code section 521 cooperatives which fully meet
- 11 the requirements of section 421-23, except Code
- 12 section 521 cooperatives need not be organized in
- 13 Hawaii; provided that:
 - 14 (A) The exemption shall apply only to the gross
 - 15 income derived from activities that are pursuant
 - 16 to purposes and powers authorized by chapter 421,
 - 17 except those provisions pertaining to or
 - 18 requiring corporate organization in Hawaii do not
 - 19 apply to Code section 521 cooperatives;
 - 20 (B) The exemption shall not relieve any person who
 - 21 receives any proceeds of sale from the
 - 22 association of the duty of returning and paying



1 the tax on the total gross proceeds of the sales
2 on account of which the payment was made, in the
3 same amount and at the same rate as would apply
4 thereto had the sales been made directly by the
5 person, and all those persons shall be so
6 taxable; and

7 (C) As used in this paragraph, "Code section 521
8 cooperatives" mean associations that qualify as a
9 cooperative under section 521 (with respect to
10 exemption of farmers' cooperatives from tax) of
11 the Internal Revenue Code of 1986, as amended;

12 (9) Persons affected with Hansen's disease and kokuas,
13 with respect to business within the county of Kalawao;

14 (10) Corporations, companies, associations, or trusts
15 organized for the establishment and conduct of
16 cemeteries no part of the net earnings of which inures
17 to the financial benefit of any private stockholder or
18 individual; provided that the exemption shall apply
19 only to the activities of those persons in the conduct
20 of cemeteries and shall not apply to any activity the
21 primary purpose of which is to produce income, even
22 though the income is to be used for or in the



1 furtherance of the exempt activities of those persons;
2 and

3 (11) Nonprofit shippers associations operating under part
4 296 of the Civil Aeronautics Board Economic
5 Regulations.

6 (12) Individuals who rent to Section 8, Housing First, and
7 other related low income housing recipients shall be
8 exempt from paying the excise tax on such rentals."

9 SECTION 5. Section 237-24.3, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§237-24.3 Additional amounts not taxable.** In addition to
12 the amounts not taxable under section 237-24, this chapter shall
13 not apply to:

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



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

3 (A) An association of owners of a condominium
4 property regime established in accordance with
5 chapter 514A or 514B; or

6 (B) A nonprofit homeowners or community association
7 incorporated in accordance with chapter 414D or
8 any predecessor thereto and existing pursuant to
9 covenants running with the land,

10 in reimbursement of sums paid for common expenses;

11 (3) Amounts received or accrued from:

12 (A) The loading or unloading of cargo from ships,
13 barges, vessels, or aircraft, whether or not the
14 ships, barges, vessels, or aircraft travel
15 between the State and other states or countries
16 or between the islands of the State;

17 (B) Tugboat services including pilotage fees
18 performed within the State, and the towage of
19 ships, barges, or vessels in and out of state
20 harbors, or from one pier to another; and

21 (C) The transportation of pilots or governmental
22 officials to ships, barges, or vessels offshore;



1 rigging gear; checking freight and similar
2 services; standby charges; and use of moorings
3 and running mooring lines;

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



1 ~~[-(5) Amounts received for purchases made with United States~~
2 ~~Department of Agriculture food coupons under the~~
3 ~~federal food stamp program, and amounts received for~~
4 ~~purchases made with United States Department of~~
5 ~~Agriculture food vouchers under the Special~~
6 ~~Supplemental Foods Program for Women, Infants and~~
7 ~~Children;~~

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

16 "Prescription drugs" are those drugs defined under
17 section 328-1 and dispensed by filling or refilling a
18 written or oral prescription by a practitioner
19 licensed under law to administer the drug and sold by
20 a licensed pharmacist under section 328-16 or
21 practitioners licensed to administer drugs; and



1 "Prosthetic device" means any artificial device or
2 appliance, instrument, apparatus, or contrivance,
3 including their components, parts, accessories, and
4 replacements thereof, used to replace a missing or
5 surgically removed part of the human body, which is
6 prescribed by a licensed practitioner of medicine,
7 osteopathy, or podiatry and which is sold by the
8 practitioner or which is dispensed and sold by a
9 dealer of prosthetic devices; provided that
10 "prosthetic device" shall not mean any auditory,
11 ophthalmic, dental, or ocular device or appliance,
12 instrument, apparatus, or contrivance;

13 [~~(7)~~] (6) Taxes on transient accommodations imposed by
14 chapter 237D and passed on and collected by operators
15 holding certificates of registration under that
16 chapter;

17 [~~(8)~~] (7) Amounts received as dues by an unincorporated
18 merchants association from its membership for
19 advertising media, promotional, and advertising costs
20 for the promotion of the association for the benefit
21 of its members as a whole and not for the benefit of



1 an individual member or group of members less than the
2 entire membership;

3 ~~[(9)]~~ (8) Amounts received by a labor organization for real
4 property leased to:

5 (A) A labor organization; or

6 (B) A trust fund established by a labor organization
7 for the benefit of its members, families, and
8 dependents for medical or hospital care, pensions
9 on retirement or death of employees,
10 apprenticeship and training, and other membership
11 service programs.

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

16 ~~[(10)]~~ (9) Amounts received from foreign diplomats and
17 consular officials who are holding cards issued or
18 authorized by the United States Department of State
19 granting them an exemption from state taxes; and

20 ~~[(11)]~~ (10) Amounts received as rent for the rental or
21 leasing of aircraft or aircraft engines used by the
22 lessees or renters for interstate air transportation



1 of passengers and goods. For purposes of this
 2 paragraph, payments made pursuant to a lease shall be
 3 considered rent regardless of whether the lease is an
 4 operating lease or a financing lease. The definition
 5 of "interstate air transportation" is the same as in
 6 49 U.S.C. section 40102."

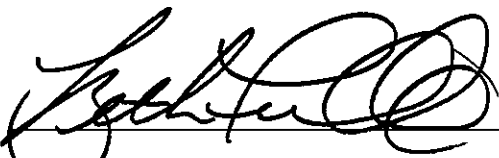
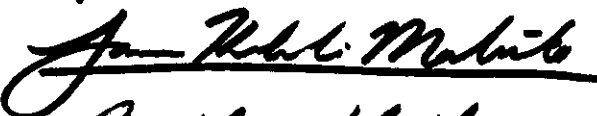
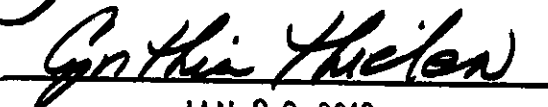
7 SECTION 6. Statutory material to be repealed is bracketed
 8 and stricken. New statutory material is underscored.

9 SECTION 7. In codifying the new sections added by sections
 10 2 and 3 of this Act, the revisor of statutes shall substitute
 11 appropriate section numbers for the letters used in designating
 12 the new sections in this Act.

13 SECTION 8. This Act shall take effect upon its approval,
 14 provided that section 2 shall apply to taxable years beginning
 15 after December 31, 2020, section 3 shall apply to taxable years
 16 beginning after December 31, 2018, and section 4 shall apply to
 17 taxable years beginning after December 31, 2018.

18

INTRODUCED BY:


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H.B. NO. 1972

Report Title:

General Excise Tax; Food and Medical Services; Housing.

Description:

Provides a general excise tax exemption for food after December 31, 2020, for medical services after December 31, 2018, and rental subsidy payments for Section 8, Housing First, and other related low-income housing programs after December 31, 2018.

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

