
A BILL FOR AN ACT

RELATING TO HEALTH.

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

1 SECTION 1. The purpose of this Act is to amend the state
2 general excise tax law by:

3 (1) Exempting gross receipts from the sale of diabetic
4 supplies, medical oxygen, human blood and its
5 derivatives, durable medical equipment for home use,
6 and mobility enhancing equipment from the general
7 excise tax; and

8 (2) Expanding the scope of prosthetic devices exempted
9 from the general excise tax to include devices worn on
10 the body.

11 The legislature finds that this Act will benefit
12 individuals with disabilities and kupuna with fixed incomes by
13 reducing the amounts that they pay for medical devices and the
14 repair of those devices.

15 SECTION 2. Section 237-24.3, Hawaii Revised Statutes, is
16 amended to read as follows:



1 "§237-24.3 Additional amounts not taxable. In addition to
2 the amounts not taxable under section 237-24, this chapter shall
3 not apply to:

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

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

15 (A) An association of owners of a condominium
16 property regime established in accordance with
17 chapter 514A or 514B; or

18 (B) A nonprofit homeowners or community association
19 incorporated in accordance with chapter 414D or
20 any predecessor thereto and existing pursuant to
21 covenants running with the land,



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

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

- 15 (5) Amounts received for purchases made with United States
16 Department of Agriculture food coupons under the
17 federal food stamp program, and amounts received for
18 purchases made with United States Department of
19 Agriculture food vouchers under the Special
20 Supplemental Foods Program for Women, Infants and
21 Children;



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

9 (A) Prescription drugs sold pursuant to a doctor's
10 prescription;

11 (B) Diabetic supplies;

12 (C) Prosthetic devices;

13 (D) Medical oxygen;

14 (E) Human blood and its derivatives;

15 (F) Durable medical equipment for home use;

16 (G) Mobility enhancing equipment sold by
17 prescription; and

18 (H) Repair and replacement parts for any of the
19 foregoing,



1 when sold for human use; provided that this paragraph
2 shall not apply to any amounts received for services
3 provided in selling any of the foregoing items.

4 As used in this paragraph:

5 "Durable medical equipment" shall have the same
6 meaning as in title 42 Code of Federal Regulations
7 section 414.202; provided that for the purposes of
8 this paragraph, the term includes repair and
9 replacement parts but shall not include mobility
10 enhancing equipment. Examples of durable medical
11 equipment include bath and shower chairs, bed pans,
12 and raised toilet seats;

13 "Mobility enhancing equipment" means equipment,
14 including repair and replacement parts, other than
15 durable medical equipment, that is:

16 (A) Primarily and customarily used to provide or
17 increase the user's ability to move from one
18 place to another;

19 (B) Appropriate for use either at home or in a motor
20 vehicle, except as provided in subparagraph (D);



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- 1 (C) Not generally used by persons with normal
- 2 mobility; and
- 3 (D) Not a motor vehicle or equipment on a motor
- 4 vehicle normally provided by a motor vehicle
- 5 manufacturer;

6 "Prescription" means an order, formula, or recipe
7 issued in any form of oral, written, electronic, or
8 other means of transmission by a duly licensed
9 practitioner authorized by the laws of this State;

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

16 ~~[provided that "prescription drugs" shall not include~~
17 ~~cannabis or manufactured cannabis products authorized~~
18 ~~pursuant to chapters 329 and 329D[?] and [?]~~

19 "Prosthetic device" means ~~[any artificial device~~
20 ~~or appliance, instrument, apparatus, or contrivance,~~
21 ~~including their components, parts, accessories, and~~



1 ~~replacements thereof, used to replace a missing or~~
2 ~~surgically removed part of the human body, which is~~
3 ~~prescribed by a licensed practitioner of medicine,~~
4 ~~osteopathy, or podiatry and that is sold by the~~
5 ~~practitioner or that is dispensed and sold by a dealer~~
6 ~~of prosthetic devices; provided that "prosthetic~~
7 ~~device" shall not mean any auditory, ophthalmic,~~
8 ~~dental, or ocular device or appliance, instrument,~~
9 ~~apparatus, or contrivance;]~~ a replacement, corrective,
10 or supportive device, including repair and replacement
11 parts for the device, worn on or in the body in order
12 to:

13 (A) Artificially replace a missing portion of the
14 body;

15 (B) Prevent or correct a physical deformity or
16 malfunction; or

17 (C) Support a weak or deformed portion of the body;
18 provided that "prosthetic device" shall not include
19 any ophthalmic, dental, or ocular device or appliance,
20 instrument, apparatus, or contrivance. Examples of



1 prosthetic devices include heart valves, hearing aids,
2 pacemakers, and artificial limbs;

3 (7) Taxes on transient accommodations imposed by chapter
4 237D and passed on and collected by operators holding
5 certificates of registration under that chapter;

6 (8) Amounts received as dues by an unincorporated
7 merchants association from its membership for
8 advertising media, promotional, and advertising costs
9 for the promotion of the association for the benefit
10 of its members as a whole and not for the benefit of
11 an individual member or group of members less than the
12 entire membership;

13 (9) Amounts received by a labor organization for real
14 property leased to:

15 (A) A labor organization; or

16 (B) A trust fund established by a labor organization
17 for the benefit of its members, families, and
18 dependents for medical or hospital care, pensions
19 on retirement or death of employees,
20 apprenticeship and training, and other membership
21 service programs.



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

5 (10) Amounts received from foreign diplomats and consular
6 officials who are holding cards issued or authorized
7 by the United States Department of State granting them
8 an exemption from state taxes; and

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

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



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

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16 established in accordance with chapter 514B or
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18 (B) A nonprofit homeowners or community association
19 incorporated in accordance with chapter 414D or
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- 5 ships, barges, vessels, or aircraft travel
- 6 between the State and other states or countries
- 7 or between the islands of the State;
- 8 (B) Tugboat services including pilotage fees
- 9 performed within the State, and the towage of
- 10 ships, barges, or vessels in and out of state
- 11 harbors, or from one pier to another; and
- 12 (C) The transportation of pilots or governmental
- 13 officials to ships, barges, or vessels offshore;
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13 defined in title 29 United States Code section
14 1002(3), as amended;

- 15 (5) Amounts received for purchases made with United States
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17 (B) Appropriate for use either at home or in a motor
18 vehicle, except as provided in subparagraph (D);

19 (C) Not generally used by persons with normal
20 mobility; and



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1 (D) Not a motor vehicle or equipment on a motor
2 vehicle normally provided by a motor vehicle
3 manufacturer;

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8 or supportive device, including repair and replacement
9 parts for the device, worn on or in the body in order
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4 officials who are holding cards issued or authorized
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6 an exemption from state taxes; and

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

16 SECTION 4. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 5. This Act shall take effect on July 1, 2018;
19 provided that:

20 (1) Section 2 shall be repealed on December 31, 2018; and

21 (2) Section 3 shall take effect on January 1, 2019.



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INTRODUCED BY:

A handwritten signature in black ink, appearing to read "John M. ...", written over a horizontal line.

JAN 19 2018



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Report Title:

General Excise Tax; Medical Devices; Exemption

Description:

Exempts gross receipts from the sale of diabetic supplies, medical oxygen, human blood and its derivatives, durable medical equipment, and mobility enhancing equipment from the general excise tax. Expands the scope of prosthetic devices exempted from the general excise tax to include devices worn on the body.

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

