A BILL FOR AN ACT

RELATING TO GENERAL EXCISE TAX EXEMPTIONS.

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

SECTION 1. The legislature finds that Hawaii has the highest cost of living in the nation. The general excise tax is levied on nearly all economic activity, which creates a highly regressive tax system by disproportionately affecting low-income and middle-class families as a percentage of total income. Although businesses are required to pay general excise taxes out of their gross receipts, those taxes are passed on to customers in the form of higher prices.

Food is a major expense for Hawaii families. In 2014, the average spent on food annually for a two-person household was $9,978 in Maui county, $9,901 in Kauai county, $9,467 in Honolulu county, and $7,676 in Hawaii county. An average two-person household would save over $400 each year if food were exempt from the general excise tax, which is significantly more than the existing food income tax credit for low-income families. Larger households would have an even greater savings.
Thirty-two states plus the District of Columbia exempt groceries from their sales taxes, and another six states tax groceries at lower rates than other goods. The legislature finds that it is time for Hawaii to join this majority.

Health care is another major expense for local families. Hawaii is one of only a handful of states that taxes medical and dental services. Each physician supports an average of $2.2 million in annual economic output and 13.84 jobs. Hawaii's tax policy burdens the ability of medical professionals to support the local community and makes their services more expensive for residents. Forty-one states generally exclude medical services from their sales taxes.

Finally, feminine hygiene products are another necessity subject to the general excise tax. Feminine hygiene products are an essential purchase that cost women an average of $300 a year. Several states that impose statewide sales or excise taxes similar to Hawaii exempt feminine hygiene products from taxation. Hawaii should follow these states by exempting feminine hygiene products from the general excise tax.

Because the general excise tax affects almost all areas of economic activity, it can make it difficult for average families
to afford basic life expenses like food and medical care. The purpose of this Act is to help alleviate the general excise tax burden on local households by exempting food, medical services, and feminine hygiene products.

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

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

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

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

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

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

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

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

(c) As used in this section:

"Alcoholic beverages" means beverages that are suitable for human consumption and contain one-half of one percent or more of alcohol by volume.
"Dietary supplement" means any product, other than tobacco, intended to supplement the diet that:

(1) Contains one or more of the following dietary ingredients:
   (A) A vitamin;
   (B) A mineral;
   (C) An herb or other botanical element;
   (D) An amino acid;
   (E) A dietary supplement for use by humans to supplement a person's diet by increasing the total dietary intake; or a concentrate metabolite, constituent, extract, or combination of any ingredient described in this definition;

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

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

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

"Prepared food" means:

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

(2) Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, chopsticks, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport the food; or
Two or more food ingredients mixed or combined by the seller for sale as a single item, except:

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

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

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

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

(2) Bakery items, such as bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, danish, cakes, tortes, pies, tarts, muffins, bars, cookies or tortillas.
"Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. Soft drinks do not include beverages that contain:

1. Milk or milk products;
2. Soy, rice or similar milk substitutes; or
3. Greater than fifty percent vegetable or fruit juice by volume.

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

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

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

(b) As used in this section, "medical services" means:

Professional services provided by hospitals, medical clinics and facilities that are licensed by the appropriate state agencies and services are rendered under chapters 436E, 442, 447, 448, 448B, 451A, 451J, 451K, 452, 453, 453D, 455, 457, 457A, 457G,
458, 459, 460, 461, 461J, 463E, 465, 465D, 466D, 466J, and
468E."

SECTION 4. Chapter 237, Hawaii Revised Statutes, is
amended by adding a new section to be appropriately designated
and to read as follows:

"§237- Exemption for feminine hygiene products. (a)
There shall be exempted from, and excluded from the measure of,
the taxes imposed by this chapter all of the gross proceeds
arising from the sale of feminine hygiene products.
(b) As used in this section, "feminine hygiene product"
means: a sanitary napkin, sanitary towel, tampon, panty liner,
douche, feminine hygiene syringes, menstrual cup, sanitary pad,
or vaginal creams, foams, ointments, jellies, powders, and
sprays used for hygiene purposes."

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

SECTION 6. New statutory material is underscored.
SECTION 7. This act shall take effect upon its approval and shall apply to taxable years beginning after December 31, 2019.

INTRODUCED BY:  

JAN 18 2019
Report Title:
General Excise Tax; Food, Medical Services, and Feminine Hygiene Products Tax Exemption

Description:
Exempts certain foods, medical services, and feminine hygiene products from the general excise tax.

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