A BILL FOR AN ACT

RELATING TO TAXATION.

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

SECTION 1. 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.

(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, there is likewise hereby
levied, and shall be assessed and collected, a
tax equivalent to [four] four and one-half 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 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.

(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) A manufacturer or producer, engaged in such business in the State, 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 and one-half percent 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 subparagraph (A), on another taxpayer who is a contractor, as defined in section 237-6; 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, which 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 and one-half 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 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] four and one-half 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 and one-half
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.

(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 the 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] four and one-half 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 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval; provided that section 1 of this Act shall take effect on January 1, 2031.
Report Title:  
General Excise Tax; Increase; Taxation

Description:  
Increases the general excise tax by 0.5 per cent to 4.5 per cent on January 1, 2031.

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