A BILL FOR AN ACT

RELATING TO THE EXEMPTION OF CERTAIN INCOME FROM THE STATE GENERAL EXCISE TAX.

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

SECTION 1. The legislature finds that nonprofit organizations are exempt from federal and state income taxes because they provide critically needed programs, goods, and services, many of which would otherwise be provided by government agencies, and therefore, by taxpayers. The federal income tax law does not tax a charitable, religious, or educational organization's fundraising or contribution income because that income is essential to the existence and provision of program services and the organization's tax-exempt purposes. Because government grants and subsidies are extremely limited, public contributions, including financial support through fundraising activities, are of existential importance to these nonprofit organizations. Taxpayers receive a federal income tax deduction for gifts and contributions that they make to these organizations.

The legislature further finds that the State imposes the general excise tax on charitable, religious, and educational
organizations' fundraising income. The taxation of a nonprofit organization's fundraising income under chapter 237, Hawaii Revised Statutes, deprives the nonprofit sector of critically needed financial support for the delivery of program services, and serves no coherent public policy. Moreover, because the general excise tax is imposed on gross income, nonprofit organizations are taxed on fundraising income without deduction for any costs related to those fundraising activities, such as room rentals, food and beverage service, marketing, and other expenses, resulting in a financial "double whammy" on nonprofit organizations.

Accordingly, the purpose of this Act is to exempt from the State's general excise tax, the fundraising income of tax-exempt charitable, religious, and educational organizations, while retaining the general excise tax on these organizations' unrelated business taxable income.

SECTION 2. Section 237-23, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The exemptions enumerated in subsection (a)(3) to (7) shall apply only:
(1) To those persons who shall have registered with the department of taxation by filing a written application for registration in such form as the department shall prescribe, shall have paid the registration fee of $20, and shall have had the exemption allowed by the department or by a court or tribunal of competent jurisdiction upon appeal from any assessment resulting from disallowance of the exemption by the department;

(2) To activities from which no profit inures to the benefit of any private stockholder or individual, except for death or other benefits to the members of fraternal societies; and

(3) To the fraternal, religious, charitable, scientific, educational, communal, or social welfare activities of such persons, or to the activities of hospitals, infirmaries, sanitaria, and potable water companies, as such, and not to any activity the primary purpose of which is to produce income even though the income is to be used for or in furtherance of the exempt activities of such persons; provided that activities of those persons that are taxable as unrelated
business taxable income under section 512 of the
Internal Revenue Code of 1986, as amended, shall not
be exempt under this section."
SECTION 3. Statutory material to be repealed is bracketed
and stricken. New statutory material is underscored.
SECTION 4. This Act shall take effect on July 1, 2050, and
shall apply to gross receipts received after December 31, 2020.
Report Title:
General Excise Tax; Nonprofit Organizations; Fundraising Exemption; Unrelated Business Taxable Income

Description:
Clarifies the application of the general excise tax law to the unrelated business taxable income of nonprofit organizations. Effective 7/1/2050. (SD1)

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