A BILL FOR AN ACT

RELATING TO THE GENERAL EXCISE TAX.

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

SECTION 1. The purpose of this Act is to provide a general excise tax exemption for amounts received from the sale of mobility enhancement equipment, prescription drugs sold pursuant to a doctor's prescription, and prosthetic devices, and to expand the definition of "prosthetic devices" to include devices that are worn on the body. These changes will benefit individuals with disabilities and kupuna on limited income by exempting necessary medical devices and the repair of those devices from the State's general excise tax.

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

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

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

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

(A) An association of a condominium property regime
established in accordance with chapter 514B or
any predecessor thereto; or

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

in reimbursement of sums paid for common expenses;

(3) Amounts received or accrued from:

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

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

(C) The transportation of pilots or governmental officials to ships, barges, or vessels offshore; rigging gear; checking freight and similar services; standby charges; and use of moorings and running mooring lines;

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

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

(6) Amounts received [by a hospital, infirmary, medical clinic, health-care facility, pharmacy, or a practitioner licensed to administer the drug to an individual for selling prescription drugs or prosthetic devices to an individual, provided that
this paragraph shall not apply to any amounts received
for services provided in selling prescription drugs or
prosthetic devices[,] from sales of the following when
sold for human use:

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

(B) Prosthetic devices;

(C) Mobility enhancing equipment sold by
prescription; and

(D) Repair and replacement parts for any of the
foregoing exempt devices and equipment;

provided that this exemption shall not apply to
amounts received for services in selling any of the
foregoing.

As used in this paragraph:

"Mobility enhancing equipment" means equipment,
including repair and replacement parts that:

(A) Is primarily and customarily used to provide or
increase the ability to move from one place to
another and that is appropriate for use either at
home or in a motor vehicle;
(B) Is not generally used by persons with normal mobility; and

(C) Does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.

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

"Prescription drugs" are those drugs defined under section 328-1 and dispensed by filling or refilling a written or oral prescription by a practitioner licensed under law to administer the drug and sold by a licensed pharmacist under section 328-16 or practitioners licensed to administer drugs; provided that "prescription drugs" shall not include cannabis or manufactured cannabis products authorized pursuant to chapters 329 and 329D; and

"Prosthetic device" means [any artificial device or appliance, instrument, apparatus, or contrivance, including their components, parts, accessories, and
replacements thereof, used to replace a missing or surgically removed part of the human body, which is prescribed by a licensed practitioner of medicine, osteopathy, or podiatry and that is sold by the practitioner or that is dispensed and sold by a dealer of prosthetic devices; provided that "prosthetic device" shall not mean any auditory, ophthalmic, dental, or ocular device or appliance, instrument, apparatus, or contrivance; a replacement, corrective, or supportive device, including repair and replacement parts, for the device worn on or in the body in order to:

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

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

(C) Support a weak or deformed portion of the body; provided that "prosthetic device" shall not include any ophthalmic, dental, or ocular device or appliance, instrument, apparatus, or contrivance. Examples of
prosthetic devices include the following: hearing aids and artificial limbs;

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

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

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

(A) A labor organization; or

(B) A trust fund established by a labor organization for the benefit of its members, families, and dependents for medical or hospital care, pensions on retirement or death of employees, apprenticeship and training, and other membership service programs.
As used in this paragraph, "labor organization" means a labor organization exempt from federal income tax under section 501(c)(5) of the Internal Revenue Code, as amended;

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

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

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.
SECTION 4. This Act, upon its approval, shall apply to taxable years beginning after December 31, 2019.

INTRODUCED BY:
Report Title:
General Excise Tax; Medical Devices; Exemption

Description:
Exempts gross receipts from the sale of mobility enhancing equipment, prosthetic devices, and prescription drugs sold pursuant to a doctor's prescription from the general excise tax. Amends the definition of "prosthetic device" to include devices worn on the body.

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