



**GOV. MSG. NO. 1370**

EXECUTIVE CHAMBERS  
HONOLULU

DAVID Y. IGE  
GOVERNOR

July 12, 2016

The Honorable Ronald D. Kouchi,  
President  
and Members of the Senate  
Twenty-Eighth State Legislature  
State Capitol, Room 409  
Honolulu, Hawai'i 96813

The Honorable Joseph M. Souki,  
Speaker and Members of the  
House of Representatives  
Twenty-Eighth State Legislature  
State Capitol, Room 431  
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Souki, and Members of the Legislature:

This is to inform you that on July 12, 2016, the following bill was signed into law:

SB2547 SD1 HD1 CD1

RELATING TO TAXATION  
**ACT 261 (16)**

Sincerely,

DAVID Y. IGE  
Governor, State of Hawai'i

Approved by the Governor

on JUL 12 2016

THE SENATE  
TWENTY-EIGHTH LEGISLATURE, 2016  
STATE OF HAWAII

**ACT 261**  
**S.B. NO.** 2547  
S.D. 1  
H.D. 1  
C.D. 1

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# A BILL FOR AN ACT

RELATING TO TAXATION.

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

1           SECTION 1. The legislature finds that tax exemptions,  
2 exclusions, and credits require periodic review to determine  
3 their tax expenditures, benefits, and continued merit and  
4 necessity. The legislature further finds that tax expenditures  
5 from the exemptions, exclusions, and credits reduce revenues to  
6 the State. This requires ordinary taxpayers who do not benefit  
7 from the exemptions, exclusions, and credits to compensate for  
8 the reduced revenues. Alternatively, funding for important  
9 state programs must be curtailed. The legislature further finds  
10 that good tax policy requires the equal treatment of similarly-  
11 situated taxpayers for the sake of equity and efficiency. When  
12 certain taxpayers receive special benefits to the detriment of  
13 others, it may generate resentment that leads to the loss of the  
14 general public's confidence in fair treatment by the state  
15 government.

16           However, the legislature also believes that certain tax  
17 exemptions, exclusions, and credits are worthy of continuation  
18 for equity, efficiency, and economic and social policy. The



1 legislature finds that review by the state auditor would help  
2 the legislature to identify and affirm the exemptions,  
3 exclusions, and credits that represent good public policy.

4 Accordingly, the purpose of this Act is to require the  
5 state auditor to periodically review certain tax exemptions,  
6 exclusions, and credits under the general excise and use taxes,  
7 public service company tax, and insurance premium tax. These  
8 taxes are generally imposed on gross income or a similar  
9 measure. The legislature finds that this Act is necessary to  
10 promote tax equity and efficiency, adequacy of state revenues,  
11 public transparency, and confidence in a fair state government.

12 SECTION 2. Chapter 23, Hawaii Revised Statutes, is amended  
13 by adding a new part to be appropriately designated and to read  
14 as follows:

15 "PART . REVIEW OF TAX EXEMPTIONS, EXCLUSIONS, AND CREDITS

16 §23-A Review of certain exemptions, exclusions, and  
17 credits under the general excise and use taxes, public service  
18 company tax, and insurance premium tax. (a) The auditor shall  
19 conduct a review of the tax exemptions, exclusions, and credits  
20 listed in sections 23-B to 23-K.



1 (b) In the review of an exemption, exclusion, or credit,  
2 the auditor shall:

- 3 (1) Determine the amount of tax expenditure for the  
4 exemption, exclusion, or credit for each of the  
5 previous three fiscal years;
- 6 (2) Estimate the amount of tax expenditure for the  
7 exemption, exclusion, or credit for the current fiscal  
8 year and the next two fiscal years;
- 9 (3) Determine whether the exemption, exclusion, or credit  
10 has achieved and continues to achieve the purpose for  
11 which it was enacted by the legislature;
- 12 (4) Determine whether the exemption, exclusion, or credit  
13 is necessary to promote or preserve tax equity or  
14 efficiency;
- 15 (5) If the exemption, exclusion, or credit was enacted  
16 because of its purported economic or employment  
17 benefit to the State:
- 18 (A) Determine whether a benefit has resulted, and if  
19 so, quantify to the extent possible the estimated  
20 benefit directly attributable to the exemption,  
21 exclusion, or credit; and



1 (B) Comment on whether the benefit, if any, outweighs  
2 the cost of the exemption, exclusion, or credit;  
3 and

4 (6) Estimate the annual cost of the exemption, exclusion,  
5 or credit per low-income resident of the State. For  
6 purposes of this paragraph, a "low-income resident of  
7 the State" means an individual who is a resident of  
8 the State and:

9 (A) Is the only member of a family of one and has an  
10 income of not more than eighty per cent of the  
11 area median income for a family of one; or

12 (B) Is part of a family with an income of not more  
13 than eighty per cent of the area median income  
14 for a family of the same size.

15 The cost shall be estimated by dividing the annual tax  
16 expenditure for the exemption, exclusion, or credit  
17 for each fiscal year under review by the number of  
18 low-income residents of the State in the fiscal year.

19 The estimate determined pursuant to this paragraph is  
20 intended to display the effect on low-income residents  
21 of the State if they directly receive, either through



1 tax reduction or negative tax, the dollars saved by  
2 elimination of the exemption, exclusion, or credit.

3 (c) Based on the review, the auditor shall recommend  
4 whether the exemption, exclusion, or credit should be retained  
5 without modification, amended, or repealed.

6 The auditor may recommend that an exemption, exclusion, or  
7 credit be removed from review under sections 23-B through 23-K.

8 §23-B Review for 2018 and every tenth year thereafter.

9 (a) The exemptions and exclusions under the general excise and  
10 use taxes listed in subsection (c) shall be reviewed in 2018 and  
11 every tenth year thereafter.

12 (b) The auditor shall submit the findings and  
13 recommendations of the reviews to the legislature and governor  
14 no later than twenty days prior to the convening of the  
15 immediately following regular session.

16 (c) This section shall apply to the following:

17 (1) Section 237-3(b)--Gross receipts from the following:

18 (A) Sales of securities;

19 (B) Sales of commodity futures;

20 (C) Sales of evidences of indebtedness;

21 (D) Fee simple sales of improved or unimproved land;



- 1 (E) Dividends; and
- 2 (F) Sales or transfers of materials and supplies,
- 3 interest on loans, and provision of services
- 4 among members of an affiliated public service
- 5 company group;
- 6 (2) Section 237-13(3) (B)--Gross income of contractors from
- 7 subcontractors;
- 8 (3) Section 237-13(3) (C)--Reimbursements to federal cost-
- 9 plus contractors;
- 10 (4) Section 237-13(6) (D) (i), (ii), (iii), and (iv)--Gross
- 11 receipts of home service providers acting as service
- 12 carriers;
- 13 (5) Section 237-24.3(11)--Amounts received from aircraft
- 14 and aircraft engine rental or leasing;
- 15 (6) Section 237-24.9--Amounts received from aircraft
- 16 servicing and maintenance and aircraft service and
- 17 maintenance facility construction;
- 18 (7) Section 238-1, paragraph (6) of the definition of
- 19 "use"--The value of aircraft leases or rental and
- 20 acquired or imported aircrafts and aircraft engines;
- 21 and



1           (8) Section 238-1, paragraph (8) of the definition of  
2           "use"--The value of material, parts, or tools for  
3           aircraft service and maintenance and aircraft service  
4           and maintenance facility construction.

5           §23-C Review for 2019 and every tenth year thereafter.

6           (a) The exemptions, exclusions, and credits under the general  
7           excise tax listed in subsection (c) shall be reviewed in 2019  
8           and every tenth year thereafter.

9           (b) The auditor shall submit the findings and  
10          recommendations of the reviews to the legislature and governor  
11          no later than twenty days prior to the convening of the  
12          immediately following regular session.

13          (c) This section shall apply to the following:

14          (1) Section 237-16.5--Gross income of real property  
15          lessees from sublessees;

16          (2) Section 237-16.8--Value or gross income of nonprofit  
17          organizations from conventions, conferences, trade  
18          shows, and display spaces;

19          (3) Section 349-10--Proceeds earned from annual senior  
20          citizen's fairs;



- 1 (4) Section 237-23.5--Amounts received from common
- 2 payments of related entities;
- 3 (5) Section 237-24(13)--Amounts received by blind, deaf,
- 4 or totally disabled persons from their business;
- 5 (6) Section 237-24(14)--Amounts received by independent
- 6 cane farmers who are sugarcane producers;
- 7 (7) Section 237-24(15)--Amounts received by foster
- 8 parents;
- 9 (8) Section 237-24(16)--Reimbursements to cooperative
- 10 housing corporations for operating and maintenance
- 11 expenses;
- 12 (9) Section 237-24(17)--Amounts received by TRICARE
- 13 managed care support contractors; and
- 14 (10) Section 237-24(18)--Amounts received by patient-
- 15 centered community care program contractors.

16 §23-D Review for 2020 and every tenth year thereafter.

17 (a) The exemptions and exclusions under the general excise tax,  
18 public service company tax, or insurance premium tax listed in  
19 subsection (c) shall be reviewed in 2020 and every tenth year  
20 thereafter.



1 (b) The auditor shall submit the findings and  
2 recommendations of the reviews to the legislature and governor  
3 no later than twenty days prior to the convening of the  
4 immediately following regular session.

5 (c) This section shall apply to the following:

6 (1) Section 239-2, paragraph (5) of the definition of  
7 "gross income"--Gross income of home service providers  
8 of mobile telecommunications services;

9 (2) Section 239-2, exclusions under the definition of  
10 "gross income"--Dividends paid by one member to  
11 another member of an affiliated public service company  
12 group or gross income from the sale or transfer of  
13 materials and supplies, interest on loans, and  
14 provision of services among members of an affiliated  
15 public service company group;

16 (3) Section 237-3(b)--Gross receipts from the sale or  
17 transfer of materials and supplies, interest on loans,  
18 and provision of services among members of an  
19 affiliated public service company group;

20 (4) Section 239-5.5--Gross income of utilities from  
21 monthly surcharges;



- 1           (5) Section 239-5.6--Gross income of electric utility
- 2                   companies from cable surcharges;
- 3           (6) Section 239-6.5--Tax credit for lifeline telephone
- 4                   service subsidies;
- 5           (7) Section 269-172--Green infrastructure charges received
- 6                   by electric utilities;
- 7           (8) Section 237-29.7--Gross income or gross proceeds
- 8                   received by insurance companies;
- 9           (9) Section 431:7-207--Tax credit to facilitate regulatory
- 10                   oversight;
- 11          (10) Section 432:1-403--Exemption for nonprofit medical
- 12                   indemnity or hospital service associations or
- 13                   societies specifically from the general excise tax,
- 14                   public service company tax, or insurance premium tax;
- 15                   and
- 16          (11) Section 432:2-503--Exemption for fraternal benefit
- 17                   societies specifically from the general excise tax,
- 18                   public service company tax, or insurance premium tax.
- 19          §23-E Review for 2021 and every tenth year thereafter.
- 20          (a) The exemptions or exclusions under the general excise and



1 use taxes listed in subsection (c) shall be reviewed in 2021 and  
2 every tenth year thereafter.

3 (b) The auditor shall submit the findings and  
4 recommendations of the reviews to the legislature and governor  
5 no later than twenty days prior to the convening of the  
6 immediately following regular session.

7 (c) This section shall apply to the following:

- 8 (1) Section 237-24.3(1)--Amounts received from loading,  
9 transporting, and unloading agricultural commodities  
10 shipped interisland;
- 11 (2) Section 237-24.3(3)(A)--Amounts received from cargo  
12 loading or unloading;
- 13 (3) Section 237-24.3(3)(B)--Amounts received from tugboat  
14 and towage services;
- 15 (4) Section 237-24.3(3)(C)--Amounts received from the  
16 transportation of pilots or government officials and  
17 other maritime-related services;
- 18 (5) Section 238-1, paragraph (7) of the definition of  
19 "use"--The value of oceangoing vehicles for  
20 transportation from one point to another in the State;



1 (6) Section 238-3(g)--The value of imported intoxicating  
2 liquor and cigarettes and tobacco products for sale to  
3 persons or common carriers in interstate commerce;

4 (7) Section 238-3(h)--The value of vessels constructed  
5 under section 189-25, relating to commercial fishing  
6 vessel loans, prior to July 1, 1969; and

7 (8) Section 237-28.1--Gross proceeds from shipbuilding and  
8 ship repair.

9 §23-F Review for 2022 and every tenth year thereafter.

10 (a) The exemptions or exclusions under the general excise tax  
11 listed in subsection (c) shall be reviewed in 2022 and every  
12 tenth year thereafter.

13 (b) The auditor shall submit the findings and  
14 recommendations of the reviews to the legislature and governor  
15 no later than twenty days prior to the convening of the  
16 immediately following regular session.

17 (c) This section shall apply to the following:

18 (1) Section 237-24.3(4)--Amounts received by employment  
19 benefit plans and amounts received by nonprofit  
20 organizations or offices for the administration of  
21 employee benefit plans;



- 1           (2) Section 237-24.3(5)--Amounts received from food
- 2           coupons under the federal food stamp program or
- 3           vouchers under the Special Supplemental Foods Program
- 4           for Women, Infants and Children;
- 5           (3) Section 237-24.3(6)--Amounts received from the sale of
- 6           prescription drugs or prosthetic devices;
- 7           (4) Section 237-24.3(8)--Amounts received as dues by
- 8           unincorporated merchants associations for advertising
- 9           or promotion;
- 10          (5) Section 237-24.3(9)--Amounts received by labor
- 11          organizations from real property leases;
- 12          (6) Section 237-24.75(2)--Reimbursements to the Hawaii
- 13          convention center operator from the Hawaii tourism
- 14          authority;
- 15          (7) Section 237-24.75(3)--Reimbursements to professional
- 16          employer organizations from client companies for
- 17          employee wages and fringe benefits; and
- 18          (8) Section 209E-11--Amounts received by qualified
- 19          businesses in enterprise zones.
- 20          §23-G Review for 2023 and every tenth year thereafter.
- 21          (a) The exemptions or exclusions under the general excise and



1 use taxes listed in subsection (c) shall be reviewed in 2023 and  
2 every tenth year thereafter.

3 (b) The auditor shall submit the findings and  
4 recommendations of the reviews to the legislature and governor  
5 no later than twenty days prior to the convening of the  
6 immediately following regular session.

7 (c) This section shall apply to the following:

- 8 (1) Section 237-24.3(2)--Reimbursements to associations of  
9 owners of condominium property regimes or nonprofit  
10 homeowners or community associations for common  
11 expenses;
- 12 (2) Section 237-24.5--Amounts received by exchanges or  
13 exchange members;
- 14 (3) Section 237-25(a)(3)--Gross income received from  
15 tangible personal property sales to state-chartered  
16 credit unions;
- 17 (4) Section 237-24.8--Amounts received by financial  
18 institutions, trust companies, trust departments, or  
19 financial corporations acting as interbank brokers;
- 20 (5) Section 237-26--Gross proceeds of scientific  
21 contractors and subcontractors;



1 (6) Section 238-3(j)--The value of property or services  
2 exempted by section 237-26, relating to scientific  
3 contracts; and

4 (7) Section 237-27--Amounts received by petroleum product  
5 refiners from other refiners.

6 §23-H Review for 2024 and every tenth year thereafter.

7 (a) The exemptions or exclusions under the general excise tax  
8 listed in subsection (c) shall be reviewed in 2024 and every  
9 tenth year thereafter.

10 (b) The auditor shall submit the findings and  
11 recommendations of the reviews to the legislature and governor  
12 no later than twenty days prior to the convening of the  
13 immediately following regular session.

14 (c) This section shall apply to the following:

15 (1) Section 237-24.7(1)--Amounts received by hotel  
16 operators and hotel suboperators for employee wages  
17 and fringe benefits;

18 (2) Section 237-24.7(2)--Amounts received by a county  
19 transportation system operator under a contract with  
20 the county;



- 1           (3) Section 237-24.7(4)--Amounts received by orchard  
2           property operators for employee wages and fringe  
3           benefits;
- 4           (4) Section 237-24.7(6)--Amounts received from insurers  
5           for damage or loss of inventory of businesses located  
6           in a natural disaster area;
- 7           (5) Section 237-24.7(7)--Amounts received by community  
8           organizations, school booster clubs, and nonprofit  
9           organizations for precinct and other election-related  
10          activities;
- 11          (6) Section 237-24.7(8)--Interest received by persons  
12          domiciled outside the State from trust companies  
13          acting as payment agents or trustees on behalf of  
14          issuers or payees of interest-bearing instruments or  
15          obligations;
- 16          (7) Section 237-24.7(9)--Amounts received by management  
17          companies from related entities engaged in interstate  
18          or foreign common carrier telecommunications services  
19          for employee wages and fringe benefits; and
- 20          (8) Section 237-24.7(10)--Amounts received from high  
21          technology research and development grants.



1 §23-I Review for 2025 and every tenth year thereafter.

2 (a) The exemptions, exclusions, or credits under the general  
3 excise and use taxes and insurance premium tax listed in  
4 subsection (c) shall be reviewed in 2025 and every tenth year  
5 thereafter.

6 (b) The auditor shall submit the findings and  
7 recommendations of the reviews to the legislature and governor  
8 no later than twenty days prior to the convening of the  
9 immediately following regular session.

10 (c) This section shall apply to the following:

11 (1) Section 237-27.5--Gross proceeds from air pollution  
12 control facility construction, reconstruction,  
13 operation, use, maintenance, or furnishing;

14 (2) Section 238-3(k)--The value of air pollution control  
15 facilities;

16 (3) Section 237-27.6--Amounts received by solid waste  
17 processing, disposal, and electric generating facility  
18 operators under sale and leaseback transactions with  
19 political subdivisions that involve the facilities;



- 1           (4) Section 237-29--Gross income of qualified persons or
- 2                   firms or nonprofits or limited distribution mortgagors
- 3                   for certified or approved low-income housing projects;
- 4           (5) Section 238-3(j)--The value of property, services, or
- 5                   contracting exempted by section 237-29, relating to
- 6                   certified or approved housing projects;
- 7           (6) Section 431:7-208--Credit for low-income housing;
- 8           (7) Section 46-15.1(a)--Gross income from county low-
- 9                   income housing projects; and
- 10          (8) Section 346-369--Compensation received by provider
- 11                   agencies for homeless services or homeless facility
- 12                   management.

13           §23-J Review for 2026 and every tenth year thereafter.

14          (a) The exemptions or exclusions under the general excise and  
15 use taxes listed in subsection (c) shall be reviewed in 2026 and  
16 every tenth year thereafter.

17          (b) The auditor shall submit the findings and  
18 recommendations of the reviews to the legislature and governor  
19 no later than twenty days prior to the convening of the  
20 immediately following regular session.

21          (c) This section shall apply to the following:



- 1           (1) Section 237-29.5--Value or gross proceeds from
- 2                    tangible personal property shipped out of State;
- 3           (2) Section 237-29.53--Value or gross income from
- 4                    contracting or services performed for use outside the
- 5                    State;
- 6           (3) Section 238-1, paragraph (9) of the definition of
- 7                    "use"--The value of services or contracting imported
- 8                    for resale, consumption, or use outside the State; and
- 9           (4) Section 237-29.55--Gross proceeds or gross income from
- 10                   the sale of tangible personal property imported into
- 11                   the State for subsequent resale.

12           §23-K Review for 2027 and every tenth year thereafter.

13   (a) The exemptions or exclusions under the general excise tax  
14 listed in subsection (c) shall be reviewed in 2027 and every  
15 tenth year thereafter.

16   (b) The auditor shall submit the findings and  
17 recommendations of the reviews to the legislature and governor  
18 no later than twenty days prior to the convening of the  
19 immediately following regular session.

20   (c) This section shall apply to the following:



- 1           (1) Section 237-23(a)(3)--Fraternal benefit societies,  
2                   orders, or associations for the payment of benefits to  
3                   members;
- 4           (2) Section 237-23(a)(4)--Corporations, associations,  
5                   trusts, or societies:
  - 6                   (A) Organized and operated exclusively for religious,  
7                           charitable, scientific, or educational purposes;
  - 8                   (B) Operating senior citizens housing facilities  
9                           qualifying for loans under the United States  
10                           Housing Act of 1959, as amended;
  - 11                   (C) Operating legal service plans; or
  - 12                   (D) Operating or managing homeless facilities or  
13                           other programs for the homeless;
- 14           (3) Section 237-23(a)(5)--Business leagues, chambers of  
15                   commerce, boards of trade, civic leagues, agricultural  
16                   and horticultural organizations, and organizations  
17                   operated exclusively for the benefit of the community  
18                   or promotion of social welfare, including legal  
19                   service plans;
- 20           (4) Section 237-23(a)(6)--Hospitals, infirmaries, and  
21                   sanitaria;



- 1 (5) Section 237-23(a)(7)--Tax-exempt potable water
- 2 companies serving residential communities lacking
- 3 access to public utility water services;
- 4 (6) Section 237-23(a)(8)--Agricultural cooperative
- 5 associations incorporated under state or federal law;
- 6 (7) Section 237-23(a)(9)--Persons affected with Hansen's
- 7 disease and kokuas with respect to business within the
- 8 county of Kalawao;
- 9 (8) Section 237-23(a)(10)--Corporations, companies,
- 10 associations, or trusts organized for cemeteries; and
- 11 (9) Section 237-23(a)(11)--Nonprofit shippers."

12 SECTION 3. In codifying the new sections added by section  
 13 2 of this Act, the revisor of statutes shall substitute  
 14 appropriate section numbers for the letters used in designating  
 15 the new sections in this Act.

16 SECTION 4. This Act shall take effect on July 1, 2017.

APPROVED this 12 day of JUL, 2016



GOVERNOR OF THE STATE OF HAWAII