
A BILL FOR AN ACT

RELATING TO INTRA-STATE AVIATION.

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

1 SECTION 1. The legislature finds that a healthy
2 interisland airline industry is vital to the State's economy and
3 that Hawaii's interisland airlines continue to face severe
4 financial challenges.

5 Sales of fuel sold from a foreign-trade zone for use by
6 airlines traveling out of the State are exempt from general
7 excise and use taxes. However, interisland flights are not
8 exempt.

9 The legislature finds that exempting common carriers from
10 the general excise and use taxes for sales of fuel from a
11 foreign-trade zone for interisland flights would level the
12 playing field and create a fairer market for all airlines.

13 The purpose of this Act is to exempt common carriers from
14 the general excise and use taxes for fuel sold from a foreign-
15 trade zone to common carriers for use in interisland air
16 transportation.



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

4 "§237- Aviation fuel for air transportation. This
5 chapter shall not apply to amounts received from the sale of
6 aviation fuel, as defined in section 243-1, categorized as
7 privileged foreign merchandise, nonprivileged foreign
8 merchandise, domestic merchandise, or zone-restricted
9 merchandise that is admitted into a foreign-trade zone and
10 purchased by a common carrier for consumption or use in air
11 transportation between two points in the State."

12 SECTION 3. Section 238-1, Hawaii Revised Statutes, is
13 amended by amending the definition of "use" to read as follows:

14 "Use" (and any nounal, verbal, adjectival, adverbial, and
15 other equivalent form of the term) herein used interchangeably
16 means any use, whether the use is of such nature as to cause the
17 property, services, or contracting to be appreciably consumed or
18 not, or the keeping of the property or services for such use or
19 for sale, the exercise of any right or power over tangible or
20 intangible personal property incident to the ownership of that
21 property, and shall include control over tangible or intangible
22 property by a seller who is licensed or who should be licensed



1 under chapter 237, who directs the importation of the property
2 into the State for sale and delivery to a purchaser in the
3 State, liability and free on board (FOB) to the contrary
4 notwithstanding, regardless of where title passes, but the term
5 "use" shall not include:

6 (1) Temporary use of property, not of a perishable or
7 quickly consumable nature, where the property is
8 imported into the State for temporary use (not sale)
9 therein by the person importing the same and is not
10 intended to be, and is not, kept permanently in the
11 State. For example, without limiting the generality
12 of the foregoing language:

13 (A) In the case of a contractor importing permanent
14 equipment for the performance of a construction
15 contract, with intent to remove, and who does
16 remove, the equipment out of the State upon
17 completing the contract;

18 (B) In the case of moving picture films imported for
19 use in theaters in the State with intent or under
20 contract to transport the same out of the State
21 after completion of such use; and



- 1 (C) In the case of a transient visitor importing an
2 automobile or other belongings into the State to
3 be used by the transient visitor while therein
4 but [~~which~~] that are to be used and are removed
5 upon the transient visitor's departure from the
6 State;
- 7 (2) Use by the taxpayer of property acquired by the
8 taxpayer solely by way of gift;
- 9 (3) Use [~~which~~] that is limited to the receipt of articles
10 and the return thereof, to the person from whom
11 acquired, immediately or within a reasonable time
12 either after temporary trial or without trial;
- 13 (4) Use of goods imported into the State by the owner of a
14 vessel or vessels engaged in interstate or foreign
15 commerce and held for and used only as ship stores for
16 the vessels;
- 17 (5) The use or keeping for use of household goods,
18 personal effects, and private automobiles imported
19 into the State for nonbusiness use by a person who:
- 20 (A) Acquired them in another state, territory,
21 district, or country;



- 1 (B) At the time of the acquisition was a bona fide
2 resident of another state, territory, district,
3 or country;
- 4 (C) Acquired the property for use outside the State;
5 and
- 6 (D) Made actual and substantial use thereof outside
7 this State;
- 8 provided that as to an article acquired less than
9 three months prior to the time of its importation into
10 the State it shall be presumed, until and unless
11 clearly proved to the contrary, that it was acquired
12 for use in the State and that its use outside the
13 State was not actual and substantial;
- 14 (6) The leasing or renting of any aircraft or the keeping
15 of any aircraft solely for leasing or renting to
16 lessees or renters using the aircraft for commercial
17 transportation of passengers and goods or the
18 acquisition or importation of any such aircraft or
19 aircraft engines by any lessee or renter engaged in
20 interstate air transportation. For purposes of this
21 paragraph, "leasing" includes all forms of lease,
22 regardless of whether the lease is an operating lease



1 or financing lease. The definition of "interstate air
2 transportation" is the same as in [~~49 U.S.C. 40102,~~]
3 title 49 United States Code section 40102;

4 (7) The use of oceangoing vehicles for passenger or
5 passenger and goods transportation from one point to
6 another within the State as a public utility as
7 defined in chapter 269;

8 (8) The use of material, parts, or tools imported or
9 purchased by a person licensed under chapter 237
10 [~~which~~] that are used for aircraft service and
11 maintenance, or the construction of an aircraft
12 service and maintenance facility as those terms are
13 defined in section 237-24.9;

14 (9) The use of services or contracting imported for resale
15 where the contracting or services are for resale,
16 consumption, or use outside the State pursuant to
17 section 237-29.53 (a);

18 (10) The use of contracting imported or purchased by a
19 contractor as defined in section 237-6 who is:

20 (A) Licensed under chapter 237;

21 (B) Engaged in business as a contractor; and



1 (C) Subject to the tax imposed under section 238-2.3;

2 [and]

3 (11) The use of property, services, or contracting imported
4 by foreign diplomats and consular officials who are
5 holding cards issued or authorized by the United
6 States Department of State granting them an exemption
7 from state taxes[-]; and

8 (12) The use of aviation fuel, as defined in section 243-1,
9 categorized as privileged foreign merchandise,
10 nonprivileged foreign merchandise, domestic
11 merchandise, or zone-restricted merchandise that is
12 admitted into a foreign-trade zone and is used by a
13 common carrier for consumption or use in air
14 transportation between two points in the State.

15 With regard to purchases made and distributed under the
16 authority of chapter 421, a cooperative association shall be
17 deemed the user thereof."

18 SECTION 4. This Act shall not be construed to imply that
19 any law prior to the effective date of this Act is inconsistent
20 with this Act.

1 SECTION 5. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 6. This Act shall take effect on July 1, 2050.



Report Title:

Taxes; Intrastate Aviation; Foreign Trade Zone; Exemption

Description:

Exempts the general excise and use taxes on fuel sold from a foreign-trade zone to common carriers for use in interisland air transportation. Effective July 1, 2050. (HB1128 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

