A BILL FOR AN ACT

RELATING TO GENERAL EXCISE TAX.

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

SECTION 1. The legislature finds that many businesses have suffered financial losses due to state mandated closures in response to the COVID-19 pandemic. Although, these closures were meant to save lives, they destroyed livelihoods in the process. In an effort to aid economic recovery and lessen the burden on businesses, a one year holiday from the general excise tax should be granted.

SECTION 2. Section 237-23, Hawaii Revised Statutes, is amended to read as follows:

"§237-23 Exemptions, persons exempt, applications for exemption. (a) This chapter shall not apply to the following persons:

(1) Public service companies as that term is defined in section 239-2, with respect to the gross income, either actual gross income or gross income estimated and adjusted, that is included in the measure of the tax imposed by chapter 239;
(2) Public utilities owned and operated by the State or any county, or other political subdivision thereof;

(3) Fraternal benefit societies, orders, or associations, operating under the lodge system, or for the exclusive benefit of the members of the fraternity itself, operating under the lodge system, and providing for the payment of death, sick, accident, a legal service plan, or other benefits to the members of the societies, orders, or associations, and to their dependents;

(4) Corporations, associations, trusts, or societies organized and operated exclusively for religious, charitable, scientific, or educational purposes, as well as that of operating senior citizens housing facilities qualifying for a loan under the laws of the United States as authorized by section 202 of the Housing Act of 1959, as amended, as well as that of operating a legal service plan, as well as that of operating or managing a homeless facility, or any other program for the homeless authorized under part XVII of chapter 346;
(5) Business leagues, chambers of commerce, boards of trade, civic leagues, agricultural and horticultural organizations, and organizations operated exclusively for the benefit of the community and for the promotion of social welfare that shall include the operation of a legal service plan, and from which no profit inures to the benefit of any private stockholder or individual;

(6) Hospitals, infirmaries, and sanitaria;

(7) Companies that provide potable water to residential communities that lack any access to public utility water services and are tax exempt under section 501(c)(12) of the Internal Revenue Code of 1986, as amended;

(8) Cooperative associations incorporated under chapter 421 or Code section 521 cooperatives which fully meet the requirements of section 421-23, except Code section 521 cooperatives need not be organized in Hawaii; provided that:

(A) The exemption shall apply only to the gross income derived from activities that are pursuant
to purposes and powers authorized by chapter 421, except those provisions pertaining to or requiring corporate organization in Hawaii do not apply to Code section 521 cooperatives;

(B) The exemption shall not relieve any person who receives any proceeds of sale from the association of the duty of returning and paying the tax on the total gross proceeds of the sales on account of which the payment was made, in the same amount and at the same rate as would apply thereto had the sales been made directly by the person, and all those persons shall be so taxable; and

(C) As used in this paragraph, "Code section 521 cooperatives" mean associations that qualify as a cooperative under section 521 (with respect to exemption of farmers' cooperatives from tax) of the Internal Revenue Code of 1986, as amended;

(9) Persons affected with Hansen's disease and kokuas, with respect to business within the county of Kalawao;
(10) Corporations, companies, associations, or trusts organized for the establishment and conduct of cemeteries no part of the net earnings of which inures to the financial benefit of any private stockholder or individual; provided that the exemption shall apply only to the activities of those persons in the conduct of cemeteries and shall not apply to any activity the primary purpose of which is to produce income, even though the income is to be used for or in the furtherance of the exempt activities of those persons; and

(11) Nonprofit shippers associations operating under part 296 of the Civil Aeronautics Board Economic Regulations.

(12) Business owners demonstrating that due to the state mandated shutdowns, they relied on funding from county, state, or federal money to sustain their enterprise. Any business qualifying under this subsection shall be granted a one-year exemption. If a business has received this exemption previously, they are no longer eligible.
(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.

(c) To obtain allowance of an exemption:

(1) A person under subsection (a)(3) to (7), who has received or applied for recognition of tax exempt status under section 501(c)(3), (4), (6), (8), or (12) of the Internal Revenue Code of 1986, as amended, or who is a subordinate person of a person who has received a group exemption letter under section 501(c)(3), (4), (6), (8), or (12) of the Internal Revenue Code of 1986, as amended, shall register with the department by filing a statement attaching a copy of the exemption or application for recognition of exempt status and any particular facts that the department may require; and

(2) All other persons under subsection (a)(3) to (7) shall file an application for exemption in the form of an affidavit or affidavits setting forth in general all facts affecting the right to the exemption and any particular facts that the department may require, to
which shall be attached any records, papers, and other
information as the department may prescribe.

(d) For all persons, the statement registering the person
with the department or application for exemption shall be filed
on or before March 31 of the first year of registration or
within three months after the commencement of business. In the
event of allowance of the exemption, no further statement or
application therefor need be filed unless there is a material
change in the facts. In the event of disallowance of the
exemption, a license may be obtained upon payment of the
required fee as provided by section 237-9, less the $20 already
paid under this section, which shall be credited thereon. In
the event the registrant has a license under this chapter, no
further fee shall be required for registration under this
section.

(e) The department for good cause may extend the time for
registration or the time for filing an application for
exemption."

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2021.
Report Title:
GET, Tax, General Excise Tax, Exemption, COVID-19

Description:
Provides a one-year exemption to any business demonstrating they were dependent on county, state, or federal funding to sustain them during state mandated closures. Business may only qualify for this exemption once.

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