

# This Week in State Tax (TWIST)

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## Hawaii: Manufacturer liable for general excise tax on sale of aircraft parts

The Hawaii Intermediate Court of Appeals held that a taxpayer's purchases of aircraft parts were purchases of tangible personal property subject to Hawaii's general excise tax (GET), rather than exempt service and maintenance costs. The taxpayer operated aircraft manufactured by a commercial airplane manufacturer and purchased parts from the manufacturer to maintain its planes under an agreement which required the taxpayer to pay the GET on the parts purchased.

In 2021, the Department of Taxation notified the manufacturer that it owed additional GET on its aircraft part sales to the taxpayer. Per its agreement with the manufacturer, the taxpayer paid the assessed tax under protest and filed suit in the Tax Appeal Court for a refund. The Department challenged the court's jurisdiction, and the Tax Appeal Court initially dismissed the case for lack of jurisdiction. On appeal, the Hawaii Supreme Court held that the Tax Appeal Court had jurisdiction and remanded the case.

While the initial case was pending, the taxpayer filed a second action seeking a refund of the tax paid under protest, and this claim became the subject of the appellate decision. The central issue before the appellate court was whether amounts paid for aircraft parts qualified for a GET exemption under HRS § 237-24.9, which excludes "amounts received from the servicing and maintenance of aircraft." The taxpayer argued that the exemption should apply to purchases of parts necessary for aircraft maintenance, especially since the state use tax exempts imported parts used for maintenance. The Department countered that the exemption applies only to amounts received for actually performing servicing and maintenance, not for sales of tangible personal property such as aircraft parts.

The appellate court agreed with the Department, explaining that Hawaii imposes the GET on sellers of tangible personal property, and the exemption for amounts received from servicing and maintenance of aircraft does not extend to the sale of parts, even if those parts are used for maintenance. The court further rejected the taxpayer's argument that the use tax exemption for imported parts required a parallel GET exemption for local purchases. It noted that the two taxes were designed to complement each other and avoid discrimination against interstate commerce, but that the existence of a use tax exemption for imported parts does not violate the Commerce Clause and mandate a GET exemption. Accordingly, the appellate court affirmed the Tax Appeal Court determination that the taxpayer's purchases of aircraft parts were subject to GET as sales of tangible personal property and did not qualify for the exemption for service and maintenance costs. For more information on [In re Tax App. of Hawaiian Airlines, Inc. v. Dep't of Tax'n](#), contact [Reid Okimoto](#).

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