

1 director of taxation, the name and address of each place of
2 business within the State subject to this chapter.

3 The operator or owner shall make a one-time payment of \$25
4 for each entertainment service registered under this section;
5 provided that, upon receipt of the paid registration, the
6 director of taxation shall issue a certificate of registration
7 in such form as the director determines, attesting that the
8 registration has been made and paid. The registration shall not
9 be transferable and shall be valid only for the operator or
10 owner in whose name it is issued and for the transaction of
11 business at the place designated therein.

12 The registration, or in lieu thereof a notice stating where
13 the registration may be inspected and examined, shall at all
14 times be conspicuously displayed at the place for which it is
15 issued.

16 The registration provided for by this section shall be
17 effective until canceled in writing. Any application for the
18 reissuance of a previously canceled registration identification
19 number shall be regarded as a new registration application and
20 shall be subject to the payment of the one-time registration
21 fee. The director may revoke or cancel any license issued under
22 this chapter for cause as provided by rule under chapter 91.



1 (b) If the registration is paid in full, the department of
2 taxation shall not refuse to issue a registration or revoke or
3 cancel a registration for the exercise of a privilege protected
4 by the First Amendment of the Constitution of the United States,
5 or for the carrying on of interstate or foreign commerce, or for
6 any privilege the exercise of which, under the Constitution and
7 laws of the United States, cannot be restrained on account of
8 nonpayment of taxes, nor shall section 237D-14 be invoked to
9 restrain the exercise of such a privilege, or the carrying on of
10 such commerce.

11 (c) Any person who may lawfully be required by the State,
12 and who is required by this chapter, to register as a condition
13 precedent to engaging or continuing in the business of
14 furnishing entertainment services or as an operator or owner
15 subject to taxation under this chapter, who engages or continues
16 in the business without registering in conformity with this
17 chapter, shall be guilty of a misdemeanor. Any director,
18 president, secretary, or treasurer of a corporation who permits,
19 aids, or abets such corporation to engage or continue in
20 business without registering in conformity with this chapter,
21 shall likewise be guilty of a misdemeanor. The penalty for the
22 misdemeanors shall be that prescribed by section 231-34 for



1 individuals, corporations, or officers of corporations, as the
2 case may be, for violation of that section.

3 § -C **Remittances.** All remittances of taxes imposed
4 under this chapter upon an operator or owner subject to this
5 chapter shall be made by cash, bank drafts, cashier's check,
6 money order, or certificate of deposit to the office of the
7 taxation district to which the return was transmitted which
8 shall be deposited to the credit of the general fund.

9 § -D **Rules.** The director of taxation shall adopt rules
10 pursuant to chapter 91 to effectuate this chapter, including
11 rules related to:

- 12 (1) Filing of returns, including annual returns;
- 13 (2) Reconciliation procedures and forms;
- 14 (3) Assessment of tax upon failure to file returns,
15 including limitation periods, exceptions, and
16 extension by agreement;
- 17 (4) Overpayment and refunds;
- 18 (5) Appeals;
- 19 (6) Maintenance of records;
- 20 (7) Collection by suit; injunctions; and
- 21 (8) Administration and enforcement of this chapter.



1 § -E Definitions. As used in this chapter,
 2 "entertainment service" means any service that is provided for a
 3 fee that involves a performance by an actor, dancer, musician,
 4 or other type of trained performer and includes movies,
 5 concerts, theaters, or any other type of organized presentation
 6 or show that is performed for a fee. Entertainment service also
 7 includes:

- 8 (1) The actual cost of the entertainment, as well as
- 9 secondary costs associated with the entertainment,
- 10 such as food, refreshments, or merchandise purchased
- 11 at, or is related to the entertainment;
- 12 (2) The cost of food and beverages sold at a restaurant;
- 13 provided that the restaurant provides seating for at
- 14 least six customers."

15 SECTION 2. Chapter 235, Hawaii Revised Statutes, is
 16 amended by adding a new section to be appropriately designated
 17 and to read as follows:

18 "§235- Entertainment service tax credit. (a) There
 19 shall be allowed to each resident taxpayer subject to the taxes
 20 imposed by this chapter, a refundable entertainment services tax
 21 credit that shall be deductible from the resident taxpayer's net
 22 income tax liability, if any, imposed by this chapter for the



1 taxable year in which the credit is properly claimed. The
2 amount of the tax credit shall be equal to the entertainment
3 service surcharge collected from the taxpayer in the year the
4 tax credit is properly claimed; provided that a taxpayer who
5 claims a tax exemption for a minor child may claim the tax
6 credit for the entertainment service surcharge paid by, or on
7 behalf of the minor child.

8 (b) If the tax credit under this section exceeds the
9 taxpayer's net income tax liability, the excess of credit over
10 liability may be used as a credit against the taxpayer's net
11 income tax liability in subsequent years until exhausted.

12 All claims, including amended claims, for a tax credit
13 under this section shall be filed on or before the end of the
14 twenty-fourth month following the close of the taxable year for
15 which the credit may be claimed. Failure to comply with the
16 foregoing provision shall constitute a waiver of the right to
17 claim the credit.

18 (c) The director of taxation:

19 (1) Shall prepare any forms that may be necessary to claim
20 a credit under this section;



1 (2) May require the taxpayer to furnish information to
2 determine the validity of the claim for credit made
3 under this section; and

4 (3) May adopt rules necessary to effectuate the purposes
5 of this section pursuant to chapter 91.

6 (d) To be eligible for the tax credit, the taxpayer shall
7 be in compliance with all applicable federal, state, and county
8 statutes, rules, and regulations.

9 (e) As used in this section, the term "entertainment
10 service" shall have the same meaning as that term is defined in
11 section -E."

12 SECTION 3. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 4. This Act shall take effect upon its approval
15 and shall apply to taxable years beginning after December 31,
16 2006.

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INTRODUCED BY: John V. Karamator (BR)

JAN 24 2007



Report Title:

Taxation; Entertainment Service

Description:

Imposes an entertainment service surcharge for certain forms of entertainment and provides a tax credit equal to the amount of the surcharge.

