
SENATE CONCURRENT RESOLUTION

REQUESTING THE DEPARTMENT OF TAXATION TO CONDUCT A REVIEW OF HOW OTHER STATES AND JURISDICTIONS ENSURE THAT WARRANTIES AND MAINTENANCE AGREEMENTS ARE EITHER EXEMPTED FROM PAYMENT OF ADDITIONAL TAXES OR TAXED AT THE WHOLESALE RATE.

1 WHEREAS, in Act 71, Session Laws of Hawaii 1999 (Act 71),
2 the Legislature recognized that pyramiding of the general excise
3 tax (GET) caused an undue burden on businesses, and so phased
4 out the four per cent GET on business-to-business services; and
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6 WHEREAS, as of January 1, 2006, the tax was decreased to
7 0.5 per cent; and
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9 WHEREAS, Act 71 does not extend to tax due on warranty
10 reimbursements from the manufacturer of a product; and
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12 WHEREAS, as a result, Hawaii automobile dealers are
13 required to pay a 4.712 per cent general excise tax on what
14 customers consider a "free" repair under their new car's
15 warranty coverage; and
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17 WHEREAS, when consumers in Hawaii pay for a new vehicle,
18 the payment covers the warranty protection coverage, which
19 manufacturers provide on new vehicles for a specified period or
20 miles driven; and
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22 WHEREAS, the dealer, by law, pays the GET to the State, and
23 passes the tax along to the consumer in the negotiated final
24 price of the new car; and
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26 WHEREAS, the warranty is part of the product so that the
27 customer has, in effect paid the GET on the car, which includes
28 the service of warranty protection coverage; and
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30 WHEREAS, other states, recognizing that warranty payments
31 to dealers to cover a manufacturer's warranty, include payments



1 for parts and labor, and that these payments should either be
2 excluded from requirements for tax, or taxed at the wholesale
3 rate; now, therefore,
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5 BE IT RESOLVED by the Senate of the Twenty-fourth
6 Legislature of the State of Hawaii, Regular Session of 2007, the
7 House of Representatives concurring, that the Department of
8 Taxation (Department) is requested to conduct a review of how
9 other states and jurisdictions ensure that warranties and
10 maintenance agreements are either exempted from payment of
11 additional taxes or taxed at the wholesale rate; and
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13 BE IT FURTHER RESOLVED as part of its review, that the
14 Department shall propose amendments to applicable Hawaii tax law
15 to make clear that the general excise tax is not due on
16 business-to-business services that fulfill a warranty obligation
17 to the manufacturer; and
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19 BE IT FURTHER RESOLVED that the Department shall report to
20 the Legislature no later than twenty days prior to the Regular
21 Session of 2008 on the results of its review, any proposed
22 legislation for introduction by the Legislature, and the fiscal
23 impact of the legislation; and
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25 BE IT FURTHER RESOLVED that a certified copy of this
26 Concurrent Resolution be transmitted to the Director of
27 Taxation.
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