STAND. COM. REP. NO.



Honolulu, Hawaii

APR 1 1 2013

RE: S.C.R. No. 170

Honorable Donna Mercado Kim President of the Senate Twenty-Seventh State Legislature Regular Session of 2013 State of Hawaii

Madam:

Your Committee on Ways and Means, to which was referred S.C.R. No. 170 entitled:

"SENATE CONCURRENT RESOLUTION DIRECTING THE DIRECTOR OF TAXATION TO REVIEW SECTION 237-25(C), HAWAII REVISED STATUTES, TO DETERMINE IF THERE IS A RATIONAL BASIS FOR THE APPARENT DISPARITY BETWEEN THE APPLICATION OF THAT PROVISION AND OTHER SECTIONS OF CHAPTER 237, HAWAII REVISED STATUTES,"

begs leave to report as follows:

The purpose and intent of this measure is to address an apparent disparity in the application of the state general excise tax by directing the Director of Taxation to review section 237-25(c), Hawaii Revised Statutes, to determine if there is any rational basis for the apparent disparity between the application of that provision and other sections of chapter 237, Hawaii Revised Statutes.

Your Committee received testimony in opposition to this measure from the Department of Taxation.

Your Committee finds that sections 237-14, 237-14.5, 237-18, 237-21, 237-23(a)(7), and 237-23(b)(3), Hawaii Revised Statutes, allow taxpayers, under certain circumstances, to segregate, divide, allocate, apportion, or specifically classify gross proceeds so as to apply different tax rates, or no tax at all, to determine the appropriate amount of general excise tax due. Your Committee also finds that section 237-25(c), Hawaii Revised Statutes states:



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Nothing in this section shall be deemed to exempt any person engaging or continuing in a service business or calling from any part of the tax imposed upon the person for such activity, and the person shall not be entitled to deduct any amount for tangible personal property furnished in conjunction therewith even though the person separately bills or otherwise shows the amount of the gross income of the business derived from the furnishing of the property.

Your Committee further finds that section 237-25(c), Hawaii Revised Statutes, appears to contradict the aforementioned sections of chapter 237, Hawaii Revised Statutes. An evaluation by the Director of Taxation of the application of this provision will provide clarity for taxpayers.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 170 and recommends its adoption.

> Respectfully submitted on behalf of the members of the Committee on Ways and Means,

DAVID Y. IGE, Chair



The Senate Twenty-Seventh Legislature State of Hawai'i

Record of Votes Committee on Ways and Means WAM

Bill / Resolution No.:*	Committee Referral:			Date:	
SCRI70	WAM		4	1-5-12)
The committee is reconsidering its previous decision on this measure.					
If so, then the previous decision was to:					
The Recommendation is:					
Pass, unamended Pass, with amendments Hold Recommit 2312 2311 2310 2313					
Members		Aye	Aye (WR)	Nay	Excused
IGE, David Y. (C)		·/			
KIDANI, Michelle N. (VC)					
CHUN OAKLAND, Suzanne		V			
DELA CRUZ, Donovan M.		V			
ENGLISH, J. Kalani		V			
ESPERO, Will		K			
KAHELE, Gilbert		V			
KEITH-AGARAN, Gilbert S.C.	1			· · · · · · · · · · · · · · · · · · ·	
KOUCHI, Ronald D.					
RUDERMAN, Russell E.					
THIELEN, Laura H.		~			
TOKUDA, Jill N.					
SLOM, Sam					
	and a second second				
TOTAL		12	0	Ô	
Recommendation: Adopted Not Adopted					
Chair's or Designee's Signature: hille A. Lidani					
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy					

*Only one measure per Record of Votes