
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Chapter 235, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§235- County surcharge on state tax; administration.

5 (a) The county surcharge on state tax, upon the adoption of
6 county ordinances and in accordance with the requirements of
7 section 46-16.8, shall be levied, assessed, and collected as
8 provided in this section on all gross income taxable under this
9 chapter. No county shall set a surcharge on state tax under
10 this section unless approved by a two-thirds vote of county
11 council members of that county; provided that:

12 (1) Any increase to the surcharge on state tax shall
13 require a two-thirds vote of county council members of
14 that county; and

15 (2) Any decrease to the surcharge on state tax shall
16 require a majority vote of county council members of
17 that county.



1 All provisions of this chapter shall apply to the county
2 surcharge on state tax; provided that the county surcharge on
3 state tax shall only be levied, assessed, and collected on a
4 taxpayer's net income, if any. With respect to the surcharge,
5 the director of taxation shall have all the rights and powers
6 provided under this chapter. In addition, the director of
7 taxation shall have the exclusive rights and power to determine
8 the county or counties in which a person is domiciled for the
9 purposes of this section, or in the case of a person who is a
10 part-time domiciliary, the director shall determine, through
11 apportionment or other means, that portion of the surcharge on
12 state tax attributable to the taxpayer's domiciliary in each
13 county.

14 (b) Each county surcharge on state tax that may be adopted
15 shall be levied beginning in the taxable year after the adoption
16 of the relevant county ordinance; provided that no surcharge on
17 state tax may be levied prior to January 1, 2017.

18 (c) The director of taxation shall revise the tax forms to
19 provide for the clear and separate designation of the imposition
20 and payment of the county surcharge on state tax.



1 (d) The taxpayer shall designate the taxation district to
2 which the county surcharge on state tax is assigned in
3 accordance with rules adopted by the director of taxation under
4 chapter 91. The taxpayer shall file a schedule with the
5 taxpayer's income tax returns summarizing the amount of taxes
6 assigned to each taxation district.

7 (e) The penalties provided by section 231-39 for failure
8 to file a tax return shall be imposed on the amount of surcharge
9 due on the return being filed for the failure to file the
10 schedule required to accompany the return. In addition, there
11 shall be added to the tax an amount equal to ten per cent of the
12 amount of the surcharge and tax due on the return being filed
13 for the failure to file the schedule.

14 (f) All taxpayers who file on a fiscal year basis whose
15 fiscal year ends after December 31 of the year prior to the
16 taxable year in which the taxes become effective, shall file a
17 short period annual return for the period preceding January 1 of
18 the taxable year in which the taxes become effective. Each
19 fiscal year taxpayer shall also file a short period annual
20 return for the period starting on January 1 of the taxable year



1 in which the taxes become effective, and ending before January 1
2 of the following year."

3 SECTION 2. Section 46-16.8, Hawaii Revised Statutes, is
4 amended to read as follows:

5 " ~~[+]~~**\$46-16.8**~~[+]~~ **County surcharge on state tax.** (a) Each
6 county may establish a surcharge on state tax at the rates
7 enumerated in sections 235- , 237-8.6, and 238-2.6~~[-]~~;
8 provided that the surcharge on state tax enumerated in section
9 238-2.6 shall only be established in counties with a population
10 greater than five hundred thousand. A county electing to
11 establish this surcharge shall do so by ordinance; provided
12 that:

13 (1) No ordinance shall be adopted until the county has
14 conducted a public hearing on the proposed ordinance;
15 and

16 ~~[-(2)]~~ ~~The ordinance shall be adopted prior to December 31,~~
17 ~~2005; and~~

18 ~~[-(3)]~~ (2) No county surcharge on state tax that may be
19 authorized under this section shall be levied prior to
20 January 1, 2007.



1 Notice of the public hearing required under paragraph (1) shall
2 be published in a newspaper of general circulation within the
3 county at least twice within a period of thirty days immediately
4 preceding the date of the hearing.

5 (b) A county electing to exercise the authority granted
6 under this section shall notify the director of taxation within
7 ten days after the county has adopted a surcharge on state tax
8 ordinance and, beginning no earlier than January 1, 2007, the
9 director of taxation shall levy, assess, collect, and otherwise
10 administer the county surcharge on state tax.

11 (c) Each county [~~with a population greater than five~~
12 ~~hundred thousand~~] that adopts a county surcharge on state tax
13 ordinance pursuant to subsection (a) shall use the surcharges
14 received from the State for:

15 (1) Operating or capital costs of a locally preferred
16 alternative for a mass transit project; [~~and~~]

17 (2) Expenses in complying with the Americans with
18 Disabilities Act of 1990 with respect to paragraph

19 (1) [—

20 ~~The county surcharge on state tax shall not be used to build or~~
21 ~~repair public roads or highways, bicycle paths, or support~~



1 ~~public transportation systems already in existence prior to July~~
2 ~~12, 2005.~~

3 ~~(d) Each county with a population equal to or less than~~
4 ~~five hundred thousand that adopts a county surcharge on state~~
5 ~~tax ordinance pursuant to subsection (a) shall use the~~
6 ~~surcharges received from the State for:~~

7 ~~(1) Operating or capital costs of public transportation~~
8 ~~within each county for public transportation systems,~~
9 ~~including public roadways or highways, public buses,~~
10 ~~trains, ferries, pedestrian paths or sidewalks, or~~
11 ~~bicycle paths; and~~

12 ~~(2) Expenses in complying with the Americans with~~
13 ~~Disabilities Act of 1990 with respect to paragraph~~
14 ~~(1).];~~

15 (3) Operating or capital costs of public transportation
16 within each county for public transportation systems,
17 including public roadways or highways, public buses,
18 trains, ferries, pedestrian paths or sidewalks, or
19 bicycle paths; and

20 (4) Operating or capital costs of public projects within
21 each county.



1 ~~[-e-]~~ (d) As used in this section, "capital costs" means
2 nonrecurring costs required to ~~[construct a transit facility or~~
3 ~~system,]~~ fund public projects or public infrastructure projects
4 including debt service, costs of land acquisition and
5 development, acquiring of rights-of-way, planning, design, ~~[and]~~
6 construction, ~~[and including equipping and furnishing the~~
7 ~~facility or system.]~~ equipment, and other implementation costs."

8 SECTION 3. Section 237-8.6, Hawaii Revised Statutes, is
9 amended by amending its title and subsection (a) to read as
10 follows:

11 "~~[-]~~**\$237-8.6**~~[-]~~ **County surcharge on state tax;**
12 **administration.** (a) The county surcharge on state tax, upon
13 the adoption of county ordinances and in accordance with the
14 requirements of section 46-16.8, shall be levied, assessed, and
15 collected as provided in this section on all gross proceeds and
16 gross income taxable under this chapter. No county shall set
17 the surcharge on state tax at a rate greater than one-half per
18 cent of all gross proceeds and gross income taxable under this
19 chapter~~[-]~~; provided that:



(1) The counties may increase the surcharge on state tax by a two-thirds vote of county council members of that county; and

(2) The counties may decrease the surcharge on state tax by a majority vote of county council members of that county.

All provisions of this chapter shall apply to the county surcharge on state tax. With respect to the surcharge, the director of taxation shall have all the rights and powers provided under this chapter. In addition, the director of taxation shall have the exclusive rights and power to determine the county or counties in which a person is engaged in business and, in the case of a person engaged in business in more than one county, the director shall determine, through apportionment or other means, that portion of the surcharge on state tax attributable to business conducted in each county."

SECTION 4. Section 248-2.6, Hawaii Revised Statutes, is amended as follows:

1. By amending its title and subsection (a) to read:

"[+]§248-2.6[+] County surcharge on state tax; disposition of proceeds. (a) If adopted by county ordinance, all county



1 surcharges on state tax collected by the director of taxation
2 shall be paid into the state treasury quarterly, within ten
3 working days after collection, and shall be placed by the
4 director of finance in special accounts. Out of the revenues
5 generated by county surcharges on state tax paid into each
6 respective state treasury special account, the director of
7 finance shall deduct [~~ten per cent~~] an amount proposed by a
8 resolution adopted by each respective county council, subject to
9 legislative approval expressed in a concurrent resolution
10 adopted by majority vote of the senate and the house of
11 representatives in the first regular or special session
12 following the date of proposal, of the gross proceeds of a
13 respective county's surcharge on state tax to reimburse the
14 State for the costs of assessment, collection, and disposition
15 of the county surcharge on state tax incurred by the State.
16 Amounts retained shall be general fund realizations of the
17 State."

18 2. By amending subsection (c) to read:

19 "(c) For the purpose of this section, the costs of
20 assessment, collection, and disposition of the county surcharges
21 on state tax shall include any and all costs, direct or



1 indirect, that are deemed necessary and proper to effectively
2 administer this section and sections 235-____, 237-8.6, and 238-
3 2.6."

4 SECTION 5. Act 247, Session Laws of Hawaii 2005, is
5 amended by amending section 9 to read as follows:

6 "SECTION 9. This Act shall take effect upon its approval;
7 provided that:

8 (1) If none of the counties of the State adopt an
9 ordinance to levy a county surcharge on state tax by
10 December 31, 2005, this Act shall be repealed and
11 section 437D-8.4, Hawaii Revised Statutes, shall be
12 reenacted in the form in which it read on the day
13 prior to the effective date of this Act[+]

14 ~~+(2) If any county does not adopt an ordinance to levy a~~
15 ~~county surcharge on state tax by December 31, 2005, it~~
16 ~~shall be prohibited from adopting such an ordinance~~
17 ~~pursuant to this Act, unless otherwise authorized by~~
18 ~~the legislature through a separate legislative act,~~

19 ~~+(3)]~~; and

20 (2) If an ordinance to levy a county surcharge on state
21 tax is adopted by December 31, 2005[+]



~~(A)~~ The, the ordinance shall be repealed on December 31, 2022;

~~[(B) This Act shall be repealed on December 31, 2022;~~

~~and~~

~~-(c) Section 437D-8.4, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day prior to the effective date of this Act.]~~
provided that the ordinance may be extended
beyond this date by a two-thirds majority vote of
county council members of that county."

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act, upon its approval, shall apply to taxable years beginning after December 31, 2015.

INTRODUCED BY: Bend Kobashi

JAN 26 2015



Report Title:

County Surcharge; Taxation; Income Tax; Excise Tax; Use Tax

Description:

Provides counties with home rule authority to set county surcharges on general excise, income, and use taxes. Allows funds collected via surcharge to be used for public projects.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

