
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. The legislature finds that, under certain
2 circumstances, allowing a private person to act as a tax
3 collection agent is likely to ease the burden of collecting
4 taxes. Section 237-9, Hawaii Revised Statutes, allows a person
5 engaged in network marketing, multi-level marketing, or other
6 similar business to enter into an agreement with the department
7 of taxation to act as a tax collection agent on behalf of its
8 direct sellers. The legislature finds that similarly allowing a
9 transient accommodations broker to act as a tax collection agent
10 on behalf of providers of transient accommodations that utilize
11 the services of the transient accommodations broker may
12 facilitate the collection of transient accommodations taxes and
13 general excise taxes.

14 The legislature further finds that, to increase
15 transparency and ensure the veracity of the taxes being
16 collected, transient accommodations brokers acting as tax
17 collectors must provide pertinent information to the department



1 of taxation about the operators and plan managers on whose
2 behalf they collect taxes.

3 The purpose of this Act is to allow a transient
4 accommodations broker to register to act as a tax collection
5 agent with respect to transient accommodations taxes and general
6 excise taxes for its operators and plan managers in a manner
7 that recognizes the dynamic changes that are occurring in the
8 transient accommodations business.

9 This Act is not intended to preempt or otherwise limit the
10 authority of the counties to adopt, monitor, and enforce local
11 land use regulations, nor is this Act intended to transfer the
12 authority to monitor and enforce such regulations away from the
13 counties.

14 SECTION 2. Chapter 237, Hawaii Revised Statutes, is
15 amended by adding a new section to be appropriately designated
16 and to read as follows:

17 "§237- Transient accommodations broker as tax collection
18 agent. (a) The director of taxation may permit a transient
19 accommodations broker to register as a tax collection agent on
20 behalf of all of its operators and plan managers by entering
21 into a tax collection agreement with the director or by



1 submitting a transient accommodations broker tax collection
2 agent registration statement to the director.

3 The director may deny an application for registration as a
4 transient accommodations broker tax collection agent under this
5 section for any cause authorized by law, including but not
6 limited to any violation of this chapter or rules adopted
7 pursuant thereto, violation of any prior tax collection
8 agreement, or failure to meet minimum criteria that may be set
9 forth by the department in rules adopted pursuant to chapter 91.

10 The director shall issue a certificate of registration or
11 letter of denial within thirty days after a transient
12 accommodations broker submits to the director a completed and
13 signed transient accommodations broker tax collection agent
14 registration statement, in a form prescribed by the department.

15 The registration shall be valid only for the transient
16 accommodations broker tax collection agent in whose name it is
17 issued, and for the website or platform designated therein, and
18 shall not be transferable.

19 A registered transient accommodations broker tax collection
20 agent shall be issued separate licenses under this chapter with
21 respect to taxes payable on behalf of its operators and plan



1 managers in its capacity as a registered transient
2 accommodations broker tax collection agent and, if applicable,
3 with respect to any taxes payable under this chapter for its own
4 business activities.

5 (b) In addition to its own responsibilities under this
6 chapter, a registered transient accommodations broker tax
7 collection agent shall report, collect, and pay over the taxes
8 due under this chapter on behalf of all of its operators and
9 plan managers from the date of registration until the
10 registration is canceled as provided in subsection (h); provided
11 that the registered transient accommodations broker tax
12 collection agent's obligation to report, collect, and pay taxes
13 on behalf of all of its operators and plan managers shall apply
14 solely to transient accommodations in the State arranged or
15 booked directly through the registered transient accommodations
16 broker tax collection agent.

17 (c) The registered transient accommodations broker tax
18 collection agent's operators and plan managers shall obtain
19 licensure under this chapter and remain subject to the
20 requirements of title 14; provided that the registered transient
21 accommodations broker tax collection agent shall comply with all



1 requirements of title 14 on behalf of the operators and plan
2 managers for business activity conducted directly through the
3 agent, from the date of registration until the registration is
4 canceled as provided in subsection (h). For purposes of any
5 other business activity, the operators and plan managers are
6 subject to all requirements of title 14 and all county, city,
7 and town laws or ordinances, and rules and regulations
8 thereunder, regulating short-term rentals, vacation rentals, or
9 bed and breakfast lodging within their jurisdictions as if this
10 section did not exist.

11 (d) Under this section, a registered transient
12 accommodations broker tax collection agent, and the operators
13 and plan managers, shall jointly assume all obligations, rights,
14 and responsibilities imposed by this chapter upon the operators
15 and plan managers with respect to their business activities
16 conducted directly through the registered transient
17 accommodations broker tax collection agent from the date of
18 registration until the registration is canceled as provided in
19 subsection (h).

20 (e) A transient accommodations broker tax collection agent
21 shall be personally liable for the taxes imposed by this chapter



1 that are due and collected on behalf of operators and plan
2 managers, if taxes are collected, but not reported or paid,
3 together with penalties and interest as provided by law.

4 (f) Except as provided in subsection (g), all returns and
5 other information provided by a registered transient
6 accommodations broker tax collection agent, including the
7 application for registration as a transient accommodations
8 broker tax collection agent or any tax collection agreement,
9 shall be confidential, and disclosure thereof shall be
10 prohibited as provided in section 237-34.

11 (g) A registered transient accommodations broker tax
12 collection agent shall file periodic returns in accordance with
13 section 237-30 and annual returns in accordance with section
14 237-33. Each periodic return required pursuant to section
15 237-30 shall be accompanied by an electronic cover sheet, in a
16 form prescribed by the department, that includes the following
17 information:

18 (1) For each operator and plan manager on whose behalf the
19 transient accommodations broker tax collection agent
20 is required to report, collect, and pay over taxes due



1 under this chapter, the operator's or plan manager's
2 name, address, and license identification number;
3 (2) For each transient accommodation rented through the
4 registered transient accommodations broker tax
5 collection agent or the website or platform designated
6 in the certificate of registration issued pursuant to
7 chapter 237D and for which taxes are being remitted:
8 (A) The address of the transient accommodation;
9 (B) The number of nights for which each transient
10 accommodation was rented and the rate or price at
11 which each transient accommodation was rented;
12 and
13 (C) The amount of tax being remitted pursuant to this
14 chapter and the amount of any federal form 1099
15 income that was derived from each transient
16 accommodation.
17 Upon request by the director or mayor of the applicable county,
18 a registered transient accommodations broker tax collection
19 agent may disclose any of the information contained in the
20 returns or cover sheets required by this subsection to the
21 director or any county official designated by the mayor to

1 receive such information. For the purposes of section 237-34,
2 the director and county official designated to receive the
3 information pursuant to this subsection shall be deemed to be
4 persons with a material interest in the return and return
5 information and may examine the returns and cover sheets to
6 ensure compliance with this section, state and local tax laws
7 and ordinances, and any applicable land use laws and ordinances.

8 (h) The registration provided for under this section shall
9 be effective until canceled in writing.

10 A registered transient accommodations broker tax collection
11 agent may cancel its registration under this section by
12 delivering written notice of cancellation to the director and
13 each of its operators and plan managers furnishing transient
14 accommodations in the State not later than ninety days prior to
15 the effective date of cancellation.

16 The director may cancel a transient accommodations broker
17 tax collection agent's registration under this section for any
18 cause, including but not limited to any violation of this
19 chapter or rules adopted pursuant thereto, or for violation of
20 any applicable tax collection agreement, by delivering written
21 notice of cancellation to the transient accommodations broker



1 tax collection agent not later than ninety days prior to the
2 effective date of cancellation.

3 (i) For the purposes of this section:

4 "Director" means the director of taxation.

5 "Operator" has the same meaning as in section 237D-1.

6 "Plan manager" has the same meaning as in section 237D-1.

7 "Transient accommodations broker" has the same meaning as
8 in section 237D-1.

9 (j) All registered transient accommodations broker tax
10 collection agents shall inquire and ensure that the transient
11 accommodation is in compliance with all pertinent state and
12 county land use laws, including but not limited to:

13 (1) Prior to placing an advertisement, including an online
14 advertisement, on the availability of a property for
15 lease or rent on behalf of an operator or plan
16 manager, notifying the operator or plan manager that
17 the subject property is required to be in compliance
18 with applicable state and county land use laws prior
19 to retaining the services of the transient
20 accommodations broker;



1 (2) Requiring the operator or plan manager to display or
2 make available its transient accommodation tax
3 registration identification number and transient
4 accommodations number, along with other required
5 information in any advertisement, in compliance with
6 section 237D-4;

7 (3) Requiring the operator or plan manager to provide
8 verification of compliance with state and county land
9 use laws in the form of a written certification,
10 verification, or permit issued by the appropriate
11 county agency; and

12 (4) Requiring the operator or plan manager to provide a
13 statement confirming compliance with all applicable
14 land use laws.

15 A transient accommodations broker shall remove any
16 advertisement, including an online advertisement, for a
17 transient accommodation located in the State for which the
18 operator or plan manager fails to comply with paragraph (2) or
19 (3) or for which the transient accommodations broker has
20 received written notice from a state or local governmental



1 authority that the operator or plan manager has failed to comply
2 with applicable land use, zoning, or tax requirements.

3 (k) Nothing in this section shall be construed to preempt
4 or prohibit the authority of a unit of local government in the
5 State, including counties and any other political subdivisions
6 of the State, to adopt, monitor, and enforce local land use
7 regulations, nor to transfer the authority to monitor and
8 enforce such regulations away from the counties."

9 SECTION 3. Chapter 237D, Hawaii Revised Statutes, is
10 amended by adding a new section to be appropriately designated
11 and to read as follows:

12 "§237D- **Transient accommodations broker as tax**
13 **collection agent.** (a) The director may permit a transient
14 accommodations broker to register as a tax collection agent on
15 behalf of all of its operators and plan managers by entering
16 into a tax collection agreement with the director or by
17 submitting a transient accommodations broker tax collection
18 agent registration statement to the director.

19 The director may deny an application for registration as a
20 transient accommodations broker tax collection agent under this
21 section for any cause authorized by law, including but not



1 limited to any violation of this chapter or rules adopted
2 pursuant thereto, violation of any prior tax collection
3 agreement, or failure to meet minimum criteria that may be set
4 forth by the department in rules adopted pursuant to chapter 91.

5 The director shall issue a certificate of registration or
6 letter of denial within thirty days after a transient
7 accommodations broker submits to the director a completed and
8 signed transient accommodations broker tax collection agent
9 registration statement, in a form prescribed by the department.

10 The registration shall be valid only for the transient
11 accommodations broker tax collection agent in whose name it is
12 issued, and for the website or platform designated therein, and
13 shall not be transferable.

14 A registered transient accommodations broker tax collection
15 agent shall be issued separate certificates of registration
16 under this chapter with respect to taxes payable on behalf of
17 its operators and plan managers in its capacity as a registered
18 transient accommodations broker tax collection agent and, if
19 applicable, with respect to any taxes payable under this chapter
20 for its own business activities.



1 (b) In addition to its own responsibilities under this
2 chapter, a registered transient accommodations broker tax
3 collection agent shall report, collect, and pay over the taxes
4 due under this chapter on behalf of all of its operators and
5 plan managers from the date of registration until the
6 registration is canceled as provided in subsection (h); provided
7 that the registered transient accommodations broker tax
8 collection agent's obligation to report, collect, and pay taxes
9 on behalf of all of its operators and plan managers shall apply
10 solely to transient accommodations in the State arranged or
11 booked directly through the registered transient accommodations
12 broker tax collection agent.

13 (c) The registered transient accommodations broker tax
14 collection agent's operators and plan managers shall obtain
15 registration under this chapter and remain subject to the
16 requirements of title 14; provided that the registered transient
17 accommodations broker tax collection agent shall comply with all
18 requirements of title 14 on behalf of the operators and plan
19 managers for business activity conducted directly through the
20 agent, from the date of registration until the registration is
21 canceled as provided in subsection (h). For purposes of any



1 other business activity, the operators and plan managers are
2 subject to all requirements of title 14 and all county, city,
3 and town laws or ordinances, and rules and regulations
4 thereunder, regulating short-term rentals, vacation rentals, or
5 bed and breakfast lodging within their jurisdictions as if this
6 section did not exist.

7 (d) Under this section, a registered transient
8 accommodations broker tax collection agent, and the operators
9 and plan managers, shall jointly assume all obligations, rights,
10 and responsibilities imposed by this chapter upon the operators
11 and plan managers with respect to their business activities
12 conducted directly through the registered transient
13 accommodations broker tax collection agent from the date of
14 registration until the registration is canceled as provided in
15 subsection (h).

16 (e) A transient accommodations broker tax collection agent
17 shall be personally liable for the taxes imposed by this chapter
18 that are due and collected on behalf of operators and plan
19 managers, if taxes are collected, but not reported or paid,
20 together with penalties and interest as provided by law.



1 (f) Except as provided in subsection (g), all returns and
2 other information provided by a registered transient
3 accommodations broker tax collection agent, including the
4 application for registration as a transient accommodations
5 broker tax collection agent or any tax collection agreement,
6 shall be confidential, and disclosure thereof shall be
7 prohibited as provided in section 237D-13.

8 (g) A registered transient accommodations broker tax
9 collection agent shall file periodic returns in accordance with
10 section 237D-6 and annual returns in accordance with section
11 237D-7. Each periodic return required pursuant to section
12 237D-6 shall be accompanied by a mandatory electronic cover
13 sheet, in a form prescribed by the department, that includes the
14 following information:

15 (1) For each operator and plan manager on whose behalf the
16 transient accommodations broker tax collection agent
17 is required to report, collect, and pay over taxes due
18 under this chapter, the operator's or plan manager's
19 name, address, and transient accommodations
20 registration identification number;



- 1 (2) For each transient accommodation rented through the
2 registered transient accommodations broker tax
3 collection agent or the website or platform designated
4 in the certificate of registration issued pursuant to
5 this chapter and for which taxes are being remitted:
- 6 (A) The address of the transient accommodation;
7 (B) The number of nights for which each transient
8 accommodation was rented and the rate or price at
9 which each transient accommodation was rented;
10 and
- 11 (C) The amount of tax being remitted pursuant to this
12 chapter and the amount of any federal form 1099
13 income that was derived from each transient
14 accommodation.
- 15 Upon request by the director or mayor of the applicable county,
16 a registered transient accommodations broker tax collection
17 agent may disclose any of the information contained in the
18 returns or cover sheets required by this subsection to the
19 director or any county official designated by the mayor to
20 receive such information. For the purposes of section 237D-13,
21 the director and county official designated to receive the



1 information pursuant to this subsection shall be deemed to be
2 persons with a material interest in the return and return
3 information and may examine the returns and cover sheets to
4 ensure compliance with this section, state and local tax laws
5 and ordinances, and any applicable land use laws and ordinances.

6 (h) The registration provided for under this section shall
7 be effective until canceled in writing.

8 A registered transient accommodations broker tax collection
9 agent may cancel its registration under this section by
10 delivering written notice of cancellation to the director and
11 each of its operators and plan managers furnishing transient
12 accommodations in the State not later than ninety days prior to
13 the effective date of cancellation.

14 The director may cancel a transient accommodations broker
15 tax collection agent's registration under this section for any
16 cause, including but not limited to any violation of this
17 chapter or rules adopted pursuant thereto, or for violation of
18 any applicable tax collection agreement, by delivering written
19 notice of cancellation to the transient accommodations broker
20 tax collection agent not later than ninety days prior to the
21 effective date of cancellation.



1 (i) All registered transient accommodations broker tax
2 collection agents shall inquire and ensure that the transient
3 accommodation is in compliance with all pertinent state and
4 county land use laws, including but not limited to:

5 (1) Prior to placing an advertisement, including an online
6 advertisement, on the availability of a property for
7 lease or rent on behalf of an operator or plan
8 manager, notifying the operator or plan manager that
9 the subject property is required to be in compliance
10 with applicable state and county land use laws prior
11 to retaining the services of the transient
12 accommodations broker;

13 (2) Requiring the operator or plan manager to display or
14 make available its transient accommodation tax
15 registration identification number and transient
16 accommodations number, along with other required
17 information in any advertisement, in compliance with
18 section 237D-4;

19 (3) Requiring the operator or plan manager to provide
20 verification of compliance with state and county land
21 use laws in the form of a written certification,



1 verification, or permit issued by the appropriate
2 county agency; and

3 (4) Requiring the operator or plan manager to provide a
4 statement confirming compliance with all land use
5 laws.

6 A transient accommodations broker shall remove any
7 advertisement, including an online advertisement, for a
8 transient accommodation located in the State for which the
9 operator or plan manager fails to comply with paragraph (2) or
10 (3) or for which the transient accommodations broker has
11 received written notice from a state or local governmental
12 authority that the operator or plan manager has failed to comply
13 with applicable land use, zoning, or tax requirements.

14 (j) Nothing in this section shall be construed to preempt
15 or prohibit the authority of a unit of local government in the
16 State, including counties and any other political subdivisions
17 of the State, to adopt, monitor, and enforce local land use
18 regulations, nor to transfer the authority to monitor and
19 enforce such regulations away from the counties."

20 SECTION 4. By January 1, 2018, the director of taxation
21 shall make available to transient accommodations brokers a form



1 of application for registration as a transient accommodations
2 broker tax collection agent under the new section of chapter
3 237, Hawaii Revised Statutes, added by section 2 of this Act,
4 and under the new section of chapter 237D, Hawaii Revised
5 Statutes, added by section 3 of this Act.

6 SECTION 5. Upon the establishment by a county of a process
7 for providing verification of compliance by an operator or plan
8 manager with that county's land use laws, the director of
9 taxation shall transfer to that county per cent of the
10 transient accommodations tax and general excise tax collected
11 for that fiscal year.

12 SECTION 6. If any provision of this Act, or the
13 application thereof to any person or circumstance, is held
14 invalid, the invalidity does not affect other provisions or
15 applications of the Act that can be given effect without the
16 invalid provision or application, and to this end the provisions
17 of this Act are severable.

18 SECTION 7. New statutory material is underscored.

19 SECTION 8. This Act shall take effect on May 22, 2050, and
20 shall apply to taxable years beginning after December 31, 2017.

21



Report Title:

Taxation; Transient Accommodations Brokers; Tax Collection Agents; General Excise Tax; Transient Accommodations Tax

Description:

Allows transient accommodations brokers to register as a tax collection agent on behalf of all of its operators and plan managers. Requires registered transient accommodations broker tax collection agent's operators and plan managers to obtain a GET license and TAT registration. Requires registered transient accommodations broker tax collection agents to file periodic and annual GET and TAT returns. Requires that each periodic return be accompanied by an electronic cover sheet containing required information. Requires all registered transient accommodations broker tax collection agents to inquire and ensure that the transient accommodation is in compliance with all pertinent state and county land use laws and remove advertisements for transient accommodations for which operators and plan managers failed to comply with land use or tax requirements. Requires the operator or plan manager to provide verification of and a statement confirming compliance with state and county land use laws in the form of a written certification, verification, or permit issued by the appropriate county agency. Allocates a percent of GET and TAT taxes to the counties contingent upon establishment of a process to provide verification of compliance by an operator or plan manager with county land use laws. Applies to taxable years beginning after December 31, 2017. Effective date 5/22/2050. (SD1)

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

