

JAN 19 2018

S.B. NO. 2086

A BILL FOR AN ACT

RELATING TO USE TAX.

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

1 SECTION 1. The legislature finds that Hawaii's use tax is
2 imposed on businesses and individuals making purchases of goods
3 and services from out-of-state vendors for consumption or use in
4 Hawaii. The obligation to pay the use tax is on the business or
5 individual if the out-of-state vendor, including an internet-
6 based seller, does not pay it. According to the department of
7 taxation, the vast majority of the use tax collected in 2015 was
8 paid by businesses having a general excise tax license. Use tax
9 revenues collected in 2015 from seven hundred thirty-six
10 individuals not having a general excise tax license, totaled
11 \$661,436, which is less than one per cent of the more than
12 \$81,000,000 in total use tax revenues collected in 2015 from
13 individuals and businesses holding a general excise tax license.

14 The legislature further finds that few individuals are
15 aware of their use tax obligation and even fewer comply with the
16 law. Certain taxpayers who purchase a large amount of goods and



1 services are required to report and pay their use taxes in the
2 month following their purchase.

3 According to an online article by the National Conference
4 of State Legislatures dated November 14, 2014, the estimated
5 uncollected use tax for Hawaii from out-of-state sales in 2012
6 was \$122,514,495.

7 According to an April 2015 policy brief of the Research
8 Department of the Minnesota House of Representatives, of the
9 forty-five states with sales and use taxes, thirty-eight also
10 have an individual income tax requirement. As of 2012, twenty-
11 seven of these states require taxpayers to report use tax
12 obligations on the individual income tax return, and six states,
13 including Minnesota, provide information about the use tax in
14 the individual income tax booklets.

15 The purpose of this Act is to require individuals to report
16 and remit use tax liabilities on their individual income tax
17 return.

18 SECTION 2. Section 238-5, Hawaii Revised Statutes, is
19 amended by amending subsections (a) and (b) to read as follows:

20 "(a) On or before the twentieth day of each calendar
21 month, any person, other than an individual income taxpayer, who



1 has become liable for the payment of a tax under this chapter
2 during the preceding calendar month in respect of any property,
3 services, or contracting, or the use thereof, shall file a
4 return with the assessor of the taxation district in which the
5 property was held or the services or contracting were received
6 when the tax first became payable, or with the director of
7 taxation at Honolulu, setting forth a description of the
8 property, services, or contracting and the character and
9 quantity thereof in sufficient detail to identify the same or
10 otherwise in such reasonable detail as the director by rule
11 shall require, and the purchase price or value thereof as the
12 case may be. The return shall be accompanied by a remittance in
13 full of the tax, computed at the rate specified in section 238-2
14 or 238-2.3 upon the price or value so returned. Any tax
15 remaining unpaid after the twentieth day following the end of
16 the calendar month during which the tax first became payable
17 shall become delinquent; provided that a receipt from a seller
18 required or authorized to collect the tax, given to a taxpayer
19 in accordance with section 238-6, shall be sufficient to relieve
20 the taxpayer from further liability for the tax to which the
21 receipt may refer, or for the return thereof.



1 For each individual who is required to file an individual
2 income tax return as provided under chapter 235, any liability
3 for the payment of a tax under this chapter during the preceding
4 calendar year with respect to any property, services, or
5 contracting, or the use thereof, shall be reported and paid on
6 the individual taxpayer's individual income tax return. The
7 individual income tax return shall be accompanied by a
8 remittance in full of the tax, computed at the rate specified in
9 section 238-2 or 238-2.3 upon the price or value so returned,
10 adjusted for any liability or refund amount owed by or to the
11 individual as a result of calculating the income tax.

12 For each individual who is not required to file an
13 individual income tax return as provided in chapter 235, any
14 liability for the payment of a use tax under this chapter shall
15 be reported annually on the use tax return forms prescribed by
16 the director, setting forth a description of the property,
17 services, or contracting and the character and quantity thereof
18 in sufficient detail to identify the same or otherwise in such
19 reasonable detail as the director by rule shall require, and the
20 purchase price or value thereof as the case may be. The use tax
21 return form shall cover the preceding calendar year in respect



1 of any property, services, or contracting, or the use thereof
2 with the annual reporting period ending on the last day of the
3 calendar year, and a use tax return is due on or before the
4 twentieth day of the fourth month of the following calendar
5 year. The use tax return shall be accompanied by a remittance
6 in full of the use tax, computed at the rate specified in
7 section 238-2 or 238-2.3 upon the price or value so returned.

8 (b) Notwithstanding subsection (a), a taxpayer, other than
9 an individual income taxpayer, may be eligible to file the
10 taxpayer's return required under this section and make payments
11 thereon on a quarterly or semiannual basis during the calendar
12 or fiscal year, the return and payment to be made on or before
13 the twentieth day of the calendar month after the close of each
14 quarter or semiannual period, to wit:

15 (1) For calendar year taxpayers filing on a quarterly
16 basis, on or before April 20, July 20, October 20, and
17 January 20;

18 (2) For calendar year taxpayers filing on a semiannual
19 basis, on or before July 20, and January 20;

20 (3) For fiscal year taxpayers filing on a quarterly basis,
21 on or before the twentieth day of the fourth month,



1 seventh month, and tenth month following the beginning
2 of the fiscal year and on or before the twentieth day
3 of the month following the close of the fiscal year;
4 or

5 (4) For fiscal year taxpayers filing on a semiannual
6 basis, on or before the twentieth day of the seventh
7 month following the beginning of the fiscal year and
8 on or before the twentieth day of the month following
9 the close of the fiscal year;

10 if the taxpayer possesses a valid and current permit to file the
11 taxpayer's general excise tax return and to make payments
12 thereon on a quarterly or semiannual basis issued by the
13 director pursuant to section 237-30. A taxpayer may also be
14 eligible to make monthly payments based on the taxpayer's
15 estimated quarterly or semiannual liability with a
16 reconciliation return at the end of each quarter or semiannual
17 period during the calendar or fiscal year, as heretofore
18 provided, if the taxpayer possesses a valid and current permit
19 to file quarterly or semiannual reconciliation general excise
20 tax returns and to make monthly payments, issued by the director
21 pursuant to section 237-30."



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1 SECTION 3. Beginning with taxable years beginning after
2 December 31, 2018, the department of taxation shall print on its
3 individual income tax return forms a line relating to the use
4 tax liability of the taxpayer, which all individual taxpayers
5 shall attest to, and with space to indicate that the taxpayer
6 has met its use tax liability for the preceding calendar year.

7 SECTION 4. The department of taxation shall provide the
8 following information in the instructions for the individual
9 income tax return and on the department's website in an easily
10 accessible manner:

11 (1) An explanation of an individual's obligation to pay
12 use tax on items purchased from mail order, internet,
13 and other sellers that do not collect use taxes on the
14 items;

15 (2) A method to help an individual determine the amount of
16 use tax that the individual owes; and

17 (3) A description of how the individual shall report and
18 pay the use tax obligation.

19 SECTION 5. New statutory material is underscored.



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1 SECTION 6. This Act shall take effect upon its approval;
2 provided that section 2 shall apply to taxable years beginning
3 after December 31, 2018.

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INTRODUCED BY: _____

Hal Rhoad

Michelle Rodoni



S.B. NO. 2086

Report Title:

Use Tax; Liability; Reporting

Description:

Requires individuals to report use tax liabilities on their individual income tax return and remit payment of use tax with their individual income tax return, if applicable, or report use tax liabilities on a use tax return and remit payment with the return.

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