

JAN 24 2018

A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Section 237-18, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§237-18 Further provisions as to application of tax. (a)**
4 Where a coin operated device produces gross income which is
5 divided between the owner or operator of the device, on the one
6 hand, and the owner or operator of the premises where the device
7 is located, on the other hand, the tax imposed by this chapter
8 shall apply to each such person with respect to the person's
9 portion of the proceeds, and no more.

10 (b) Where gate receipts or other admissions are divided
11 between the person furnishing or producing a play, concert,
12 lecture, athletic event, or similar spectacle (including any
13 motion picture showing) on the one hand, and a promoter
14 (including any proprietor or other operator of a motion picture
15 house) offering the spectacle to the public, on the other hand,
16 the tax imposed by this chapter, if the promoter is subject to
17 the tax imposed by this chapter, shall apply only to the



1 promoter measured by the whole of the proceeds, and the promoter
2 shall be authorized to deduct and withhold from the portion of
3 the proceeds payable to the person furnishing or producing the
4 spectacle the amount of the tax payable by the person upon such
5 portion. No tax shall apply to a promoter with respect to such
6 portion of the proceeds as is payable to a person furnishing or
7 producing the spectacle, who is exempted by section 237-23 from
8 taxation upon such activity.

9 (c) Where, through the activity of a person taxable under
10 section 237-13(6), a product has been milled, processed, or
11 otherwise manufactured upon the order of another taxpayer who is
12 a manufacturer taxable upon the value of the entire manufactured
13 products, which consists in part of the value of the services
14 taxable under section 237-13(6), so much gross income as is
15 derived from the rendering of the services shall be subjected to
16 tax on the person rendering the services at the rate of one-half
17 of one per cent, and the value of the entire product shall be
18 included in the measure of the tax imposed on the other taxpayer
19 as elsewhere provided.

20 (d) Where, through the activity of a person taxable under
21 section 237-13(6), there have been rendered to a cane planter



1 services consisting in the harvesting or hauling of the cane, or
2 consisting in road maintenance, under a contract between the
3 person rendering the services and the cane planter, covering the
4 services and also the milling of the sugar, the services of
5 harvesting and hauling the cane and road maintenance shall be
6 treated the same as the service of milling the cane, as provided
7 by subsection (c), and the value of the entire product,
8 manufactured or sold for the cane planter under the contract,
9 shall be included in the measure of the tax imposed on the
10 person as elsewhere provided.

11 (e) Where insurance agents, including general agents,
12 subagents, or solicitors, who are not employees and are licensed
13 pursuant to chapter 431, or real estate brokers or salespersons,
14 who are not employees and are licensed pursuant to chapter 467,
15 produce commissions which are divided between such general
16 agents, subagents, or solicitors, or between such real estate
17 brokers or salespersons, as the case may be, the tax levied
18 under section 237-13(6) as to real estate brokers or
19 salespersons, or under section 237-13(7) as to insurance general
20 agents, subagents, or solicitors shall apply to each such person



1 with respect to the person's portion of the commissions, and no
2 more.

3 (f) Where tourism related services are furnished through
4 arrangements made by a travel agency or tour packager and the
5 gross income is divided between the provider of the services and
6 the travel agency or tour packager, the tax imposed by this
7 chapter shall apply to each such person with respect to such
8 person's respective portion of the proceeds, and no more.

9 As used in this subsection "tourism related services" means
10 catamaran cruises, canoe rides, dinner cruises, lei greetings,
11 transportation included in a tour package, sightseeing tours not
12 subject to chapter 239, admissions to luaus, dinner shows,
13 extravaganzas, cultural and educational facilities, and other
14 services rendered directly to the customer or tourist, but only
15 if the providers of the services other than air transportation
16 are subject to a four per cent tax under this chapter or chapter
17 239.

18 (g) Where transient accommodations are furnished through
19 arrangements made by a travel agency or tour packager at
20 noncommissioned negotiated contract rates and the gross income
21 is divided between the operator of transient accommodations on



1 the one hand and the travel agency or tour packager on the other
2 hand, the tax imposed by this chapter shall apply to each such
3 person with respect to such person's respective portion of the
4 proceeds, and no more.

5 As used in this subsection, the words "transient
6 accommodations" and "operator" shall be defined in the same
7 manner as they are defined in section 237D-1.

8 (h) Where the transportation of passengers or property is
9 furnished through arrangements between motor carriers, and the
10 gross income is divided between the motor carriers, any tax
11 imposed by this chapter shall apply to each motor carrier with
12 respect to each motor carrier's respective portion of the
13 proceeds.

14 As used in this subsection:

15 "Carrier" means a person who engages in transportation, and
16 does not include a person such as a freight forwarder or tour
17 packager who provides transportation by contracting with others,
18 except to the extent that such person oneself engages in
19 transportation.

20 "Contract carrier" means a person other than a public
21 utility as defined under section 239-2 or taxicab, which under



1 contracts or agreements, engages in the transportation of
2 persons or property for compensation, by land, water, or air.

3 "Motor carrier" means a common carrier or contract carrier
4 transporting persons or property for compensation on the public
5 highways, other than a public utility as defined under section
6 239-2 or taxicab.

7 "Public highways" has the meaning defined by section 264-1
8 including both state and county highways, but operation upon
9 rails shall not be deemed transportation on the public highways.

10 (i) Every person authorized by the nonresident owner of
11 real property located within this State to collect rent for that
12 property on behalf of the owner, pursuant to a rental collection
13 agreement under section 237-30.5(e), shall deduct and withhold
14 from the rents collected and payable to the owner of the real
15 property the amount of the tax imposed by this chapter and
16 payable by the owner; provided that this subsection shall not
17 apply with respect to rents collected and payable to an owner of
18 real property who is exempted by section 237-23 from taxation
19 under this chapter."

20 SECTION 2. Section 237-30.5, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "[+]§237-30.5[+] Collection of rental by third party;
2 filing with department; statement required[-]; nonresident
3 owners. (a) Every person authorized under an agreement by the
4 owner of real property located within this State to collect rent
5 on behalf of such owner shall be subject to this section.

6 (b) Every written rental collection agreement shall have
7 on the first page of the agreement the name, address, social
8 security number, and[~~if available,~~] the general excise tax
9 number of the owner of the real property being rented, the
10 address of the property being rented, and the following
11 statement which shall be set forth in bold print and in ten-
12 point type size:

13
14 "HAWAII GENERAL EXCISE TAXES MUST BE PAID ON THE GROSS RENTS
15 COLLECTED BY ANY PERSON RENTING REAL PROPERTY IN THE STATE OF
16 HAWAII. A COPY OF THE FIRST PAGE OF THIS AGREEMENT, OR OF
17 FEDERAL INTERNAL REVENUE FORM 1099 STATING THE AMOUNT OF RENTS
18 COLLECTED, SHALL BE FILED WITH THE HAWAII DEPARTMENT OF
19 TAXATION."
20



1 Every person entering an oral rental collection agreement
2 shall furnish the department of taxation the information
3 required under this subsection and shall give the owner of the
4 property a copy of the notice required by this subsection.

5 (c) Every person authorized to collect rent for another
6 person shall file a copy of the first page of the rental
7 collection agreement with the department of taxation within
8 thirty days after entering into the agreement, or shall file a
9 copy of federal Internal Revenue form 1099, the property owner's
10 social security number, and~~[, if available,]~~ the general excise
11 tax license number of the owner of the property being rented
12 with the department of taxation at the same time as such forms
13 must be filed with the Internal Revenue Service.

14 (d) Every person authorized under an agreement by the
15 owner of real property located within this State to collect rent
16 on behalf of such owner within ninety days after the effective
17 date of this section shall furnish the department of taxation
18 with the information required in subsection (b) and in the case
19 of federal form 1099 such form for the taxable year 1983. The
20 person also shall notify the owner that such information is



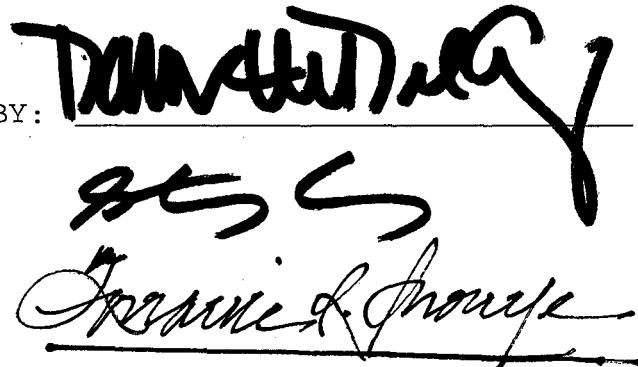
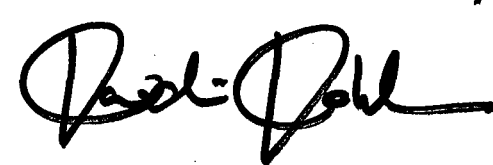
1 being furnished and give the owner a copy of the notice required
2 by subsection (b).

3 (e) Every nonresident owner of real property located
4 within the State who receives rental income attributable to that
5 property shall enter into a rental collection agreement under
6 this section."

7 SECTION 3. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 4. This Act shall take effect on July 1, 2018.

10 INTRODUCED BY:



S.B. NO. 2968

Report Title:

General Excise Tax; Rental Collection Agreements; Nonresident Owners; Withholding of Tax

Description:

Requires a person authorized to collect rent on behalf of the nonresident owner of real property located in the State to withhold the general excise tax due on rents collected. Requires nonresident owners who receive rents attributable to real property located in the State to enter into a rent collection agreement.

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