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# 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~~] of those persons with respect  
9   to the person's 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  
5 ~~[such]~~ that portion. No tax shall apply to a promoter with  
6 respect to ~~[such]~~ any portion of the proceeds ~~[as is]~~ payable to  
7 a person furnishing or producing the spectacle~~[7]~~ and who is  
8 exempted by section 237-23 from taxation upon ~~[such]~~ that  
9 activity.

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



1 (d) Where, through the activity of a person taxable under  
2 section 237-13(6), there have been rendered to a cane planter  
3 services consisting in the harvesting or hauling of the cane, or  
4 consisting in road maintenance, under a contract between the  
5 person rendering the services and the cane planter, covering the  
6 services and also the milling of the sugar, the services of  
7 harvesting and hauling the cane and road maintenance shall be  
8 treated the same as the service of milling the cane, as provided  
9 by subsection (c), and the value of the entire product,  
10 manufactured or sold for the cane planter under the contract,  
11 shall be included in the measure of the tax imposed on the  
12 person as elsewhere provided.

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



1 agents, subagents, or solicitors shall apply to each [~~such~~  
2 ~~person~~] of those persons with respect to the person's portion of  
3 the commissions, and no more.

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

11 As used in this subsection "tourism related services" means  
12 catamaran cruises, canoe rides, dinner cruises, lei greetings,  
13 transportation included in a tour package, sightseeing tours not  
14 subject to chapter 239, admissions to luaus, dinner shows,  
15 extravaganzas, cultural and educational facilities, and other  
16 services rendered directly to the customer or tourist, but only  
17 if the providers of the services other than air transportation  
18 are subject to a four per cent tax under this chapter or chapter  
19 239.

20 (g) Where transient accommodations are furnished through  
21 arrangements made by a travel agency or tour packager at



1 noncommissioned negotiated contract rates and the gross income  
2 is divided between the operator of transient accommodations on  
3 the one hand and the travel agency or tour packager on the other  
4 hand, the tax imposed by this chapter shall apply to each [~~such~~  
5 ~~person~~] of those persons with respect to [~~such~~] that person's  
6 respective portion of the proceeds, and no more.

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

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

16 As used in this subsection:

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



1 "Contract carrier" means a person other than a public  
2 utility as defined under section 239-2 or taxicab, which under  
3 contracts or agreements, engages in the transportation of  
4 persons or property for compensation, by land, water, or air.

5 "Motor carrier" means a common carrier or contract carrier  
6 transporting persons or property for compensation on the public  
7 highways, other than a public utility as defined under section  
8 239-2 or taxicab.

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

12 (i) Every person authorized by the nonresident owner of  
13 real property located within this State to collect rent for that  
14 property on behalf of the owner, pursuant to a rental collection  
15 agreement under section 237-30.5(e), shall:

16 (1) Deduct and withhold from the rents collected and  
17 payable to the owner of the real property the amount  
18 of the tax imposed by this chapter and payable by the  
19 owner;



(2) Obtain a license under this chapter for purposes of reporting and paying taxes on behalf of the owner of real property; and

(3) Be personally liable for the taxes withheld under this section if taxes are withheld, but not reported or paid, together with penalties and interest as provided by law."

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

**"[+]§237-30.5[+] Collection of rental by third party; filing with department; statement required[-]; nonresident owners.** (a) Every person authorized under an agreement by the

owner of real property located within this State to collect rent on behalf of [~~such~~] that owner shall be subject to this section.

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



1  
2 "HAWAII GENERAL EXCISE TAXES MUST BE PAID ON THE GROSS RENTS  
3 COLLECTED BY ANY PERSON RENTING REAL PROPERTY IN THE STATE OF  
4 HAWAII. A COPY OF THE FIRST PAGE OF THIS AGREEMENT, OR OF  
5 FEDERAL INTERNAL REVENUE FORM 1099 STATING THE AMOUNT OF RENTS  
6 COLLECTED, SHALL BE FILED WITH THE HAWAII DEPARTMENT OF  
7 TAXATION."

8  
9 Every person entering an oral rental collection agreement  
10 shall furnish the department of taxation the information  
11 required under this subsection and shall give the owner of the  
12 property a copy of the notice required by this subsection.

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





1 (d) Every person authorized under an agreement by the  
2 owner of real property located within this State to collect rent  
3 on behalf of [~~such~~] that owner within ninety days after the  
4 effective date of this section shall furnish the department of  
5 taxation with the information required in subsection (b) and in  
6 the case of federal form 1099 [~~such~~] the form for the taxable  
7 year 1983. The person also shall notify the owner that [~~such~~]  
8 the information is being furnished and give the owner a copy of  
9 the notice required by subsection (b).

10 (e) Every nonresident owner of real property located  
11 within the State who receives rental income attributable to that  
12 property shall enter into a rental collection agreement under  
13 this section."

14 SECTION 3. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

16 SECTION 4. This Act, upon its approval, shall apply to  
17 taxable years beginning after December 31, 2018.



**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. Applies to taxable years beginning after 12/31/2018. (SD1)

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