

JAN 18 2019

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 Hawai'i's use tax is
2 imposed on businesses and individuals when they purchase goods
3 and services from out-of-state vendors for consumption or use in
4 Hawai'i. 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 Hawai'i 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 individual income tax requirements. 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. Chapter 238, Hawaii Revised Statutes, is
19 amended by adding a new section to be appropriately designated
20 and to read as follows:



1 "§238- Instructions; use tax obligations. The
2 department shall provide the following information in the
3 instructions for the individual income tax return required under
4 chapter 235 and on the department's website in an easily
5 accessible manner:

- 6 (1) An explanation of an individual's obligation to pay
7 use tax on items purchased from mail order, internet,
8 and other sellers that do not collect use taxes on the
9 items;
- 10 (2) A method to help an individual determine the amount of
11 use tax that the individual owes; and
- 12 (3) A description of how the individual shall report and
13 pay the use tax obligation."

14 SECTION 3. Section 238-5, Hawaii Revised Statutes, is
15 amended by amending subsections (a) and (b) to read as follows:

16 "(a) On or before the twentieth day of each calendar
17 month, any person, other than an individual income taxpayer, who
18 has become liable for the payment of a tax under this chapter
19 during the preceding calendar month in respect of any property,
20 services, or contracting, or the use thereof, shall file a
21 return with the assessor of the taxation district in which the



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

18 For each individual who is required to file an individual
19 income tax return, as provided under chapter 235, any liability
20 for the payment of a tax under this chapter during the preceding
21 calendar or fiscal year with respect to any property, services,



1 or contracting, or the use thereof, shall be reported and paid
2 on the taxpayer's individual income tax return. The individual
3 income tax return shall be accompanied by a remittance in full
4 of the tax, computed at the rate specified in section 238-2 or
5 238-2.3 upon the price or value so returned, adjusted for any
6 liability or refund amount owed by or to the individual as a
7 result of calculating the income tax.

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



1 calendar or fiscal year. The use tax return shall be
2 accompanied by a remittance in full of the use tax, computed at
3 the rate specified in section 238-2 or 238-2.3 upon the price or
4 value so returned.

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

12 (1) For calendar year taxpayers filing on a quarterly
13 basis, on or before April 20, July 20, October 20, and
14 January 20;

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

17 (3) For fiscal year taxpayers filing on a quarterly basis,
18 on or before the twentieth day of the fourth month,
19 seventh month, and tenth month following the beginning
20 of the fiscal year and on or before the twentieth day



1 of the month following the close of the fiscal year;

2 or

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

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

20 SECTION 4. Beginning with taxable years beginning after
21 December 31, 2019, the department of taxation shall print on its



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1 individual income tax return forms a line relating to the use
2 tax liability of the taxpayer, which all individual taxpayers
3 shall attest to, and with space to indicate that the taxpayer
4 has met its use tax liability for the preceding calendar or
5 fiscal year.

6 SECTION 5. New statutory material is underscored.

7 SECTION 6. This Act shall take effect upon its approval;
8 provided that section 3 shall apply to taxable years beginning
9 after December 31, 2019.

10

INTRODUCED BY: _____

Kal Rhoad



S.B. NO. 570

Report Title:

Use Tax; Liability; Reporting

Description:

Requires individuals to report use tax liabilities on their individual income tax return and remit payments of the use tax with their individual income tax returns, if applicable, or report use tax liabilities on use tax returns and remit payments with the returns. Applies to taxable years beginning after 12/31/19.

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