

ACT 26

S.B. NO. 647

A Bill for an Act Relating to Taxation of Public Utilities.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 239-2, Hawaii Revised Statutes, is amended by amending the definition of "gross income" to read:

"(6) "Gross income" means the gross income from public service company business as follows:

(A) Gross income from the production, conveyance, transmission, delivery, or furnishing of light, power, heat, cold, water, gas, or oil; or

(B) Gross income from the transportation of passengers or freight, or the conveyance or transmission of telephone or telegraph messages, or the furnishing of facilities for the transmission of

intelligence by electricity, by land or water or air:

- (i) Originating and terminating within this State, or
 - (ii) By means of vessels or aircraft having their home port in the State and operating between ports or airports in the State, with respect to the transportation so effected, or
 - (iii) By means of plant or equipment located in the State, between points in the State; or
- (C) Gross income from the transportation of freight by motor carriers (other than as stated in paragraph (6)(B) of this section, or the conveyance or transmission of messages or intelligence through wires or cables located or partly located in the State (other than as stated in paragraph (6)(B) of this section).

The words "gross income" and "gross income from public service company business" shall not be construed to include dividends (as defined by chapter 235) paid by one member of an affiliated public service company group to another member of the same group; or gross income from the sale or transfer of materials or supplies, interest on loans, or the provision of engineering, construction, maintenance or managerial services by one member of an affiliated public service company group to another member of the same group. "Affiliated public service company group" means an affiliated group of domestic corporations within the meaning of chapter 235, all of the members of which are public service companies. "Member of an affiliated public service company group" means a corporation (including the parent corporation) which is included within an affiliated public service company group."

SECTION 2. Section 237-3, Hawaii Revised Statutes, is amended to read:

"Sec. 237-3 "Gross income", "gross proceeds of sale", defined. "Gross income" means the gross receipts, cash or accrued, of the taxpayer received as compensation for personal services and the gross receipts of the taxpayer derived from trade, business, commerce, or sales and the value proceeding or accruing from the sale of tangible personal property; or service, or both, and all receipts, actual or accrued as hereinafter provided, by reason of the investment of the capital of the business engaged in, including interest, discount, rentals, royalties, fees, or other emoluments however designated and without any deductions on account of the cost of property sold, the cost of materials used, labor cost, taxes, royalties, interest, or discount paid or any other expenses whatsoever. Every taxpayer shall be presumed to be dealing on a cash basis unless he proves to the satisfaction of the department of taxation that he is dealing on an accrual basis and his books are so kept, or unless he employs or is required to employ the accrual basis for the purposes of the tax imposed by chapter 235 for any taxable year in which event he shall report his gross income for the purposes of this chapter on the accrual basis for the same period.

"Gross proceeds of sale" means the value actually proceeding from the sale of tangible personal property without any deduction on account of the cost of property sold or expenses of any kind.

The words "gross income" and "gross proceeds of sales" shall not be construed to include: gross receipts from the sale of bonds or other evidence of indebtedness or stocks or, except as otherwise provided, from the sale of land in fee simple, improved or unimproved, dividends as defined by chapter 235; cash discounts allowed and taken on sales; the proceeds of sale of goods, wares, or merchandise returned by customers when the sale price is refunded either in cash or by credit; or the sale price of any article accepted as part payment on any new article sold, if the full sale price of the new article is included in the "gross income" or "gross proceeds of sales"; gross receipts from the sale or transfer of materials or supplies, interest on loans, or the provision of engineering, construction, maintenance, or managerial services by one "member" of an "affiliated public service company group" to another "member" of the same group as such terms are defined in section 239-2(6). Accounts found to be worthless and actually charged off for income tax purposes may, at corresponding periods, be deducted from gross proceeds of sale, or gross income, within this chapter, so far as they reflect taxable sales made, or gross income earned after July 1, 1935, but shall be added to gross proceeds of sale or gross income when and if afterwards collected."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 4. This Act shall take effect upon its approval.

(Approved May 5, 1977.)

*Edited accordingly.