

A Bill for an Act Relating to the General Excise Tax.

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

SECTION 1. The legislature finds that each year the State loses general excise tax revenues on properties owned by persons outside the State. The problem, of course, lies with the enforcement procedure. It is difficult to require a person outside of the State to pay taxes, unless the State knows who or where the person is.

The legislature finds that a requirement of furnishing the department of taxation with copies of the first page of a rental collection agreement or federal form 1099 will increase the ability of the department to enforce the tax collection process. The legislature further finds that since the copy of the first page of the agreement or federal form 1099 must be furnished by the person collecting the rent and managing the property for the owner, individual owners will not be affected by undue state requirements. Industry representatives have indicated that this Act would be beneficial to the State and not unduly burdensome to the industry. Additionally, the rental collection agency will be required to notify the owner that a copy of the first page of the agreement or a federal form 1099 will be filed with the department of taxation and that the owner must pay general excise taxes on gross rent. This requirement alone will increase collections through voluntary taxpayer compliance. With the current problem in state revenues an Act of this nature is long overdue.

The purpose of this Act is to provide information to the department of taxation to allow the enforcement procedure to function more efficiently.

SECTION 2. Chapter 237, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§237- Collection of rental by third party; filing with department; statement required. (a) Every person authorized under an agreement by the owner of real property located within this State to collect rent on behalf of such 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:

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

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

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

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

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect on January 1, 1984.

(Approved June 9, 1983.)

Note

1. Edited pursuant to HRS §23G-16.5.