

ACT 308

H.B. NO. 2595-86

A Bill for an Act Relating to the Public Service Company Tax.

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 as follows:

- “(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,] subparagraph (B)), 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.] subparagraph (B)).

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.

Where tourism related services are furnished through arrangements made by a travel agency or tour packager and the gross income is divided between the provider of the services on the one hand and the travel agency or tour packager on the other hand, any tax imposed by this chapter shall apply to each such person with respect to such person's respective portion of the proceeds, and no more.

As used in this paragraph "tourism related services" means motor carriers of passengers regulated by the public utilities commission."

SECTION 2. The department of taxation is directed to and shall submit to the legislature ten days before the regular session of 1987, rules which have been adopted under chapter 91, Hawaii Revised Statutes, that clarify the operation of, and notify the public of the department's interpretation of, section 239-2, Hawaii Revised Statutes, as amended by this Act.

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved May 30, 1986.)