

ACT 175

H.B. NO. 3515

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

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

SECTION 1. Chapter 237, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§237- Related entities; common paymaster; certain exempt transactions.** (a) This chapter shall not apply to amounts received, charged, or attributable to services furnished by one related entity to another related entity or to imputed or stated interest attributable to loans, advances, or use of capital between related entities.

As used in this subsection:

“Related entities” mean:

- (1) An affiliated group of corporations within the meaning of section 1504 (with respect to affiliated group defined) of the federal Internal Revenue Code of 1986, as amended;
- (2) A controlled group of corporations within the meaning of section 1563 (with respect to definitions and special rules) of the federal Internal Revenue Code of 1986, as amended; and
- (3) Those entities connected through ownership of at least eighty per cent of the total value of each such entity, including partnerships, associations, trusts, S corporations, nonprofit corporations, or any other group or combination of these or other tax entities acting as a business unit;

whether or not the entity is located within or without the State or licensed under this chapter.

“Services” mean legal and accounting services and those managerial and administrative services performed by an employee, officer, partner, trustee, or sole proprietor in the person’s capacity as an employee, officer, partner, trustee, or sole proprietor of one of the related entities and shall include overhead costs attributable to those services.

(b) This chapter shall not apply to amounts received by common paymasters which are disbursed as remuneration to employees of two or more related corporations where the common paymaster is making such remunerations on behalf of such corporations. Such amounts received or disbursed by the common paymaster shall include payments of payroll taxes and employee benefits which the common paymaster is making on behalf of related corporations and which payments are related to the employees being remunerated. The definitions of related corporations, common paymaster, multiple common paymasters, and concurrent employment contained in 26 Code of Federal Regulations, section 31.3121(s)-1(b) are incorporated and made a part of this subsection.

To the extent not covered by subsection (a), the exemption allowed by this subsection shall not apply to the cost of services, or reimbursements of such cost by one corporation to another corporation, of an employee disbursing the amounts exempted under this subsection. Each related corporation using a common paymaster or multiple common paymaster shall keep separate payroll records and other documentation required to prove the existence of concurrent employment. Such records

and documents shall be available for inspection by the director of taxation during normal business hours.”

**SECTION 2.** New statutory material is underscored.

**SECTION 3.** This Act shall take effect upon its approval.

(Approved June 6, 1988.)

**Note**

1. Edited pursuant to HRS §23G-16.5.