

ACT 185

H.B. NO. 1148

A Bill for an Act Relating to Taxation.

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

SECTION 1. The purpose of this Act is to share with the counties revenues generated by the transient accommodations tax.

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

“§237D- Remittances; distribution to counties. (a) All remittances of taxes imposed under this chapter shall be made by cash, bank drafts, cashier’s check, money order, or certificate of deposit to the office of the taxation district to which the return was transmitted.

(b) For the fiscal year beginning July 1, 1990, and for each fiscal year thereafter, revenues collected under this chapter shall be distributed as follows: five per cent of the revenues collected under this chapter shall be retained by the State to be used for the costs of assessment, collection, and disposition of the transient accommodations under this chapter. Of the remainder, Kauai county shall receive 14.5 per cent; Hawaii county shall receive 18.6 per cent; city and county of Honolulu shall receive 44.1 per cent; and Maui county shall receive 22.8 per cent.

All transient accommodations taxes shall be paid into the state treasury each month within ten days after collection, and shall be kept by the state director of finance in special accounts for distribution as provided in this subsection; provided that, all taxes levied and assessed under this chapter for periods before July 1, 1990, but collected after June 30, 1990, shall be state realizations.

(c) On or before January or July 1 of each year or after the disposition of any tax appeal with respect to an assessment for periods after June 30, 1990, the state director of finance shall compute and pay the amount due as provided for in subsection (b) to the director of finance of each county to become a general realization of the county expendable as such, except as otherwise provided by law."

SECTION 3. Section 237D-1, Hawaii Revised Statutes, is amended by amending the definition of "gross rental" or "gross rental proceeds" to read as follows:

" "Gross rental" or "gross rental proceeds" means the gross receipts, cash or accrued, of the taxpayer received as compensation for the furnishing of transient accommodations and the value proceeding or accruing from the furnishing of such accommodations without any deductions on account of the cost of property or services sold, the cost of materials used, labor cost, taxes, royalties, interest, discounts, or any other expenses whatsoever. Every taxpayer shall be presumed to be dealing on a cash basis unless the taxpayer proves to the satisfaction of the department of taxation that the taxpayer is dealing on an accrual basis and the taxpayer's books are so kept, or unless the taxpayer employs or is required to employ the accrual basis for the purposes of the tax imposed by chapter 237 for any taxable year in which event the taxpayer shall report the taxpayer's gross income for the purposes of this chapter on the accrual basis for the same period.

The words "gross rental" or "gross rental proceeds" shall not be construed to include the amounts of taxes imposed by chapter 237 or this chapter on operators of transient accommodations and passed on, collected, and received from the consumer as part of the receipts received as compensation for the furnishing of transient accommodations. Where transient accommodations are furnished through arrangements made by a travel agency or tour packager at noncommissionable negotiated contract rates and the gross income is divided between the operator of transient accommodations on the one hand and the travel agency or tour packager on the other hand, gross rental or gross rental proceeds to the operator means only the respective portion allocated or distributed to the operator, and no more. For purposes of this definition, where the operator maintains a schedule of rates for identifiable groups of individuals, such as kamaainas, upon which the accommodations are leased, let, or rented, gross rental or gross rental proceeds means the receipts collected and received based upon the scheduled rates and recorded as receipts in its books and records."

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SECTION 4. Section 237D-6, Hawaii Revised Statutes, is amended by amending its title and subsection (a) to read as follows:

“§237D-6 Return and payments; [remittance;] penalties. (a) On or before the last day of each calendar month, every operator taxable under this chapter during the preceding calendar month shall file a sworn return with the director in such form as the director shall prescribe[.] together with a remittance for the amount of the tax in the form required by section 237D- . Sections 237-30[, 237-31,] and 237-32 shall apply to returns[, remittances,] and penalties made under this chapter to the same extent as if the sections were set forth specifically in this section.”

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 6. This Act shall take effect on July 1, 1990.

(Approved June 19, 1990.)

Note

1. Edited pursuant to HRS §23G-16.5.