

ACT 125

H.B. NO. 2660

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 as follows:

1. By amending the definition of “carrier” to read:
 ““Carrier” means a person who engages in transportation, and does not include a person such as freight forwarder or tour packager who provides transportation by contracting with others, except to the extent that such person oneself engages in transportation.”

2. By amending the definition of “gross income” to read:
 ““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;
- (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;
 - (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 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 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 the transportation of passengers or property is furnished through arrangements between motor carriers, and the gross income is divided between the motor carriers, any tax imposed by this chapter shall apply to each motor carrier with respect to each motor carriers’ respective portion of the proceeds.

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] each person’s respective portion of the proceeds[, and no more].

Accounts found to be worthless and actually charged off for income tax purposes, at corresponding periods, may be deducted from gross income as specified under this chapter so far as they reflect taxable sales, but shall be added to gross income when and if subsequently collected.

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

3. By amending the definition of “motor carrier” to read:

““Motor carrier” means a common carrier or contract carrier transporting [freight or other property] persons or property for compensation on the public highways, other than a public utility or taxicab.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved June 22, 1998.)