

ACT 98

H.B. NO. 2569

A Bill for an Act Relating to the Conformity of the State Tax Laws to the United States Constitution.

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

SECTION 1. The purpose of this Act is to avoid constitutionally prohibited multiple taxation by providing an offset for taxes paid to another state where the general excise tax is imposed upon a transaction that has been subject to a sales or use tax in another state or taxing jurisdiction.

SECTION 2. Section 237-22, Hawaii Revised Statutes, is amended to read as follows:

“§237-22 Conformity to Constitution, etc. (a) In computing the amounts of any tax imposed under this chapter, there shall be excepted or deducted from the values, gross proceeds of sales, or gross income so much thereof as, under the Constitution and laws of the United States, the State is prohibited from taxing, but only so long as and only to the extent that the State is so prohibited.

(b) To the extent that any deduction, allocation, or other method to determine tax liability is necessary to comply with subsection (a), each taxpayer liable for the tax imposed by this chapter shall be entitled to full offset for the amount of legally imposed sales, gross receipts, or use taxes paid by the taxpayer with respect to the imported property, service, or contracting to another state and any subdivision thereof; provided that such offset shall not exceed the amount of general excise tax imposed under this chapter upon the gross proceeds of sales or gross income from the sale and subsequent sale of the imported property, service, or contracting. The amount of legally imposed sales, gross receipts, or use taxes paid by the taxpayer with respect to the import shall be first applied against any use tax, as permitted under section 238-3(i), and any remaining amount may be applied under this section for the same imported property, service, or contracting.

The director of taxation shall have the authority to implement this offset by prescribing tax forms and instructions that require tax reporting and payment by deduction, allocation, or any other method to determine tax liability to the extent necessary to comply with the foregoing.

The director of taxation may require the taxpayer to produce the necessary receipts or vouchers indicating the payment of the sales, gross receipts, or use taxes to another state or subdivision as a condition for the allowance of this offset.”

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval, and shall apply to all open tax years and for tax years that are pending appeal at the time of approval.

(Approved May 31, 2002.)