
HOUSE RESOLUTION

REQUESTING THE DEPARTMENT OF THE ATTORNEY GENERAL TO DETERMINE
WHETHER LEASES BETWEEN RELATED CAR RENTAL ENTITIES ARE
EXEMPT FROM THE GENERAL EXCISE TAX AND IF SO, REQUESTING
THE DEPARTMENT OF TAXATION TO APPLY THE EXEMPTION.

1 WHEREAS, the car rental business is an integral and
2 necessary part of the tourism industry in Hawaii; and
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4 WHEREAS, car rental agencies lease their vehicles at retail
5 rates to the public and pay the general excise tax on the rental
6 revenues from these transactions to the State; and
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8 WHEREAS, the car rental industry often involves payments
9 between related entities that are subject to the general excise
10 tax; and
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12 WHEREAS, the current general excise tax law exempts many
13 intercompany transactions from the general excise tax, including
14 charges for the use of capital as specified in section 237-
15 23.5(a), Hawaii Revised Statutes; and
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17 WHEREAS, some car rental companies use special purpose
18 financing entities, which they own, that issue asset-backed debt
19 instruments that are secured by the rental vehicles, which are
20 then leased to the related operating car rental agencies; and
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22 WHEREAS, the revenues from these leases are used to pay the
23 debt service required of those instruments; and
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25 WHEREAS, section 237-23.5, Hawaii Revised Statutes, exempts
26 from the general excise tax the flow of revenues between related
27 entities for the use of capital; and



1 WHEREAS, the Department of Taxation however, currently
2 collects an additional excise tax on the lease revenues from the
3 car rental agency paid to the special purpose financing entity
4 even though the agency and the special purpose financing entity
5 are owned by the same company; and
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7 WHEREAS, a finding that the leases used in the financing of
8 the acquisition and replacement of car rental vehicles between
9 related entities should be exempt from the excise tax would not
10 exempt car rental agencies from collecting and paying the
11 general excise tax on the revenues generated from the renting of
12 vehicles to the public; and
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14 WHEREAS, in general, other states do not impose sales, use,
15 and excise taxes on intercompany lease payments; now, therefore,
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17 BE IT RESOLVED by the House of Representatives of the
18 Twenty-fourth Legislature of the State of Hawaii, Regular
19 Session of 2007, that the Department of the Attorney General is
20 requested to conduct a study on whether leases between related
21 entities in the car rental industry for the acquisition and
22 replacement of vehicles under section 237-23.5, Hawaii Revised
23 Statutes, are:
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- 25 (1) Used solely for the purpose of acquiring and replacing
26 car rental vehicles;
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28 (2) Transactions among related entities as currently
29 defined; and
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31 (3) Transactions similar to intercompany car rental
32 company leasing transactions that are exempt from
33 sales, use, and excise taxes in other states; and
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35 BE IT FURTHER RESOLVED that if the answers to subparagraphs
36 (1), (2), and (3) are in the affirmative, the Department of
37 Taxation is requested to apply the exemption provided by section
38 237-23.5, Hawaii Revised Statutes, to revenues generated by
39 intercompany car rental acquisitions and replacements if car
40 rental agencies lease vehicles from special purpose financing
41 entities and both are related entities; and



1 BE IT FURTHER RESOLVED that the Department of the Attorney
2 General is requested to submit a report of its findings and
3 recommendations, including suggested legislation, to the
4 Legislature not later than twenty days before the convening of
5 the Regular Session of 2008; and

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7 BE IT FURTHER RESOLVED that certified copies of this
8 Resolution be transmitted to the Governor, Attorney General, and
9 Director of Taxation.

