
A BILL FOR AN ACT

RELATING TO TAXATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 46, Hawaii Revised Statutes, is amended
2 by adding a new section to be appropriately designated and to
3 read as follows:

4 "§46- Additional county surcharge. (a) In addition to
5 section 46-16.8, each county with a population greater than five
6 hundred thousand may establish an additional surcharge on state
7 tax not to exceed one per cent pursuant to sections 237- and
8 238- . A county electing to establish this additional
9 surcharge shall do so by ordinance; provided that:

10 (1) No ordinance shall be adopted until the county has
11 conducted a public hearing on the proposed ordinance;

12 (2) The ordinance shall be adopted prior to December 31,
13 2009;

14 (3) The additional county surcharge on state tax that may
15 be authorized under this section shall not be levied
16 prior to January 1, 2011; and

17 (4) The county repeals all ad valorem property tax
18 ordinances with respect to improved residential and



1 apartment tax categories, not including vacant land
2 and other property tax categories.

3 Notice of the public hearing required under paragraph (1) shall
4 be published in a newspaper of general circulation within the
5 county at least twice within a period of thirty days immediately
6 preceding the date of the hearing.

7 (b) A county electing to exercise the authority granted
8 under this section shall notify the director of taxation within
9 ten days after the county has adopted an additional surcharge on
10 state tax ordinance and, beginning no earlier than January 1,
11 2011, the director of taxation shall levy, assess, collect, and
12 otherwise administer the additional county surcharge on state
13 tax under this section.

14 (c) Counties complying with this section shall be credited
15 with an amount equal to the additional surcharge collected in
16 sections 237- and 238- .

17 (d) This section shall not apply to any period for which a
18 county collects any property tax from improved residential or
19 apartment properties except for collections due for periods
20 prior to the effective date of this Act.

21 (e) On January 1, 2011, in counties subject to this
22 section, all landlords with rental properties on which property



1 tax was levied shall reduce rental rates by the amount necessary
2 to offset any reduction in the amount of real property taxes
3 assessed on such rental properties.

4 The reduced rental rate shall begin on January 1, 2011, and
5 continue for a minimum of one year. Where there is more than
6 one rental unit on a property, the amount of the previous year's
7 property tax applicable to each rental unit shall be divided
8 equally between the units or based on the square-footage of the
9 property. Any amount applicable to common areas shall be
10 applied equally to each unit.

11 (f) Each participating county shall provide and adopt
12 rules for tenant complaints with respect to the amount of the
13 rent reduction. The county may provide for appropriate
14 penalties."

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

18 **"§237- Additional county surcharge on state tax;**
19 **administration.** (a) The additional county surcharge on state
20 tax, upon the adoption of county ordinances and in accordance
21 with the requirements of section 46- , shall be levied,
22 assessed, and collected as provided in this section on all gross



1 proceeds and gross income taxable under this chapter. No county
2 shall set the additional surcharge on state tax at a rate
3 greater than one per cent of all gross proceeds and gross income
4 taxable under this chapter. All provisions of this chapter
5 shall apply to the additional county surcharge on state tax.
6 With respect to the additional surcharge, the director of
7 taxation shall have all the rights and powers provided under
8 this chapter. In addition, the director of taxation shall have
9 the exclusive rights and power to determine the county or
10 counties in which a person is engaged in business and, in the
11 case of a person engaged in business in more than one county,
12 the director shall determine, through apportionment or other
13 means, that portion of the additional surcharge on state tax
14 attributable to business conducted in each county.

15 (b) Each additional county surcharge on state tax that may
16 be adopted pursuant to section 46- shall be levied beginning
17 in the taxable year after the adoption of the relevant county
18 ordinance; provided that no additional surcharge on state tax
19 may be levied prior to January 1, 2011.

20 (c) The additional county surcharge on state tax, if
21 adopted, shall be imposed on the gross proceeds or gross income
22 of all written contracts that require the passing on of the



1 taxes imposed under this chapter; provided that if the gross
2 proceeds or gross income are received as payments beginning in
3 the taxable year in which the taxes become effective, on
4 contracts entered into before June 30 of the year prior to the
5 taxable year in which the taxes become effective, and the
6 written contracts do not provide for the passing on of increased
7 rates of taxes, the additional county surcharge on state tax
8 shall not be imposed on the gross proceeds or gross income
9 covered under the written contracts. The additional county
10 surcharge on state tax shall be imposed on the gross proceeds or
11 gross income from all contracts entered into on or after June 30
12 of the year prior to the taxable year in which the taxes become
13 effective, regardless of whether the contract allows for the
14 passing on of any tax or any tax increases.

15 (d) The additional county surcharge on state tax shall not
16 be established on any:

17 (1) Gross income or gross proceeds taxable under this
18 chapter at the one-half per cent tax rate;

19 (2) Gross income or gross proceeds taxable under this
20 chapter at the 0.15 per cent tax rate; or

21 (3) Transactions, amounts, persons, gross income, or gross
22 proceeds exempt from tax under this chapter.



1 (e) The director of taxation shall revise the general
2 excise tax forms to provide for the clear and separate
3 designation of the imposition and payment of the additional
4 county surcharge on state tax.

5 (f) The taxpayer shall designate the taxation district to
6 which the additional county surcharge on state tax is assigned
7 in accordance with rules adopted by the director of taxation
8 under chapter 91. The taxpayer shall file a schedule with the
9 taxpayer's periodic and annual general excise tax returns
10 summarizing the amount of taxes assigned to each taxation
11 district.

12 (g) The penalties provided by section 231-39 for failure
13 to file a tax return shall be imposed on the amount of the
14 additional surcharge due on the return being filed for the
15 failure to file the schedule required to accompany the return.
16 In addition, there shall be added to the tax an amount equal to
17 ten per cent of the amount of the additional surcharge and tax
18 due on the return being filed for the failure to file the
19 schedule or the failure to correctly report the assignment of
20 the general excise tax by taxation district on the schedule
21 required under this subsection.



1 (h) All taxpayers who file on a fiscal year basis whose
2 fiscal year ends after December 31 of the year prior to the
3 taxable year in which the taxes become effective, shall file a
4 short period annual return for the period preceding January 1 of
5 the taxable year in which the taxes become effective. Each
6 fiscal year taxpayer shall also file a short period annual
7 return for the period starting on January 1 of the taxable year
8 in which the taxes become effective, and ending before January 1
9 of the following year."

10 SECTION 3. Chapter 238, Hawaii Revised Statutes, is
11 amended by adding a new section to be appropriately designated
12 and to read as follows:

13 "§238- Additional county surcharge on state tax;
14 administration. (a) The additional county surcharge on state
15 tax, upon the adoption of a county ordinance and in accordance
16 with the requirements of section 46- , shall be levied,
17 assessed, and collected as provided in this section on the value
18 of property and services taxable under this chapter. No county
19 shall set the additional surcharge on state tax at a rate
20 greater than one per cent of the value of property taxable under
21 this chapter. All provisions of this chapter shall apply to the
22 additional county surcharge on state tax. With respect to the



1 additional surcharge, the director shall have all the rights and
2 powers provided under this chapter. In addition, the director
3 of taxation shall have the exclusive rights and power to
4 determine the county or counties in which a person imports or
5 purchases tangible personal property and, in the case of a
6 person importing or purchasing tangible property in more than
7 one county, the director shall determine, through apportionment
8 or other means, that portion of the additional surcharge on
9 state tax attributable to the importation or purchase in each
10 county.

11 (b) Each additional county surcharge on state tax that may
12 be adopted shall be levied beginning in the taxable year after
13 the adoption of the relevant county ordinance; provided that no
14 additional surcharge on state tax may be levied prior to
15 January 1, 2011.

16 (c) The additional county surcharge on state tax shall not
17 be established upon any use taxable under this chapter at the
18 one-half per cent tax rate or upon any use that is not subject
19 to taxation or that is exempt from taxation under this chapter.

20 (d) The director of taxation shall revise the use tax
21 forms to provide for the clear and separate designation of the



1 imposition and payment of the additional county surcharge on
2 state tax.

3 (e) The taxpayer shall designate the taxation district to
4 which the additional county surcharge on state tax is assigned
5 in accordance with rules adopted by the director of taxation
6 under chapter 91. The taxpayer shall file a schedule with the
7 taxpayer's periodic and annual use tax returns summarizing the
8 amount of taxes assigned to each taxation district.

9 (f) The penalties provided by section 231-39 for failure
10 to file a tax return shall be imposed on the amount of
11 additional surcharge due on the return being filed for the
12 failure to file the schedule required to accompany the return.
13 In addition, there shall be added to the tax an amount equal to
14 ten per cent of the amount of the additional surcharge and tax
15 due on the return being filed for the failure to file the
16 schedule or the failure to correctly report the assignment of
17 the use tax by taxation district on the schedule required under
18 this subsection.

19 (g) All taxpayers who file on a fiscal year basis whose
20 fiscal year ends after December 31 of the year prior to the
21 taxable year in which the taxes become effective, shall file a
22 short period annual return for the period preceding January 1 of



1 the taxable year in which the taxes become effective. Each
2 fiscal year taxpayer shall also file a short period annual
3 return for the period starting on January 1 of the taxable year
4 in which the taxes become effective, and ending before January 1
5 of the following year."

6 SECTION 4. New statutory material is underscored.

7 SECTION 5. This Act shall take effect upon its approval
8 and shall apply to taxable years beginning after December 31,
9 2010.

10

INTRODUCED BY: Tony White by Request

JAN 16 2008



Report Title:

Additional County Surcharge on State Tax; Rentals

Description:

Provides for an additional county surcharge on state tax of up to 1% for counties with populations that exceed 500,000. The tax replaces the real property tax collected by participating counties. Reduces rental rates in participating counties to offset reduction in the real property taxes paid by landlords.

