
A BILL FOR AN ACT

RELATING TO THE GENERAL EXCISE TAX.

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

1 SECTION 1. Section 237-2, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§237-2 "Business", "engaging" in business, defined.

4 "Business" as used in this chapter, includes all activities
5 (personal, professional, or corporate), engaged in or caused to
6 be engaged in with the object of gain or economic benefit either
7 direct or indirect, but does not include casual sales.

8 The term "engaging" as used in this chapter with reference
9 to engaging or continuing in business also includes [~~the~~]:

- 10 (1) The exercise of corporate or franchise powers[-]; and
11 (2) The sale of tangible personal property or services
12 taxable by a person soliciting business through an
13 independent contractor or other representative if the
14 person enters into an agreement with a resident of
15 this State under which the resident, for a commission
16 or other consideration, directly or indirectly refers
17 potential customers, whether by a link on an internet
18 website or otherwise, to the person, if the cumulative



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1 gross receipts from sales by the person to customers
 2 in the State who are referred to the person by such a
 3 resident, is in excess of \$10,000 during the preceding
 4 four quarterly periods ending on the last day of
 5 February, May, August, and November. This presumption
 6 may be rebutted by proof that the resident with whom
 7 the person has an agreement did not engage in any
 8 solicitation in the State on behalf of the person that
 9 would satisfy the nexus requirement of the United
 10 States Constitution during the four quarterly periods
 11 in question."

12 SECTION 2. Statutory material to be repealed is bracketed
 13 and stricken. New statutory material is underscored.

14 SECTION 3. The department of taxation shall adopt rules
 15 interpreting and providing guidance for section 237-2, Hawaii
 16 Revised Statutes, as amended by this Act.

17 SECTION 4. This Act shall take effect on July 1, 2009.

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INTRODUCED BY: 

JAN 27 2009



Report Title:

General Excise Tax; Definition of Engaging in Business

Description:

Amends the definition of engaging in business under section 237-2, HRS (general excise tax), to include persons who enter into an agreement with residents of the State where the person pays a commission for referral of potential customers.

