
A BILL FOR AN ACT

RELATING TO THE TAXATION OF ONLINE TRAVEL COMPANIES.

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

1 SECTION 1. Chapter 231, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§231- Online transient accommodations facilitators;
5 nexus presumptions. Notwithstanding any law to the contrary, an
6 online transient accommodations facilitator that has its
7 commercial domicile in another state is presumed to be
8 systematically and regularly engaging in business in this state
9 and taxable under chapters 235, 237, and 237D, if, during any
10 year, it receives income from engaging in online transient
11 accommodations facilitation services or activities in this
12 state, and the online transient accommodations facilitator:

- 13 (1) Obtains or solicits business from twenty or more
14 persons within this state; or
15 (2) The sum of the value of its income, gross proceeds of
16 sale, gross rental, or gross rental proceeds, taxable



1 under chapter 235, 237, or 237D, attributable to
2 sources in this state, equals to or exceeds \$100,000."

3 SECTION 2. Section 237D-1, Hawaii Revised Statutes, is
4 amended by adding two new definitions to be appropriately
5 inserted and to read as follows:

6 "Furnish" (including any tense of the term used
7 interchangeably) means any furnishing of transient
8 accommodations, including actual furnishing, supplying,
9 providing, facilitating, and equipping through whatever means
10 useful in the context. To furnish includes facilitating the
11 furnishing or facilitating the actual furnishing of transient
12 accommodations through any means, including electronic means
13 such as the Internet or electronic mail.

14 "Online transient accommodations facilitator" means any
15 managing agent, booking agent, room seller or room reseller, or
16 any other entity, agent, or contractee that sells, resells,
17 reserves, or facilitates the selling or reselling of transient
18 accommodations, or performs the services of a travel agent of
19 any type or character online or through the Internet."

20 SECTION 3. Section 237-18, Hawaii Revised Statutes, is
21 amended by amending subsection (g) to read as follows:



1 "(g) Where transient accommodations are furnished through
2 arrangements made by a travel agency [~~or~~], tour packager, or
3 online transient accommodations facilitator at noncommissioned
4 negotiated contract rates and the gross income is divided
5 between the operator of transient accommodations on the one hand
6 and the travel agency, [~~or~~] tour packager, or online transient
7 accommodations facilitator on the other hand, the tax imposed by
8 this chapter shall apply to each such person with respect to
9 such person's respective portion of the proceeds, and no more.

10 As used in this subsection, the words [~~"transient~~
11 ~~accommodations" and "operator"~~] "transient accommodations,"
12 "operator," and "online transient accommodations facilitator"
13 shall be defined in the same manner as they are defined in
14 section 237D-1."

15 SECTION 4. Section 237D-2, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§237D-2 Imposition and rates.** (a) There is levied and
18 shall be assessed and collected each month a tax of:

19 (1) Five per cent for the period beginning on January 1,
20 1987, to June 30, 1994;

21 (2) Six per cent for the period beginning July 1, 1994, to
2 December 31, 1998; and



1 (3) 7.25 per cent for the period beginning on January 1,
2 1999, and thereafter;
3 on the gross rental or gross rental proceeds derived from
4 furnishing transient accommodations.

5 (b) Every operator shall pay to the State the tax imposed
6 by subsection (a) as provided in this chapter.

7 (c) There is levied and shall be assessed and collected
8 each month on the occupant of a resort time share vacation unit,
9 a transient accommodations tax of 7.25 per cent on the fair
10 market rental value.

11 (d) Every plan manager shall be liable for and shall pay
12 to the State the transient accommodations tax imposed by
13 subsection (c) as provided in this chapter. Every resort time
14 share vacation plan shall be represented by a plan manager who
15 shall be subject to this chapter.

16 (e) There is levied and shall be assessed and collected
17 monthly from any online transient accommodations facilitator a
18 transient accommodations tax of 7.25 per cent of the gross
19 rental or gross rental proceeds derived from furnishing
20 transient accommodations; provided that where transient
21 accommodations are furnished through arrangements made by an
22 online transient accommodations facilitator and the gross rental



1 or gross rental proceeds are divided between the operator of
 2 transient accommodations on the one hand and the online
 3 transient accommodations facilitator on the other hand, the tax
 4 imposed under this section shall only apply with respect to the
 5 online transient accommodations facilitator's respective portion
 6 of the proceeds, and no more.

7 Notwithstanding the requirement that an online transient
 8 accommodations facilitator levy, assess, and remit taxes under
 9 this section monthly, if an online transient accommodations
 10 facilitator is taxable in this state by reason of section
 11 231- , the online transient accommodations facilitator may
 12 petition the director to allow the levy, assessment, and
 13 remitting of taxes on a basis other than monthly, for good
 14 cause.

15 For purposes of this subsection, the term "good cause"
 16 includes any basis necessary to comply with the Constitution of
 17 the United States or the Hawaii Constitution."

18 SECTION 5. Statutory material to be repealed is bracketed
 19 and stricken. New statutory material is underscored.

20 SECTION 6. This Act shall take effect on July 1, 2112, and
 21 shall apply retroactively to taxable years beginning after
 .2 December 31, 2008.



Report Title:

Taxation of Online Travel Companies; TAT; GET

Description:

Assesses the Transient Accommodations Tax and General Excise Tax on online travel companies that facilitate transient accommodations over the Internet. (HB1585 HD1)

