
A BILL FOR AN ACT

RELATING TO TAXATION.

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



1 to the person, and if the cumulative gross receipts
2 from sales by the person to customers in the state who
3 are referred to the person by such a resident, is at
4 least \$10,000 in the twelve-month period ending on the
5 last day of the most recent calendar quarter before
6 the calendar quarter in which the sale is made.

7 The presumption in paragraph (2) may be rebutted by proof that
8 the resident with whom the person has an agreement did not
9 engage in any solicitation in the state on behalf of the person
10 that would satisfy the nexus requirement of the United States
11 Constitution during twelve-month period in question. Nothing in
12 this section shall be construed to narrow the scope of the terms
13 "person," "purchasing agent," or "representative" as defined in
14 section 237-1."

15 SECTION 2. The department of taxation shall adopt rules,
16 in accordance with chapter 91, Hawaii Revised Statutes,
17 implementing and providing guidance to taxpayers concerning
18 section 237-2, Hawaii Revised Statutes, as amended by this Act.

19 SECTION 3. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

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



Report Title:

General Excise Tax; Definition of Engaging in Business

Description:

Amends the definition of engaging in business under general excise tax provisions to include persons who enter into an agreement with residents of the State where the person pays a commission for referral of potential customers. (SB1678 HD1)

