
A BILL FOR AN ACT

RELATING TO PROFESSIONAL EMPLOYMENT ORGANIZATIONS.

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

1 SECTION 1. The legislature finds that Act 225, Session
2 Laws of Hawaii 2007 provides tax equity to professional
3 employment organizations by relieving those organizations from
4 paying general excise taxes for payroll services provided to
5 client companies, that would otherwise duplicate the general
6 excise tax payments made by the client companies. Act 225,
7 however, has also been misinterpreted to give professional
8 employment organizations certain employment preferences not
9 intended by the legislature.

10 The purpose of this Act is to clarify the legislature's
11 intent and narrowly limit the scope of Act 225 to the sole
12 function of providing tax equity to professional employment
13 organizations.

14 SECTION 2. Section 373K-2, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) Where any client company uses the services of
17 assigned employees and co-employs assigned employees with a
18 professional employment organization, the client company and the



1 professional employment organization, with respect to the
2 assigned employees, shall not be exempt from the requirements of
3 any federal, state, or county law, including labor or employment
4 laws, collective bargaining rights, anti-discrimination
5 provisions, or other laws with respect to the protection and
6 rights of employees, including chapters 377 and 378, that would
7 apply to the assigned employees if the assigned employees were
8 employees of the client company alone, and were not co-employees
9 of the professional employment organization.

10 These employee rights shall not be abrogated by any
11 contract or agreement between the client company and the
12 professional employment organization, or the professional
13 employment organization and the assigned employee, which
14 contains terms or conditions that could not be lawfully
15 contained in a contract or agreement directly between the client
16 company and the assigned employee in which no professional
17 employment organization is involved. [~~Notwithstanding any~~
18 ~~statute, local ordinance, executive order, rule, or regulation~~
19 ~~to the contrary, where the laws, rights, and protections~~
20 ~~referred to in this section define or require a determination of~~
21 ~~the "employer",]~~ For the purpose of chapter 237, the employer
22 shall be deemed to be the client company and not the



1 professional employment organization. The department of labor
2 and industrial relations shall notify the department of taxation
3 in writing of any violation of this subsection."

4 SECTION 3. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 4. This Act shall take effect upon its approval.



Report Title:

Professional Employment Organizations; General Excise Tax;
Exemption

Description:

Clarifies that the intent of existing law is solely to exempt professional employment organizations from general excise tax payments on payroll funds. (HB194 HD1)

