
A BILL FOR AN ACT

RELATING TO STATE FUNDS.

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

1 SECTION 1. The purpose of this Act is to temporarily
2 impose a state surcharge on certain business income comprised of
3 state non-general funds.

4 The legislature finds that, during these difficult economic
5 times, the state government is a major, consistent, and reliable
6 source of business for many contractors. Thus, the legislature
7 finds that such contractors should temporarily pay a premium for
8 doing business with the State.

9 However, the legislature finds that the surcharge should
10 not be imposed on business income comprised of state general
11 funds, as this would be illogical and unnecessary. Since the
12 surcharge proceeds are to be deposited into the state general
13 fund, it would be a waste of time and resources to first collect
14 the surcharge and then deposit the proceeds into the same fund
15 from which it came.

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

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1 "§231-A Collection of state surcharge. (a) The director
2 of taxation may enter into a memorandum of agreement with any
3 appropriate state officer for the transmittal of the state
4 surcharge levied under sections 237-A, 239-A, and 431:7-A
5 directly to the director.

6 If the memorandum of agreement covers a particular state
7 contract, the head of the contracting state department or
8 agency, with the permission of the contractor, shall:

9 (1) Retain from the state non-general funds earned by the
10 contractor under the contract an amount equivalent to
11 the state surcharge; and

12 (2) Transmit the retained amount of state surcharge
13 directly to the director of taxation.

14 (b) Unless transmitted directly to the director of
15 taxation pursuant to a memorandum of agreement, the state
16 surcharge shall be paid to the director of taxation by the
17 person who receives the gross income, gross proceeds of sale,
18 gross premiums, gross underwriting profit, or risk premiums upon
19 which the surcharge is levied and assessed. The person shall
20 pay the surcharge at the same time as payment of the general
21 excise, public service company, or insurance premium tax levied



1 upon the same gross income, gross proceeds, gross premiums,
2 gross underwriting profit, or risk premiums.

3 (c) The director of taxation shall have the same powers
4 and duties to collect the state surcharge as applicable to the
5 collection of the state tax, the surcharge to which is added.
6 For this purpose, the "state tax", the surcharge to which is
7 added, shall be deemed to include the surcharge. To the extent
8 applicable, all provisions of law concerning the collection and
9 appeal of the state tax, the surcharge to which is added, and
10 penalties for delinquency or non-payment of that tax shall also
11 apply to the state surcharge.

12 (d) For the purpose of this section, "state non-general
13 funds" means all funds, other than general funds, expended by a
14 state department or agency, including the office of Hawaiian
15 affairs. The term includes state general obligation bond
16 funds."

17 SECTION 3. Chapter 237, Hawaii Revised Statutes, is
18 amended by adding a new section to be appropriately designated
19 and to read as follows:

20 "§237-A State surcharge. (a) For the purpose of this
21 section, "state non-general funds" means all funds, other than
22 general funds, expended by a state department or agency,



1 including the office of Hawaiian affairs. The term includes
2 state general obligation bond funds.

3 (b) There is hereby levied, and shall be assessed and
4 collected annually, a state surcharge against a person of one
5 per cent on the gross income or gross proceeds of sale that is:

6 (1) Comprised of state non-general funds;

7 (2) Received by the person under a contract, expressed or
8 implied, with any state department or agency,
9 including the office of Hawaiian affairs; and

10 (3) Taxed at a rate greater than 0.5 per cent by the State
11 under this chapter.

12 The state surcharge shall be additional to the general excise
13 tax and, if applicable, county surcharge levied under this
14 chapter.

15 (c) If, under the contract with the state department or
16 agency, the gross income or gross proceeds of a person is
17 comprised of both state non-general funds and state general
18 funds, the state surcharge shall be assessed and collected
19 against only the portion comprised of state non-general funds.
20 In this situation, the state department or agency shall submit
21 to the person and department of taxation an apportionment of the
22 state non-general funds under the contract.



1 (d) All proceeds of the state surcharge shall be
2 realizations of the general fund.

3 (e) The amount of the state surcharge levied under this
4 section shall not be included in "gross income" or "gross
5 proceeds of sale" taxable under section 237-13 or any other
6 provision of this chapter."

7 SECTION 4. Chapter 239, Hawaii Revised Statutes, is
8 amended by adding a new section to part I to be appropriately
9 designated and to read as follows:

10 "§239-A State surcharge. (a) For the purpose of this
11 section, "state non-general funds" means all funds, other than
12 general funds, expended by a state department or agency,
13 including the office of Hawaiian affairs. The term includes
14 state general obligation bond funds.

15 (b) There is hereby levied, and shall be assessed and
16 collected annually, a state surcharge against a public utility
17 of one per cent on the gross income that is:

18 (1) Comprised of state non-general funds;

19 (2) Received by the public utility under a contract,
20 expressed or implied, with any state department or
21 agency, including the office of Hawaiian affairs; and



1 (3) Taxed at a rate greater than 0.5 per cent under
2 section 239-5.

3 The state surcharge shall be additional to the tax imposed upon
4 a public utility under this chapter.

5 (c) If, under the contract with the state department or
6 agency, the gross income of a public utility is comprised of
7 both state non-general funds and state general funds, the state
8 surcharge shall be assessed and collected against only the
9 portion comprised of state non-general funds. In this
10 situation, the state department or agency shall submit to the
11 public utility and department of taxation an apportionment of
12 the state non-general funds under the contract.

13 (d) All proceeds of the state surcharge shall be
14 realizations of the general fund of the State.

15 (e) The amount of the state surcharge levied under this
16 section shall not be included in "gross income" taxable under
17 section 239-5 or any other provision of this chapter.

18 (f) This section shall not apply to any carrier that is
19 subject to section 239-6."

20 SECTION 5. Chapter 431, Hawaii Revised Statutes, is
21 amended by adding a new section to article 7, part II, to be
22 appropriately designated and to read as follows:



1 "§431:7-A State surcharge. (a) For the purpose of this
2 section, "state non-general funds" means all funds, other than
3 general funds, expended by a state department or agency,
4 including the office of Hawaiian affairs. The term includes
5 state general obligation bond funds.

6 (b) There is hereby levied, and shall be assessed and
7 collected annually, a state surcharge against an authorized
8 insurer on the gross premiums, gross underwriting premiums, or
9 risk premiums, as applicable, that is:

10 (1) Comprised of state non-general funds;

11 (2) Received by the authorized insurer under a contract,
12 expressed or implied, with any state department or
13 agency, including the office of Hawaiian affairs; and

14 (3) Subject to taxation under section 431:7-202.

15 The rate of the state surcharge shall be twenty-five per cent,
16 rounded to the nearer one-hundredth, of the applicable rate
17 under section 431:7-202.

18 The state surcharge shall be additional to the tax imposed
19 under section 431:7-202 on an authorized insurer's gross
20 premiums, gross underwriting premiums, or risk premiums, as the
21 case may be.



1 (c) If, under the contract with the state department or
2 agency, the gross premiums, gross underwriting profits, or risk
3 premiums of an insurer is comprised of both state non-general
4 funds and state general funds, the state surcharge shall be
5 assessed and collected against only the portion comprised of
6 state non-general funds. In this situation, the state
7 department or agency shall submit to the insurer and department
8 of taxation an apportionment of the state non-general funds
9 under the contract.

10 (d) All proceeds of the state surcharge shall be
11 realizations of the general fund.

12 (e) The amount of the state surcharge levied under this
13 section shall not be included in "gross premiums", "gross
14 underwriting profits", or "risk premiums" taxable under section
15 431:7-202."

16 SECTION 6. Section 103D-1008, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "[+] §103D-1008 [+] Taxpayer preference. For evaluation
19 purposes, the bidder's tax-exempt price shall be increased by
20 the applicable retail rate of general excise tax and ~~the~~, if
21 applicable, the use tax[-], state surcharge, and county
22 surcharge. For competitive sealed bids, the lowest responsive,



1 responsible bidder, taking into consideration the above
2 increase, shall be awarded the contract, but the contract amount
3 of any contract awarded shall be the amount of the price offered
4 and shall not include the amount of the increase."

5 SECTION 7. Section 237-8.6, Hawaii Revised Statutes, is
6 amended by amending subsection (d) to read as follows:

7 "(d) No county surcharge on state tax shall be established
8 on any:

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

11 (2) Gross income or gross proceeds taxable under this
12 chapter at the 0.15 per cent tax rate; [~~e~~]

13 (3) Amount of the state surcharge levied under section
14 237-A; or

15 [~~(3)~~] (4) Transactions, amounts, persons, gross income, or
16 gross proceeds exempt from tax under this chapter."

17 SECTION 8. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 9. This Act shall take effect on July 1, 2010;
20 provided that:

21 (1) This Act shall be repealed on June 30, 2015; and



H.B. NO. 2879

1 (2) Sections 103D-1008 and 237-8.6(d), Hawaii Revised
2 Statutes, amended by sections 6 and 7, respectively,
3 of this Act, shall be reenacted in the form in which
4 they read on the day prior to the effective date of
5 this Act.

6

INTRODUCED BY: *Celina K. By*
JAN 27 2010



Report Title:

State Surcharge On State Non-General Funded Contracts

Description:

Imposes a general excise tax surcharge upon gross income or gross proceeds comprised of state non-general funds. Imposes a public service company tax surcharge upon gross income comprised of state non-general funds. Imposes an insurance premium tax surcharge upon gross premiums, gross underwriting profits, and risk premiums comprised of state non-general funds. Takes effect on 7/1/2010 and sunsets on 6/30/2015.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

