
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. The purpose of this Act is to expand the
2 general excise tax exemption for a common paymaster.

3 SECTION 2. Section 237-24.7, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§237-24.7 Additional amounts not taxable.** In addition to
6 the amounts not taxable under section 237-24, this chapter shall
7 not apply to:

8 (1) Amounts received by the operator of a hotel from the
9 owner of the hotel or from a time share association,
10 and amounts received by the suboperator of a hotel
11 from the owner of the hotel, from a time share
12 association, or from the operator of the hotel, in
13 amounts equal to and which are disbursed by the
14 operator or suboperator for employee wages, salaries,
15 payroll taxes, insurance premiums, and benefits,
16 including retirement, vacation, sick pay, and health
17 benefits. As used in this paragraph:



1 "Employee" means employees directly engaged in
2 the day-to-day operation of the hotel and employed by
3 the operator or suboperator.

4 "Hotel" means an operation as defined in section
5 445-90 or a time share plan as defined in section
6 514E-1.

7 "Operator" means any person who, pursuant to a
8 written contract with the owner of a hotel or time
9 share association, operates or manages the hotel for
10 the owner or time share association.

11 "Owner" means the fee owner or lessee under a
12 recorded lease of a hotel.

13 "Suboperator" means any person who, pursuant to a
14 written contract with the operator, operates or
15 manages the hotel as a subcontractor of the operator.

16 "Time share association" means an "association"
17 as that term is defined in section 514E-1;

18 (2) Amounts received by the operator of a county
19 transportation system operated under an operating
20 contract with a political subdivision, where the
21 political subdivision is the owner of the county
22 transportation system. As used in this paragraph:



1 "County transportation system" means a mass
2 transit system of motorized buses providing regularly
3 scheduled transportation within a county.

4 "Operating contract" or "contract" means a
5 contract to operate and manage a political
6 subdivision's county transportation system, which
7 provides that:

8 (A) The political subdivision shall exercise
9 substantial control over all aspects of the
10 operator's operation;

11 (B) The political subdivision controls the
12 development of transit policy, service
13 planning, routes, and fares; and

14 (C) The operator develops in advance a draft
15 budget in the same format as prescribed for
16 agencies of the political subdivision. The
17 budget must be subject to the same
18 constraints and controls regarding the
19 lawful expenditure of public funds as any
20 public sector agency, and deviations from
21 the budget must be subject to approval by



1 the appropriate political subdivision
2 officials involved in the budgetary process.

3 "Operator" means any person who, pursuant to an
4 operating contract with a political subdivision,
5 operates or manages a county transportation system.

6 "Owner" means a political subdivision that owns
7 or is the lessee of all the properties and facilities
8 of the county transportation system (including buses,
9 real estate, parking garages, fuel pumps, maintenance
10 equipment, office supplies, etc.), and that owns all
11 revenues derived therefrom;

12 (3) Surcharge taxes on rental motor vehicles imposed by
13 chapter 251 and passed on and collected by persons
14 holding certificates of registration under that
15 chapter;

16 (4) Amounts received by the operator of orchard properties
17 from the owner of the orchard property in amounts
18 equal to and which are disbursed by the operator for
19 employee wages, salaries, payroll taxes, insurance
20 premiums, and benefits, including retirement,
21 vacation, sick pay, and health benefits. As used in
22 this paragraph:



1 "Employee" means an employee directly engaged in
2 the day-to-day operations of the orchard properties
3 and employed by the operator.

4 "Operator" means a producer who, pursuant to a
5 written contract with the owner of the orchard
6 property, operates or manages the orchard property for
7 the owner where the property contains an area
8 sufficient to make the undertaking economically
9 feasible.

10 "Orchard property" means any real property that
11 is used to raise trees with a production life cycle of
12 fifteen years or more producing fruits or nuts having
13 a normal period of development from the initial
14 planting to the first commercially saleable harvest of
15 not less than three years.

16 "Owner" means a fee owner or lessee under a
17 recorded lease of orchard property;

18 (5) Taxes on nursing facility income imposed by chapter
19 346E and passed on and collected by operators of
20 nursing facilities;

21 (6) Amounts received under property and casualty insurance
22 policies for damage or loss of inventory used in the



1 conduct of a trade or business located within the
2 State or a portion thereof that is declared a natural
3 disaster area by the governor pursuant to section 209-
4 2;

5 (7) Amounts received as compensation by community
6 organizations, school booster clubs, and nonprofit
7 organizations under a contract with the chief election
8 officer for the provision and compensation of precinct
9 officials and other election-related personnel,
10 services, and activities, pursuant to section 11-5;

11 (8) Interest received by a person domiciled outside the
12 State from a trust company (as defined in section
13 412:8-101) acting as payment agent or trustee on
14 behalf of the issuer or payees of an interest bearing
15 instrument or obligation, if the interest would not
16 have been subject to tax under this chapter if paid
17 directly to the person domiciled outside the State
18 without the use of a paying agent or trustee; provided
19 that if the interest would otherwise be taxable under
20 this chapter if paid directly to the person domiciled
21 outside the State, it shall not be exempt solely



1 because of the use of a Hawaii trust company as a
2 paying agent or trustee;

3 (9) Amounts received by a management company from related
4 entities engaged in the business of selling interstate
5 or foreign common carrier telecommunications services
6 in amounts equal to and which are disbursed by the
7 management company for employee wages, salaries,
8 payroll taxes, insurance premiums, and benefits,
9 including retirement, vacation, sick pay, and health
10 benefits. As used in this paragraph:

11 "Employee" means employees directly engaged in
12 the day-to-day operation of related entities engaged
13 in the business of selling interstate or foreign
14 common carrier telecommunications services and
15 employed by the management company.

16 "Management company" means any person who,
17 pursuant to a written contract with a related entity
18 engaged in the business of selling interstate or
19 foreign common carrier telecommunications services,
20 provides managerial or operational services to that
21 entity.

22 "Related entities" means:



- 1 (A) An affiliated group of corporations within
2 the meaning of section 1504 (with respect to
3 affiliated group defined) of the federal
4 Internal Revenue Code of 1986, as amended;
- 5 (B) A controlled group of corporations within
6 the meaning of section 1563 (with respect to
7 definitions and special rules) of the
8 federal Internal Revenue Code of 1986, as
9 amended;
- 10 (C) Those entities connected through ownership
11 of at least eighty per cent of the total
12 value and at least eighty per cent of the
13 total voting power of each such entity (or
14 combination thereof), including
15 partnerships, associations, trusts, S
16 corporations, nonprofit corporations,
17 limited liability partnerships, or limited
18 liability companies; and
- 19 (D) Any group or combination of the entities
20 described in paragraph (C) constituting a
21 unitary business for income tax purposes;



1 whether or not the entity is located within or without
2 the State or licensed under this chapter; [~~and~~]

3 (10) Amounts received as grants under section 206M-15[~~-~~];
4 and

5 (11) Notwithstanding section 237-23.5, amounts received by
6 one related person from another related person;
7 provided that any amount shall only include the actual
8 amount of payroll, payroll taxes, and employee
9 benefits. For the purposes of this paragraph,
10 "related person" means persons falling within a
11 relationship set forth under Section 267(b) of the
12 federal Internal Revenue Code."

13 SECTION 3. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 4. This Act shall take effect on July 1, 2009;
16 provided that the amendments made to section 237-24.7, Hawaii
17 Revised Statutes, by this Act shall not be repealed when that
18 section is repealed and reenacted on December 31, 2009, by
19 section 2 of Act 239, Session Laws of Hawaii 2007.



Report Title:

Common Paymaster For Related Persons; General Excise Tax
Exemption

Description:

Exempts from the general excise tax, amounts received by a common paymaster to pay employees of two or more related businesses, on behalf of the related businesses, where the applicable relationship is defined under Section 267(b) of the Internal Revenue Code. (HB1600 HD1)

