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SUBJECT: GENERAL EXCISE, Exempt rental income of transitional shelters

BILL NUMBER: SB 2260, SD-2

INTRODUCED BY: Senate Committee on Ways and Means

BRIEF SUMMARY: Adds a new section to HRS chapter 237 to exempt from the general excise tax the gross proceeds arising from the leasing of real property received by an owner or lessor from: (1) nonprofit organizations registered under section 501(C) of the Internal Revenue Code; (2) state, county, or federal agencies; or (3) provider agencies contracted by the department of human services pursuant to HRS section 346-365 provided that the real property is used to provide transitional shelter for homeless persons and there is a signed lease or rental agreement on the real property to which the nonprofit organization, government agency, or contracted agency intending to claim the exemption is a party. Defines "transitional shelter for homeless persons" as real property that is used to provide up to 24 months of temporary shelter to homeless families or individuals. Also defines "homeless" and "real property" for purposes of the measure.

This act shall be applicable to gross income received after June 30, 2012.

EFFECTIVE DATE: July 1, 2050

STAFF COMMENTS: This measure proposes to exempt from the general excise tax the gross proceeds received for providing transitional shelter for homeless persons provided that such amounts are derived from: (1) nonprofit organizations registered under section 501(C) of the Internal Revenue Code; (2) state, county, or federal agencies; or (3) provider agencies contracted by the department of human services.

As proposed, it would grant a special preference to a select group of taxpayers at the expense of others who are not eligible for the exemption. The general excise tax is a tax that permits someone to operate a business in the state. Thus, businesses providing similar, if not identical, services should be treated equally as the tax is on the business and not on the customer. In this case, this proposal would grant an exemption from the tax on income that is received from the provision of transitional housing. This would discriminate against lessors who do not.

It should be remembered that businesses that qualify for the tax preferences proposed in this measure would utilize services funded by current taxpayers while being tax-exempt. The question that should be asked is why businesses other than those granted the limited exemption proposed by this measure should foot the bill to run state government. Thus, the limited tax preference granted under this measure would merely shift the burden of paying for public services to those not so favored.

If the intent of this measure is to make more rental housing available for the homeless or for that matter to encourage landlords to lease to the homeless or organizations who provide such housing, then it will

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take more than an exemption from the 4% general excise tax - that is unless the housing is not safe and decent. If lawmakers truly want to provide transitional housing for the homeless, then it must look in its own back yard of public housing to create vacancies in public housing by enabling those who are currently in public housing to move out and create vacancies for those who are homeless. Currently there is no incentive for those in public housing to move into the regular market and in many cases those in public housing are not capable of doing so.

To merely provide an exemption from the general excise to landlords in the private sector will not counter balance the risk those owners potentially face in the form of damages or loss of their investment.

Digested 3/19/12