
A BILL FOR AN ACT

RELATING TO TRANSIENT ACCOMMODATIONS TAX.

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

1 SECTION 1. The purpose of this Act is to clarify that
2 mandatory resort fees imposed by hotels or other transient
3 accommodations are subject to the transient accommodations tax.

4 The transient accommodations tax is imposed on gross rental
5 proceeds derived from furnishing transient accommodations.
6 "Gross rental" or "gross rental proceeds" is defined as the
7 gross receipts, cash or accrued, of the taxpayer received as
8 compensation for the furnishing of transient accommodations and
9 the value proceeding or accruing from the furnishing of such
10 accommodations without any deductions.

11 Under this definition, the transient accommodations tax is
12 imposed on any receipt received in exchange for furnishing a
13 transient accommodation, however construed or described. The
14 definition of gross rental and gross rental proceeds is written
15 so that the transient accommodations tax casts a wide and tight
16 net over any transaction where gross rental income is received
17 in exchange for the furnishing of a transient accommodation
18 located within the State.



1 To the extent mandatory resort fees, or any other type of
2 mandatory surcharge, are paid by a person in exchange for being
3 furnished a transient accommodation, those resort fees
4 constitute gross rental proceeds and are subject to the
5 transient accommodations tax. Specifically, the intent of this
6 Act is to clarify that any mandatory fee charged by the operator
7 of the transient accommodation to a guest for property or
8 service the guest consumes during the guest's stay at the
9 transient accommodation is gross rental or gross rental income
10 subject to transient accommodations tax, regardless of whether
11 the fee is negotiated in a separate transaction, is stated as a
12 separate line item on the guest's bill, or is stated in a
13 different bill entirely.

14 SECTION 2. Section 237D-1, Hawaii Revised Statutes, is
15 amended as follows:

16 1. By adding a new definition to be appropriately inserted
17 and to read:

18 "Resort fee" means any mandatory charge or surcharge
19 imposed by a transient accommodations operator, owner, plan
20 manager, or representative thereof to a transient or occupant
21 for the use of the transient accommodation's property, services,
22 or amenities."



1 2. By amending the definition of "gross rental" or "gross
2 rental proceeds" to read:

3 ""Gross rental" or "gross rental proceeds" means the gross
4 receipts, cash or accrued, of the taxpayer received as
5 compensation for the furnishing of transient accommodations and
6 the value proceeding or accruing from the furnishing of such
7 accommodations without any deductions on account of the cost of
8 property or services sold, the cost of materials used, labor
9 cost, taxes, royalties, interest, discounts, or any other
10 expenses whatsoever. In addition:

11 (1) Every taxpayer shall be presumed to be dealing on a
12 cash basis unless the taxpayer proves to the
13 satisfaction of the department of taxation that the
14 taxpayer is dealing on an accrual basis and the
15 taxpayer's books are so kept, or unless the taxpayer
16 employs or is required to employ the accrual basis for
17 the purposes of the tax imposed by chapter 237 for any
18 taxable year in which event the taxpayer shall report
19 the taxpayer's gross income for the purposes of this
20 chapter on the accrual basis for the same period.

21 (2) The words "gross rental" or "gross rental proceeds"
22 include mandatory resort fees or any other type of



1 mandatory surcharge charged to a guest for the
2 furnishing of a transient accommodation.

3 (3) The words "gross rental" or "gross rental proceeds"
4 shall not be construed to include the amounts of taxes
5 imposed by chapter 237 or this chapter on operators of
6 transient accommodations and passed on, collected, and
7 received from the consumer as part of the receipts
8 received as compensation for the furnishing of
9 transient accommodations.

10 (4) Where transient accommodations are furnished through
11 arrangements made by a travel agency or tour packager
12 at noncommissionable negotiated contract rates and the
13 gross income is divided between the operator of
14 transient accommodations on the one hand and the
15 travel agency or tour packager on the other hand,
16 gross rental or gross rental proceeds to the operator
17 means only the respective portion allocated or
18 distributed to the operator, and no more.

19 (5) For purposes of this definition, where the operator
20 maintains a schedule of rates for identifiable groups
21 of individuals, such as kamaainas, upon which the
22 accommodations are leased, let, or rented, gross



1 rental or gross rental proceeds means the receipts
2 collected and received based upon the scheduled rates
3 and recorded as receipts in its books and records."

4 SECTION 3. New statutory material is underscored.

5 SECTION 4. This Act shall take effect on July 1, 2050.

6



Report Title:

Transient Accommodations Tax

Description:

Clarifies that mandatory resort fees or mandatory surcharges imposed by a transient accommodations operator, owner, plan manager, or representative are subject to the transient accommodations tax. Effective July 1, 2050. (SD1)

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