

JAN 17 2013

A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. The legislature finds that it is ambiguous
2 whether or not existing law imposes a conveyance tax on the
3 transfer or conveyance of realty in instances where an entity or
4 individual sales, transfers, or exchanges stock of an entity
5 that holds title to realty, or any interest therein, that is
6 located in Hawaii to an unrelated entity or individual.

7 The purpose of this Act is to clarify that the selling,
8 transfer, or exchange of a legal entity's stock, whose assets
9 include realty located in Hawaii, shall be deemed to be a
10 transfer or conveyance of realty that is subject to the
11 conveyance tax when the sale, transfer, or exchange of the stock
12 is executed with an unrelated entity or individual.

13 SECTION 2. Section 247-1, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§247-1 Imposition of tax.** (a) There is hereby imposed
16 and shall be levied, collected, and paid, a tax as hereinafter
17 provided, on all transfers or conveyances of realty or any
18 interest therein, by way of deeds, leases, subleases,



1 assignments of lease, agreements of sale, stock transfers under
2 subsection (b), assignments of agreement of sale, instruments,
3 writings, and any other document, whereby any lands, interests
4 in land, tenements, or other realty sold shall be granted,
5 assigned, transferred, or otherwise conveyed to, or vested in,
6 the purchaser or purchasers, lessee or lessees, sublessee or
7 sublessees, assignee or assignees, or any other person or
8 persons, by the person's or their direction.

9 (b) For purposes of subsection (a), the sale or transfer
10 of stock by a legal entity or individual that owns or leases
11 realty in the State or has a controlling interest in the realty
12 to an unrelated entity or individual, to the extent that the
13 sale or transfer of stock reflects changes in ownership or
14 control of the realty, shall be deemed a transfer or conveyance
15 of an interest in the realty for purposes of subsection (a) and
16 taxed accordingly. If the value of the realty transferred or
17 conveyed cannot be determined from the value of the stock
18 transferred, then the conveyance tax shall be based upon the
19 most recent assessed appraised value of the realty or the amount
20 of consideration paid for the stock transfer, whichever is
21 greater.

22 (c) For purposes of this section:



1 "Controlling interest" means:
2 (1) In the case of a corporation, either fifty per cent or
3 more of the total combined voting power of all classes
4 of stock of the corporation entitled to vote, or fifty
5 per cent or more of the capital, profits, or
6 beneficial interest in the voting stock of the
7 corporation; and
8 (2) In the case of a partnership, association, trust, or
9 other entity, fifty per cent or more of the capital,
10 profits, or beneficial interest in the partnership,
11 association, trust, or other entity.

12 "Unrelated entity or individual" means an entity or
13 individual that does not have a controlling interest in the
14 transferring entity prior to the sale, transfer, or exchange of
15 stock, or series of sales, transfers, or exchanges of stock
16 within a twelve-month period."

17 SECTION 3. New statutory material is underscored.

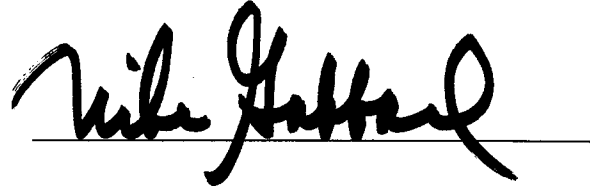


S.B. NO. 22

1 SECTION 4. This Act, upon its approval, shall apply
2 retroactively to applicable sales or transfers of stock
3 occurring on or after June 1, 2012.

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INTRODUCED BY:



S.B. NO. 22

Report Title:

Conveyance Tax; Sale of Stock

Description:

Clarifies that the sale, transfer, or exchange of a legal entity's stock, whose assets include realty located in Hawaii, shall be deemed to be a transfer or conveyance of realty that is subject to the conveyance tax when the sale, transfer, or exchange of stock is executed with an unrelated entity or individual.

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