

# S.B. NO. 1137

JAN 28 2015

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## A BILL FOR AN ACT

RELATING TO LIABILITY FOR AMOUNTS PASSED ON AS TAX.

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

1           SECTION 1. Chapter 231, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "§231-       Liability for certain amounts. For all taxes set  
5 forth in title 14, where the amount is passed on as the tax owed  
6 by the taxpayer for the transaction and is separately stated or  
7 accounted for in a receipt, contract, invoice, billing, or other  
8 evidence of the business activity, a taxpayer is conclusively  
9 presumed to be liable for any amounts collected as a recovery of  
10 that taxpayer's liability; provided that the liability shall be  
11 reduced by any amount collected as a recovery of the taxpayer's  
12 liability that the taxpayer sufficiently proves to the  
13 department has been returned to the source from which it was  
14 collected. In addition to these tax amounts, the taxpayer shall  
15 also be liable for any applicable penalties and interest that  
16 may be assessed as provided in section 231-39."

17           SECTION 2. New statutory material is underscored.

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1 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY:



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BY REQUEST

S.B. NO. 1131

**Report Title:**

Taxes; Liability for Taxes Passed On

**Description:**

Creates conclusive presumption that taxpayer is liable for any amounts passed on to consumers as payment for any title 14, Hawaii Revised Statutes, tax.

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

## JUSTIFICATION SHEET

DEPARTMENT: Taxation

TITLE: A BILL FOR AN ACT RELATING TO LIABILITY FOR AMOUNTS PASSED ON AS TAX.

PURPOSE: Creates a conclusive presumption that a taxpayer is liable for any amounts separately passed on as any title 14, Hawaii Revised Statutes, tax.

MEANS: Add a new section to chapter 231, Hawaii Revised Statutes.

JUSTIFICATION: The Department has found that taxpayers often visibly pass on title 14 taxes such as general excise tax or transient accommodations tax and do not remit these amounts to the Department.

Impact on the public: The public will benefit from this new provision because there will be greater certainty that any amount paid as tax will be remitted to the State and not retained by the taxpayer.

Impact on the department and other agencies: The Department will have an easier time with assessment and collection in cases where any title 14 tax is passed on.

GENERAL FUND: Pending.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: None.

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: Upon approval.