

SB864

Measure Title: RELATING TO TAXATION.
Report Title: GET; Exemptions
Description: Exempts a portion of a rent received from a tenant who is a teacher from the general excise tax.
Companion:
Package: None
Current Referral: CPN/EDU, WAM
Introducer(s): KIDANI

<u>Sort by Date</u>		Status Text
1/23/2015	S	Introduced.
1/26/2015	S	Passed First Reading.
1/28/2015	S	Referred to CPN/EDU, WAM.
2/2/2015	S	The committee(s) on CPN/EDU has scheduled a public hearing on 02-06-15 9:15AM in conference room 229.

DAVID Y. IGE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR



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MARIA E. ZIELINSKI
DIRECTOR OF TAXATION

To: The Honorable Rosalyn H. Baker, Chair
and Members of the Senate Committee on Commerce and Consumer Protection

The Honorable Michelle N. Kidani, Chair
And Members of the Senate Committee on Education

Date: Friday, February 6, 2015
Time: 9:15 A.M.
Place: Conference Room 229, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: S.B. 864, Relating to Taxation

The Department of Taxation (Department) appreciates the intent of S.B. 864 and provides the following comments for your consideration.

S.B. 864 creates a general excise tax (GET) exemption for rent received from a teacher. The exemption is capped at \$1,000 in rent per dwelling unit per month. The bill defines rent by reference to the income tax credit for low-income household renters under section 235-55.7, Hawaii Revised Statutes (HRS). The bill defines teacher by reference to section 302A-501, HRS.

The Department suggests that the definitions of the exemption be tightened. The exemption currently uses the definition of rent from the low-income household renters credit under section 235-55.7, HRS. However, that credit is an individual tax credit limited by an adjusted gross income ceiling and a cap of \$50 per qualified exemption, whereas the exemption proposed in S.B. 864 is available to all rental businesses and is only limited by a \$1,000 per dwelling unit cap per month. Because the proposed exemption is much broader than the low-income household renters credit, the Department recommends that "rent" be defined independently and tied specifically to this exemption.

The Department also has concerns about potential abuse of the exemption, due to the availability of the sublease deduction under section 237-16.5, HRS. The exemption as written

does not require that the teacher-tenant, who pays the rent, actually occupy the dwelling place the rent is paid for. The definition of rent in section 235-55.7 similarly does not connect the teacher to the occupancy of the unit. That definition merely states that the dwelling must be occupied by a resident taxpayer or family member, not the resident taxpayer who actually paid the rent or their family member.

The above concern would be largely academic if not for the sublease deduction. The deduction allows a lessee (sublessor) who subleases real property to deduct the gross receipts received under the sublease (from the sublessee). S.B. 864, as drafted, would exempt rent received from a teacher-tenant while the teacher-tenant would still qualify for the sublease deduction if that teacher sublet the dwelling place.

Thank you for the opportunity to provide comments.

TAXBILLSERVICE

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SUBJECT: GENERAL EXCISE, Exempt rent paid by a teacher

BILL NUMBER: SB 864

INTRODUCED BY: Kidani

BRIEF SUMMARY: Adds a new section to HRS chapter 237 to exempt the gross proceeds arising from the payment of rent by a tenant who is a teacher. Limits the exemption to the first \$1,000 of rent received for the occupancy of a dwelling place per month.

“Teacher” shall be as defined in HRS section 302A-501.

EFFECTIVE DATE: July 1, 2015; applicable to tax years beginning after December 31, 2015

STAFF COMMENTS: This measure would allow landlords who have a tenant who is a public school teacher as a renter, to exempt \$1,000 of rent received by the teacher from the general excise tax. So under the current general excise tax rate on Oahu, the exemption would be approximately \$45. It is questionable whether the landlord would then pass this savings on to the tenant by reducing the rent by the same amount. If this measure is adopted, it may create a precedent for other similar exemptions from the general excise tax.

Digested 2/5/15