

JAN 20 2017

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# A BILL FOR AN ACT

RELATING TO TAXATION.

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

1           SECTION 1. Section 237-2, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "§237-2 "Business", "engaging" in business, defined.

4 "Business" as used in this chapter, includes all activities  
5 (personal, professional, or corporate), engaged in or caused to  
6 be engaged in with the object of gain or economic benefit either  
7 direct or indirect, [~~but does not include casual sales.~~] without  
8 regard to having a physical presence, including the presence of  
9 a representative acting on behalf of the person in this State,  
10 except that "business" does not include:

11           (1) Casual sales;

12           (2) Having a worldwide website as a third-party content  
13 provider on a computer physically located in this  
14 State, but owned by another nonaffiliated person;

15           (3) Using a nonaffiliated third-party call center to  
16 accept and process telephone or electronic orders of  
17 tangible personal property or licenses primarily from



non-Hawaii buyers, which orders are forwarded to a location outside this State for filling or to provide services primarily to non-Hawaii customers; and

(4) The activities of a person without a physical presence in this State, if the person and the person's affiliates have less than \$100,000 of gross receipts in the State, based on receipts during the prior calendar year. As used in this paragraph, "affiliate" means a business entity that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with another business entity.

The term "engaging" as used in this chapter with reference to engaging or continuing in business also includes the exercise of corporate or franchise powers."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 2017.

INTRODUCED BY:

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# S.B. NO. 620

**Report Title:**

General Excise Tax; Businesses Without Physical Presence in the State

**Description:**

Amends the definition of "business" in the State's general excise tax law.

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