
A BILL FOR AN ACT

RELATING TO THE TRANSIENT ACCOMMODATIONS TAX.

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

1 SECTION 1. Chapter 46, Hawaii Revised Statutes, is amended
2 by adding a new section to be appropriately designated and to
3 read as follows:

4 "§46- County surcharge on transient accommodations tax.

5 (a) Upon establishment of a registration process to verify
6 compliance by a transient accommodation operator or plan manager
7 with each applicable county land use ordinance, each county may
8 establish a surcharge on transient accommodations tax at the
9 rate enumerated in section 237D- . A county electing to
10 establish this surcharge shall do so by ordinance; provided
11 that:

12 (1) No ordinance shall be adopted until the county has
13 conducted a public hearing on the proposed ordinance;

14 (2) The ordinance shall be adopted prior to December 31,
15 2019; and

16 (3) No county surcharge on transient accommodations tax
17 that may be authorized under this subsection shall be



1 levied prior to January 1, 2021, or after December 31,
2 2036.

3 Notice of the public hearing required under paragraph (1) shall
4 be published in a newspaper of general circulation within the
5 county at least twice within a period of thirty days immediately
6 preceding the date of the hearing.

7 (b) A county electing to exercise the authority granted
8 under this section shall notify the director of taxation within
9 ten days after the county has adopted a surcharge on transient
10 accommodations tax ordinance and, beginning no earlier than
11 January 1, 2021, the director of taxation shall levy, assess,
12 collect, and otherwise administer the county surcharge on
13 transient accommodations tax.

14 (c) This surcharge on transient accommodations tax shall
15 not affect the amounts remitted to a county under section
16 237D-6.5."

17 SECTION 2. Chapter 237D, Hawaii Revised Statutes, is
18 amended by adding a new section to be appropriately designated
19 and to read as follows:

20 "§237D- County surcharge on transient accommodations
21 tax; administration. (a) The county surcharge on transient



1 accommodations tax, upon the adoption of county ordinances and
2 in accordance with the requirements of section 46- , shall be
3 levied, assessed, and collected as provided in this section on
4 all gross rental, gross rental proceeds, and fair market rental
5 value taxable under this chapter. No county shall set the
6 surcharge on state tax at a rate greater than per cent of
7 all gross rental, gross rental proceeds, and fair market rental
8 value taxable under this chapter. All provisions of this
9 chapter shall apply to the county surcharge on transient
10 accommodations tax. With respect to the surcharge, the director
11 of taxation shall have all the rights and powers provided under
12 this chapter. In addition, the director of taxation shall have
13 the exclusive rights and power to determine the county or
14 counties in which a person is engaged in the business of
15 furnishing transient accommodations and, in the case of a person
16 engaged in the business of furnishing transient accommodations
17 in more than one county, the taxpayer shall determine, through
18 apportionment or other means, that portion of the surcharge on
19 transient accommodations tax attributable to business conducted
20 in each county.



1 (b) Each county surcharge on transient accommodations tax
2 that may be adopted pursuant to section 46- shall be levied
3 beginning in the taxable year after the adoption of the relevant
4 county ordinance; provided that no surcharge on transient
5 accommodations tax may be levied prior to January 1, 2021.

6 (c) The county surcharge on transient accommodations tax,
7 if adopted, shall be imposed on the gross rental, gross rental
8 proceeds, and fair market rental value of all written contracts
9 that require the passing on of the taxes imposed under this
10 chapter; provided that if the gross rental, gross rental
11 proceeds, and fair market rental value are received as payments
12 beginning in the taxable year in which the taxes become
13 effective, on contracts that were entered into before June 30 of
14 the year prior to the taxable year in which the taxes become
15 effective and that do not provide for the passing on of
16 increased rates of taxes, the county surcharge on transient
17 accommodations tax shall not be imposed on the gross rental,
18 gross rental proceeds, and fair market rental value covered
19 under those written contracts. The county surcharge on
20 transient accommodations tax shall be imposed on the gross
21 rental, gross rental proceeds, and fair market rental value from



1 all contracts entered into on or after June 30 of the year prior
2 to the taxable year in which the taxes become effective,
3 regardless of whether the contract allows for the passing on of
4 any tax or any tax increases.

5 (d) No county surcharge on transient accommodations tax
6 shall be established on any form of accommodation exempt from
7 the taxes imposed by this chapter pursuant to section 237D-3.

8 (e) The director of taxation shall revise the transient
9 accommodations tax forms to provide for the clear and separate
10 designation of the imposition and payment of the county
11 surcharge on transient accommodations tax.

12 (f) The taxpayer shall designate the taxation district to
13 which the county surcharge on transient accommodations tax is
14 assigned as the taxation district in which the transient
15 accommodation or resort time share vacation unit is located.

16 The taxpayer shall file a schedule with the taxpayer's periodic
17 and annual transient accommodations tax returns summarizing the
18 amount of taxes assigned to each taxation district.

19 (g) The penalties provided by section 231-39 for failure
20 to file a tax return shall be imposed on the amount of surcharge
21 due on the return being filed for the failure to file the



1 schedule required to accompany the return. In addition, there
 2 shall be added to the tax an amount equal to ten per cent of the
 3 amount of the surcharge and tax due on the return being filed
 4 for the failure to file the schedule or the failure to correctly
 5 report the assignment of the transient accommodations tax by
 6 taxation district on the schedule required under subsection (f).

7 (h) All taxpayers who file on a fiscal year basis whose
 8 fiscal year ends after December 31 of the year prior to the
 9 taxable year in which the taxes become effective shall file a
 10 short period annual return for the period preceding January 1 of
 11 the taxable year in which the taxes become effective. Each
 12 fiscal year taxpayer shall also file a short period annual
 13 return for the period starting on January 1 of the taxable year
 14 in which the taxes become effective and ending before January 1
 15 of the following year."

16 SECTION 3. New statutory material is underscored.

17 SECTION 4. This Act shall take effect upon its approval;
 18 provided that:

19 (1) If none of the counties adopt an ordinance to levy a
 20 county surcharge on transient accommodations tax prior



1 to December 31, 2019, this Act shall be repealed on
2 December 31, 2019;

3 (2) If any county does not adopt an ordinance to levy a
4 county surcharge on transient accommodations tax prior
5 to December 31, 2019, it shall be prohibited from
6 adopting an ordinance pursuant to this Act, unless
7 otherwise authorized by the legislature through a
8 separate legislative act; and

9 (3) If an ordinance to levy a county surcharge on
10 transient accommodations tax is adopted prior to
11 December 31, 2019:

12 (A) The ordinance shall be repealed on December 31,
13 2036; and

14 (B) This Act shall be repealed on December 31, 2036.



Report Title:

Transient Accommodations Tax; County Surcharge

Description:

Authorizes counties to levy a county surcharge on transient accommodations tax in their respective counties pursuant to certain conditions. Repeals 12/31/2036. (SD1)

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