
A BILL FOR AN ACT

RELATING TO STATE TAX ADMINISTRATION.

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

1 SECTION 1. Section 231-10.8, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~[+]§231-10.8[+]~~ **Tax clearance fees.** The department may
4 charge a fee of \$20 for each tax clearance application submitted
5 ~~[and \$5 for each certified copy of a tax clearance]."~~

6 SECTION 2. Section 237-30.5, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "~~[+]§237-30.5[+]~~ **Collection of rental by third party;**
9 **filing with department; statement required.** (a) Every person
10 authorized under an agreement by the owner of real property
11 located within this State to collect rent on behalf of such
12 owner shall be subject to this section.

13 (b) Every written rental collection agreement shall have
14 on the first page of the agreement the name, address, social
15 security number, and, if available, the general excise tax
16 number of the owner of the real property being rented, the
17 address of the property being rented, and the following

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1 statement which shall be set forth in bold print and in ten-
2 point type size:

3 "HAWAII GENERAL EXCISE TAXES MUST BE PAID ON THE GROSS RENTS
4 COLLECTED BY ANY PERSON RENTING REAL PROPERTY IN THE STATE OF
5 HAWAII. A COPY OF THE FIRST PAGE OF THIS AGREEMENT, OR OF
6 FEDERAL INTERNAL REVENUE FORM 1099 STATING THE AMOUNT OF RENTS
7 COLLECTED, SHALL BE FILED WITH THE HAWAII DEPARTMENT OF
8 TAXATION."

9 Every person entering an oral rental collection agreement
10 shall furnish the department of taxation the information
11 required under this subsection and shall give the owner of the
12 property a copy of the notice required by this subsection.

13 (c) Every person authorized to collect rent for another
14 person shall file a copy of the first page of the rental
15 collection agreement with the department of taxation within
16 thirty days after entering into the agreement, or shall file a
17 copy of federal Internal Revenue form 1099, the property owner's
18 social security number, and, if available, the general excise
19 tax license number of the owner of the property being rented
20 with the department of taxation at the same time as such forms
21 must be filed with the Internal Revenue Service.

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1 (d) Every person authorized under an agreement by the
2 owner of real property located within this State to collect rent
3 on behalf of such owner within ninety days after the effective
4 date of this section shall furnish the department of taxation
5 with the information required in subsection (b) and in the case
6 of federal form 1099 such form for the taxable year 1983. The
7 person also shall notify the owner that such information is
8 being furnished and give the owner a copy of the notice required
9 by subsection (b).

10 (e) Failure to comply with any provision of this section
11 shall be unlawful. The department of taxation may issue a
12 citation to any person who fails to comply with any provision of
13 this section. A citation issued pursuant to this subsection
14 shall include a monetary fine of not more than \$500 per
15 violation. Any fine assessed under this subsection shall be due
16 and payable thirty days after issuance, subject to appeal rights
17 provided under this subsection. Citations may be appealed to
18 the director or the director's designee, and the determination
19 of the director may be appealed to the circuit court pursuant to
20 chapter 91."

21 SECTION 3. Section 237-49, Hawaii Revised Statutes, is
22 amended to read as follows:

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1 "**§237-49 Unfair competition; penalty.** No taxpayer shall
2 advertise or hold out to the public in any manner, directly or
3 indirectly, that the tax hereby imposed upon the taxpayer is not
4 considered as an element in the price to the purchaser. Any
5 person violating this section shall be fined not more than [~~\$50~~
6 \$1,000 for each offense."

7 SECTION 4. Section 237D-8.5, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "~~§~~**§237D-8.5** [~~}]~~ **Collection of rental by third party;**
10 **filing with department; statement required.** (a) Every person
11 authorized under an agreement by the owner of transient
12 accommodations located within this State to collect rent on
13 behalf of such owner shall be subject to this section.

14 (b) Every written rental collection agreement shall have
15 on the first page of the agreement the name, address, social
16 security or federal identification number, and, if available,
17 the general excise tax license and transient accommodations tax
18 registration numbers of the owner of the transient
19 accommodations being rented, the address of the property being
20 rented, and the following statement which shall be set forth in
21 bold print and in ten-point type size:

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1 "HAWAII TRANSIENT ACCOMMODATIONS TAXES MUST BE PAID ON THE GROSS
2 RENTS COLLECTED BY ANY PERSON RENTING TRANSIENT ACCOMMODATIONS
3 IN THE STATE OF HAWAII. A COPY OF THE FIRST PAGE OF THIS
4 AGREEMENT, OR OF FEDERAL INTERNAL REVENUE FORM 1099 STATING THE
5 AMOUNT OF RENTS COLLECTED, SHALL BE FILED WITH THE HAWAII
6 DEPARTMENT OF TAXATION."

7 Every person entering an oral rental collection agreement
8 shall furnish the department of taxation the information
9 required under this subsection and shall give the owner of the
10 property a copy of the notice required by this subsection. The
11 statement required by this subsection may be combined with the
12 statement required under section 237-30.5 by adding in bold
13 print and in ten-point type size to the front of the statement
14 in section 237-30.5 the following:

15 "HAWAII TRANSIENT ACCOMMODATIONS TAXES AND".

16 (c) Every person authorized to collect rent for another
17 person shall file a copy of the first page of the rental
18 collection agreement with the department of taxation within
19 ninety days after June 9, 1988, or within thirty days after
20 entering into the agreement, or shall file a copy of federal
21 Internal Revenue form 1099, the property owner's social security
22 or federal identification number, and, if available, the general

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1 excise tax license and transient accommodations tax registration
2 numbers of the owner of such property being rented with the
3 department of taxation at the same time as such forms must be
4 filed with the Internal Revenue Service for the applicable tax
5 year. The person also shall notify the owner that such
6 information is being furnished and give the owner a copy of the
7 notice required by subsection (b).

8 (d) If a person complies with the provisions of this
9 section, the person shall be deemed to have complied with
10 section 237-30.5.

11 (e) Failure to comply with any provision of this section
12 shall be unlawful. The department of taxation may issue a
13 citation to any person who fails to comply with any provision of
14 this section. A citation issued pursuant to this subsection
15 shall include a monetary fine of not more than \$500 per
16 violation. Any fine assessed under this subsection shall be due
17 and payable thirty days after issuance, subject to appeal rights
18 provided under this subsection. Citations may be appealed to
19 the director or the director's designee, and the determination
20 of the director may be appealed to the circuit court pursuant to
21 chapter 91."

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1 SECTION 5. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 6. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 7. This Act, upon its approval, shall take effect
7 on January 1, 2025.

8

9

INTRODUCED BY: _____



10

BY REQUEST

JAN 2 '2 2024

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Report Title:

Fees; Tax Clearances; Collection of Rental Payments by Third Party; Unfair Competition Penalty; General Excise Tax; Transient Accommodations Tax

Description:

Eliminates an obsolete fee for a certified copy of a tax clearance. Adds a penalty for failure to comply with reporting requirements under general excise tax law and transient accommodations tax law for collection of rent by a third party. Raises the unfair competition penalty under general excise tax law to adjust for inflation.

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 STATE TAX ADMINISTRATION.

PURPOSE: To aid in the efficient administration of taxes by updating certain fee and penalty provisions in title 14, Hawaii Revised Statutes (HRS).

MEANS: Amend sections 231-10.8, 237-30.5, 237-49, and 237D-8.5, HRS.

JUSTIFICATION: The amendment to section 231-10.8, HRS, that repeals the fee charged for copies of certified tax clearances is needed because the Department no longer offers certified copies of tax clearances.

The amendments to sections 237-30.5 and 237D-8.5, HRS, promote tax compliance by adding penalties for failure to comply with the provisions requiring third-party collectors of rent to file certain statements with the Department of Taxation.

The amendment to section 237-49, HRS, updates the penalty for unfair competition to present day by adjusting for inflation since its creation and provides needed clarification of the enforcement mechanism. The penalty was originally set as a fine of \$50 in 1935 and has not been increased since.

Impact on the public: There will be minimal impact on the general public. Persons authorized to collect rent on behalf of an owner will be subject to a fine for failing to comply with filing requirements. Persons who falsely advertise that general excise tax is not considered as an element of the price will be subject to an increased penalty.

Impact on the department and other agencies:

The imposition of fines against persons who collect rent on behalf of an owner and who fail to file the required statements will assist the Department in tax compliance. The updated fees for tax clearances and the updated penalty for unfair competition, will assist the Department in the administration of taxes.

GENERAL FUND: No material impact expected.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: None.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: January 1, 2025.