
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. The purpose of this Act is to create a county
2 surcharge on transient accommodations tax and to repeal the
3 distribution of transient accommodations tax revenues to the
4 counties.

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

8 "§46- County surcharge on transient accommodations tax.

9 (a) Each county may establish a surcharge on transient
10 accommodations tax in addition to the rates enumerated in
11 section 237D-2. A county electing to establish this surcharge
12 shall do so by ordinance after January 1, 2010; provided that:

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

15 (2) No county surcharge on transient accommodations tax
16 that may be authorized under this section shall be
17 levied prior to January 1, 2010; and

18 (3) The surcharge shall be no greater than five per cent.

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

5 (b) A county electing to exercise the authority granted
6 under this section shall notify the director of taxation within
7 ten days after the county has adopted the ordinance establishing
8 a surcharge on transient accommodations tax and, beginning no
9 earlier than one hundred eighty days after the adoption of an
10 ordinance establishing the surcharge authorized under this
11 section, the director of taxation shall levy, assess, collect,
12 and otherwise administer the county surcharge on transient
13 accommodations tax."

14 SECTION 3. Chapter 237D, Hawaii Revised Statutes, is
15 amended by adding a new section to be appropriately designated
16 and to read as follows:

17 **"§237D- County surcharge on transient accommodations**
18 **tax; administration.** (a) The county surcharge on transient
19 accommodations tax, upon the adoption of a county ordinance and
20 in accordance with the requirements of section 46- , shall be
21 levied, assessed, and collected as provided in this section on
22 all gross rental proceeds taxable under this chapter. No county

1 shall set the surcharge on transient accommodations tax at a
2 rate greater than five per cent of all gross rental proceeds
3 taxable under this chapter. All provisions of this chapter
4 shall apply to the county surcharge on transient accommodations
5 tax. With respect to the surcharge, the director of taxation
6 shall have all the rights and powers provided under this
7 chapter. In addition, the director of taxation shall have the
8 exclusive rights and power to determine the county or counties
9 in which a person is engaged in business and, in the case of a
10 person engaged in business in more than one county, the director
11 shall determine, through apportionment or other means, that
12 portion of the surcharge on transient accommodations tax
13 attributable to business conducted in each county.

14 (b) Each county surcharge on transient accommodations tax
15 that may be established pursuant to section 46- shall be
16 levied beginning in the taxable year after the adoption of the
17 relevant county ordinance; provided that no surcharge on
18 transient accommodations tax may be levied prior to not less
19 than one hundred eighty days after the adoption of an ordinance
20 establishing the surcharge authorized under section 46- .

21 (c) The county surcharge on transient accommodations tax,
22 if adopted, shall be imposed on the gross rental proceeds of all

1 written contracts that require the passing on of the taxes
2 imposed under this chapter; provided that if the gross rental
3 proceeds are received as payments beginning in the taxable year
4 in which the taxes become effective, on contracts entered into
5 before June 30 of the year prior to the taxable year in which
6 the taxes become effective, and the written contracts do not
7 provide for the passing on of increased rates of taxes, the
8 county surcharge on transient accommodations tax shall not be
9 imposed on the gross rental proceeds covered under the written
10 contracts. The county surcharge on transient accommodations tax
11 shall be imposed on the gross rental proceeds from all contracts
12 entered into on or after June 30 of the year prior to the
13 taxable year in which the taxes become effective, regardless of
14 whether the contract allows for the passing on of any tax or any
15 tax increases.

16 (d) No county surcharge on transient accommodations tax
17 shall be established on any transactions, amounts, persons,
18 gross income, or gross rental proceeds exempt from tax under
19 this chapter.

20 (e) The director of taxation shall revise any tax forms
21 necessary to provide for the clear and separate designation of

1 the imposition and payment of the county surcharge on transient
2 accommodations tax.

3 (f) The taxpayer shall designate the taxation district to
4 which the county surcharge on transient accommodations tax is
5 assigned, in accordance with rules adopted by the director of
6 taxation under chapter 91. The taxpayer shall file a schedule
7 with the taxpayer's periodic and annual returns required under
8 this chapter summarizing the amount of taxes assigned to each
9 taxation district.

10 (g) The penalties provided by section 231-39 for failure
11 to file a tax return shall be imposed on the amount of surcharge
12 due on the return being filed for the failure to file the
13 schedule required to accompany the return. In addition, there
14 shall be added to the tax an amount equal to ten per cent of the
15 amount of the surcharge and tax due on the return being filed
16 for the failure to file the schedule or the failure to correctly
17 report the assignment of the transient accommodations tax by
18 taxation district on the schedule required under this
19 subsection.

20 (h) All taxpayers who file on a fiscal year basis whose
21 fiscal year ends after December 31 of the year prior to the
22 taxable year in which the taxes become effective, shall file a

1 short period annual return for the period preceding January 1 of
2 the taxable year in which the taxes become effective. Each
3 fiscal year taxpayer shall also file a short period annual
4 return for the period starting on January 1 of the taxable year
5 in which the taxes become effective, and ending before January 1
6 of the following year."

7 SECTION 4. Section 237D-6.5, Hawaii Revised Statutes, is
8 amended to read as follows:

9 **"§237D-6.5 Remittances; distribution [~~to counties~~].** (a)

10 All remittances of taxes imposed under this chapter shall be
11 made by cash, bank drafts, cashier's check, money order, or
12 certificate of deposit to the office of the taxation district to
13 which the return was transmitted.

14 (b) Revenues collected under this chapter shall be
15 distributed as follows, with the excess revenues to be deposited
16 into the general fund:

17 (1) 17.3 per cent of the revenues collected under this
18 chapter shall be deposited into the convention center
19 enterprise special fund established under section
20 201B-8; provided that beginning January 1, 2002, if
21 the amount of the revenue collected under this
22 paragraph exceeds \$33,000,000 in any calendar year,

1 revenues collected in excess of \$33,000,000 shall be
2 deposited into the general fund; and
3 (2) 34.2 per cent of the revenues collected under this
4 chapter shall be deposited into the tourism special
5 fund established under section 201B-11 for tourism
6 promotion and visitor industry research; provided that
7 beginning on July 1, 2002, of the first \$1,000,000 in
8 revenues deposited:
9 (A) Ninety per cent shall be deposited into the state
10 parks special fund established in section 184-
11 3.4; and
12 (B) Ten per cent shall be deposited into the special
13 land and development fund established in section
14 171-19 for the Hawaii statewide trail and access
15 program;
16 provided that of the 34.2 per cent, 0.5 per cent shall
17 be transferred to a sub-account in the tourism special
18 fund to provide funding for a safety and security
19 budget, in accordance with the Hawaii tourism
20 strategic plan 2005-2015; provided further that of the
21 revenues remaining in the tourism special fund after
22 revenues have been deposited as provided in this

1 paragraph and except for any sum authorized by the
2 legislature for expenditure from revenues subject to
3 this paragraph, beginning July 1, 2007, funds shall be
4 deposited into the tourism emergency trust fund,
5 established in section 201B-10, in a manner sufficient
6 to maintain a fund balance of \$5,000,000 in the
7 tourism emergency trust fund[; and

8 ~~(3) 44.8 per cent of the revenues collected under this~~
9 ~~chapter shall be transferred as follows: Kauai county~~
10 ~~shall receive 14.5 per cent, Hawaii county shall~~
11 ~~receive 18.6 per cent, city and county of Honolulu~~
12 ~~shall receive 44.1 per cent, and Maui county shall~~
13 ~~receive 22.8 per cent].~~

14 All transient accommodations taxes shall be paid into the
15 state treasury each month within ten days after collection and
16 shall be kept by the state director of finance in special
17 accounts for distribution as provided in this subsection.

18 ~~[(c) On or before January or July 1 of each year or after~~
19 ~~the disposition of any tax appeal with respect to an assessment~~
20 ~~for periods after June 30, 1990, the state director of finance~~
21 ~~shall compute and pay the amount due as provided in subsection~~
22 ~~(b) to the director of finance of each county to become a~~

1 ~~general realization of the county expendable as such, except as~~
2 ~~otherwise provided by law.]"~~

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

5 SECTION 6. This Act shall take effect on July 1, 2046;
6 provided that section 4 shall take effect on July 1, 2010.

Report Title:

Transient Accommodations Tax; Counties Surcharge

Description:

Authorizes each county, by ordinance, to impose a surcharge on transient accommodations tax, not to exceed 5%. Repeals section 237D-6.5(b)(3), Hawaii Revised Statutes, that distributes transient accommodations tax proceeds to counties. Effective date 7/1/2046. (SD1)