

STAND. COM. REP. NO.

1436

Honolulu, Hawaii

APR 11 2013

RE: S.C.R. No. 170

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2013
State of Hawaii

Madam:

Your Committee on Ways and Means, to which was referred
S.C.R. No. 170 entitled:

"SENATE CONCURRENT RESOLUTION DIRECTING THE DIRECTOR OF
TAXATION TO REVIEW SECTION 237-25(C), HAWAII REVISED
STATUTES, TO DETERMINE IF THERE IS A RATIONAL BASIS FOR THE
APPARENT DISPARITY BETWEEN THE APPLICATION OF THAT PROVISION
AND OTHER SECTIONS OF CHAPTER 237, HAWAII REVISED STATUTES,"

begs leave to report as follows:

The purpose and intent of this measure is to address an
apparent disparity in the application of the state general excise
tax by directing the Director of Taxation to review section
237-25(c), Hawaii Revised Statutes, to determine if there is any
rational basis for the apparent disparity between the application
of that provision and other sections of chapter 237, Hawaii
Revised Statutes.

Your Committee received testimony in opposition to this
measure from the Department of Taxation.

Your Committee finds that sections 237-14, 237-14.5, 237-18,
237-21, 237-23(a)(7), and 237-23(b)(3), Hawaii Revised Statutes,
allow taxpayers, under certain circumstances, to segregate,
divide, allocate, apportion, or specifically classify gross
proceeds so as to apply different tax rates, or no tax at all, to
determine the appropriate amount of general excise tax due. Your
Committee also finds that section 237-25(c), Hawaii Revised
Statutes states:

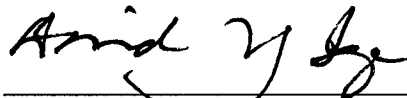


Nothing in this section shall be deemed to exempt any person engaging or continuing in a service business or calling from any part of the tax imposed upon the person for such activity, and the person shall not be entitled to deduct any amount for tangible personal property furnished in conjunction therewith even though the person separately bills or otherwise shows the amount of the gross income of the business derived from the furnishing of the property.

Your Committee further finds that section 237-25(c), Hawaii Revised Statutes, appears to contradict the aforementioned sections of chapter 237, Hawaii Revised Statutes. An evaluation by the Director of Taxation of the application of this provision will provide clarity for taxpayers.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 170 and recommends its adoption.

Respectfully submitted on
behalf of the members of the
Committee on Ways and Means,



DAVID Y. IGE, Chair



