
A BILL FOR AN ACT

RELATING TO TAX ON SALES OF TANGIBLE PERSONAL PROPERTY.

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

1 SECTION 1. Section 237-1, Hawaii Revised Statutes, is
2 amended as follows:
3 1. By amending the definition of "person" to read:
4 "Person" or "company" includes every individual,
5 partnership, society, unincorporated association, joint
6 adventure, group, hui, joint stock company, corporation,
7 trustee, personal representative, trust estate, decedent's
8 estate, trust, trustee in bankruptcy, or other entity, whether
9 such persons are doing business for themselves or in a fiduciary
10 capacity, and whether the individuals are residents or
11 nonresidents of the State, and whether the corporation or other
12 association is created or organized under the laws of the State
13 or of another jurisdiction. Any person who [~~has in the person's~~
14 ~~possession, for sale in the State, the property of a nonresident~~
15 ~~owner, other than as an employee of such owner,~~] sells or
16 assists in the sale of tangible personal property on behalf of
17 another seller by providing customer service, processing



1 payments, and controlling the fulfillment process shall be
 2 deemed the seller of the property, when sold[-], and the seller
 3 on whose behalf the sale is made shall be deemed to have made a
 4 sale at wholesale pursuant to section 237-4."

5 2. By amending the definition of "representative" to
 6 read:

7 "Representative" means any salesperson, commission agent,
 8 manufacturer's representative, broker or other person who is
 9 authorized or employed by [~~an unlicensed~~] a seller to assist
 10 such seller in selling property for use in the State, by
 11 procuring orders for such sales or otherwise, and who carries on
 12 such activities in the State, it being immaterial whether such
 13 activities are regular or intermittent [~~, but the~~]. The term
 14 "representative" does not include [a]:

- 15 (1) A manufacturer's representative whose functions are
 16 wholly promotional and to act as liaison between an
 17 unlicensed seller and a seller or sellers, and which
 18 do not include the procuring, soliciting or accepting
 19 of orders for property or the making of deliveries of
 20 property, or the collecting of payment for deliveries
 21 of property, or the keeping of books of account



1 concerning property orders, deliveries or collections
2 transpiring between an unlicensed seller and a seller
3 or sellers [~~. Any unlicensed seller who in person~~
4 ~~carries on any such activity in the State shall also~~
5 ~~be classed as a representative.~~]; and

6 (2) A person who sells or assists in the sale of tangible
7 personal property on behalf of another seller and who
8 provides customer service, processes payments, and
9 controls the fulfillment process."

10 SECTION 2. Section 238-1, Hawaii Revised Statutes, is
11 amended by amending the definition of "import" to read as
12 follows:

13 "Import" (or any nounal, verbal, adverbial, adjective, or
14 other equivalent of the term) includes:

15 (1) The importation into the State of tangible property,
16 services, or contracting owned, purchased from an
17 unlicensed seller, or however acquired, from any other
18 part of the United States or its possessions or from
19 any foreign country, whether in interstate or foreign
20 commerce, or both; [~~and~~]



1 (2) The sale and delivery of tangible personal property
 2 owned, purchased from an unlicensed seller, or however
 3 acquired, by a seller who is or should be licensed
 4 under the general excise tax law from an out-of-state
 5 location to an in-state purchaser, regardless of the
 6 free on board point or the place where title to the
 7 property transfers to the purchaser[-]; and

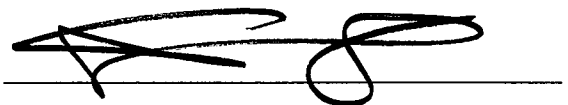
8 (3) The sale of tangible personal property by, or assisted
 9 by, a licensed seller who provides customer service,
 10 processes payments, and controls the fulfillment
 11 process on behalf of an unlicensed seller for delivery
 12 to a purchaser in the State."

13 SECTION 3. Statutory material to be repealed is bracketed
 14 and stricken. New statutory material is underscored.

15 SECTION 4. This Act shall take effect upon its approval.

16

INTRODUCED BY:


 A handwritten signature in black ink, appearing to be "A. J. ...", written over a horizontal line.

JAN 11 2018



H.B. NO. 1655

Report Title:

General Excise Tax; Use Tax; Tangible Personal Property

Description:

Clarifies that a person who sells or assists in the sale of tangible personal property and who provides customer service, processes payments, and controls fulfillment is the seller of the property for general excise tax and use tax purposes.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

