A BILL FOR AN ACT

RELATING TO THE TRANSIENT ACCOMMODATIONS TAX.

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

SECTION 1. Section 237D-1, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition to be appropriately inserted and to read:

"Resort fee" means any charge or surcharge imposed by an operator, owner, or representative thereof to a transient for the use of the transient accommodation's property, services, or amenities."

2. By amending the definition of "gross rental" or "gross rental proceeds" to read:

"Gross rental" or "gross rental proceeds" means the gross receipts, cash or accrued, of the taxpayer received as compensation for the furnishing of transient accommodations and the value proceeding or accruing from the furnishing of such accommodations, including resort fees, without any deductions on account of the cost of property or services sold, the cost of materials used, labor cost, taxes, royalties, interest, discounts, or any other expenses whatsoever. Every taxpayer...
shall be presumed to be dealing on a cash basis unless the
taxpayer proves to the satisfaction of the department of
taxation that the taxpayer is dealing on an accrual basis and
the taxpayer's books are so kept, or unless the taxpayer employs
or is required to employ the accrual basis for the purposes of
the tax imposed by chapter 237 for any taxable year in which
event the taxpayer shall report the taxpayer's gross income for
the purposes of this chapter on the accrual basis for the same
period.

The words "gross rental" or "gross rental proceeds" shall
not be construed to include the amounts of taxes imposed by
chapter 237 or this chapter on operators of transient
accommodations and passed on, collected, and received from the
consumer as part of the receipts received as compensation for
the furnishing of transient accommodations. Where transient
accommodations are furnished through arrangements made by a
travel agency or tour packager at noncommissionable negotiated
contract rates and the gross income is divided between the
operator of transient accommodations on the one hand and the
travel agency or tour packager on the other hand, gross rental
or gross rental proceeds to the operator means only the
respective portion allocated or distributed to the operator, and no more. For purposes of this definition, where the operator maintains a schedule of rates for identifiable groups of individuals, such as kamaainas, upon which the accommodations are leased, let, or rented, gross rental or gross rental proceeds means the receipts collected and received based upon the scheduled rates and recorded as receipts in its books and records."

SECTION 2. The department of taxation shall adopt rules pursuant to chapter 91, Hawaii Revised Statutes, to further define the definitions added or amended by this Act; provided that this Act shall not be construed to prevent the department of taxation from levying, assessing, or collecting taxes resulting from the imposition of resort fees prior to the adoption of these rules.

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2018.
Report Title:
Transient Accommodations Tax; Hotel Resort Fees; Gross Rental Proceeds

Description:
Imposes the transient accommodations tax on additional resort fees that must be included in gross rental proceeds. (CD1)

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