

STATE OF HAWAII—DEPARTMENT OF TAXATION
INSTRUCTIONS FOR FORM U-6
PUBLIC SERVICE COMPANY TAX RETURN
(Public Service Company Tax Law, Chapter 239, HRS)

CAUTION: THIS RETURN IS TO BE BASED ON OPERATIONS FOR THE PRECEDING TAXABLE YEAR BEGINNING IN 2015. HOWEVER, SEE “Special Rules” FOR TAXPAYERS REPORTING THEIR FIRST YEAR OR SECOND YEAR OF DOING BUSINESS.

Changes You Should Note

Act 201, Session Laws of Hawaii (SLH) 2015 – This act excludes from gross income, the amounts collected by electric utility companies acting as billing and collection agents for an on-bill program, from state and county taxes, including the public service company tax. “On-bill program” means any program approved by the public utilities commission that allows for the payment or repayment by an electric utility customer for the acquisition and installation of renewable energy, energy efficient, or energy conservation systems as part of the electric utility customer’s electric bill. Effective July 2, 2015.

Where To Get Tax Forms and Information. —

Hawaii State tax forms, instructions, schedules, and information may be obtained at any Department of Taxation district office or from the Department’s website at tax.hawaii.gov, or you may contact a customer service representative at: 808-587-4242 or 1-800-222-3229 (Toll-Free).

For the counties’ tax forms and information contact:

City and County of Honolulu
Department of Budget and Fiscal Services
Administration Fiscal
650 South King Street, 4th Floor
Honolulu, HI 96813
Telephone: 808-768-8646

County of Maui
Department of Finance
200 South High Street
Kalana O Maui Bldg., 2nd Floor
Wailuku, HI 96793
Telephone: 808-270-7844
Fax: 808-270-7878

County of Hawaii
Department of Finance
Treasury Division
25 Aupuni Street, Room 1102
Hilo, HI 96720-4245
Telephone: 808-933-6212
Fax: 808-961-8946

County of Kauai
Department of Finance
Mo’ikeha Building
4444 Rice Street, Suite 280
Lihue, HI 96766
Telephone: 808-241-6525
Fax: 808-214-6529

The Nature of the Tax. —

The public service company tax is measured by a percentage of the company’s gross income from the public service company business earned during the company’s preceding taxable (operational) year. The tax is based upon the previous year’s gross income from public service company business, but is not being imposed for the previous year. For example, a Public Service Company Tax Return for the calendar year 2016 is filed for the tax imposed on January 1, 2016, and is due on April 20, 2016. The tax is calculated by using the company’s gross income from public service company business earned during the 2015 calendar year.

The tax is a means of taxing the personal property of a public utility, tangible and intangible, including going concern value. The tax is in lieu of all other taxes except income taxes, county vehicular taxes, public utility fees, public utility franchise taxes, use or consumption taxes, and employment taxes.

Note: Public utility companies, as defined below, are liable for both the public service company tax and the public utility fee. The public service company tax is administered by the Department of Taxation and the public utility fee is

administered by the Public Utilities Commission (PUC). Accordingly, the public utility fee shall be paid to the PUC in the form and manner prescribed by the PUC.

Determining What Tax Year Form U-6 to File. —

The tax year is determined by the first day of the company’s tax year, as that is the day the tax is imposed. For example, a calendar year taxpayer whose tax year begins on January 1, 2016 would file a 2016 Form U-6; a fiscal year taxpayer whose tax year begins at any time in the year 2016, would file a 2016 Form U-6.

Definition of Certain Terms Used in Chapter 239, HRS. —

“**Gross income**” means the gross income from public service company business as follows:

- (1) Gross income from the production, conveyance, transmission, delivery or furnishing of light, power, heat, cold, water, gas or oil;
- (2) Gross income from the transportation of passengers or freight, or the conveyance or transmission of telephone or telegraph messages other than mobile telecommunications services, or the furnishing of facilities for the transmission of intelligence by electricity, by land or water or air:
 - (a) Originating and terminating within this State;
 - (b) By means of vessels or aircraft having their home port in the State and operating between ports or airports in the State, with respect to the transportation so effected; or
 - (c) By means of plant or equipment located in the State, between points in the State;
- (3) Gross income from the conveyance or transmission of messages or intelligence through wires or cables located or partly located in the State (other than as stated in paragraph (2) or (5)); (See **Who Must File Form U-6**, for other lines of business not subject to public service company tax.)
- (4) Gross income from the operation of a private sewer company or private sewer facility; or
- (5) With respect to a home service provider of mobile telecommunications services, “gross income” includes charges billed for mobile telecommunications services provided by a home service provider to a customer with a place of primary use in this State when the mobile telecommunications services originate and terminate within the same state; provided that all such charges for mobile telecommunications services that are billed by or for the home service provider are deemed to be provided by the home service provider at the customer’s place of primary use, regardless of where the mobile telecommunications services originate, terminate, or pass through. Gross income shall not include:
 - (a) Any charges for or receipts from mobile telecommunications services provided to customers of the home service provider whose place of primary use is outside this State;
 - (b) Any receipts of a home service provider acting as a serving carrier providing mobile telecommunications services to another home service provider’s customer; and
 - (c) Any receipts specifically from interstate or foreign mobile telecommunications services taxable under section 237-13(6)(E), HRS, as determined by the home service provider’s books and records kept in the ordinary course of business.

For the purposes of this paragraph, “customer” means: (1) the person or entity that contracts with the home service provider for mobile telecommunications services; or (2) if the end user of mobile telecommunications services is not the contracting party, “customer” means the end user of the mobile telecommunications service; provided that this paragraph shall apply only for the

purpose of determining the place of primary use. Without implication for the general definition of “customer”, the term does not include:

- (a) A reseller of mobile telecommunications service; or
- (b) A serving carrier under an arrangement to serve the customer outside the home service provider’s licensed service area.

“Home service provider” means the facilities-based carrier or reseller with which the customer contracts for the provision of mobile telecommunications services.

“Mobile telecommunications service” means commercial mobile radio service, as defined in title 47 Code of Federal Regulations section 20.3 in effect on June 1, 1999.

“Place of primary use” means the street address representative of where the customer’s use of the mobile telecommunications service primarily occurs, which must be: (1) the residential street address or the primary business street address of the customer; and (2) within the licensed service area of the home service provider.

The words “gross income” and “gross income from public service company business” shall not be construed to include dividends (as defined by section 235-1, HRS) paid by one member of an affiliated public service company group to another member of the same group; or gross income from the sale or transfer of materials or supplies, interest on loans, or the provision of engineering, construction, maintenance or managerial services by one member of an affiliated public service company group to another member of the same group. “Affiliated public service company group” means an affiliated group of domestic corporations within the meaning of Chapter 235, HRS, all of the members of which are public service companies. “Member of an affiliated public service company group” means a corporation (including the parent corporation) that is included within an affiliated public service company group.

Accounts found to be worthless and actually charged off for income tax purposes, at corresponding periods, may be deducted from gross income as specified under Chapter 239, HRS, so far as the accounts reflect taxable sales, but shall be added to gross income when and if subsequently collected.

“Home port” means the place where vessels or aircraft have their tax situs or principal tax situs.

“Net operating income” of a public utility subject to the tax rate imposed by section 239-5(a), HRS, is the operating revenues less the operating expenses and tax accruals, including in the computation of such revenues and expenses, debits and credits arising from equipment rents and joint facility rents. In the event that, but for this sentence, deductions could not be had for expenses of services because such services were rendered by the same person or persons constituting the public utility or could not be had for income taxes, because such taxes were levied against the person or persons constituting the public utility in the person’s or their individual capacity and not as a separate entity, there nevertheless shall be allowed as deductions in computing the net operating income (A) a reasonable allowance for the value of personal services actually rendered, and (B) such proportion of the actual amounts of income taxes, federal and state, as fairly represents the portion of the income so taxed which was derived from the public utility business.

“Partner” means the same as in the Internal Revenue Code.

“Partnership” means the same as in the Internal Revenue Code.

“Ports”, “airports”, or “points in the State” shall be deemed to be such if they are loading, unloading, transshipment, assembly, transfer, or relay points.

“Public service company” means a public utility.

“Public utility” has the meaning given that term in section 269-1, HRS.

When Is the Public Service Company Tax Imposed. —

In the first year of doing business, the tax is imposed on the first day, or commencement date, of the public service company’s business. Thereafter, the tax is imposed or assessed on the first day of the public service company’s selected year. Therefore, for a public service company on a calendar year basis, the tax is imposed on January 1 of each year; and for a fiscal year basis public service company, it is imposed on the first day of the selected fiscal period. The public service company tax is not accrued or imposed incrementally throughout the calendar or fiscal year.

Who Must File Form U-6. —

Each public service company shall file Form U-6, showing its taxable gross income for the preceding taxable year. In case any public service company carries on lines of business other than its public service company business, the receipts therefrom shall not be subject to public service company tax, but

the same tax liabilities shall attach to such public service company on account of such other lines of business as would exist if no public service company business were done.

Section 239-6, HRS, provides that motor carriers, common carriers by water, and contract carriers other than motor carriers are no longer subject to the public service company tax. The gross income received for transportation services by these carriers are now subject to the general excise tax imposed under section 237-13(6), HRS.

Section 239-5(a), HRS, imposes the public service company tax upon the gross income of the public utility at the rate of 4%, provided that if: (1) a county provides by ordinance for a real property tax exemption for real property used by a public utility in its public utility business and owned by the public utility (or leased to it by a lease under which the public utility is required to pay the taxes upon the property); and (2) the county has not denied the exemption to the public utility, but excluding a denial based upon a dispute as to the ownership, lease, or use of a specific parcel of real property, then there shall be levied and assessed a tax in excess of the 4% rate determined in the manner hereinafter provided upon the gross income allocable to such county. The revenues generated from the tax in excess of the 4% rate hereinbefore established shall be paid by the public utility directly to such county based upon the proportion of gross income from its public utility business attributable to such county, based upon the allocation made in the public utility’s filings with the State of Hawaii, provided that if the gross income from the public utility business attributable to such county is not so allocated in the public utility’s State filings, then the gross income from the public utility business shall be equitably allocated to each county. The relative number of access lines in each county shall be deemed an acceptable basis of equitable allocation for telecommunication companies.

NOTE: Do NOT use Form U-6 to calculate and/or remit the counties’ share of the public service company tax. Form U-6 should be used only to calculate and remit the State of Hawaii’s portion of the public service company tax.

Authentication.—Returns shall be authenticated by the original signature of an officer of the public service company authorized to sign the Form U-6. The fact that an individual’s name is signed on the return shall be prima facie evidence that such individual is authorized to sign the return on behalf of the public service company.

Paid Preparer’s Information.—The Paid Preparer’s Information at the bottom of page 1 of Form U-6 must be signed and completed by the person or in the name of the firm or corporation paid to prepare the return. Individual preparers may furnish their alternative identifying number for income tax return preparers (PTIN) instead of their social security number. (Note: Pursuant to Department of Taxation Announcement No. 2009-33, paid preparers may now sign original returns, amended returns, or request for filing extensions by rubber stamp, mechanical device, or computer software program.)

When Is the Form U-6 To Be Filed. —

In the first year of doing business, the Form U-6 is due on the twentieth day of the third month after the month the public service company begins business. Thereafter, the return shall be filed on or before the twentieth day of the fourth month following the close of the preceding taxable year. For a calendar year basis taxpayer, the return is due on or before April 20, of each return year.

Private Delivery Services.—Hawaii has adopted the Internal Revenue Code provision to allow documents and payments delivered by a designated private delivery service to qualify for the “timely mailing treated as timely filing/paying rule.” The Department of Taxation will conform to the Internal Revenue Service listing of designated private delivery service and type of delivery services qualifying under this provision. Timely filing of mail which does not bear the U.S. Post Office cancellation mark or the date recorded or marked by the designated delivery service will be determined by reference to other competent evidence. The private delivery service can tell you how to get written proof of the mailing date.

Extension of Time To File.—If you are unable to meet the filing deadline, you should ask for an extension on Form N-755, Application for Automatic Extension of Time to File Public Service Company Tax Return. This is an extension of time to file, not an extension of time for payment of tax.

Note: If any date falls on a Saturday, Sunday, or legal holiday, substitute the next regular workday.

When Is the Tax Payable. —

In the first year of doing business, the payment of tax is due on the twentieth day of the third month after the month that the public service company begins business. Thereafter, the tax is payable on or before the twentieth day of the fourth month following the close of the preceding taxable year. Stated differently, the tax is due on or before the twentieth day of the fourth month following the imposition date. This date coincides with the due date of the Form U-6.

The public service company may elect to pay the tax due in four equal quarterly installments on or before the twentieth day of the fourth, sixth, ninth,

and twelfth months following the close of the preceding taxable year. However, if the total tax liability exceeds \$100,000, the tax due is payable in twelve equal monthly installments on or before the tenth day of each month following the close of the preceding taxable year. Installment payments of the public service company tax are reported and paid on Form FP-1. If any installment is not paid on or before the date fixed for its payment, the Department of Taxation, at its election may cause the balance of the tax unpaid to become payable upon not less than ten days' notice and demand, and this amount shall be paid upon the date so fixed in the notice and demand from the Department.

Note: *If any due date falls on a Saturday, Sunday, or legal holiday, substitute the next regular workday.*

Penalties and Interest.—

Late Filing of Return—The penalty for failure to file a return on time is assessed on the tax due at a rate of 5% per month, or part of a month, up to a maximum of 25%.

Failure to Pay Tax After Filing a Timely Return —The penalty for failure to pay the tax after filing a timely return is 20% of the tax unpaid within 60 days of the prescribed due date. The 60-day period is calculated beginning with the prescribed due date even if the prescribed due date falls on a Saturday, Sunday, or legal holiday.

Interest —Interest at the rate of 2/3 of 1% per month, or part of a month, shall be assessed on unpaid taxes and penalties beginning with the first calendar day after the date prescribed for payment, whether or not that first calendar day falls on a Saturday, Sunday, or legal holiday.

Where to File the Return.—

Submit your return to:

Hawaii Department of Taxation
P.O. Box 259
Honolulu, HI 96809-0259

Application of the Tax.—

Special Rules.

1. The first year of doing business.
 - a. A company in business on January 1 or at the start of the fiscal year, but not in business during any part of the preceding calendar or fiscal year, respectively:
 - (1) Form U-6 is filed by using an estimate of the gross income from the public service company business for the first year that the company is engaged in business.
 - (2) The tax is at the rate provided by section 239-5, HRS.
 - (3) The return and payment of the tax is due on the twentieth day of the third month after the month that the company begins business.
 - (4) The estimate must be corrected to reflect the actual gross income for the year via an amended return which must be filed by the twentieth day of the fourth month following the close of the first taxable year. The amended return is used to pay any additional tax due.
 - b. A company not in business on January 1 or at the start of the fiscal year, but business is commenced during the calendar year or fiscal year, respectively:
 - (1) Form U-6 is filed by using an estimate of the gross income from the public service company business for that portion of the first year that the company is engaged in business.
 - (2) The tax is at the rate of 4%.
 - (3) The return and payment of the tax is due on the twentieth day of the third month after the month that the company begins business.
 - (4) The estimate must be corrected to reflect the actual gross income for the year via an amended return which must be filed by the twentieth day of the fourth month following the close of the first taxable year. The amended return is used to claim the appropriate overpayment or pay any additional tax due.
2. The second year of doing business.
 - a. Form U-6 is filed using an estimate of the company's average monthly gross income during the period from and after the commencement of business to the close of the second year, multiplied by twelve.
 - b. The tax is at the rates provided by section 239-5, HRS.
 - c. The return and payment of tax is due on the twentieth day of the fourth month following the close of the company's first taxable year.

- d. An amended return is required to adjust the estimate to the actual average monthly gross income during the period from and after the commencement of business to the close of the second year, multiplied by twelve. Any overpayment is claimed or balance due is reported and paid on the amended return. The amended return is due on or before the twentieth day of the fourth month following the close of the company's second taxable year.
3. The third year of doing business.
 - a. Form U-6 is filed using the company's gross income from the second taxable year.
 - b. The tax is at the rates provided by section 239-5, HRS.
 - c. The return and payment of tax is due on the twentieth day of the fourth month following the close of the company's second taxable year.

Allocation and Apportionment.—

If a public service company is engaged in interstate or foreign commerce and an apportionment of gross income is necessary, section 239-8, HRS, provides for an apportionment on the basis of total direct cost of the transportation, conveyance, or transmission within the State. "Direct cost" is interpreted to mean and include payroll or labor hired for the handling and transportation of property or persons from the point of origin to the point of destination, payroll taxes attributable to such payrolls, materials used or consumed by the taxpayer in the handling and transportation of property or persons from the point of origin to the point of destination, that portion of any rent on leased equipment which is attributable to the use of such leased equipment in the handling and transportation of property or persons from the point of origin to the point of destination, that portion of depreciation on equipment owned by the taxpayer which is attributable to the use of such equipment in the handling and transportation of property or persons from the point of origin to the point of destination, that portion of the maintenance and upkeep of equipment which is attributable to the use of such equipment in the handling and transportation of property or persons from the point of origin to the point of destination, overload and ocean freight, and insurance.

Acquiring the Business of Another Company.—

Subsection (f) of section 239-9, HRS, relates to the acquisition by one public service company of the business of another and provides for treating the gross income of the company so acquired the same as if it were gross income of the acquired company, that is, the gross income to be reported by the acquiring company for the purpose of determining the amount of its tax for the year following the year in which such business was so acquired shall include, in addition to the gross income of the acquiring company during the year ending December 31 preceding, the gross income of the business or part thereof so acquired for such portion of such preceding year.

Consolidation or Merger.—

Subsection (g) of section 239-9, HRS, relates to the consolidation or merger of public service companies and provides that the liability to the tax shall attach to the company thus formed and the company thus formed shall include in its gross income, the gross income of the companies involved in the consolidation or merger.

Changing Accounting Period From Calendar Year to Fiscal Year.—

The amount of the public service company tax which is assessed for the calendar year and the payment schedule for the tax that is established at the beginning of the calendar year are not affected or canceled when a company changes its accounting period to a fiscal year.

A company which changes its accounting period from a calendar to a fiscal year is subject to the following requirements:

1. Submit a written request for a change in the accounting period which is approved by the Department of Taxation.
2. File Form U-6 for the new accounting period. The original Form U-6 reporting taxable gross income for the calendar year and a second Form U-6 reporting taxable gross income for the fiscal year must be filed.
3. Offset the taxable gross income for the duplicated months. To avoid being taxed twice for the duplicated months, an offset for the taxable gross income for the duplicated months will be allowed on the second Form U-6.
4. No carryover of excess amounts. If the taxable gross income for the duplicated months on the original Form U-6 exceeds the monthly taxable gross income on the second Form U-6, the excess amounts shall not be carried over and offset against the income for the unduplicated months on the second Form U-6.

For additional information, see Tax Information Release No. 98-7, "Change in Accounting From Calendar Year to Fiscal Year For Public Service Companies".

Terminating Business Operations.—

Since the public service company tax is imposed and payable in full on the imposition or assessment date, which is on the first day of the public service company's selected year, the termination of business operations during the calendar or fiscal year; other than, as previously discussed, an acquisition by another public service company or by consolidation or merger; does not affect the company's liability for the tax. As such, the company is required to remit the taxes due on the elected payment schedule.

SPECIFIC INSTRUCTIONS

Section I — Computation of Adjusted Gross Income

Gross Income From Preceding Taxable Year

Lines 1a(2), 1b(2), 1c(2), and 1d(2) — Worthless Accounts Charged Off for Net Income Tax Purposes.—This deduction from gross income can only be taken for worthless accounts (bad debts) charged off for net income tax purposes on or after June 22, 1998.

Line 1(c)1 — Section 239-5(c), HRS, provides that the portion of the gross income of a public utility engaged in the business of selling telecommunication services to a person defined in section 237-13(6)(D), HRS, who resells such products or services subject to taxation at the highest rate under section 237-13(6), HRS, will be taxed at 0.5%.

Section II — Computation of Tax

Part I. — For Public Utilities Taxed Under Section 239-5(a), (b), and (c), HRS.

Public utilities taxed under section 239-5(a), HRS, shall use Form U-6, page 2, Part I to compute the tax due. However, it will be necessary to first complete the items of gross income and deductions on page 1 before using Part I.

Line F — Credit for Lifeline Telephone Service Subsidy.—Section 239-6.5, HRS, provides that a telephone public utility subject to Chapter 239, HRS, that has been authorized to establish a lifeline telephone service rate by the public utilities commission shall be allowed a tax credit equal to the lifeline telephone service costs incurred by the utility company, such credit shall be applied against the telephone utility's tax imposed by Chapter 239, HRS. The amount of the credit shall be determined and certified annually by the public utilities commission.

Line H — Payment with Extension.—Enter the amount of public service company tax paid with Form N-755, Application for Automatic Extension of Time to File Public Service Company Tax Return. Attach a copy of Form N-755 to your tax return.

Line I — Tax Installment Payments.—Enter the total amount of public service company tax installments paid up to the date of filing the return. Installment payments of the public service company tax are reported and paid on Form FP-1.

Part II. — For Public Utilities Taxed Only Under Section 239-5(b), HRS.

In the case of a public utility taxed under section 239-5(b), HRS, (relating to carriers of passengers by land which consists in passenger fares on scheduled routes), the rate of tax shall be 5.35%. However, if such carrier has other public utility gross income, the passenger fares nevertheless shall be included in determining the rate of tax upon the other public utility gross income.

Public utilities taxed under section 239-5(b), HRS, shall report such public utility gross income on Form U-6, page 1, lines 1a(1) through 1a(3), and then use page 2, Part II, to compute the tax due. All other items and schedules may be disregarded unless other public utility gross income under section 239-5(a), HRS, is involved.

Line B — Payment with Extension.—Enter the amount of public service company tax paid with Form N-755, Application for Automatic Extension of Time to File Public Service Company Tax Return. Attach a copy of Form N-755 to your tax return.

Line C — Tax Installment Payments.—Enter the total amount of public service company tax installments paid up to the date of filing the return. Installment payments of the public service company tax are reported and paid on Form FP-1.

Part III. — For Public Utilities Taxed Only Under Section 239-5(c), HRS.

In the case of a public utility taxed under section 239-5(c)(1), HRS, (relating to sales of products or services to another public utility which resells such products or services), will be taxed at 0.5%. In the case of a public utility taxed under section 239-5(c)(2), HRS, (relating to sales of telecommunication services to a person defined in section 237-13(6)(D), HRS, who resells such products or services), will be taxed at 0.5%. However, if such public utility has other public utility gross income, the gross income from the sale of its products or services to another public utility or to a person subject to section 237-13(6)(D), HRS, shall be included in determining the rate of tax upon the other public utility gross income.

Public utilities taxed under section 239-5(c), HRS, shall report such public utility gross income on Form U-6, page 1, lines 1b(1) through 1b(3) and/or lines 1c(1) through 1c(3), and then use page 2, Part III, to compute the tax due. All other items and schedules may be disregarded unless other public utility gross income under section 239-5(a), HRS, is involved.

Line D — Payment with Extension.—Enter the amount of public service company tax paid with Form N-755, Application for Automatic Extension of Time to File Hawaii Franchise Tax Return (Form F-1) or Public Service Company Tax Return (Form U-6). Attach a copy of Form N-755 to your tax return.

Line E — Tax Installment Payments.—Enter the total amount of public service company tax installments paid up to the date of filing the return. Installment payments of the public service company tax are reported and paid on Form FP-1.