

STATE OF HAWAII

INFORMATION FOR CONTRACTORS AND OTHER TAXPAYERS DOING BUSINESS IN HAWAII

This flier is intended to provide you with some general information about the most common taxes paid by taxpayers conducting business in Hawaii. We invite you to seek more information about your reporting and filing requirements from any district office of the Department of Taxation. The addresses and telephone numbers of the district offices are provided at the end of this flier.

GENERAL

Every person doing business within the State during the taxable year, whether or not the person derives any taxable income from the business, must make and file returns and pay the applicable taxes to the Department of Taxation. Most commonly, a person would be subject to the general excise, use, net income, and withholding taxes. The filing and payment requirements are located within the applicable chapters of the Hawaii Revised Statutes (HRS). Administrative rules and information which prescribe the proper reporting methods, including the apportionment and allocation of income for long-term construction contracts for net income tax, income reporting and deductions for subcontracted amounts for general excise tax, withholding taxes on employee wages, and other items, are available at all district offices of the Department of Taxation.

Also, every person doing business within the State, and liable for any tax or filing requirement imposed under the Hawaii Revised Statutes, or for the collection or deduction of taxes at the source, must keep full, complete, regular, and accurate books of account of the person's business transactions. The person must make available to the Director of Taxation or a responsible person designated by the Director, all account books, bank books, and all other documents and evidence having any relevancy to the determination of the income or wages required to be returned under the Hawaii Revised Statutes.

GENERAL EXCISE TAX

The general excise tax is a broad-based tax which taxes every business activity within the State, unless exempted by statute. Unlike sales taxes found in other states, where the legal incidence of the tax is on the customer, the legal incidence of the general excise tax is on the vendor, and is imposed on income earned from engaging in services and contracting.

A contractor is defined under section 237-6, HRS. The definition encompasses persons engaging in the licensed practice of architecture, professional engineering, land surveying, landscape architecture, and pest control or fumigation.

Contractors are liable for taxes imposed under section 237-13(3), HRS, on their contracting income earned within the State. Qualifying subcontract deductions are allowed under section 237-13(3)(B), HRS. Subcontract deductions are allowed for amounts paid by a contractor to another contractor, for contracting work which is subject to the general excise tax under section 237-13(3)(A), HRS, provided that the general excise tax on the amount has been paid by the subcontractor.

USE TAX

Imported tangible personal property, acquired from a person not licensed under the general excise tax law for the transaction, is subject to a use tax. The use tax is imposed at the rate of $\frac{1}{2}$ of 1%, if the property is imported for resale at retail or for incorporation into and remains in the construction project or work, where the property will remain perceptible to the unaided human senses; or at 4%, if for consumption or use by the contractor; and no use tax, if imported for sale at wholesale.

Generally, construction materials which are incorporated into and remain in a project are taxable at the $\frac{1}{2}$ of 1% rate, and ancillary supplies and general equipment are subject to the tax at the 4% rate.

NET INCOME TAX

Net income tax returns must be filed to report and pay the taxes due on all activities engaged in within the State. For contractors engaged in long-term contracts, the method of reporting your income for federal income tax purposes must also be used for Hawaii reporting purposes. Contractors who are engaged in business within and outside of the State are provided with special apportionment and allocation methods, which are prescribed by the Administrative Rules under section 18-235-38.

WITHHOLDING TAX

Section 235-61, HRS, requires the withholding of taxes on employee wages. For employers using nonresident employees within the State, the Administrative Rules under section 18-235-61-04(b)(1), sets forth five conditions which must be met in order to forego the withholding of taxes on the wages of your nonresident employees. Section 18-235-61-04(b)(1), provides the following:

- (A) The employee is temporarily performing services in the State (not more than sixty days);
- (B) The employee is a nonresident as set forth in section 235-1, HRS, or the employer reasonably believes the employee is a nonresident;
- (C) The employee is paid for services performed from an office located outside the State;
- (D) The employee's regular place of employment (where the employee regularly performs services for the employer) is outside the State; and
- (E) The employer does not reasonably expect the employee to perform services in the State an aggregate of more than sixty days during the calendar year.

To qualify for the exemption from withholding on wages, nonresident employees must file a statement of nonresidence on form HW-6, with their employer. The employer must then submit the form HW-6, to the district office of the Department of Taxation in which the employer's principal place of business is located, or where the employee's services are principally performed. The form HW-6 can be obtained from any district office of the Department of Taxation.

PENALTIES

Penalties are imposed under sections 231-34 through 231-36 and 231-39, HRS, on taxpayers who fail to file returns, or who fail to withhold and pay over withholding taxes to the State, or who fail to keep and make available for inspection adequate and complete records.

ADDITIONAL INFORMATION

Copies of any administrative rules, tax forms, and informational publications, such as Tax Facts 97-1, covering contractors and the general excise and use taxes, are available at all district offices of the Department of Taxation. Taxpayers are encouraged to contact the most convenient district office for assistance or information. The addresses and telephone numbers of the district offices are listed below.

OFFICE LOCATIONS AND TELEPHONE NUMBERS

Oahu District Office
830 Punchbowl Street
P.O. Box 1425
Honolulu, HI 96806-1425
(808) 587-4242
Toll free 1-800-222-3229

Maui District Office
54 South High Street
P.O. Box 1427
Wailuku, HI 96793-6427
(808) 984-8500

Hawaii District Office
75 Aupuni Street
P.O. Box 937
Hilo, HI 96721-0937
(808) 974-6321

Kauai District Office
3060 Eiwa Street
P.O. Box 1687
Lihue, HI 96766-5687
(808) 274-3456