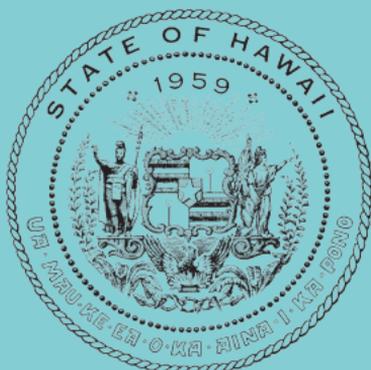


An Introduction to the Tax Clearance Procedure

State of Hawaii



Department of Taxation

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Overview

This brochure provides basic information on the tax clearance procedures.

If you have any questions, please call or email us. Our contact information is provided to you at the end of this brochure.

Note: This brochure provides general information and is not a substitute for legal or other professional advice. The information provided in this brochure does not cover every situation and is not intended to replace the law or change its meaning. If there is a conflict between the text in this brochure and the law, then the application of tax will be based on the law and not on this brochure.

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General Information

1. What is a tax clearance certificate?

A tax clearance certificate, Form A-6, is issued by the Department of Taxation (Department) to certify that the taxpayer has filed all required tax returns and has paid all taxes, penalties, and interest due as of the date the tax clearance certificate is issued.

2. Why would I need a tax clearance certificate?

You may be required to get a tax clearance certificate for various purposes. For example, you would need a tax clearance certificate to acquire or renew a state contractor's license or a county liquor license, to submit a bid or receive the final payment on a contract with a state or county government agency, or to provide information as to whether you have filed resident or nonresident tax returns.

Government Contracts

3. Do I need to get a tax clearance certificate when I bid on state or county government projects?

Yes. State law requires state government agencies to ask for a tax clearance certificate before awarding a contract for a public works project. Bidders on state public works projects may also be considered for in-state contractor preference by submitting a tax clearance certificate. If you are submitting bids for several state or county government projects, you may request for additional copies of the tax clearance certificate. See questions 29 and 30 for more information on requesting additional copies of the tax clearance certificate.

4. Why do I need a tax clearance certificate from both the Department and the Internal Revenue Service (IRS)?

A state law (section 103-53, Hawaii Revised Statutes) requires a state or county agency to ask for a tax clearance certificate from the Department and the IRS before entering into the contract, and also before final payment on the contract is made. This law applies to all contracts, whether with Hawaii vendors, out-of-state vendors, or nonprofit organizations.

5. If I need to get a tax clearance certificate from both agencies, do I need to submit a separate application to each tax agency?

No. Form A-6 may be used to get both a state tax clearance and a federal tax clearance. Mailed-in applications which require an IRS tax clearance will be forwarded to the IRS after processing is completed by the Department.

6. My company feels that we don't owe any taxes because we don't have sufficient presence in Hawaii. If we don't owe any taxes, why do we need a tax clearance certificate?

Under state law, your company is required to submit a tax clearance certificate to the state agency before you receive your final payment, whether your company is or is not subject to Hawaii taxation. At the time you submit your certificate, the Department will verify whether your company is subject to the state's taxing jurisdiction. Your company will be subject to Hawaii's taxing jurisdiction if it has property in Hawaii, provides services, or acquires a presence in Hawaii for any period of time.

Is a Tax Clearance Certificate Required?

7. I am a responsible managing employee (RME) of a construction company. Am I required to apply for a tax clearance certificate?

No. An RME is not required to get a tax clearance but the construction company is required to do so. Every two years, the State Contractors License Board requires contractors to renew their contractor's licenses. One of the requirements to renew the license is to submit a tax clearance certificate. For more information, contact the State Contractors License Board.

8. I need a tax clearance certificate to take a test to become a licensed contractor. Do I have to get a general excise tax (GET) license to get a tax clearance certificate?

No. You will be required to get a GET license if you engage in business in Hawaii.

9. I have liquor establishments throughout the state. How many tax clearance certificates do I need to submit to the liquor commission annually?

You need one certificate for each county (Oahu, Maui, Hawaii, and Kauai) in which you have a liquor establishment. You may need more than one certificate for a county if you have different types of liquor establishments in that county. For example, if you own a retail liquor store and also a standard bar on Oahu, you may need one certificate for each establishment because they are two different types of liquor establishments. For more information, contact the liquor commission in your district.

You may request additional certificates when you fill out the application.

10. I plan to attend a local university. Why does the university want me to get a tax clearance certificate to register as a Hawaii resident?

The university has to determine whether you must pay resident or nonresident tuition rates. The tax clearance certificate will provide information to help the university make its decision.

11. Why must a foreign general partnership withdrawing from doing business in Hawaii get a tax clearance certificate?

The Department of Commerce and Consumer Affairs requires that certain types of foreign businesses get a tax clearance certificate before withdrawing from doing business in Hawaii.

12. I am a foreign citizen and plan to leave the United States soon. Must I get a tax clearance certificate from Hawaii before I leave?

No. Hawaii does not require you to get a tax clearance certificate or “sailing permit” as is required by the IRS.

13. A family member passed away this year and the bank asked for a tax clearance certificate to transfer the estate’s assets. Do I complete the application, Form A-6?

No. If an estate is not taxable and no estate tax is due, the personal representative or person(s) in possession, control, or custody of the property must file Form M-6A, Request for Release to be Filed for Decedent Dying After June 30, 1983, with the Department if they wish to obtain a release, which indicates that the personal representative or

person(s) in possession, control, or custody does not owe any Hawaii estate tax.

14. I plan to sell my business in the near future. Do I need a tax clearance certificate?

You are not required to get a tax clearance certificate if you sell your business or a sizeable portion of the business assets. You as the seller must file Form G-8A, Report of Bulk Sale or Transfer, with the Department within ten days of the sale. If the bulk sales requirements are met, the Department will issue a bulk sales certificate to you which should be given to the purchaser.

15. What is the importance of the bulk sales certificate and a tax clearance certificate?

The purchaser should not pay the seller until the purchaser receives a bulk sales certificate to ensure that the seller has paid all the GET, penalties, and interest due, and that there is no lien recorded on the seller's property. If no bulk sales certificate is received, the purchaser becomes liable for any outstanding GET, penalties, and interest. For more information on bulk sales, see Tax Information Release 91-10, "Bulk Sales Procedures Effective January 1, 1992".

The purchaser also should require the seller to get a tax clearance to ensure that all tax returns have been filed and all tax payments have been paid as of the date the tax clearance certificate is issued.

Filing Requirements

16. What do I need to do to apply for a tax clearance certificate?

You must fill out Form A-6, Tax Clearance Application, and submit it to the Department. You may get the application from any district tax office, by mail, or via the Internet. Locations, telephone numbers and the website address are provided at the end of this brochure and on page 2 of the application.

You may apply for a tax clearance certificate by mail, fax, or in person at any district tax office. Mailing addresses, locations, telephone numbers, and fax numbers are provided at the end of this brochure and on page 2 of the application.

Form A-6 also can be filed electronically through the state's Internet portal. Go to tax.hawaii.gov/eservices/ for more information.

17. Can I apply for a tax clearance online?

If you are a vendor selling goods and services to state, city, or county agencies, you may register with the Hawaii Compliance Express (HCE) and have your tax clearance status available online for all state, city, or county contracts. The HCE is an electronic system that allows vendors doing business with state, city, or county agencies to quickly and easily get proof that they are compliant with applicable laws. The HCE certificate, "Certificate of Vendor Compliance," is submitted in place of a tax clearance, labor certificate, and a Certificate of Good Standing. For more information, go to vendors.ehawaii.gov.

18. Is there a fee for getting a tax clearance certificate?

No. There is no fee to get a tax clearance certificate.

19. Can my friend bring in the tax clearance application for me?

Yes. Anyone can bring the application for you as long as it is signed by you.

20. If I live on the mainland, can I fax my tax clearance application to you?

Yes. A completed tax clearance application may be faxed to the Department. Please ensure that faxed applications are signed, legible, and clear; otherwise, they will not be accepted for processing. Faxed applications will have the same processing time frame as applications which are mailed in (approximately 10 - 15 business days). Fax numbers for the Department are provided at the end of this brochure and on page 2 of the application.

21. Who can sign the tax clearance application?

The owner, officer, partner, or an authorized agent (with a valid power-of-attorney) can sign the application. If the application is not signed, it will be returned.

22. After sending in my tax clearance application, what will I receive from the Department?

If your tax record is current, you will receive a tax clearance certificate (the front page of the tax clearance application) within 10 - 15 business days after mailing in your application. The tax clearance certificate will be a certified copy of the original approved application. All certified copies will have a green certified copy stamp. If your tax record is not current, you will be notified by the Department.

23. I have several businesses and multiple Hawaii Tax I.D. Numbers listed under my name. Can I get a tax clearance certificate on only one of my businesses?

No. The Department checks all of the records available under the taxpayer's name before it issues a tax clearance certificate for any of the taxpayer's businesses.

24. I placed my GET license on inactive status for two years with your Department and I need a tax clearance certificate. Will you check the GET records for my inactive business?

Yes. Placing a business on inactive status does not inactivate your GET record. This record will be checked along with your income tax record before a tax clearance certificate can be issued.

25. My business is located on a neighbor island and I need a tax clearance certificate to give to a state agency on Oahu to bid on a contract. Can I apply for a tax clearance certificate and pay any outstanding taxes that I may owe at any district tax office?

Yes. Your application and tax payment can be mailed or brought in person to any district tax office.

26. Must I pay the entire amount of any delinquent taxes to get my tax clearance certificate?

Yes. Your outstanding tax liability must be paid in full (even if your business is terminated) before a tax clearance certificate can be issued to you.

Special consideration (payment plan) is afforded for liquor and contractor license renewals which would allow for a "conditional clearance". Contact our Collection Branch to see if you qualify.

27. I have some tax returns that are past due and will owe the state some tax, penalty, and interest. Must I pay the entire amount owed before the Department will give me a tax clearance certificate?

Yes. All amounts owed must be paid in full. Any outstanding returns and payments should accompany your application for tax clearance. In addition, the payment must be made in cash or by cashier's check, certified check, or money order if the total owed is more than \$1,000.

28. What is the fastest way to get my tax clearance certificate?

If the application is brought in person to the Department and your tax record is current, the tax clearance certificate may be issued that day.

29. Can I request for more than one copy of the tax clearance certificate?

Yes. You may request additional certified copies of the certificate when you fill out the application.

30. Can I request for additional copies of the tax clearance certificate before the expiration of the certificate?

Yes. Additional certificates may be requested in person or by mail prior to the expiration date of the certificate. You must submit the tax clearance with the original red signature with a request for the number of copies required. Each copy will have an original green certified copy stamp. Requests for additional copies of previously issued clearances may not be requested by fax. When the approval date expires, a new tax clearance application must be filled out and processed. Also, if a copy of the still-valid certificate is not presented or is not available, a new tax clearance application must be filled out and processed. A new six-month period of validity will begin with the approval date of the new tax clearance.

31. I received my tax clearance certificate about two months ago. Can I still use it?

Tax clearance certificates (except for final payment) are treated as having a six-month period of validity by the Department and the IRS. For example, a tax clearance certificate issued and dated August 1, 2015 would be valid through February 1, 2016; a tax clearance certificate issued and dated August 14, 2015 would be valid through February 14, 2016; and a tax clearance certificate issued and dated August 31, 2015 would be valid through February 29, 2016. However, more stringent requirements may be imposed by the party requesting the tax clearance which is a matter between that party and the taxpayer.

32. Does the six-month period of validity discussed in question 31 also apply for final payment of a state executive branch contract?

No. The period of validity for a tax clearance used for final payment of a state executive branch contract is two months. For example, a tax clearance certificate issued and dated July 31, 2015 would be valid through September

30, 2015. A copy of a tax clearance certificate that has an original green certified copy stamp may be submitted to the Department of Accounting and General Services for final payment of the state contract.

Where to Get More Information

33. Where can I get additional information on tax clearances?

For more information on tax clearances, see Tax Facts 31-2, "Tax Clearances for State & County Contracts."

Additional information is available on our website at **tax.hawaii.gov**. You may call or email any district tax office for information and forms. Our contact information is provided to you at the end of this brochure.

For More Information, Forms, Publications, & Assistance

Website: tax.hawaii.gov

OAHU DISTRICT OFFICE

Princess Ruth Keelikolani Building P.O. Box 259
830 Punchbowl Street Honolulu, HI 96809-0259
Honolulu, HI 96813-5094

Taxpayer Services Branch

Telephone: 808-587-4242
Toll-Free: 1-800-222-3229

Telephone for the hearing impaired
Telephone: 808-587-1418
Toll-Free: 1-800-887-8974

Fax: 808-587-1488

Email:

Taxpayer.Services@hawaii.gov

Compliance Division

Telephone: 808-587-1611

Office Audit Branch

Telephone: 808-587-1644

Fax: 808-587-1633

Collections Branch

Telephone: 808-587-1600

Fax: 808-587-1720

MAUI DISTRICT OFFICE

State Office Building
54 S. High Street, #208
Wailuku, HI 96793-2198

Telephone: 808-984-8500

Fax: 808-984-8522

Email: Tax.Maui.Office@hawaii.gov

Molokai

35 Ala Malama Street, Room 101
Kaunakakai, HI 96748

Telephone: 808-553-5541

Fax: 808-553-9878

HAWAII DISTRICT OFFICE

State Office Building
75 Aupuni Street, #101
Hilo, HI 96720-4245

Telephone: 808-974-6321

Fax: 808-974-6300

Email: Tax.Hilo.Office@hawaii.gov

State Office Building

82-6130 Mamalahoa Hwy., #8
Captain Cook, HI 96704

Telephone: 808-323-4597

Fax: 808-323-4599

KAUAI DISTRICT OFFICE

State Office Building
3060 Eiwa Street, #105
Lihue, HI 96766-1889

Email: Tax.Kauai.Office@hawaii.gov

Telephone: 808-274-3456

Fax: 808-274-3461

Regular office hours are from 7:45 A.M. to 4:30 P.M. Monday through Friday, except state holidays.