

MARGERY S. BRONSTER 4750
Attorney General of Hawaii

ERIC S. T. YOUNG 5885
Deputy Attorney General
Department of the Attorney
General, State of Hawaii
Keelikolani Building
830 Punchbowl Street, Room 219
Honolulu, Hawaii 96813
Telephone: 566-1473

Attorneys for
DIRECTOR OF TAXATION,
STATE OF HAWAII

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TAX APPEAL COURT

TAX APPEAL COURT
STATE OF HAWAII
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KATHLEEN HARRISON
CLERK

IN THE TAX APPEAL COURT OF THE
STATE OF HAWAII

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|---------------------------------|---|---------------------------|
| In the Matter of the Tax Appeal |) | Case No. 97-5379 |
| |) | |
| of |) | STIPULATED JUDGMENT |
| |) | |
| DIRECTOR OF TAXATION, |) | <u>Old Trial Date</u> |
| |) | Week of October 13, 1997 |
| Appellant. |) | <u>New Trial Date</u> |
| |) | Week of October 20, 1997 |
| _____ |) | |
| COMPUTER SCIENCES CORPORATION, |) | <u>Judge</u> |
| |) | Honorable James R. Aiona, |
| Taxpayer/Appellee. |) | Jr. |
| _____ |) | |

STIPULATED JUDGMENT

WHEREAS, Haw. Rev. Stat. § 237-26 exempts from the general excises tax gross proceeds derived from the performance of "scientific work," which is defined as "work involving primarily the research and development for, or the design, manufacture, instrumentation, installation, maintenance, or operation of aerospace, agricultural, astronomical, biomedical, electronic, geophysical, oceanographic, test range, or other scientific facilities."

WHEREAS, the Legislature has stated that the purpose of Haw. Rev. Stat. § 237-26 is to attract "sophisticated research and development work" to this State. S.J. S. STAND. COM. REP. NO. 2471, 14th LEG. 1052 (Haw. 1988).

WHEREAS, it is the Director's position that research and development is divided into three classes: 1) basic research, 2) applied research, and 3) development based on basic and applied research. Carl Heyel, ed., Handbook of Industrial Research Management 119-20 (2nd ed. 1968).

WHEREAS, work performed by Taxpayer for the Naval Oceans Systems Center, Hawaii Laboratory, Kaneohe Bay, Hawaii ("NOCS"), qualifies for the exemption because NOCS, which conducts research and development in the area of Command, Control, Ocean Surveillance and Underwater weapons development, is a scientific facility.

WHEREAS, it is the Director's position that work performed by Taxpayer during its 1992 and 1993 tax years only which involved the production, testing, upgrade and maintenance of computer systems and software applications for the Fleet Intelligence Center, Pearl Harbor Naval Base, Hawaii ("FIC") under Task Order PHA 17-1018, does not qualify for the exemption because 1) FIC does not conduct research and development, and therefore, is not a scientific facility, and 2) Taxpayer's work does not involve research and development, but rather the production and fielding of an operational computer system.

WHEREAS, the Taxpayer and the Director wish to settle this case and have agreed to make this Stipulated Judgment pursuant to that certain Settlement Agreement dated October 14, 1997.

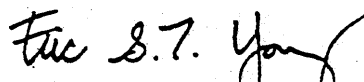
NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED by the parties hereto, through their respective counsel, that Judgment be and hereby is entered as follows:

1. The Taxpayer shall be refunded the sum of THREE HUNDRED THOUSAND AND NO/100 DOLLARS (\$300,000.00) from the litigated claims fund, within thirty (30) days from entry of this Stipulated Judgment.

2. After payment of the refund to the Taxpayer in the amount set forth above, all remaining funds being held by the Director subject to Taxpayer's claim for refund, including the amount of SIXTY FIVE THOUSAND SIX HUNDRED NINETY-TWO AND 03/100 DOLLARS (\$65,692.03), shall be released to the general fund of the State of Hawaii.

3. The Taxpayer and the Director shall each bear their own attorneys' fees and costs in this matter.

DATED: Honolulu, Hawaii, October 14, 1997.



MARGERY S. BRONSTER
ERIC S. T. YOUNG

Attorneys for Appellant
DIRECTOR OF TAXATION
STATE OF HAWAII

Miki Okumura

MIKI OKUMURA

Attorney for Taxpayer/
Appellee COMPUTER SCIENCES
CORPORATION

APPROVED AND SO ORDERED:

James R. Aiona, Jr.



JUDGE OF THE ABOVE-ENTITLED COURT

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In the Matter of the Tax Appeal of COMPUTER SCIENCES CORPORATION;
Tax Appeal Case No. 97-5379; STIPULATED JUDGMENT