

BENJAMIN J. CAYETANO
GOVERNOR

MAZIE HIRONO
LT. GOVERNOR



RAY K. KAMIKAWA
DIRECTOR OF TAXATION

SUSAN K. INOUE
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION

PO BOX 259
HONOLULU, HI 96809

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**TAX ADVISORY ON THE APPLICATION OF THE GENERAL EXCISE
TAX TO TOURIST WEDDING ACTIVITIES OF CHURCHES**

Recently, questions have been raised regarding the application of the general excise tax to the income received from tourist “wedding” activities on church premises. This advisory provides information about the general excise tax exemption for churches and, in particular, their tourist wedding activities.

Section 237-23(a), Hawaii Revised Statutes (HRS), provides that the general excise tax shall not apply to corporations, associations, trusts, or societies organized and operated exclusively for religious, charitable, scientific, or educational purposes.

Section 237-23(b), HRS, further provides that the exemption shall apply only to the fraternal, religious, charitable, scientific, educational, communal, or social welfare activities of such persons, and not to any activity the primary purpose of which is to produce income even though the income is to be used for or in furtherance of the exempt activities of such persons.

Section 237-23(c), HRS, provides that in order to obtain an exemption from the general excise taxes, the organization must file Form G-6, Application for Exemption from the Payment of General Excise Taxes, with the Hawaii Department of Taxation for approval.

The following discussion assumes that the church in question is organized and operated for a religious purpose, and has applied and received approval for exemption from the general excise tax.

In performing traditional wedding ceremonies, a church is conducting an activity that is religious in nature. Accordingly, income received from the conduct of these ceremonies are generally considered exempt from the general excise tax. With the recent introduction of tourist “wedding” activities on church premises on a wholesale basis, questions have arisen as to whether the income derived from this activity qualifies for exemption from the general excise tax.

The test is whether the primary purpose of the tourist “wedding” activity is religious or fundraising in nature. If fundraising, the income received from the activity will be subject to the 4 percent general excise tax. This determination is made on a case-by-case basis taking into account all of the facts involved.

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For example, if the ceremony performed is in fact a wedding (as opposed to, say, a reenactment of one) conducted on church premises by the church minister, priest, or other officiator, then the activity will be considered religious and not income-producing. On the other hand, if the weddings are arranged, packaged and conducted through a commercial entity without church involvement other than making available the use of church premises, the "wedding" activity will be considered fundraising in nature. Even though the wedding activity may be conducted by the church minister, priest, or other officiator, the activity can take on a commercial hue that is so predominant as to render it fundraising in nature (considering the size and frequency of the activity, how the activity is marketed, the amount of time and resources expended, and the amount of revenues derived from the activity).

We recognize that there maybe other factual circumstances not detailed in the preceding paragraph. In order to ensure that the correct reporting position is being taken on these activities, a church may ask the department for a ruling on its specific circumstances. A ruling is requested by submitting a Form A-7 to the department. Please call 587-7572, our forms line, and ask for the Form A-7 with instructions.

In general, the honoraria or fee that the minister, priest, or other officiator receives for performing the wedding ceremony is subject to the 4 percent general excise tax. However, where the honoraria or fee is turned over intact to the church and the wedding ceremony is not viewed as primarily fundraising, then the gross income will not be taxable under the general excise tax.

Aside from tourist wedding activities, many church facilities are made available for use by other organizations, individuals, or community groups. Amounts charged for this use will be considered rental income subject to the 4 percent general excise tax. Whether it is called "rental," "user donation," "donation," or by some other designation, the charge for the use of church facilities will as a general rule be considered fundraising in nature.