

TERRITORY OF HAWAII
DEPARTMENT OF THE TAX COMMISSIONER

General Excise Tax Memorandum No. 2

(Revised for Use in 1958 and Later Years)

TO SUGAR PROCESSORS, PINEAPPLE CANNERS AND OTHER MANUFACTURERS; AND TO PRODUCERS RAISING OR PRODUCING AGRICULTURAL, ANIMAL, POULTRY OR NATURAL RESOURCE PRODUCTS, OR ENGAGED IN THE BUSINESS OF FISHING:

Subject: Method of Reporting Gross Proceeds of Sales,
Value of Products and Gross Income

Scope of this memorandum. These instructions relate to the method of reporting, by manufacturers and producers, of gross proceeds of sale, value of products, and gross income on the form of return in use in the calendar year 1958 and later years.

Lines 2, 5, and 6, manufacturers. A manufacturer is to report on line 2, 5, or 6 the "value of the entire product for sale". These lines are to be used to report products manufactured by the taxpayer, in whole or in part, or which are manufactured for him by others. See Section 117-14(a)(1) for details as to the type of activity considered to be manufacturing.

As to sales made in the Territory, the amount to be reported as the value of the products is the same as the amount required to be reported as the gross proceeds of sales. Even though this same amount appears on two lines (line 2, 5 or 6 and also line 1, 4 or 15), double taxation is eliminated by deductions to be taken in column (c) of the return, as explained under the heading "Elimination of Double Taxation".

As to sales made for delivery outside of the Territory (for example, consigned to a mainland purchaser via common carrier f.o.b. Honolulu), and as to products shipped or transported out of the Territory without having been sold, the value of the products is to be determined as explained in a special memorandum headed "To all Manufacturers and Producers Taxable at the One Per Cent General Excise Tax Rate, who Sell their Products for Delivery outside of the Territory, or who Ship or Transport their products out of the Territory without Sale having been made" (General Excise Tax Memorandum No. 1 issued by the office of the Tax Commissioner), and as to manufacturers taxable at the 2½% rate the value is to be de-

termined upon consultation with the Tax Commissioner.

The applicable line (line 2, 5 or 6) is to be selected as follows:

Millers or processors of sugar, raw or refined—report on line 2. The tax rate for taxes computed on this line is 2½%.

Pineapple canneries, including canning of pineapple juice—report on line 6. The tax rate for taxes computed on this line is 2½%.

Manufacture of sugar and pineapple byproducts, canning other than pineapple or pineapple juice, and all other manufacturing—report on line 5. The tax rate for taxes computed on this line is 1%.

Line 3, producers. A producer is to report on line 3 the gross proceeds of sales made in the Territory of fish, or agricultural, animal or poultry products in their natural state or butchered and dressed, or natural resource products. Although this same amount will also have been reported on line 1, 4 or 15, double taxation is eliminated by deductions to be taken in column (c) of the return, as explained under the heading "Elimination of Double Taxation".

A producer also is to report on line 3 the value of products sold for delivery outside the Territory (for example, consigned to a mainland purchaser via common carrier f.o.b. Honolulu), and the value of products shipped or transported out of the Territory without having been sold. The value to be reported is the value of the products for sale, to be determined as explained in a special memorandum headed "To all Manufacturers and Producers Taxable at the One Per Cent General Excise Tax Rate who Sell their Products for Delivery outside of the Territory, or who Ship or Transport their Products out of the Territory without Sale having been made" (General Excise Tax Memorandum No. 1 issued by the Office of the Tax Commissioner).

The amount to be reported on line 3 includes all instances where the products involved are fish, agri-

cultural, animal or poultry products in their natural state or butchered and dressed, or natural resource products, except those purchased by the taxpayer instead of being raised or produced by him.

Lines 1, 4 and 15. A manufacturer or producer is to report on line 4 (in addition to reporting on line 2, 5 or 6, or on line 3) all sales of his products in the Territory made at wholesale, that is, sales made in the Territory to a licensed seller for purposes of resale, or to a licensed manufacturer for incorporation into his product for sale, or to a licensed contractor for incorporation into the contract project (unless governed by the election provided for by paragraph (3) of section 117-14(c)). A person is "licensed" only when taxable on his activity, under the General Excise Tax Law.

A manufacturer or producer is to report on line 1 (in addition to reporting on line 2, 5 or 6, or on line 3) sales of his products in the Territory other than those made at wholesale reported on line 4. However, sales for consumption or use by a purchaser which is not a government, institution or licensed business, are to be reported on line 15 instead of line 1.

Sales for delivery outside the Territory (for example, consigned to a mainland purchaser via common carrier f.o.b. Honolulu), and products shipped or transported out of the Territory without having been sold, are not to be reported on line 1, 4, or 15. These are to be reported only as "value of products" as explained in connection with lines 2, 5 and 6 (as to manufacturers) and line 3 (as to producers).

When a manufacturer or producer makes sales of tangible personal property consisting in merchandise not manufactured or produced by him, these gross proceeds of sales are to be reported on line 1, 4 or 15, whichever is appropriate.

The tax rates for taxes computed on line 1, 4 or 15 are:

Line 1— $3\frac{1}{2}\%$
Line 4— $\frac{3}{4}$ of 1%
Line 15— $3\frac{1}{2}\%$

Elimination of double taxation. When gross proceeds of sales have been reported in column (a) on line 1, 4 or 15, and the amounts so reported are duplicated as to the same products in column (a) on line 2, 5 or 6 (as to manufacturers), or line 3 (as to producers), the computation of the tax, columns (d) and

(e), is to be made on the line bearing the highest tax rate. To eliminate double taxation, the amount reported in column (a) on the line bearing the lower tax is to be offset by deducting this same amount on the same line, in column (c), and explaining the deduction on the reverse side. The explanation of the deduction should be substantially in the following form:

"\$ represents amount duplicated as to the same products on line"

For example, assume a manufacturer of furniture himself sells the furniture to consumers in the Territory, for their use in their homes. He will deduct under column (c), on line 5, the amount of these sales, explaining the deduction by referring to the fact that this amount is duplicated as to the same products on line 15. Or if the furniture is for office use he will explain the deduction on line 5 by referring to the fact that this amount is duplicated as to the same products on line 1. If this furniture manufacturer sells to licensed sellers for purposes of resale, he will deduct in column (c), on line 4, the amount of these sales, explaining the deduction by referring to the fact that this amount is duplicated as to the same products on line 5.

In each case the deduction is taken on the line bearing the lower tax rate, and the tax is computed on the line bearing the higher tax rate:

In order to apply the general rule that the tax is to be computed on the line bearing the higher tax rate this must result in some tax. If manufacturing or producing is taxable but the sale is not, the tax is to be computed on line 2, 5 or 6 or on line 3. For example, if millers and processors of sugar, or canners of pineapple or pineapple juice, make sales in the Territory to the United States or a federal agency or instrumentality and the sale is in the exempt category but is not shown to be for use and consumption in the Territory in the manner provided by section 117-21.5-(d), the result is as follows: The sugar processor or canner is to take a deduction on line 1 under column (c), explaining the deduction on the reverse side of the return as follows:

"\$. represents products sold to
..... but not certified as
(U.S. department or agency)
'for use and consumption in the Territory'. This amount is
duplicated as to the same products on line where the
tax is computed."

The tax is to be computed on line 2 or 6 in this case.

Where sales are made for delivery outside the Territory, or products are shipped or transported outside the Territory without having been sold, there will be no duplication to be eliminated, because such products will not be reported on line 1, 4 or 15, as explained above under the heading "Lines 1, 4 and 15." Likewise when sales are made of merchandise not manufactured or produced by the taxpayer there will be no duplication to be eliminated.

Other deductions, columns (b) and (c). After the manufacturer or producer has selected the line on which he is to compute his tax as to the gross proceeds of sales or value of the particular products, he then may deduct on that line, under column (b) or (c), the exemptions and deductions that are allowed by the General Excise Tax Law for the particular business activity to which that line relates.

For example: A processor of refined sugar computing the tax on line 2 may deduct the amount paid for the raw sugar, but if line 1 is applicable the tax will be computed on that line and no deduction may be had for the price of the raw sugar.

However, the exemptions and deductions allowed by sections 117-20 and 117-21, and certain other exemptions, may be taken irrespective of the particular line on which the tax is computed.

It should be noted that charges paid for transportation to place of delivery are not deductible by any manufacturer or producer except when interstate or foreign commerce is involved as explained in the special memorandum relating to that subject matter, above referred to. Manufacturers and producers selling

their products in the Territory are subject to the general rule that expenses are not deductible. (The taxes enumerated in section 117-21 are exceptions to that rule.)

Lines 7 to 18. A manufacturer or producer having gross income, other than gross proceeds of sales reported on lines 1 to 6, must report each item of gross income on the appropriate line, to be selected from lines 7 to 18. The tax rate applicable commencing July 1, 1957 is 3½%, except upon certain services rendered to other manufacturers (section 117-16(d)). The 3½% rate applies, for example, to sugar benefit payments, interest, rentals, advertising revenues, commissions, and repair services.

Records. Act 34, Session Laws of Hawaii 1957, adds a new section 117-14.1 which provides that:

"* * * any person engaging or continuing in a business having gross income, gross proceeds of sales and value of products, or any of these as the case may be, taxable at different rates, shall be subject to taxation upon the aggregate amount of the gross income, gross proceeds of sales and value of products of the business at the highest rate applicable to any part of the aggregate, unless he shall segregate the parts taxable at different rates upon his records and in his returns, and shall sustain the burden of proving that the segregation was correctly made."

Therefore there is an overall requirement that proper records be kept correctly segregating the items of gross income, gross proceeds of sales and value of products taxable at less than 3½%, in order that a lesser rate may be applied.

DATED: Honolulu, T.H., November 29, 1957.

EARL W. FASE
Tax Commissioner