



TAX FACTS

From the
State of Hawaii, Department of Taxation

May, 2001

TAXATION OF AGRICULTURAL AND AQUACULTURAL PRODUCERS IN HAWAII

2001-2

This publication provides general information about the application of the general excise, use, fuel, and net income taxes to agricultural and aquacultural producers in Hawaii. An agricultural producer is one who is in the business of raising, producing, and selling agricultural products or natural resource products such as floricultural, horticultural, viticultural, forestry, nut, coffee, dairy, livestock, poultry, bee, animal, and any other farm, agronomic, or plantation products. An aquacultural producer is one who is in the business of fishing or raising aquacultural products and selling fish or aquacultural products.

In this publication, we refer to specific products for discussion purposes. The tax treatment is not unique to that specific product. You may substitute that specific product with another agricultural or aquacultural product.

General Excise Tax

1. What is the general excise tax?

The general excise tax is a tax imposed on business activity in the State of Hawaii. The tax is often called a "gross income tax" because the tax is computed based on the business' total gross income derived from doing business in Hawaii and not on the business' net profit. For basic information on the general excise tax, see "An Introduction to the General Excise Tax" brochure and Tax Facts 96-1, "General Excise vs. Sales Tax."

2. As an agricultural or aquacultural producer, am I subject to the general excise tax?

Yes, you are subject to the general excise tax if (a) you are in the business of raising and producing agricultural products or natural resources in Hawaii for resale or (b) you are in the business of fishing or raising aquacultural products in Hawaii for resale.

3. If I am subject to the general excise tax, what are my requirements?

First, you need to obtain a general excise license by completing Form BB-1, State of Hawaii Basic Business Application, and submitting it with a one-time payment of \$20 to the Department of Taxation (Department). You may either apply for your license in person at any of the Department's district tax offices or by mail. For detailed instructions, please refer to Form BB-1.

Next, you need to file your general excise tax returns with your general excise tax payments. Form G-45, the periodic general excise tax return, must be filed with the tax payment either monthly, quarterly, or semi-annually,

and Form G-49, the annual general excise tax return, must be filed annually. A booklet with Forms G-45 and Form G-49 will be sent to you after you obtain your general excise license. For more information on filing your general excise tax returns, please refer to the booklet instructions.

4. How do I complete the general excise tax returns in my booklet such as the Form G-45? For example, I sell agricultural or aquacultural products to a business who resells these products to the business' customers. Where do I report my sales of the agricultural or aquacultural products on my general excise tax returns?

Since the agricultural or aquacultural products were resold by the businesses to the business' customers, the products you sell to the business are wholesaling activities taxed at the rate of .5% and reported on line 1 of the general excise tax return.

5. If I sell agricultural or aquacultural products to my customers for their consumption or use, where do I report these sales on my general excise tax returns?

These sales are retail transactions. Retailing activities are taxed at the rate of 4% and are reported on line 8 of the general excise tax return.

6. If I sell my agricultural or aquacultural products to a State of Hawaii government agency for that agency's use, would this sale be exempt from the general excise tax?

While sales of tangible personal property to the federal government are exempt from the general excise tax, there is no exemption for sales to a State of Hawaii government agency.

Your sale to the agency is a retail transaction. Retailing activities are taxed at the rate of 4% and are reported on line 8 of the general excise tax return.

7. I also sell my agricultural or aquacultural products to out-of-state customers. Are these sales exempt from the general excise tax?

Yes, these sales are exempt from the general excise tax provided that delivery and acceptance of the products take place outside of Hawaii. Have your out-of-state customer provide you with a completed Form G-61, Export Exemption Certificate for General Excise and Liquor Taxes, and keep this form in your files to document the basis for this exemption. An alternative form or document may be used to provide the information requested on Form G-61.

Although these sales are exempt from the general excise tax, these sales still must be reported on your general excise tax return. Report these sales on line 8, column A, and the exemption for these sales on line 8, column B, of the general excise tax return. Be sure to list the line number, dollar amount and the reason for the exemption on the back of the return.

For more information, see Tax Information Release No. 98-5, "General Excise Tax Exemption for Tangible Personal Property, Including Souvenirs and Gift Items, Shipped Out of the State."

8. I pack and sell my agricultural or aquacultural products to tourists who pick up the products at the airport departure counter just prior to their flight out of Hawaii. Is this sale an out of state sale?

This is not an out-of-state sale; delivery and acceptance have occurred at the airport counter in Hawaii. Since the products will be consumed or used by the tourists, these sales are retailing activities, taxed at a rate of 4%, and reported on line 8 of your general excise tax return.

9. I am paid by other farmers to spray or harvest their agricultural or natural resources products. Are these payments subject to the general excise tax?

Depending on the agreement between you and the other farmers, the payments to you could be treated as either employee wages or business income. If you are being paid as an employee, the payments to you are not subject to the general excise tax.

If you are not an employee, the payments are treated as business income (services) and are subject to the general excise tax. Generally, services are subject to the general excise tax at a rate of 4% and are reported

on line 9, column A, of the general excise tax return. With the enactment of Act 71 (Session Laws Hawaii 1999), qualified services may be taxed at reduced rates because a phased-in deduction is available.

To derive the effective reduced rate, multiply qualified sales by the deduction rate and subtract that amount from the gross income on your general excise tax return. The deduction is calculated on Form G-81, Phased-In Wholesale Deduction Worksheet, using the following deduction rates:

From	To	Effective Rate	Deduction Rate
Jan 2000	Dec 2000	3.5%	12.5%
Jan 2001	Dec 2001	3.0%	25.0%
Jan 2002	Dec 2002	2.5%	37.5%
Jan 2003	Dec 2003	2.0%	50.0%
Jan 2004	Dec 2004	1.5%	62.5%
Jan 2005	Dec 2005	1.0%	75.0%
Jan 2006	thereafter	.5%	87.5%

Report this deduction on line 9, column B, of the general excise tax return and list the line number, dollar amount and explanation on the back of the general excise tax return.

Also, have the farmers provide you with a completed Form G-82, Certificate for Sales of Goods and Services which Qualify for the Phased-In Wholesale Deduction, and keep this form in your files to document the basis for the reduced rate. For further information on Act 71, please contact the Department.

10. I am an expert in the raising of fish through aquaculture and have developed techniques that ensures a quality product. I do consulting work for out-of-state firms. I test the product samples they send me and then send a report to them for use outside Hawaii. If my service is used outside Hawaii, will my service be subject to the general excise tax?

No, gross proceeds received after December 31, 1999, which were derived from your exported services, are not subject to the general excise tax. Acts 70 (Session Laws Hawaii 1999) and 198 (Session Laws Hawaii 2000), exempt from the general excise tax exported services for gross proceeds received after December 31, 1999.

Although your exported services are exempt from the general excise tax, these services still must be reported on your general excise tax return. Report the services on line 9, column A, and the exemption on line

9, column B, of the general excise tax return. Be sure to list the line number, dollar amount and the reason for the exemption on the back of the return.

Also, have the out-of-state firms provide you with a completed Form G-61, Export Exemption Certificate for General Excise and Liquor Taxes, and keep this form in your files to document the basis for the exemption. An alternative form or document may be used to provide the information requested on Form G-61. If you need further information regarding Acts 70 and 198, please contact the Department.

11. I rent (lease) land from a landowner (lessor) for my farm. Since I have more land than I need, I (sublessor) rent (sublease) an acre of land to another farmer (sublessee). Is the money I collect from the sublessee subject to the general excise tax?

Yes, the money collected from the sublessee is subject to the general excise tax. Generally, leasing activities are subject to the general excise tax at a rate of 4%. However, you may qualify for a sublease deduction. Instead of paying the 4% general excise tax on the money collected from the sublessee, you may be able to pay 4% general excise tax on the money collected from the sublessee minus the amount of the sublease deduction.

The sublease deduction is calculated on Form G-72, Sublease Deduction Worksheet, by taking the lesser of the following:

- An allocation of the rent you paid to the lessor for the subleased property multiplied by the following rate:

From	To	Rate
Oct 1998	Dec 1998	12.5%
Jan 1999	Dec 1999	25.0%
Jan 2000	Dec 2000	37.5%
Jan 2001	Dec 2001	50.0%
Jan 2002	Dec 2002	62.5%
Jan 2003	Dec 2003	75.0%
Jan 2004	thereafter	87.5%

- Or, rent paid by the sublessee to you.

To qualify for a sublease deduction, the following requirements must be met:

- The lease and sublease are in writing, and

- Lessor certifies that lessor is subject to the general excise tax at a rate of 4% on the rent paid by you to the lessor. The certification is shown on Form G-71, General Excise Sublease Deduction Certificate.

For more information, please refer to the Department's Announcement No. 98-23, "Adoption of sections 18-237-16.5-01 to 18-237-16.5-07, Hawaii Administrative Rules (HAR), relating to the application of the general excise tax to written real property leases and the sublease deduction," and the instructions for Form G-71 and Form G-72.

Use Tax

12. What is the use tax?

The use tax is meant to complement the general excise tax. The use tax is an excise tax on the use of imported tangible personal property, services, or contracting in Hawaii purchased from one who is not licensed to do business in Hawaii.

The use tax is imposed on the landed value of the imported property and the value of the services or contracting. The term "landed value" includes the price of the item, shipping, handling or delivery charges, insurance, and any other cost incurred to land the item in Hawaii. "Value" means the fair and reasonable cash value at the time of accrual of the tax. For basic information on the use tax, see "An Introduction to the Use Tax" brochure.

13. Am I subject to the use tax?

Yes, you are subject to the use tax.

14. How do I report and pay the use tax?

The use tax is reported on either lines 17 or 18 of your general excise tax return. The use tax is also paid with the filing of your general excise tax return.

15. I am charged a general excise tax when I purchase equipment, supplies, or services. Do I need to pay use tax on my purchases?

When you purchase goods or services in Hawaii, the businesses are not actually charging you the tax. Instead, they are just showing you the amount which they have included in the total price in order to pay the general excise tax due on the transaction. When the business chooses to show an amount which is represented as general excise tax in this way, it is said to be "visibly passing on" the general excise tax to you.

Since you are purchasing goods or services from one who is licensed to do business in Hawaii, your purchases are not subject to the use tax.

16. When I order supplies from an out-of-state supplier, am I subject to the use tax on these imported supplies?

Yes, you may be subject to the use tax on the landed value of imported supplies purchased from an out-of-state supplier that is not licensed to do business in Hawaii.

When you purchase items such as farm chemicals, fertilizers, fish food, polyethylene mulch films, pond liners, etc., i.e., materials or commodities which are essential to the planting, growth and nurturing of agricultural commodities or aquacultural products, the use tax of .5% applies to the landed value of the imported items. Also, the .5% use tax applies if you are purchasing packing materials in which the agricultural or aquacultural products will be packed and sold by you at retail or shipment out of Hawaii.

If you purchase packing materials to pack your agricultural or aquacultural products and you sell these products at wholesale, there is no use tax. For more information, see Tax Information Release No. 98-8, "RE: Application of Act 247, Session Laws of Hawaii 1998 (Act 247), Relating to the General Excise Tax Exemption for Tangible Personal Property Imported into the State for Resale at Wholesale."

However, if you are purchasing items such as construction materials, equipment, repair parts, water quality analyses equipment, office supplies, safety equipment, etc., the use tax of 4% applies to the landed value of the imported items.

For more information, please refer to Tax Facts No. 95-1, "All About the Hawaii Use Tax."

17. If the out-of-state seller is charging me the seller's state sales tax, do I still need to report and pay the use tax?

Yes, you are required to report and pay the use tax. However, you may take a deduction for the amount of purchases on which sales or use tax was charged. This amount is computed by dividing the sales or use tax charge by the applicable tax rate (.5% or 4%). This amount cannot be more than the landed value of the item purchased. You would report this deduction in column B on either lines 17 or 18 of the general excise tax return and list the line number, dollar amount and explanation on the back of the general excise tax return.

18. I have an out-of-state firm analyze the water quality for my aquaculture farm. I receive a report from the out-of-state firm based upon the water samples I sent to them. Do I have to pay use tax on this?

Yes, Acts 70 and 198, amended the Use Tax Law to impose the use tax on imported services and contracting

effective January 1, 2000. The use tax applies to imported services and contracting which were purchased from an out-of-state supplier that is not doing business in Hawaii. The use tax rate depends on whether the imported services will be resold by you.

In this example, the value of the imported water quality analyses service is subject to the use tax at the rate of .5% and is reported on line 17 on your general excise tax return. If you need further information regarding Acts 70 and 198, please contact the Department.

Fuel Tax

19. When I purchase fuel for my agricultural equipment, I notice that the fuel tax is passed on to me from the fuel distributor. I understand that my fuel purchase may be exempt from the State and County fuel taxes. What is this exemption, and how do I obtain a refund for the fuel taxes that were passed on to me from the fuel distributor?

For all fuel consumed by your agricultural equipment while operated off the public highways, you are eligible for a refund of the fuel taxes paid in excess of one cent per gallon. To file your claim for this refund, you must complete and file Form M-36, Combined Claim for Refund of Fuel Taxes Liquid Fuel (Gasoline) Used for Agricultural Equipment Operated off Public Highways and Diesel Oil and Liquefied Petroleum Gas Used for Motor Vehicle Operated off Public Highways, with the district tax office where your farm is located.

20. Does it make a difference if I purchase the fuel used for my agricultural equipment from a retail dealer or directly from the fuel distributor?

No, you are still eligible for a refund of the fuel taxes paid in excess of one cent per gallon for the fuel used for your agricultural equipment off the public highways. However, if you purchase diesel oil or liquefied petroleum gas (LPG) directly from a distributor, file Form M-38, Exemption Certificate. The distributor will not pass on the fuel tax in excess of one cent per gallon if the fuel is used to operate agricultural equipment off public highways.

21. What happens if I received a refund of the fuel taxes and later used my agricultural equipment on the public highways?

You must pay the fuel tax for the fuel used on the public highways by filing with the district tax office where your farm is located the following forms:

- Form M-13, Quarterly Statement and Tax Return of Diesel Oil Initially Purchased for Use off the

Public Highways but Subsequently Used on the Public Highways, and

- Form M-22, Quarterly Statement and Tax Return of Liquefied Petroleum Gas Initially Purchased for Use off the Public Highways but Subsequently Used on the Public Highways.

Income Tax

22. I am a self-employed farmer. Is the income generated by my Hawaii farming business subject to income tax?

Yes, your farming income is subject to income tax. While your business income and expenses would be listed on Schedule F of Form 1040 for federal income tax reporting purposes, Hawaii does not require that Schedule F be attached to your Hawaii income tax return. The farming income reported on your Hawaii income tax return would be the amount reported on your federal tax return, adjusted for Hawaii income tax purposes.

You may benefit from averaging your farm income for income tax purposes if you have more income in the current tax year than the last three tax years. Use Form N-168, Farm Income Averaging, to utilize this benefit.

23. A farmer informed me that he claimed a credit on his income tax return for his purchase of a new tiller. If I purchased a new spraying system, do I get that credit?

The credit, called the Capital Goods Excise Tax Credit, reimburses businesses for the general excise or use tax paid on the purchased or imported tangible personal property.

To be eligible for the credit, the property shall be depreciable property and used in your farming business. Additionally, the general excise tax or use tax must have been paid at a rate of 4%. The credit is equal to 4% of the cost of the eligible property. The credit is claimed by attaching a completed N-312, Capital Goods Excise Tax Credit, to your Hawaii income tax return. The credit must be claimed within twelve months of the close of the taxable year. For more information, see Tax Information Release No. 86-6, 88-8, and 89-4.

Forms and publications referenced in this Tax Facts are available at our website at www.state.hi.us/tax or at any of our district tax offices listed below. Forms and publications can be either mailed or faxed to you by calling our Forms By Fax/Mail Line at 587-7572 or toll-free at 1-800-222-7572.

STATE DISTRICT TAX OFFICE ADDRESSES & TELEPHONE NUMBERS

Website (Forms & Information)
www.state.hi.us/tax

Recorded Tax Information
808-587-1234 and press 7700

Forms by Fax/Mail
808-587-7572
Toll-Free: 1-800-222-7572

Telephone Devices for the Deaf (TDD)
Tax Service & Processing
808-587-1418
Toll-Free: 1-800-887-8974

Oahu District Tax Office
830 Punchbowl Street
P. O. Box 259
Honolulu, HI 96809-0259

Maui District Tax Office
54 South High Street #208
P. O. Box 1169
Wailuku, HI 96793-6169

Hawaii District Tax Office
75 Aupuni Street #101
P. O. Box 833
Hilo, HI 96721-0833

Kauai District Tax Office
3060 Eiwa Street #105
Lihue, HI 96766-1889

Telephone No.: 808-587-4242
Jan.-April 20: 808-587-6515
Toll-Free: 1-800-222-3229
Fax No.: 808-587-1488

Telephone No.: 808-984-8500
Fax No.: 808-984-8522

Telephone No.: 808-974-6321
Fax No.: 808-974-6300

Telephone No.: 808-274-3456
Fax No.: 808-274-3461