



DEPARTMENT OF TAXATION  
STATE OF HAWAII

August 30, 1983

**TAX INFORMATION RELEASE** NO 83-4

RE: NEW ESTATE AND TRANSFER TAX

This Tax Information Release is to inform the public that Chapter 236, the Hawaii Inheritance and Estate Taxes Law, has been repealed by Act 217, Session Laws of Hawaii 1983, and that death taxes are to be governed by a new Estate and Transfer Tax. The new Estate and Transfer Tax Law is effective for all estates of persons who have died or dies after June 30, 1983.

Under the new law, the only death tax to be paid is the credit allowed to the State where an estate is liable for federal estate taxes (formerly the Hawaii Estate Tax). Thus, if the estate is not liable for any federal estate taxes, there are no death taxes due and owing to the State of Hawaii. Appropriate provisions are also included for credits to be allowed where a resident decedent owns property in another state and for nonresident decedents who own property in this State.

Any personal representative who is required by law to file a federal estate tax return must file with the Department of Taxation (1) a report for the taxes that are due and (2) a true copy of the federal estate tax return (see item 5 below). The filings must be made on or before the date the federal estate tax return is required to be filed, including any extensions of time that may have been allowed for the filing of the federal return. Where such an extension has been obtained, a true copy of the extension shall be filed with the Department within thirty days of the issuance of the extension. All taxes that are due and payable must be paid on or before the date the report is required to be filed. Late payments shall be subject to a penalty of five per cent per month but not to exceed twenty-five per cent. In addition thereto, interest shall be assessed at the rate prescribed in HRS Section 231-39(b)(4). Upon payment of the taxes and presentation of a sworn statement by the personal representative that the taxes have been paid, the Department shall issue a release and to thereby authorize the personal representative to transfer and make distribution of the decedent's estate.

Similarly, where no taxes are due because the estate is not liable for any federal estate taxes, the Department shall issue a release upon the presentation of a sworn statement by the personal representative that no taxes are due.

Your attention is particularly directed to the obligations, responsibilities and liabilities of persons who have control, custody or possession of any property belonging to the decedent. For this purpose, banks, safe-deposit companies, life insurance companies, depositories of checking and savings accounts, mortgagees or pledgees, stockbrokers or stock transfer agents are not deemed to be persons who have possession of the decedent's property provided they are not primarily responsible for paying the tax due.

The following are administrative procedures developed by the Department:

1. Only a copy of the probate inventory of nonresidents must be filed with the Department. Probate inventories are to be filed directly with the Court, and not forwarded to the Department. No appraisals will be required by the Department.
2. The Department will no longer issue consents to transfer for assets of decedents dying after June 30, 1983. (Banks, trust companies, savings and loans, etc., are no longer considered to have possession of decedents' property as was the case under Section 236-24, HRS.)
3. Tax releases will be issued in original copy only. The personal representative or surviving spouse is requested to provide copies where needed.
4. Certificates regarding Hawaii Estate and Transfer Taxes paid will be issued as required.
5. Rev. 1983, Form M-6 is to be used to report Hawaii taxes due.
  - a. Resident with all assets within Hawaii need only file first page of federal Form 706.
  - b. Resident with tangible personal property both within and without Hawaii, must file a complete copy of 706 (excluding appraisals).
  - c. Non-resident with tangible personal property with situs in Hawaii must file a complete copy of 706 (excluding appraisals).
6. Form M-6A is to be used to request a release when no taxes are due. A release will be issued automatically upon application. Personal Representatives should file Form M-6A. If no Personal Representative is named, a surviving spouse should file the form.

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