



STATE OF HAWAII
DEPARTMENT OF TAXATION

P.O. BOX 259
HONOLULU, HAWAII 96809-0259

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TAX INFORMATION RELEASE No. 89-10

RE: Taxability of Gross Receipts Derived by Helicopter Tour Operators.

Inquiries have been received as to the taxability of helicopter tour operators under chapter 237 or chapter 239, Hawaii Revised Statutes (HRS). This Tax Information Release is to set forth the Department of Taxation's position relating to the taxation of the gross receipts derived by helicopter tour operators.

In the U.S. Supreme Court decision of Aloha Airlines, Inc. v. Director, 464 U.S. 7 (1983), the Court ruled that no State may levy a tax on the gross receipts of airlines which are derived from air commerce or air transportation, as defined under 49 U.S.C. Section 1513.

In pertinent part, 49 U.S.C. Section 1513 (a) provides:

"No State . . . shall levy or collect a tax . . . directly or indirectly, on persons traveling in air commerce or on the carriage of persons traveling in air commerce or on the sale of air transportation or on the gross receipts derived therefrom"

It is the Department's position that the prohibition outlined under 49 U.S.C. Section 1513 also applies to certain operations of a helicopter tour operator. A helicopter tour operator is generally defined as a person who furnishes aerial sightseeing tours or the carriage of tangible personal property originating and terminating within the State of Hawaii by the use of helicopter aircraft.

The gross receipts derived from the following activities of a helicopter tour operator will be deemed exempt from the general excise tax imposed under chapter 237, HRS, and the public service company tax imposed under chapter 239, HRS:

1. The transportation of persons by helicopter aircraft, including the hiring of a helicopter for aerial sightseeing tours or charters originating and terminating at the same point in the State.
2. The transportation of U.S. or foreign mail by helicopter aircraft.
3. The operation or navigation of helicopter aircraft within the limits of any Federal airway. The term Federal airway means a portion of the navigable airspace of the United States designated by the U.S. Secretary of Transportation as a Federal airway.

4. The transportation of persons for a fee from one island to another within the State of Hawaii.


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