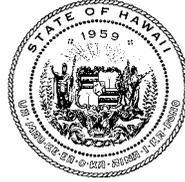


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January 17, 2007

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TAX INFORMATION RELEASE NO. 2007-01

RE: Relating to the Application of the County Surcharge Sourcing Rules to Real Property Management Companies

The purpose of this Tax Information Release is to provide guidance on the application of the new county surcharge tax in Hawaii Revised Statutes (HRS) section 237-8.6, for real property management companies.

A. HAWAII ADMINISTRATIVE RULES SECTION 18-237-8.6-04

HRS section 467-1 provides that a "real estate broker" includes any person for compensation, or a valuable consideration who "manages or offers to manage, any real estate, or the improvements thereon, for others . . .". Hawaii Administrative Rules (HAR) section 18-237-8.6-04 provides that gross income from commissions shall be allocated to the taxation district in which the services are rendered by the taxpayer. However, in the case of commission income earned from real estate sales or leasing, or from financing transactions secured by real estate, the gross income shall be allocated to the taxation district in which the real estate is located. The sourcing rule for commission income earned from real property management falls under the real estate exception provided in HAR section 18-237-8.6-04. Therefore, commissions earned from real property management will be sourced to where the real property is located.

B. EXAMPLES

Example 1: Taxpayer, a real estate broker defined under HRS section 467-1, located in the Oahu taxation district earned commission income from managing a residential building, which is located in the Oahu taxation district. Taxpayer shall allocate the commission income to the Oahu taxation district because the residential building is located in the Oahu taxation district. Taxpayer shall be subject to the 0.5 per cent county surcharge because the residential building is located in the Oahu taxation district.

Example 2: Same facts as in example 1, except that Taxpayer is located in the Maui district and the residential building is also located in the Maui taxation district. Taxpayer shall allocate the commission income to the Maui taxation district because the residential building is located in the Maui taxation district. Taxpayer shall not be subject to the 0.5 per cent county surcharge because the residential building is located outside of the Oahu taxation district.

Example 3: Same facts as in example 1, except that the real property is a commercial building. Taxpayer shall allocate the commission income to the Oahu taxation district because the commercial building is located in the Oahu taxation district. Taxpayer shall be subject to the 0.5 per cent county surcharge because the commercial building is located in the Oahu taxation district.

Example 4: Same facts as in example 1, except that the real property is a commercial building located in the Maui taxation district. Taxpayer shall allocate the commission income to the Maui taxation district because the commercial building is located in the Maui taxation district. Taxpayer shall not be subject to the 0.5 per cent county surcharge because the commercial building is located outside of the Oahu taxation district.

For more information, please contact the Rules Office at (808) 587-1577.



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