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TAX INFORMATION RELEASE

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RE: Expansion of the Definition of "Tourism Related Services" For General Excise Tax Purposes

Act 287, Session Laws of Hawaii (SLH) 1991, amended section 237-18(f), Hawaii Revised Statutes (HRS), to expand the definition of "tourism related services" to include lei greetings, transportation included in a tour package, admissions to luaus, dinner shows, extravaganzas, cultural and educational facilities, and other services rendered directly to the customer or tourist, but only if the providers of the services other than air transportation are subject to a 4 percent tax under either the General Excise Tax Law or the Public Service Company Tax Law. These changes are effective July 1, 1991.

Section 237-18(f), HRS, allows travel agencies and tour packagers and the providers of tourism related services to divide gross income received so that each person is subject to the general excise tax only on that person's share of the gross proceeds. Before the amendment by Act 287, SLH 1991, tourism related services included only catamaran cruises, canoe rides, dinner cruises, and sightseeing tours not subject to the public service company tax.

Amendments made by Act 287, SLH 1991, have the effect of taxing both the travel agencies or tour packagers and the service providers only on the amounts earned by each person. Gross income received by travel agencies or tour packagers is reduced by amounts paid for services provided directly to the customer of the travel agency or tour packager which are subject to a 4 percent tax.

Treatment of gross income under Act 287, SLH 1991, can best be illustrated by the following examples:

Example 1 - XYZ Travel, a Hawaii corporation based in Honolulu, assembles package tours consisting of air travel from the mainland to Hawaii, a lei greeting, ground transportation from the airport to the hotel, hotel accommodations, certain meals, and admissions from independent vendors and suppliers, paying vendors and suppliers a total of \$500 per customer or tourist. XYZ Travel markets its package to other travel agencies, charging the other travel agencies \$600 per person. ABC Travel, a Kansas corporation located in Kansas City, purchases the package from XYZ Travel and sells it to John Q. Public for \$700. ABC keeps \$100 and pays \$600 to XYZ. XYZ Travel is subject to the general excise tax at the rate of 4 percent on \$100 (the \$600 received minus the \$500 paid to providers), and the various providers, other than providers of air transportation would be liable for the 4 percent tax on their respective shares of the \$500.

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Example 2 - A tour packager sells a tourist a tour of Honolulu for \$50. Included in this tour are stops at a pineapple cannery (cannery) and the Arizona Memorial Visitor Center (Visitor Center). The tour packager pays a bus company \$30 for transportation, pays the cannery \$5 for a tour, and pays the Visitor Center \$5 for admission to the Visitor Center. The bus company is taxable under the Public Service Company Tax Law on the \$30 it receives. The cannery is taxable under the General Excise Tax Law on the \$5 it receives. The Visitor Center, run by the National Parks Service, a federal agency, is not subject to the imposition of Hawaii's taxes. The tour packager is taxed on \$15, i.e., the \$50 received from the tourist less the amounts paid to the bus company (\$30) and the cannery (\$5). Splitting of the gross receipts for the admission to the Visitor Center is not permitted since no tax is paid on the \$5 admission.


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