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January 8, 2018

TAX INFORMATION RELEASE NO. 2018-01

Re: General Excise Tax Obligations of Transportation Network Companies and Drivers

This Tax Information Release discusses the General Excise Tax (GET) obligations of transportation network companies (TNCs) and drivers who transport riders to destinations via use of the TNC's website or mobile application, including different treatment for amounts paid as a fare versus amounts paid as discretionary tips for drivers.

TNCs provide a website, mobile application, or both (the App) where persons seeking transportation to certain destinations (Riders) may request motor vehicle transportation to such destinations. The TNC provides a Rider requesting a ride through the App with an individual able to drive to that destination (Driver). After the ride is completed, the TNC charges the Rider a fare, possibly with an opportunity to add a discretionary tip for the Driver.

The GET is imposed on the gross income or gross proceeds of all business activities in the State unless an exemption applies. Hawaii Revised Statutes (HRS) § 237-13. Because TNC transactions involve three parties, it may not be immediately clear which party is in contract with the Rider and therefore liable for GET on the gross proceeds of the transaction.

GET Liability of TNCs

The TNC will be subject to GET on the gross proceeds of the transaction (*i.e.*, the total amount collected from a Rider), except for discretionary tips, at the retail rate (four percent plus any applicable county surcharge) if any of the following are true:

1. The TNC controls the manner in which the service is provided;
2. The TNC controls the price charged to the Rider for transportation;
3. The TNC processes payments for the transaction, whether directly or by using third party payment processors, as opposed to merely providing a Rider's payment information to a Driver to bill the Rider his or herself; or
4. The TNC provides insurance coverage for the transaction.

GET Liability of Drivers

The Driver owes GET on his or her gross income (*i.e.*, the total amount the TNC and/or the Rider remits to the Driver). The Driver may be eligible to pay GET at the reduced wholesale rate of 0.5 percent on the nontip portion of the income he or she receives if the elements in section 237-4, HRS, are met.¹

GET on Tip Income

With respect to discretionary tips, the person who ultimately receives the tip is subject to tax on the amount received at the retail rate. If the tip is divided between the TNC and the Driver, the tax applies to both the TNC and the Driver on each person's respective portion.

Discretionary tip income is:

1. An amount the Rider pays that is not part of the negotiated price of the transportation service;
2. Given voluntarily by the Rider; and
3. Given by the Rider in a situation where the payment is clearly a discretionary tip such as a labeled, separate line to add a tip on a paper credit card receipt, a labeled, separate field in an electronic payment application, or the opportunity to hand cash in addition to the negotiated price directly to a Driver.

Mandatory tips, such as an automatic gratuity added to large parties or rides requiring special automobiles or other special accommodations, or other mandatory payments, are taxable to the TNC at the retail rate with no deductions or income splitting.

Example

Rider uses TNC to request transportation in Honolulu. Driver's agreement with TNC entitles her to the amount of the "TNC Fare" minus a 25 percent commission plus any amounts paid as tips, which is discretionary. After Driver takes Rider to her destination, TNC charges Rider as follows:

Base Fare	\$2.00
Distance (\$1.50 x 5.25 miles)	\$7.88
Time (\$0.22 x 20 minutes)	\$4.40
TNC Fare	\$14.28
Service Fee	\$1.75
Tip	\$3.00
Total	\$19.03

TNC will be liable for GET at the retail rate on \$16.03, the entire amount charged minus

¹ If the Driver is an employee of the TNC, amounts received as a salary or wage are exempt from GET under section 237-24(6), HRS.

the tip. Driver's GET base is 75% of \$14.28, or \$10.71, plus the \$3.00 tip, for a total amount of \$13.71. However, Driver may be eligible to pay GET at the reduced wholesale rate on the \$10.71 of nontip income it receives from the TNC. Driver must pay GET at the retail rate on its tip income of \$3.00.

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