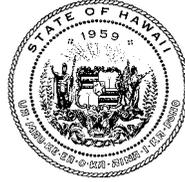


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July 16, 2009

## DEPARTMENT OF TAXATION ANNOUNCEMENT NO. 2009-11

RE: Act 196, Session Laws of Hawaii 2009, Relating to Taxation.

Senate Bill 1461, S.D. 2, H.D. 1, C.D. 2, became law without Governor Linda Lingle's signature as Act 196 (the "Act"), effective July 15, 2009.

The Act amends various provisions of Title 14, Hawaii Revised Statutes ("HRS") that address certain filing deadlines, method of payments, and general excise tax ("GET") exemptions, as further explained below.

### **Advanced filing and payment deadline for general excise taxes**

Section 4 of the Act amends the GET deadlines delineated in section 237-30, HRS. Prior to the amendment, taxpayers were required to file GET returns and pay their GET liability on the last day of the calendar month following the end of the reporting period, whether the reporting period is monthly, quarterly, or semi-annually. The Act advances the deadline for filing GET returns and paying the GET due to the twentieth day of the calendar month following the end of the reporting period.

### EXAMPLES FOR ADVANCED FILING DEADLINE:

January return (monthly filer)	Return and payment due February 20
Quarter ending March 31 (quarterly filer)	Return and payment due April 20
6-month period ending June 30 (semi-annual filer)	Return and payment due July 20

The Department of Taxation (the "Department") will provide a transition period to allow taxpayers to implement the necessary changes to meet the advanced filing deadline. No penalties or interest will be imposed on taxpayers who file their GET returns and pay any GET due after the twentieth day but on or before the last day of the calendar month following the end of the reporting period for all reporting periods ending on or before December 31, 2009. For instance, no penalty or interest will be imposed with respect to GET for the period (month, quarter or semi-annual) ending December 31, 2009 if the GET return is filed and the tax is paid on or before January 31, 2010; but a penalty will be imposed if the taxpayer files the return and pays the tax after January 31, 2010.

Penalties and interest will be imposed on taxpayers who fail to file their GET returns and pay any GET due on or before the twentieth (20<sup>th</sup>) day of the calendar month following the end of the reporting period for reporting periods ending after December 31, 2009. For instance, monthly filers must file their GET returns and pay any GET due for the month ended January 31, 2010 by February 22, 2010<sup>1</sup> to avoid penalties and interest.

**Expanded application of semi-weekly deposit schedule for state taxes withheld**

Section 3 of the Act amends section 235-62, HRS, by authorizing the Director of Taxation (the "Director") to require any employer who is required to deposit federal withholding taxes using the Internal Revenue Service's semi-weekly deposit schedule, to also pay state income taxes withheld on the same deposit schedule. Generally, employers that are "semi-weekly schedule depositors"<sup>2</sup> must deposit amounts withheld within three (3) banking days as scheduled by the Internal Revenue Service (the "3-day Schedule"). The Director may exempt any employer from the 3-day Schedule for state withholding taxes for good cause. Prior to this Act, only employers whose annual state withholding tax liability exceeded \$40,000 were required to remit amounts withheld using the 3-day Schedule used by semi-weekly depositors.

Under the 3-day Schedule, deposits of state (and federal) withholding taxes must be made as follows:

<b>IF the payday falls on a –</b>	<b>THEN deposit state withholding taxes on or before the following:</b>
Wednesday, Thursday, and/or Friday	Wednesday
Saturday, Sunday, Monday, and/or Tuesday	Friday

Section 3 of the Act allows the Director to expand the universe of taxpayers required to pay the Hawaii withholding tax using the 3-day Schedule. Pursuant to the provisions of section 235-62, HRS, as amended, employers who are required to deposit federal income taxes withheld using the Internal Revenue Service's semi-weekly deposit schedule shall remit state income taxes withheld to the Department using the 3-day Schedule, effective with respect to wages paid on or after January 1, 2010. Employers who are currently required to pay state withholding taxes using the 3-day Schedule must continue to report and pay on that basis. An employer may request an exemption from using the 3-day Schedule for good cause.

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<sup>1</sup> February 20, 2010 is a Saturday so the filing deadline moves to the next business day, Monday, February 22, 2010.

<sup>2</sup> The term "semi-weekly schedule depositor" does not refer to how often an employer pays its employees or even how often an employer must deposit taxes withheld. See Circular E, Employer's Tax Guide, Publication 15, Department of the Treasury. Rather, the term identifies the deposit rule that must be followed for employment tax liabilities. See id.

All taxpayers who are required to pay Hawaii withholding taxes using the 3-day Schedule pursuant to the above will be required to pay the withholding taxes electronically, as further explained below.

**E-filing and payment by electronic funds transfer ("EFT")**

Section 2 of the Act amends section 231-9.9, HRS, and authorizes the Director to require any person who is required to electronically file a federal return or electronically pay any federal taxes to the federal government, to electronically file a state return and/or electronically pay any state taxes due to the Department under Title 14.

Section 2 of the Act authorizes the Director to require e-filing or EFT payments as noted above. Pursuant to the provisions in section 231-9.9, HRS, as amended, employers who are required to pay federal withholding taxes by EFT, will be required to pay state withholding taxes by EFT, effective with respect to wages paid on or after **January 1, 2010**. Employers who are currently required to pay state withholding taxes by EFT must continue to do so.

A separate announcement will be issued to address any additional state taxes that will be required to be electronically filed and paid that are not currently required to be filed and paid electronically. Any taxpayer who is currently required to electronically file and/or pay any taxes must continue to do so.

**General excise tax exemption related to Act 239, 2007 Session Laws of Hawaii**

In 2007, the legislature amended certain GET exemptions related to condominium associations, timeshare associations, and hotel operators. As enacted, the 2007 amendments were set to expire on December 31, 2009.

The 2009 Legislature, in Part II of this Act, extended the sunset date for the GET exemptions noted above for one year, through December 31, 2010. However, the extended 2007 amendments only apply to \$400,000 of gross receipts in the aggregate for all affected taxpayers per taxable year ending on or between January 1, 2010 and January 1, 2011. The \$400,000 cap is not applied on a per taxpayer basis and applies to the gross receipts amount, not the tax amount.

For more information on this Act, please contact the Rules Office at 808-587-1577.



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