

### Hawaii Tax News

Volume 4, Number 1

State of Hawaii • Department of Taxation

**SPRING 2000** 

#### **Mobile Tax Assistance**



Assistance Program, the Internal Revenue Service and the Department of Taxation have embarked on a joint outreach program to take tax services directly to communities that do not normally have easy access to tax services. Mobile Tax Assistance was provided at various sites on all islands.

Taxpayers who came to the Mobile Tax Assistance locations found an array of services available to help them with their federal and state taxes. State employees answered tax questions, accepted general excise applications, explained assessment notices, arranged payment plans, waived penalties and interest, and prepared basic Form N-11, N-12, N-13, and N-15 tax returns and general excise tax returns.

The comments on the evaluation forms were very favorable! In general, the people really appreciated the tax assistance and could hardly believe that the Department would actually take the time to bring tax services to them.

### Simplified Website Address

The Department has made access to its website easier for you by simplifying its website address to www.state.hi.us/tax.

The site began in July, 1996 as one of the first State of Hawaii government websites. Information on the site has grown exponentially as the Department began to realize the possibilities of the Internet. For example, the website received over 224,000 hits during the month of February, 2000 alone. The site now contains over 1,500 pages of State of Hawaii tax information, forms and instructions, brochures, publications, Legislative initiatives, monthly collection tax reports, and the Hawaii Revised Statutes and Administrative Rules relating to taxation.

The site's look has been redesigned with several features added. These include frequently asked questions (FAQs), e-mail access to the Department, search/go to functions, search results, and automatic e-mail notification of updates, making it easier for users to access the information on the website. The site also contains useful links to other tax information websites and government agencies (including the counties' websites).

Future modifications to the site include expanded FAQs, more departmental e-mail contacts, and compatibility with ADA guidelines.

Answers to many state tax questions may be found on this site using the search feature. Before e-mailing any question, try the FAQs, or try the Search engine and enter a few key words to see if the question is covered on the site.

If a person still needs help, the Department can answer tax questions via e-mail. While the Department can respond to general tax questions by e-mail, state and federal laws require the Department to keep return and account information from Department records confidential. To protect your privacy, the Department will answer specific questions about any tax return or

(See Website Address, Page 2)

#### IN THIS ISSUE

Mobile Tax Assistance
Acts 70 and 71, SLH 1999 2
New Tax Services & Processing
Chief
Business Registration Services
Expanded
Reminders for the April 20 Deadline 4
Corrections to 1999 Tax Forms 4
Recently Issued Tax Publications 5
Pending Tax Publications 6
Second Quarter State Tax Collections 7

#### The Direct Line 2

By Director Ray K. Kamikawa



Since the enactment of Acts 70 and 71 last year, we have put a lot of effort into getting information out to affected taxpayers. We held workshops on Oahu, Maui, Kauai, and Hawaii, and made information available through our speaker's bureau, publications, and website. We've given guidance informally over the phone, and answered faxes,

e-mail, and letters for those who needed formal responses. This is, however, just the beginning of a process that we expect to go on for some time.

Both Acts 70 and 71 are intended to bring the tax treatment of services in line with the tax treatment of goods, but the very nature of service activities makes it difficult to draw the line between those transactions that are affected by these acts and those transactions that are not. More than 15 years ago, the 1983 Tax Review Commission concluded that enacting pyramiding relief for service transactions would be problematic and, based on other states' experience, could take years to become well understood. As we have from the beginning, however, we will continue to work with Hawaii's businesses, taxpayers, and tax practitioners to draw those lines and make that information available. This quarter's issue features an article that adds to the body of available information.

Though it may take some time, I am confident that these measures will, over time, reduce the tax burden on Hawaii businesses. Let's keep our lines of communication open in both directions; my e-mail address is rkk@aloha.net.

#### **Website Address**

(From Page 1)

account only by regular mail or telephone. Please include your mailing address and telephone number with any questions about a return or account.

The Department is dedicated to bringing taxpayers the most complete state tax information site. You are encouraged to contact us if you have suggestions to make the site more useful by e-mailing our Tax webmaster at dotax1@aloha.net.

#### Acts 70 and 71, SLH 1999

n January 1, 2000, new general excise tax and use tax provisions that impact Hawaii taxpayers, especially Hawaii businesses, went into effect. One major reason for enacting these measures, aside from providing tax benefits for Hawaii business, was to bring the tax treatment of services in line with the treatment of sales of goods.

Act 70 provides for an export exemption for services comparable to the previously existing export exemption for exported goods and also provides for a use tax on imported services comparable to the previously existing use tax on imported goods.

Prior to January 1, 2000, a business that sold goods to a customer and shipped those goods to a location outside Hawaii for use outside Hawaii was exempt from the general excise tax on this sale. However, a service business that provided services in Hawaii to an out-of-State customer for use outside Hawaii did not have a comparable exemption, and thus had to pay the general excise tax on those exported services.

Under Act 70, this difference in the treatment of goods and services was remedied by extending to service businesses an exemption for services that they perform in Hawaii for an out-of-State client for use outside Hawaii. The same form used to certify the exemption for exported goods, Form G-61, Export Exemption Certificate for General Excise and Liquor Taxes, also must be used to certify the exemption for exported services.

The use tax complements the general excise tax by

See Acts 70 and 71, Page 3



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#### **Acts 70 and 71**

(From Page 2)

imposing a tax on persons importing goods into Hawaii at rates comparable to the general excise tax that would be due had those goods been purchased in Hawaii. This benefits Hawaii sellers who otherwise are at a price disadvantage with out-of-State sellers not subject to Hawaii taxation. Act 70 brings the use tax treatment of services in line with the treatment of sales of goods by expanding the use tax to also include imported services.

If a Hawaii business purchases goods from an out-of-State seller (i.e., a seller that is not subject to Hawaii taxation) and imports those goods into Hawaii, then the Hawaii business is the importer and must report and pay the use tax on those imported goods. If the importer resells those goods at retail to a customer in Hawaii, then the importer is subject to the use tax at the rate of 0.5% on the value of those imported goods, and also to the general excise tax at the rate of 4% on the retail sale.

Under Act 70, a comparable use tax is now levied on a Hawaii business that hires an out-of-State service business (i.e., a service business that is not subject to Hawaii taxation) to provide services to that Hawaii business. If the Hawaii business imports and then resells those services to a customer in Hawaii, then the importer is subject to the use tax at the rate of 0.5% on the value of those imported services, and also to the general excise tax at the rate of 4% when the services are resold.

If a company does business both in and outside of Hawaii, consolidates the manufactured or purchased goods at a store or warehouse outside Hawaii, and imports those goods into Hawaii, then the company is the importer and must report and pay the use tax on those imported goods. If the importer resells those goods at retail to a customer in Hawaii, then the importer is subject to the use tax at the rate of 0.5% on the value of those imported goods, and to the general excise tax at the rate of 4% on the retail sale.

Likewise, if a service business performs services both in and outside of Hawaii for a customer in Hawaii, then the service business is subject to the use tax at the rate of 0.5% on the value of services performed outside Hawaii and imported into Hawaii. The service business also is subject to the general excise tax at the rate of 4% on the sale of both the imported services and the services performed in Hawaii to the Hawaii customer.

Act 71 brings the tax treatment of services in line with the tax treatment of goods by providing for the phase-in over a 7-year period of the 0.5% general excise tax wholesale rate on services that are resold (this year's rate is 3.5%).

In general, sales of goods from one licensed seller to another licensed seller for resale qualify as a sale at wholesale taxed at the rate of 0.5% under the general excise tax law. Sales to an unlicensed person are retail sales taxed at 4%. Sales to a licensed business of goods that are not resold, but which are instead used or consumed, also are retail sales taxed at 4%. Prior to this year, however, few service transactions qualified for the 0.5% wholesale rate. Now, many more service transactions qualify for wholesale treatment.

Under Act 71, wholesale tax treatment (this year taxed at 3.5%) generally is permitted for services provided by a licensed service business to another licensed business for resale, provided that the services are identifiable elements of goods or services that are resold and that are not overhead. As with the sales of goods, services provided to an unlicensed person will not qualify for the wholesale tax treatment, and services provided to a licensed business that are not resold, but that are used or consumed, also will not qualify.

Detailed information on Acts 70 and 71 is posted on our website at www.state.hi.us/tax under "Department of Taxation Legislative Initiatives." If you have any questions, you may call the Technical Section of our Taxpayer Services Branch at 808-587-1577. Questions can also be faxed to us at 808-587-1584 or e-mailed to dotax4@aloha.net. If you would like someone to speak to your group or business, contact our Team T.E.A.C.H. coordinator, Cathleen Tokishi, at the same telephone number, fax number, and e-mail address listed above.

### New Tax Services & Processing Chief



erry Yoneshige became the Department's new Tax Services and Processing Chief, effective February 28, 2000. As the Division Chief, Kerry will be responsible for overseeing the Tax Services and Processing Division that consists of the Documents Processing Branch, Revenue Accounting Branch, and Taxpayer Services Branch.

See New Division Chief, Page 4

#### **New Division Chief**

#### From Page 3

Kerry has many years of financial services and public accounting experience. Prior to joining the Department of Taxation, he held the position of Vice-President and Accounting Manager at Bank of Hawaii.

We welcome Kerry and look forward to the leadership he will bring to the Tax Services and Processing Division. ■

### **Business Registration Services Expanded**

ne-stop business registration services available at the State Tax Office have been expanded to include the filing of basic business start up registration forms required by the Department of Commerce and Consumer Affairs (DCCA).

Under an agreement with the DCCA, persons coming to State Tax Offices statewide can obtain a number of DCCA's basic business registration forms and submit the completed forms with the appropriate payment in addition to conducting their tax business. Examples include registration forms for corporations, partnerships, and limited liability companies, and trade name, trademark, and service mark registrations. Tax office employees servicing walk-in taxpayers also will be able to answer basic questions about those forms.

### Reminders for the April 20 Deadline

The Department of Taxation would like to remind taxpayers that the deadline for filing their 1999 Hawaii individual income tax returns and calendar year-end business income tax returns is Thursday, April 20, 2000. In general, tax returns must be received by the Department no later than April 20th to be considered "on time". Returns sent through the U.S. Postal Service, however, must be postmarked by midnight, April 20, 2000.

Taxpayers who mail their tax returns to the Department must be sure to put sufficient postage on their envelopes. Mail with insufficient postage will not be accepted by the Department and will be returned. The new postmark date will be the date accepted by the

Department. Taxpayers also are advised that the Post Office will not have special hours to accept last minute State tax returns.

In addition to the U.S. Postal Service, certain private delivery service companies designated by the Internal Revenue Service can be used to meet the April 20th deadline provided that the date recorded or marked by the private delivery service company is on or before April 20.

The Department will offer curbside service on Oahu for last minute filers on Thursday, April 20, 2000, from 5:00 P.M. to midnight. Taxpayers may drive up to either the Punchbowl Street or Halekauwila Street sides of the Princess Ruth Keelikolani Building where volunteer Department employees will be stationed to accept tax returns, extension requests, and other documents.

Persons who cannot complete their State tax return on time should apply for an automatic extension of time to file their return by completing and filing the appropriate Hawaii extension form with the Department no later than April 20, 2000. Comparable federal extension forms will be accepted in lieu of the Hawaii extension forms if completed using amounts for Hawaii income tax purposes. In the title area, any reference to federal should be crossed off and replaced with Hawaii.

The extension form, as well as all other tax forms, may be obtained at any district tax office, by mail through the Department's 24-hour Forms Request Line, or via the Internet (see the last page for telephone numbers and addresses).

#### Corrections to 1999 Tax Forms

A few errors were found on the 1999 Hawaii tax forms as of March 15, 2000. Please take note of the following corrections made to the Hawaii tax forms.

#### **Form N-220**

- Line 8, column (a) should not be shaded.
- Line 11, column (a) should be shaded.

#### **Schedule X Instructions**

• Part II, Credit for Low-Income Household Renters, Line 8, Qualified Exemptions - Line a instructs the taxpayer to enter the number of qualified exemptions from Schedule X, Part I, line 2. However, if the taxpayer did not claim the low-income refundable tax credit, Schedule X, Part I, line 2 would be blank. In this situation, Schedule X, Part I, line 2 should be completed for purposes of claiming the credit for low-income household renters.

See 1999 Tax Forms, Page 5

#### 1999 Tax Forms

(From Page 4)

#### **Dual Rate Form RV-3**

• Line 7 reads, "Taxes (Multiply line 5 by line 6 of columns B and C. Column A, enter amount from line 27)."

Line 7 should read: "Taxes (Multiply line 5 by line 6 of columns B and C. Column A, enter amount from line 28)."

#### **Dual Rate Form RV-3 Instructions**

- Page 3, fig 3.1 The amount next to circled number 12 is \$30,420.00.
  - The amount next to circled number 12 should be \$24,320.00.
- Page 5, fig 3.3 The amount next to circled numbers 13, 15, 16, and 21 is \$31,530.00.
  - The amount next to circled numbers 13, 15, 16, and 21 should be \$24,320.00. ■

#### Recently Issued Tax Publications

The following is a list of the publications issued by the Department of Taxation from June 1999 through March 2000. Copies of these publications may be downloaded from the Department's website. With the exception of the Hawaii Administrative Rules, copies of these publications also may be obtained from any district tax office or by mail through the Department's Forms Request Line. Addresses and telephone numbers are provided on the last page of this newsletter.

Copies of Administrative Rules are available for a fee (10¢ per copied page plus postage). To request a copy, mail your request to the Department of Taxation, Attention: Rules Office, P. O. Box 259, Honolulu, Hawaii, 96809-0259. Include your name, address, and telephone number; identify the rule (e.g., "nonresident employees of contractors"); and provide a check payable to the "Director of Finance" in the amount specified below. The rules listed below also are available at the Department's website.

**Section 18-235-61-03(b), HAR -** Relating to the exemption from the withholding of income taxes on the wages received by a qualifying minister or member of a religious order. (\$1.55)

Section 18-235-61-04(b), HAR - Excludes nonresident employees of contractors from qualifying for an income tax withholding exemption when the contractor is performing work on a construction project located in Hawaii. (No fee.)

**TIR No. 99-2 -** Announces that the Department is administering the 100% dividends received deduction provided by section 235-7(c), HRS, without regard to the discriminatory requirements.

**TIR No. 99-3 -** Clarifies that taxpayers subject to the franchise tax may claim the Hawaii low-income housing tax credit in the taxable year for which the imposition is made.

**TIR No. 99-4** - Provides guidance on the taxation of mortgage loan companies, including mortgage loan companies organized as passthrough entities and sole proprietorships, under Hawaii's tax laws.

Announcement No. 99-12 - Announces the issuance of Written Opinion No. 99-001, regarding the application of the general excise tax income-splitting provisions in section 237-18(f), HRS, and withholding requirements in section 237-44(d), HRS, to destination management companies.

**Announcement No. 99-13 -** Announces the increase in the Kauai County fuel tax rate, effective July 1, 1999.

**Announcement No. 99-14** - Announces the adoption of Hawaii Administrative Rules, relating to the exemption from the withholding of income taxes on the wages received by a qualifying minister or member of a religious order.

**Announcement No. 99-15** - Provides information on Act 68, SLH 1999, which allows a collection agency to recover its collection fee from the taxpayer when it collects delinquent taxes under a contract with the Department of Taxation.

Announcement No. 99-16 - Provides information on Act 165, SLH 1999, which tightens up the definition of "related entities" for purposes of the general excise tax, expands the definition of "related entities" to include limited liability partnerships and limited liability companies, and clarifies the "business unit" language in the prior law by replacing it with the more familiar "unitary business" terminology.

Announcement No. 99-17 - Provides information on Act 70, SLH 1999, which exempts services or contracting exported outside Hawaii from the general excise tax and imposes a new use tax on imported services.

**Announcement No. 99-18** - Provides information on Act 71, SLH 1999, which reduces the effect of the "pyramiding" of the general excise tax on service transactions by treating those transactions similar to the wholesale sales of tangible personal property.

Announcement No. 99-19 - Provides information on Act 173, SLH 1999, which clarifies that (1) sales to persons licensed under the general excise tax law of single-serving packets of condiments furnished to customers are subject to the .5% wholesale rate, (2) sales of tangible personal property to persons licensed under

See Recent Publications, Page 6

#### **Recent Publications**

(From Page 5)

the general excise tax law who incorporate or process the property into a finished product and resell the property at retail (including disposable containers, packages, or wrappers to hold food) are subject to the .5% wholesale rate, and (3) the .5% intermediary services rate is applicable to professional services.

Announcement No. 99-20 - Provides information on Act 223, SLH 1999, which increases the rental motor vehicle surcharge tax from \$2 to \$3 for the period beginning September 1, 1999, and ending August 31, 2007.

Announcement No. 99-21 - Provides information on Act 253, SLH 1999, which revises the method of calculating the Hawaii income tax for nonresidents and part-year residents. A nonresident will be taxed on income only from Hawaii sources. A part-year resident will be taxed on income only from Hawaii sources during the period of nonresidency and on total income (regardless of source) during the period of residency. The ratio of Hawaii adjusted gross income to total adjusted gross income from all sources is applied to determine the nonresident and part-year resident's exemption and standard deduction amounts.

Announcement No. 99-22 - Provides information on Act 270, SLH 1999, which adopts the federal deduction for long-term care costs and insurance contract premiums.

Announcement No. 99-23 - Provides information on Act 295, SLH 1999, which exempts from the conveyance tax transfers of real property in connection with a merger or consolidation, or in connection with the dissolution of a limited partnership to a corporate general partner.

Announcement No. 99-24 - Provides information on Act 303, SLH 1999, which allows a court to consider probation as a sentencing option for tax offenses.

Announcement No. 99-25 - Announces the Department's position that the general excise tax subcontract deduction is allowed for amounts paid to a specialty contractor who is not licensed by the Hawaii Department of Commerce and Consumer Affairs under chapter 444, HRS, provided that the specialty contractor is a "contractor" as defined in section 237-6, HRS.

Announcement No. 99-26 - Provides information on Act 178, SLH 1999, which contains several tax incentives to support the development of high technology industries in Hawaii.

**Announcement No. 99-27 -** Informs taxpayers that the qualified improvement tax credit for qualified resort and general facilities provided by Act 306, SLH 1999, will not be allowed.

Announcement No. 99-28 - Announces the adoption

of Hawaii Administrative Rules which exclude nonresident employees of contractors from qualifying for an income tax withholding exemption when the contractor is performing work on a construction project located in Hawaii.

**Announcement No. 2000-1 -** A listing of the Tax Information Releases in effect and obsolete as of January 6, 2000, and a listing of Hawaii Administrative Rules related to taxation.

**Announcement No. 2000-2 -** Provides a list of candidates for political office who have registered with the campaign spending commission.

Tax Facts No. 99-1 - Provides information on Hawaii's fuel tax.

**Tax Facts No. 99-2 -** Provides a description of some of the tax incentives and tax breaks that are available to businesses in Hawaii as of August 1999.

**Tax Facts No. 99-3** - Provides information on the application of the general excise tax and use tax to construction contractors, and addresses the changes in the laws passed by the 1999 Legislature.

**Tax Facts No. 99-4 -** Provides information regarding the application of Hawaii tax laws to nonprofit parent-teacher organizations and other school-related organizations.

**Tax Advisory, dated January 6, 2000 -** Provides information on Act 70, SLH 1999, relating to the general excise tax exemption for exported services and contracting and use taxation of imported services.

Tax Advisory, dated January 11, 2000 - Provides information on Act 71, SLH 1999, relating to the general excise tax pyramiding relief for wholesale sales of goods and services. □

#### Pending Tax Publications

The following is a list of the Department's tax projects in progress, and the name and telephone number of the staff member assigned to the project.

#### **Administration of Taxes**

 Application of penalties and interest and the waiver of penalties and interest - sections 231-3 and 231-39, HRS.

#### **Income Tax Law**

 Application of the income tax to amounts from a pension plan that are "rolled over" into an Individual Retirement Account - section 235-7, HRS. (Grant Tanimoto, 587-1569)

See Pending Publications, Page 7

#### **Pending Publications**

#### (From Page 6)

 Application of the business entity classification rules under the check the box regulations to the Hawaii income tax. (Johnson Lau, 587-1562)

#### **General Excise Tax Law**

- Use of resale certificates section 237-13, HRS.
- Application of the general excise tax to the sale of gift certificates - section 237-13, HRS. (Grant Tanimoto, 587-1569)
- Application of the general excise tax to employee leasing companies section 237-13, HRS. (Johnson Lau, 587-1562)
- Application of the general excise tax to reimbursements section 237-20, HRS. (Grant Tanimoto, 587-1569)
- Application of the general excise tax to scientific contracts section 237-26, HRS. (Johnson Lau, 587-1562)
- Application of the business entity classification rules under the check the box regulations to the Hawaii general excise tax. (Johnson Lau, 587-1562)
- Application of the general excise tax to sales of

- computer software, internet service providers, and online service providers. (Marshall Dimond, 587-1533)
- General excise tax licensing and tax clearance requirements of S corporations. (Johnson Lau, 587-1562)
- Application of the general excise tax to property and services paid with the federal government smart pay credit card. (Johnson Lau, 587-1562)

#### **Use Tax Law**

- Temporary use exemption for property section 238-1, HRS. (Marshall Dimond, 587-1533)
- Application of the use tax to sales to the federal government. (Marshall Dimond, 587-1533)

#### **Conveyance Tax Law**

• Application of the conveyance tax. (Marshall Dimond, 587-1533)

#### Miscellaneous

• State business tax credits and general excise exemption for business located in enterprise zones - chapter 209E, HRS. ■

Difference

#### **Second Quarter State Tax Collections**

(In Millions of Dollars)

	FY 2000	FY 1999	<u> Difference</u>	
			<b>Amount</b>	<b>Percent</b>
Individual Income Tax	\$ 260.9	\$ 270.3	\$ -9.4	-3.5%
Corporate Income Tax	0.0	-6.4	6.4	nm*
General Excise Tax	347.7	352.4	-4.7	-1.3%
Transient Accommodations Tax	36.0	28.7	7.3	25.4%
All Others	160.0	157.0	3.0	1.9%
Total Tax Collections	\$ 804.6	\$ 802.0	\$ 2.6	0.3%
General Fund Revenues	\$ 682.9	\$ 692.8	\$ -9.9	-1.4%

<sup>\*</sup>nm = not meaningful

Second quarter individual income tax and general excise tax collections dropped by \$9.4 million and \$4.7 million, respectively, from the second quarter of last fiscal year. As seen in the first quarter, withholding taxes for individuals dropped by \$7.0 million as a result of new lower individual income tax rates. While corporate income tax collections netted \$40.7 thousand this quarter, a \$6.4 million loss in the second quarter of last fiscal year resulted in a \$6.4 million gain. Transient accommodations tax (TAT) collections increased by \$7.3 million over the same period of last fiscal year, partially due to a 2.4% increase in visitor arrivals, a TAT rate increase from 6% to 7.25%, and the imposition of the TAT on the occupant of a time share unit. Of the \$804.6 million of taxes collected in the second quarter of this fiscal year, \$682.9 million was deposited into the state general fund, dropping \$9.9 million from the previous fiscal year. For the first two quarters of this fiscal year, total tax collections have increased \$8.9 million over the previous fiscal year while the general fund amount has dropped by \$13.0 million.

## **DISTRICT TAX OFFICES**

4:30 P.M. Mondays through Fridays, except State holidays, from 7:45 A.M. to Forms and Information may be obtained from any district tax office,

# WEB INFORMATION AND FORMS

http://www.state.hi.us/tax

## OAHU DISTRICT OFFICE

FAX: 808-587-1488 Honolulu, HI 96813-5094 830 Punchbowl Street Princess Ruth Keelikolani Building TELEPHONE:

808-587-4242 808-587-6515 (January - April 20)

For Tax Information:

808-587-1418 (TDD - For the hearing impaired) 1-800-222-3229 (Toll-Free)

1-800-887-8974 (TDD Toll-Free - For the hearing impaired)

808-587-7572 Tax Forms and CD-ROM (Nominal Cost) by Mail:

1-800-222-7572 (Toll-Free)

On Oahu: 587-7572 Tax Forms by Fax:

All Others: 808-678-0522 from your fax machine

## MAUI DISTRICT OFFICE

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## **HAWAII DISTRICT OFFICE**

FAX: 808-974-6300 State Office Building TELEPHONE: 808-974-6321 Hilo, HI 96720-4245 75 Aupuni Street, #101

## **KAUAI DISTRICT OFFICE**

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