



Hawaii Tax News

Volume 4, Number 2

State of Hawaii • Department of Taxation

SUMMER 2000

E-file for the 2001 Filing Season!

The Department will be implementing a Federal/State Joint Electronic Filing (JELF) Program for the 2001 filing season. The JELF program benefits everyone! Taxpayers will receive both their federal and Hawaii refunds faster. The Department benefits from increased accuracy of documents and increased efficiency in processing the returns. Since the State program “piggy-backs” the IRS e-file program, a federal individual income tax return must be filed electronically in order to file a state return electronically. A federal return, on the other hand, can be filed electronically without the state return. During its initial year, individuals filing Form N-11 will be able to participate in the e-file program. More details of our 2001 JELF program will be available later this summer. ■

Tax Season Statistics

Statistics for the 2000 tax season show a substantial increase in the number of taxpayers utilizing the Department’s website. From January to April, 934,518 hits were received, representing a 17% increase over the 797,734 hits for the same period last year. April set a new high with 299,801 hits! Taxpayers also are taking advantage of the e-mail access to the Department as 1,255 Internet e-mail inquiries were received from January to April.

As a result of the increased use of the Department’s website, the number of requests for forms through the Department’s forms request line and for information mail outs decreased substantially. For the period January to April, the Department received 6,978 requests for forms through the Department’s forms request line and 27,136 requests for information mail outs (a decrease of 23% and 54%, respectively, over the same period last year).

Other statistics show that, from January through April, the Department answered 55,605 telephone calls, prepared 1,879 basic individual income tax returns, and assisted 15,166 taxpayers who came in-person with inquiries or request for forms.

As of May 12, the Department processed 484,340 individual income tax returns. Of the returns processed,

413,338 returns reported a refund or credit to estimated tax. The average refund paid was \$470. ■

Rockslide Relief

Small businesses have enough to deal with on a day to day basis without the occasional unexpected surprise, but an unexpected surprise is just what Mother Nature delivered to the North Shore when a rockslide closed Kamehameha Highway near Waimea Bay on March 6. Although the rockslide did not cause any injuries or property damage, a number of North Shore businesses saw a reduction in traffic and a subsequent loss of business.

If a business suffered actual property damage from a rockslide or other such event, the business could avail itself of certain remedies, such as casualty loss deductions, that are provided for in the tax law. In this instance, however, businesses did not incur any direct damage, so the drop in income that some businesses experienced following the rockslide did not trigger any specific tax remedy. This does not mean that the State Tax Office cannot do anything for impacted North Shore businesses; we can.

The State Tax Office is committed to working with small businesses that are experiencing problems connected with the rockslide by providing appropriate relief on a case by case basis. For example, if a taxpayer is having cash flow problems and cannot pay their taxes

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The Direct Line ☎

By Director Ray K. Kamikawa



Included in this issue of the Hawaii Tax News is a summary of the tax-related bills passed by the 2000 Legislature. As of printing, most bills were still subject to veto so check with us or the Legislature for the final disposition of the bills. This year we were pleased to have introduced two fairness bills both of which passed. The first bill (Act 199, SLH 2000) eliminates the "pay-to-play" requirement when a tax assessment is appealed on an administrative level to a District Board of Review. The second bill (Act 34, SLH 2000) allows the disclosure of general excise/use tax return and tax return information to a person contractually obligated to pay general excise and use taxes assessed against another.

Our annual income tax conformity bill tracked the few relevant Congressional amendments to the Internal Revenue Code. Of note, however, is our conformity to IRC §7525 which provides for the tax practitioner confidentiality privilege relating to taxpayer communications involving tax advice.

Many other legislative changes affecting your clients will become law, and you are encouraged to familiarize yourselves with them.

Our efforts for the balance of the year will be to make the rounds at workshops, meetings, and forums to discuss these legislative initiatives. ■

Rockslide Relief

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in full, we could consider a payment plan for the taxpayer, and a waiver of the \$50 cost recovery fee usually charged for setting up the plan. We also can consider extensions and waivers of penalty and interest.

Taxpayers affected by the North Shore rockslide may request relief by writing "ROCKSLIDE RELIEF" on their envelope and tax return, and attaching a note that explains their situation and lists the type of relief they would like considered. For more information on our "ROCKSLIDE RELIEF" program, contact Linda Cacpal, Acting Taxpayer Services Branch Chief, at 587-3267, or e-mail her at cacpall@tax.state.hi.us. ■

RB Income Tax Service

Last April, Richard J. Basuel, dba RB Income Tax Service, was charged with multiple felony tax and theft violations. He pled not guilty to the charges, and trial has been scheduled for the week of August 7, 2000. The indictments allege that Mr. Basuel overstated his clients' itemized deductions and that he also prepared tax returns on which certain tax benefits for foreign earned income were claimed by declaring Hawaii as a foreign country.

Since the indictments were announced, we have heard from a number of taxpayers whose returns were prepared by RB Income Tax Service. Persons whose Hawaii income tax returns may have been improperly prepared by RB Income Tax Service should call our Office Audit Branch on Oahu at (808) 587-1660, between the hours of 8:00 A.M. and 4:00 P.M., Mondays through Fridays except State holidays. Callers will need to provide the following information: (1) the names and social security numbers of the taxpayers filing the return; (2) the telephone number at which they can be reached during the day; (3) the type of tax return that was filed (e.g., Form N-11, amended return, etc.); and (4) the tax year for which it was filed. Our staff will contact them at a later date.

Amended Hawaii income tax returns correcting returns improperly prepared by RB Income Tax Service may be sent to the Department. Include in the explanation that the earlier return had been prepared by RB Income Tax Service as well as an explanation of the circumstances. ■



The Hawaii Tax News is a publication of the State of Hawaii, Department of Taxation.

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SWAT Update

The on-going partnership between Lieutenant Governor Mazie Hirono's Slice Waste and Tape (SWAT) project, the Department of Labor and Industrial Relations (DLIR), and our department has further reduced the length and complexity of the Basic Business Application, Form BB-1.

Form BB-1 consolidated a dozen different business tax registration forms to a single form, and is used to register for a number of taxes including the general excise tax, employer's withholding of state income tax, etc., and also to obtain an unemployment insurance number from the DLIR. The previous version of the Form BB-1 application packet consisted of a 2-sided form for the Tax Office, a 1-sided form for the DLIR, and 5 pages of instructions. The new revision consists of only 2 copies of the new 1-sided form – the original printed on NCR (no carbon required) paper for the Tax Office and the copy for the DLIR – with instructions on the backs of those copies!

Liquid fuel distributors also will be happy to learn that Lieutenant Governor Hirono's legislative SWAT initiative to reduce their reporting requirements was signed into law as Act 85, Session Laws of Hawaii 2000. Effective April 27, 2000, Act 85 repeals the requirement that distributors provide information about the amount of fuel imported and also repeals the requirement that they provide information about their inventory. For more information, see Department of Taxation Announcement No. 2000-9.

Both the revised Form BB-1 and Department of Taxation Announcement No. 2000-9 may be obtained at any district tax office, by calling our request line at 808-587-7572 (toll-free at 1-800-222-7572), or from our website at www.state.hi.us/tax. ■

Practitioners' Forum

The Department of Taxation held its first Practitioners' Forum of 2000 on May 23 in the Princess Ruth Keelikolani Building. Topics which were discussed included tax season statistics, legislative update, Integrated Tax Information Management System (ITIMS) update, recent significant tax decisions, SWAT update, power-of-attorney check box, and compliance projects.

The Practitioners' Forum is an informal meeting of the Tax Department and tax practitioners to discuss tax issues, brainstorm ideas, and raise questions about and discuss Department positions and procedures. This is not an educational workshop, but is instead an opportunity for the tax practitioner community to make their

concerns known and to enter into an informal dialog with the Department about those concerns. ■

June Workshop Report

Two hundred people attended the first Department of Taxation workshop for the year on June 29 at the Ala Moana Hotel. Presentations were made on innocent spouse/injured spouse provisions, joint electronic filing, and an update on the 2000 legislative session with a focus on high-technology tax issues, pyramiding relief provisions, and exported services exemption. The \$35 registration fee included a Continental breakfast and workshop materials. ■

New Innocent Spouse Tax Form

A new Form N-379, Request for Innocent Spouse Relief (And Separation of Liability and Equitable Relief), is now available to taxpayers who believe that an unpaid tax liability attributable to a jointly filed income tax return should be paid only by their spouse or former spouse.

Last year's measure conforming Hawaii's income tax law with the federal Internal Revenue Code, Act 198, SLH 1999, included the adoption of federal provisions which make it easier for Hawaii taxpayers to be relieved of a tax liability relating to their spouse. Previously, a taxpayer that wanted this type of relief had to first apply to and be approved by the Internal Revenue Service (IRS). Now, Hawaii taxpayers may apply for relief from Hawaii without first going through the IRS.

As the name implies, three types of relief may be requested; separation of liability, innocent spouse relief, and equitable relief. Which type of relief a taxpayer applies for in part depends on whether there is an understatement of tax or an underpayment of tax. An understatement of tax occurs when the tax shown on the return is less than the tax that the Department determines should have been shown. An underpayment of tax occurs when the tax shown on the return is correct but is not paid.

Separation of liability may be requested if the taxpayer has an understatement of tax and either is no longer married, is legally separated, or has lived apart from the other spouse for the entire 12-month period prior to the date the Form N-379 is filed. However, the

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Innocent Spouse

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amount of relief requested cannot include an amount that was due to something (e.g., unreported income or an overstated deduction) that the taxpayer knew about at the time he or she signed the return.

Innocent spouse relief may be requested if the taxpayer has an understatement of tax due to erroneous items attributed to the other spouse or former spouse, the taxpayer did not know and had no reason to know that there was an understatement of tax, and if it would be unfair for the taxpayer to be held liable for the understatement. Partial innocent spouse relief is available if the taxpayer knew about the erroneous items but did not know the full extent of those items.

Equitable relief may be requested if the taxpayer has an underpayment of tax, does not qualify for either the separation of liability or innocent spouse relief, and if it would be unfair for the taxpayer to be held liable for the underpayment of tax.

For more information, see the instructions for Form N-379 and federal Publication 971. Form N-379 and the Form N-379 instructions may be obtained at any district tax office, by calling our request line at 808-587-7572 (toll-free at 1-800-222-7572), or from our website at www.state.hi.us/tax. ■

Tax Exemptions for Sales to Foreign Diplomats and Consular Officials

Beginning July 1, 2000, Act 38, Session Laws of Hawaii 2000 (Act 38), exempts from the general excise tax and transient accommodations tax amounts received from and accommodations furnished to foreign diplomats and consular officials who are holding cards issued or authorized by the United States Department of State (State Department) granting them an exemption from state taxes. Act 38 also exempts from the use tax the use of property, services, or contracting imported by foreign diplomats and consular officials.

The Department of Taxation held four information sessions in May on the impact of the tax exemptions provided by Act 38. Mr. Robert S. Hyams, Director, Diplomatic Tax and Customs Programs, from the State Department in Washington, D.C. was here to explain the various exemptions available to Hawaii vendors for

sales to members of the diplomatic corps. For more information on Act 38, see Department of Taxation Announcement No. 2000-7. ■

Legislative Highlights

The following is a draft preliminary digest of bills passed by the 2000 Legislature. It includes only those measures which affect Hawaii's tax laws and is provided for your information. It is issued solely as a guide and is not intended to be either authoritative or complete.

All bills are subject to the Governor's approval. The Governor has until June 22, 2000, to veto any bill. Copies of the Senate and House bills passed by the Legislature may be obtained from the Senate and House printshops, or from the following website address: <http://www.capitol.hawaii.gov>

Administrative Tax Measures

ACT 199 (SB 2946, SD1, HD1, CD1)

Pay to Play

- Eliminates requirement of paying assessed tax prior to appealing the assessment to the district boards of review
- Requires the assessed tax be paid plus interest when the Board's decision is:
 - appealed by the taxpayer, or
 - in favor of the Department and not appealed
- Taxpayer does not have to "pay-to-play" as long as taxpayer prevails at the Board level
- Effective for appeals filed on or after June 8, 2000

General Excise / Use Tax Measures

ACT 27 (SB 2289, SD2)

Prepaid Phone Cards

- Clarifies that the GET is imposed on the sale of prepaid telephone calling services at the point of sale
 - in lieu of taxation under the PSC tax
 - applies to gross income and gross proceeds of sales received after August 31, 2000
- Includes prepaid telephone calling services under the definition of property in the USE tax law
 - applies to all taxes accruing after August 31, 2000

ACT 34 (SB 2947)

Disclosure

- Allows disclosure of GET/USE tax return and return information to persons contractually obligated to pay these taxes assessed against another
- Applies to discussions after April 20, 2000 regarding

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Legislative Highlights

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the assessment of additional taxes

ACT 198 (SB 2945, SD1, HD3)

Pyramiding Relief (changes to ACT 71)

- Pyramiding relief from the GET for the sale of amusements
- PSC tax rate relief for:
 - telecommunications services resold to long distance telecommunications providers
 - motor carrier transportation services which are sold to contractors
- GET provisions apply to gross income or gross proceeds received beginning January 1, 2000
- PSC provisions take effect for January 1, 2001 filings

Changes to ACT 70

- Imposes the use tax on contracting imported for resale or use in Hawaii
 - exception: contracting imported by a licensed construction industry contractor
- Authorizes Director of Taxation to exempt, exclude, or apportion use tax

ACT 262 (SB 2160, SD1, HD1)

Cash Basis Contractors

- Allows contractors to report their GET on a cash basis provided the contractors notify DOTAX of the basis upon which the GET is to be reported
 - may use Form GEW-TA-RV-5 for notification
- Applies to gross proceeds or gross income arising after January 1, 2001

ACT 271 (SB 2716, SD1, HD1, CD1)

Publishers

- 0.5% GET rate on sales by a printer to a publisher; and 0.5% USE tax rate on imports by a publisher, if:
 - magazines or printed materials containing advertisements are distributed without charge, and
 - the publisher is under contract with advertisers to distribute a minimum number of magazines or printed materials to the public or a defined segment of the public
- Applies to gross income or gross proceeds received, or gross value accruing, after June 30, 2000

High-Tech Tax Measures

ACT 118 (SB 2779, SD1, HD2, CD1)

Enterprise Zones

- Expands the enterprise zones law to include:
 - businesses engaged in research, development, sale, or production of all types of genetically-engineered medical, agricultural, or maritime biotechnology products

- call centers
- businesses that repair assisted technology equipment

- Effective May 22, 2000

ACT 195 (SB 2781, SD2, HD2, CD1)

Hotel Remodeling/Call Centers

- Provides a refundable 4% income tax credit for hotel construction and remodeling for TY's beginning after December 31, 1998 and before January 1, 2003
 - includes time share projects
 - includes upgrading infrastructure with wiring to provide guests with Internet access
- Exempts from the GET and PSC tax amounts received by a telecommunications common carrier from a call center
 - exempts from the GET gross income received by a call center for customer services and support
 - GET provisions apply to gross income or gross proceeds received beginning July 1, 2000 and before July 1, 2010
 - PSC provisions for FY taxpayers apply to FYs beginning July 1, 2001 through July 1, 2010 filings (gross income FYE 6/30/2001 through FYE 6/30/2010) For CY, 2002 through 2011 filings (gross income CY 2001 through 2010)

HB 2901, HD3, SD2, CD1

Omnibus High-Tech

- Allows qualified high technology businesses to sell their unused net operating loss carryover to any taxpayer subject to limits
- Expands the income tax exclusion for royalties and other income from high technology businesses
- Allows partnership investors the flexibility of allocating the high technology business investment tax credit among partners without regard to their proportionate interests in their partnership investment vehicle
- Amends the state income tax credit for increasing research activities ("R&D" credit) by:
 - making the state R&D credit refundable to the taxpayer
 - increasing the state R&D credit to 20% to match the federal credit
 - specifying that the state R&D credit is available for tax years 2000-2005 even if the federal credit is repealed prior to January 1, 2006
- Retroactive to taxable years as under ACT 178 (1999)

Income Tax Measures

ACT 174 (SB 2938, SD1, HD1)

IRC Conformity

- Among other things:
 - conforms to federal confidentiality privilege

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relating to taxpayer communications with practitioners

- ensures that if Congress terminates or repeals the tax credit for increasing research activities (IRC § 41), state law will continue to allow the credit to be claimed for TY's beginning before January 1, 2006
- Applies to TY's beginning after December 31, 1999

Miscellaneous Tax Measures

ACT 38 (HB 1691, HD1)

Foreign Diplomats

- Exempts from the GET and TAT amounts received from foreign diplomats and consular officials
- Exempts from the USE tax the use of property, services, or contracting imported by foreign diplomats and consular officials
- GET/TAT provisions apply to gross income or gross proceeds received beginning July 1, 2000
- USE tax exemptions apply to property, services, or contracting imported on or after July 1, 2000

ACT 148 (HB 2432, HD1, SD1)

Low Income Housing

- Allows partnership investors the flexibility of allocating the state low-income housing tax credit among partners without regard to their proportionate interests in their partnership investment vehicle
- Applies to TY's beginning after December 31, 1999 ■

Recently Issued Tax Publications

The following is a list of the publications issued by the Department of Taxation from August 1999 through June 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 18-235-61-04(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. 99-3 - 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. 99-26 - 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.

Announcement No. 2000-3 - A listing of New and Obsolete/Retired Tax Forms, Instructions, and Schedules: Errors Found on Hawaii Tax Forms As of March 1, 2000.

Announcement No. 2000-4 - Announces the adoption of the IRS optional standard mileage rates for 1999 and 2000.

Announcement No. 2000-5 - Requesting suggestions for improving the tax forms.

Announcement No. 2000-6 - Provides information on Act 33, SLH 2000, which (1) changes the dates on which the Council of Revenues must report its estimates of total state personal income to the Director of Finance, the Governor, the Chief Justice, and the Legislature, and (2) changes the dates on which the Director of Finance must determine estimates of the state growth and

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Recent Publications

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expenditure ceiling.

Announcement No. 2000-7 - Provides information on Act 38, SLH 2000, which exempts from the general excise tax and transient accommodations tax amounts received from foreign diplomats and consular officials and exempts from the use tax the use of property, services, or contracting imported by foreign diplomats and consular officials.

Announcement No. 2000-8 - Provides information on Act 34, SLH 2000, which allows the disclosure of general excise/use tax return and tax return information to a person contractually obligated to pay general excise and use taxes assessed against another.

Announcement No. 2000-9 - Provides information on Act 85, SLH 2000, which deletes unnecessary fuel tax reporting requirements.

Announcement No. 2000-10 - Provides information on Act 118, SLH 2000, which expands and clarifies the State enterprise zone law.

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)
- 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. ■
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DISTRICT TAX OFFICES

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

WEB INFORMATION AND FORMS

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

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Telephone:

For Tax Information:

808-587-6515 (January - April 20)

808-587-4242

1-800-222-3229 (Toll-Free)

808-587-1418 (TDD - For the hearing impaired)

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

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

808-587-7572

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

Tax Forms by Fax:

On Oahu: 587-7572

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

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