



Hawaii Tax News

Administering the tax laws for the State of Hawaii in a consistent, uniform, and fair manner

Volume 6, Number 2

State of Hawaii • Department of Taxation

SUMMER 2002

Tax Season Statistics

Many thanks to all of you who helped us more than triple the number of Hawaii income tax returns e-filed this filing season! As of May 17, we received 78,812 Form N-11 income tax returns through the Joint Federal/State e-filing program which is now in its second year. Only 23,003 returns were e-filed last year. In addition, as of May 17, we received 677 Form N-13 resident short forms via the Internet through the State's Internet portal at www.ehawaii.gov/efile.

As of April 30, our website had 1,708,224 hits which is 46% higher than last year! Taxpayers also are taking advantage of the e-mail access to the Department as 2,047 Internet e-mails were sent to our Taxpayer Services Branch, representing an increase of 46% over the same period last year.

Despite the increased use of our technology-based services, many people still prefer speaking to a "live" person. As of April 30, the live operators that replaced our automated forms by fax/mail service during the 2001 filing season received 19,285 requests for forms, and our Taxpayer Services Branch telephone staff answered 55,593 telephone calls.

Job Creation and Worker Assistance Act Not Adopted

Each legislative session, the Department introduces a bill to bring Hawaii income tax law into substantial conformity with federal tax law as of December 31 of the previous year. This year's conformity bill, S.B. No. 2824, S.D. 2, H.D. 1, C.D. 1, conforms to many, but not all, of the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA), but does not conform to the Job Creation and Worker Assistance Act of 2002 (JCWAA), which was signed by President Bush on March 9, 2002.

S.B. No. 2824, S.D. 2, H.D. 1, C.D. 1 does not conform to the provisions of the JCWAA because the JCWAA did not amend the Internal Revenue Code as of December 31, 2001. The JCWAA provisions, therefore,

are not applicable for Hawaii income tax purposes for the 2001 tax year. Among the JCWAA provisions not adopted are the bonus depreciation and 5-year net operating loss carryback.

If you erroneously incorporated into your Hawaii return a federal provision that has not been adopted by Hawaii (or if you find some other error), file an amended return as soon as possible.

For more information, see Department of Taxation Announcement No. 2002-5, The Federal Job Creation And Worker Assistance Act of 2002 Does Not Apply To Hawaii Taxes. The Announcement may be obtained from our website at www.state.hi.us/tax, by calling our request line at 587-7572 (toll-free at 1-800-222-7572), or from any district tax office.

Booklet Suppression Project

Are you among the increasing number of taxpayers and tax practitioners using computer software, PDF form files with fillable fields (available on our website at www.state.hi.us/tax and on our tax information CD), or on-line Internet filing (www.ehawaii.gov/efile) to complete your periodic and annual general excise, withholding, transient accommodations, or rental motor vehicle and tour vehicle surcharge tax returns? Do you just throw away the booklet of tax forms that is sent to you every year?

See Booklet Suppression, Page 2

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The Direct Line ☎

By Director Marie Y. Okamura



Implementation of the first major component of our new integrated tax information management system is scheduled for early November. This component will replace our net income tax processing system and enhance the integrated collection system that was introduced last March.

Excitement is building as staff are involved in building the new system in partnership with our contractor, testing, data conversion and cleansing, and training, training and more training! The training ranges from use of the new system to change management. It includes using new tools (e.g., automated routing and work lists, etc.), accessing legacy information, transition processes, etc.

We will be sharing more about how this will affect you - our customers - in our fall issue.

Booklet Suppression

(From Page1)

If so, YOU can help lower the cost of government! Just visit any district tax office or call us at 587-4242 (toll-free at 1-800-222-3229), and ask us to "suppress the printing" of the appropriate booklet. Doing so will stop unnecessary spending on paper, printing, and postage for unused forms booklets. Tax practitioners with an appropriate power of attorney may submit a single written request covering multiple clients.

Cutting the cost of government is everyone's responsibility!

Mark Your Calendars!

Planning for our 2002 Summer Workshop is underway! The half-day Oahu workshop will be held on July 26 at the Ala Moana Hotel. Neighbor island workshops are tentatively scheduled as follows: Maui - August 2, Kauai - August 19, Hilo - August 27, and Kona - September 10. CPE credits for persons attending the workshop will be available.

Several "hot" topics will be on tap for attendees,

including a presentation on the 2002 Legislative Session. The 2002 Summer Workshop information and registration flyer will be posted on our website at www.state.hi.us/tax when it is finalized. You can also obtain the flyer by calling our request line at 587-7572 (toll-free at 1-800-222-7572), or from any district tax office.

Audits, Appeals, Refunds, Payments

The Department recently issued Tax Information Release (TIR) No. 2002-1, Audit of Net Income, General Excise, and Use Tax Returns; Appeal Rights; Claims for Refund; and Payment to State under Protest.

TIR No. 2002-1 discusses the many ways that a taxpayer or a particular return could be identified and selected for audit. For example, selection may be based on information received from the Internal Revenue Service, random selection, an examination of claims for credit or refund, or the matching of return information with information documents. Once selected, an auditor is assigned to determine the taxpayer's correct tax liability.

After completing the audit, a notice of proposed assessment is issued if the auditor finds that additional taxes are due, after which the taxpayer has 30 days from the date of the notice of proposed assessment to discuss the proposed assessment with the auditor. The proposed assessment also can be discussed with the auditor's supervisor, section chief, or other supervisory staff by request.

If the taxpayer and the Department cannot agree on **See Audits and Appeals, Page 3**



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Audits and Appeals

(From Page 2)

the assessment or if there is no response to the notice of proposed assessment, a notice of assessment of additional taxes is mailed. Taxpayers may file an appeal with either an administrative board of review or the tax appeal court within 30 days of the date the notice of assessment of additional taxes was mailed.

There is one five-member board of review appointed by the Governor for each of the four taxation districts. The first circuit court judge assigned to hear tax appeals runs the tax appeal court. The assessed tax, penalties, and interest do not have to be paid at the time an appeal is made to the board of review. However, payment is required on a direct appeal to the tax appeal court except in the case of an individual taxpayer who appeals an assessment of net income taxes where the total tax liability does not exceed \$50,000 in the aggregate, upon proof that the taxpayer would be irreparably injured by payment of the tax.

Further appeals can be made within 30 days of a written decision. Generally, taxpayers appealing an adverse decision by a board of review to the tax appeal court are required to pay the tax, penalties, and interest at that time. For more information on the appeals process, see Tax Facts No. 2001-1, Hawaii Tax Appeals.

Also discussed are the limitation periods for filing a claim for a refund or credit and the procedure for making a payment of taxes under protest. Taxpayers can make a payment of taxes under protest and file suit to recover the taxes paid within 30 days of the payment instead of filing an appeal under a tax chapter. This procedure also can be used if there is an unpaid tax and the taxpayer cannot timely file an appeal. The payment must be accompanied by a signed, written statement that provides the basis for the protest.

While it does contain a great deal of useful information, TIR No. 2002-1 is only intended to provide an overview of these processes and procedures, and taxpayers should consult their tax advisors for legal advice.

Legislative Highlights

The following is a digest of bills passed by the 2002 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 24, 2002, 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 153 (H.B. No. 2568, H.D. 1, S.D. 1, C.D. 1)

Relating to the Collection of Taxes

Assists the Department in the collection of taxes by: (1) expanding the Department's current authority to ascertain the fair market value (FMV) of sales between affiliated companies or persons when the consideration paid is not indicative of the FMV of sales and all taxes; (2) providing a continuous levy on the salary or wages of a delinquent taxpayer; (3) indemnifying a person from the claims of third parties when the person honors a state tax levy; and (4) expanding the authority for recovering unpaid withholding taxes.

Effective upon approval. Applies to levies made on or after July 1, 2002, and to withholding requirements for payroll periods beginning on or after July 1, 2002.

General Excise / Use / Public Service Company Tax Measures

H.B. No. 1256, H.D. 2, S.D. 2, C.D. 1

Relating to Solid Waste Management

As it relates to taxation, provides an exemption from the general excise tax for amounts received as a beverage container deposit.

Effective July 1, 2002.

H.B. No. 1684, H.D. 1, S.D. 2

Relating to State and Local Taxation of Mobile Telecommunications Services

Conforms Hawaii law to the federal Mobile Telecommunications Sourcing Act of 2000 which requires all wireless calls to be sourced by a home service provider of mobile telecommunications services to the subscriber's residential or primary business street address, whichever is the place of primary use. Under the new sourcing rules, income received from a customer whose place of primary use is in Hawaii will be subject to Hawaii taxes: either the general excise tax for interstate or foreign mobile phone calls or the public service company tax for intrastate mobile phone calls. Also exempts income from wholesales of mobile telecommunication services (e.g., those sales that occur between two home service providers) from both the general excise tax and the public service company tax.

Applies to charges on or revenues from customer bills issued after August 1, 2002.

ACT 122 (H.B. No. 1740, H.D. 1)

Relating to Enterprise Zones

Adds disease management services to the list of clients that are served by call centers in an enterprise zone.

Effective upon approval.

See Legislative Highlights, Page 4

Legislative Highlights

(From Page 3)

ACT 146 (H.B. No. 2454, S.D. 1, C.D. 1)

Relating to Enterprise Zones

Eliminates the use tax exemption for qualified businesses operating within an enterprise zone (the exemption encouraged qualified businesses to make purchases from out-of-state vendors rather than local vendors).

Effective upon approval.

ACT 98 (H.B. No. 2569, H.D. 1, S.D. 1)

Relating to the Conformity of the State Tax Laws to the United States Constitution

Allows taxpayers to use any legally imposed sales, gross receipts, or use taxes paid to another state by the taxpayer to first offset any use tax due on imported property, services, or contracting, and to use any remaining amount to offset the general excise tax due on the subsequent sale of the imported property, services, or contracting, subject to limitations.

Effective upon approval and applies to all open tax years and for tax years that are pending appeal at the time of approval.

ACT 110 (H.B. No. 2571, S.D. 1)

Relating to Taxation of Persons with Impaired Sight or Hearing or Who are Totally Disabled that are Engaged in Business

Extends the \$2,000 exemption from the general excise tax and the maximum 0.5% general excise tax rate to general, limited, or limited liability partnerships all of whose partners are "blind," "deaf," or "totally disabled"; and also to limited liability companies all of whose members are "blind," "deaf," or "totally disabled."

Effective July 1, 2002, and applies to gross income and gross proceeds received after June 30, 2002.

H.B. No. 2720, H.D. 1, S.D. 1, C.D. 1

Relating to the Use Tax

Requires owners of motor vehicles imported into Hawaii to provide with their application for registration proof that any use tax due on the imported vehicle has been paid.

Effective January 1, 2003.

S.B. No. 2885, S.D. 2, H.D. 1

Relating to Taxation

Provides that a wireless telecommunications services provider may segregate taxable income according to whether the income is subject to the general excise tax, the public service company tax, or a specific provision of the general excise tax or public service company tax if the segregation method does not conflict with rules adopted by the Department.

Applies to gross income, gross proceeds of sales, and

value of products after July 1, 2002.

Income Tax Measures

H.B. No. 1996, S.D. 1, C.D. 1

Relating to the Administration of Taxes

Lowers the adjusted gross income threshold for individuals required to make estimated income tax payments from \$150,000 to \$50,000. Also lowers the required annual tax payment from 90% to 60% of the tax shown on the return for the taxable year.

Effective January 1, 2003.

ACT 63 (H.B. No. 2365)

Relating to Taxation

Provides a refundable income tax credit of \$1 (multiplied by the number of qualified exemptions the taxpayer is entitled to claim) to each resident individual taxpayer pursuant to Article VII, Section 6, of the Hawaii State Constitution.

Effective upon approval.

S.B. No. 2383, S.D. 2, H.D. 2, C.D. 1

Relating to Taxation to Stimulate the Economy

Provides a new 4% nonrefundable income tax credit for qualified project construction costs for a qualified nonresidential project incurred after December 31, 2002, and before January 1, 2007.

Also, expands the hotel construction and remodeling tax credit to include property on which commercial or recreational use is permitted to support or service a hotel/hotel-condo or resort use, and offsite improvements to service destination resort areas where a hotel/hotel-condo is situated.

Applies to taxable years beginning after December 31, 2002.

S.B. No. 2824, S.D. 2, H.D. 1, C.D. 1

Relating to Conformity of the Hawaii Income Tax Law to the Internal Revenue Code

Brings Hawaii's income tax law into conformity with many but not all of the provisions of the federal Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA). For conformity purposes, the federal effective dates in EGTRRA for amendments to operative Internal Revenue Code sections are adopted.

(Note: This bill does not conform to the Job Creation and Worker Assistance Act (Public Law No. 107-147) which was signed by President Bush on March 9, 2002.)

Conforms to the following provisions:

- **Education IRAs** - The prior limit for contributions is increased from \$500 to \$2,000; the definition of qualified education expenses that may be paid tax-free from an education IRA is expanded to include qualified elementary and secondary school expenses.

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Legislative Highlights

(From Page 4)

- **Qualified Tuition Programs** - The definition of “qualified tuition program” is expanded to include certain prepaid tuition programs established and maintained by one or more eligible educational institutions (which may be private institutions); distributions from qualified state tuition programs are excluded from income to the extent that the distribution is used to pay for qualified higher education expenses.
- **Individual Retirement Accounts** - The prior contribution limit for an IRA is increased from \$2,000 to \$3,000 for 2002 through 2004; \$4,000 for 2005 through 2007; and \$5,000 for 2008.
- **Qualified Retirement Plans (Pensions)** - The prior contribution limit of \$35,000 for defined contribution plans is increased to \$40,000; the prior annual benefit limit of \$140,000 for defined benefit plans is increased to \$160,000; individuals age 50 or over can make catch-up contributions; the contribution limit on elective deferrals under a §401(k) plan is increased to \$11,000 in 2002; the dollar limit on deferrals for §457 plans is increased to \$11,000 in 2002, and is increased in \$1,000 annual increments thereafter until the limit reaches \$15,000 in 2006.
- **Rollovers of Retirement Plan and IRA Distributions** - Distributions from qualified retirement plans, §403(b) annuities, and governmental §457 plans may be rolled over to any of such plans; distributions from an IRA may be rolled over into a qualified plan, §403(b) annuity, or governmental §457 plan; after-tax contributions may be rolled over into another qualified plan or a traditional IRA; surviving spouses may roll over distributions to a qualified plan, §403(b) annuity, or governmental §457 plan in which the spouse participates.
- **Purchase of Service Credit Under Governmental Pension Plans** - Participants in a state or local governmental plan are not required to include a direct trustee-to-trustee transfer to a governmental defined benefit plan from a §403(b) annuity or a §457 plan in gross income if the transferred amount is used to purchase permissive service credits under the plan or to repay contributions and earnings with respect to an amount previously refunded under a forfeiture of service credit under the plan.

Does not conform to the following provisions:

- Deduction for Qualified Higher Education Expenses

- Dependent Care Credit

For a complete list of conforming and non-conforming items, please refer to our Digest of the 2001 Federal Tax Laws which may be obtained from our website under “Recent Legislation”.

Applies to taxable years beginning after December 31, 2001, except as otherwise provided.

S.B. No 2831, S.D. 1, H.D. 1, C.D. 1

Relating to an Extension of the Residential

Construction and Remodeling Income Tax Credit

Extends the residential construction and remodeling income tax credit by one year to include costs incurred before July 1, 2003.

Applies to taxable years beginning after December 31, 2001.

S.B. No. 2907, S.D. 2, H.D. 2, C.D. 1

Relating to Taxation

Provides a new nonrefundable tax credit for qualified costs in the development of facilities for attractions and educational purposes at Ko Olina Resort and Marina.

Applies to qualified costs incurred after December 31, 2002.

S.B. No. 2985, S.D. 2, H.D. 2, C.D. 1

Relating to Qualified Improvement Tax Credit

Provides a new 10% refundable income tax credit for qualified improvement costs incurred by a federally qualified health center during taxable years beginning after December 31, 2001, and before January 1, 2011.

Applies to taxable years beginning after December 31, 2001.

Miscellaneous Tax Measures

ACT 94 (H.B. No. 2429, H.D. 1)

Relating to Tobacco

Authorizes the Department of Taxation and the Attorney General to inspect any entity or vehicle to enforce the Cigarette and Tobacco Tax Law. Also, repeals the June 30, 2006 sunset date of the cigarette tax stamp act.

Effective upon approval.

H.B. No. 2741, H.D. 2, S.D. 2, C.D. 1

Relating to the Cigarette and Tobacco Tax

Increases the cigarette tax from 5 cents for each cigarette to 6 cents after September 30, 2002; 6.5 cents after June 30, 2003; and 7 cents after June 30, 2004.

Effective July 1, 2002.



Recently Issued Tax Publications

The following is a list of the publications issued by the Department of Taxation from July 2001 through June 2002. Copies of these publications may be obtained from our website at www.state.hi.us/tax, by calling our request line at 587-7572 (toll-free at 1-800-222-7572), or from any district tax office.

TIR No. 2001-3 - Discusses the application of the general excise tax, fuel tax, transient accommodations tax, and rental motor vehicle tax to income received from purchases made with the General Services Administration Smart Pay credit cards.

TIR No. 2001-4 - Discusses the definition of "cost"; the payment of tax requirement; and safe harbor guidelines pertaining to the capital goods excise tax credit.

TIR No. 2002-1 - Summarizes statutory rights, obligations, and procedures, relating to the audit of net income, general excise, and use tax returns by the Department which may result in the assessment of additional taxes; appeals from the assessment of taxes; claims for refund or credit; and payment to the State under protest.

TIR No. 2002-2 - Discusses the withholding of state income taxes on the disposition of Hawaii real property by a nonresident person.

Announcement No. 2001-17 - Provides information on Act 293, SLH 2001, which provides a 4% refundable income tax credit for the construction of new drought mitigation water storage facilities, or the repair or reconstruction of existing water storage facilities.

Announcement No. 2001-18 - Provides information on Act 309, SLH 2001, which provides a nonrefundable income tax credit for contributions of in-kind services for the repair and maintenance of Hawaii's public schools.

Announcement No. 2001-19 - Provides information on Act 8, Third Special SLH 2001, which increases the filing thresholds for taxpayers filing withholding, general excise/use, transient accommodations, and rental motor vehicle and tour vehicle surcharge tax returns.

Announcement No. 2001-20 - Provides information on Act 10, Third Special SLH 2001, which provides a 4% nonrefundable residential construction and remodeling income tax credit, and amends the hotel construction and remodeling income tax credit to change it to a 10% nonrefundable credit for a limited time.

Announcement No. 2001-21 - Provides information on Act 9, Third Special SLH 2001, which converts certain transportation service providers who are subject to the public service company tax to the general excise tax.

Announcement No. 2001-22 (Revised) - Announces the adoption of the IRS optional standard mileage rates for 2002.

Announcement No. 2002-1 - Provides a list of candidates for political office who have registered with the campaign spending commission.

Announcement No. 2002-2 - A listing of new and obsolete tax forms, instructions, and schedules; errors found on Hawaii tax forms as of January 21, 2002.

Announcement No. 2002-3 - A listing of the Tax Information Releases in effect and obsolete as of January 25, 2002, and a listing of Hawaii Administrative Rules related to taxation.

Announcement No. 2002-4 - Provides information regarding electronic filing as a means of electronic funds transfer.

Announcement No. 2002-5 - Informs taxpayers that the federal Job Creation and Worker Assistance Act of 2002 does not apply to Hawaii income taxes.

Hawaii Tax Information at a Glance Brochure - Revised May 2002

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.
- Clarify the application of the penalty for failure to pay tax after timely filing a return (section 231-39(b)(3), HRS) where a corporation files an extension for a return and remits taxes with the return.

Income Tax Law

- Clarify the application of the income tax to pension amounts rolled over to an Individual Retirement Account - section 235-7, HRS. (Peter Fritz, 587-1533)
- Clarify whether a taxpayer who files an extension may amend a return during the extension period to change filing status from married filing joint to married filing separate.

General Excise Tax Law

- Clarify the application of the general excise tax for
- See Pending Publications, Page 7**

Pending Publications

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- reimbursements - section 237-20, HRS. (Grant Tanimoto, 587-1569)
- Clarify the application of the general excise tax exemption for scientific contracts - section 237-26, HRS. (Johnson Lau, 587-1562)
- Clarify the application of the general excise tax to sales of property (e.g., goodwill, covenants not to compete, etc.) upon the termination of a business.
- Clarify when the Department may disclose tax return information to persons contractually obligated to pay general excise and use taxes assessed against another under section 237-34(b), HRS.
- Application of the general excise, use, and income taxes on agricultural cooperatives organized under chapter 421, HRS, and farmer's cooperatives meeting the requirements of section 521, IRC.

- Pyramiding relief for Hawaii businesses under Act 71, SLH 1999.
- General excise tax exemption for exported services and contracting and the use taxation of imported services under Act 70, SLH 1999, and Act 198, SLH 2000.

Conveyance Tax Law

- Clarify the application of the conveyance tax, including transactions involving Fannie Mae. (Grant Tanimoto, 587-1569)

Miscellaneous

- Clarify the use of bonds by cigarette stamping licensees.



Third Quarter State Tax Collections

January - March

(In Millions of Dollars)

	FY 2002	FY 2001	Difference	
			Amount	Percent
Individual Income Tax	\$ 266.4	\$ 265.8	\$ 0.6	0.2%
Corporate Income Tax	18.7	17.9	0.7	4.0%
General Excise Tax	395.8	436.9	-41.1	-9.4%
Transient Accommodations Tax	35.9	47.4	-11.5	24.3%
All Others	153.5	181.7	-28.2	15.5%
Total Tax Collections	\$ 870.3	\$ 949.8	\$ -79.5	-8.4%
General Fund Revenues	\$ 761.9	\$ 825.2	\$ -63.3	-7.7%

(Note: Totals may not add up due to rounding.)

Total tax collections for the third quarter of fiscal year 2002 amounted to \$870.3 million, or \$79.5 million less than the same period of last fiscal year. Corporate income and individual income tax collections for the third quarter grew slightly by \$0.7 million and \$0.6 million, respectively. Third quarter general excise tax collections plummeted \$41.1 million from \$436.9 million to \$395.8 million, as did third quarter transient accommodations taxes (TAT) by \$11.5 million from \$47.4 million to \$35.9 million. The effects of the September terrorist attacks are reflected in this \$52.6 million decline of general excise and TAT collections. The weekend effect also may have caused this difference as December 2000 payments were due on January 2, 2001. In addition to this loss, third quarter public service company tax collections also showed a \$17.3 million drop, primarily due to the transfer of revenue to the counties (Act 64, SLH 2001) and the imposition of the general excise tax instead of the public service company tax on transportation service providers (Act 9, Third Special SLH 2001).

Tax collections deposited into the state general fund for the third quarter of fiscal year 2002 totaled \$761.9 million, a decrease of \$63.3 million from the \$ 825.2 million deposited the previous fiscal year.

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

www.state.hi.us/tax

OAHU DISTRICT OFFICE

Princess Ruth Keelikolani Building
830 Punchbowl Street
Honolulu, HI 96813-5094

E-mail: Taxpayer_Services@tax.state.hi.us

Fax: 808-587-1488

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)

Forms By Fax/Mail:

808-587-7572

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

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