



Hawaii Tax News

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

Volume 7, Number 1

State of Hawaii • Department of Taxation

SPRING 2003

New Tax Director

Kurt Kawafuchi, who has served as our Deputy Director for the past several months, has been appointed as our new Director of Taxation. He is both a CPA and an attorney, and has recently served as the supervisor of the Tax Division for the Department of the Attorney General. He previously was a tax attorney with Goodsill, Anderson, Quinn and Stifel, and a trial attorney with the U.S. Department of Justice, Tax Division, representing the Internal Revenue Service.

Director Kawafuchi is actively involved with organizations such as the Hawaii State Bar Association and the Hawaii Society of Certified Public Accountants, and has taught graduate tax and business courses at the University of Hawaii and Hawaii Pacific University.

We are both pleased and excited that someone so highly and uniquely qualified has been appointed to be our new Director, and we're sure that you will be too.

E-Filing Via the Internet

Just a reminder that you can enjoy the ease and convenience of e-filing via the Internet 24 hours a day, 7 days a week!

From the e-filing site on the State's Internet portal at www.ehawaii.gov.org/efile, you can register and e-file a number of tax returns and other tax forms. If you are filing on behalf of a client, make sure that you have a power of attorney to perform these services for your client.

So far, more than 10,000 taxpayers have registered to use this fast, convenient service. There is a nominal \$2.50 fee that goes to the vendor operating the website, but only if there is a payment made. You can pay using an electronic check or a credit card. However, if you do use a credit card, the credit card companies will assess an additional fee. Check your total charges before confirming your payment.

Other forms available for e-filing via the Internet include extensions, estimated tax payment vouchers, and the application for tax clearance.

Conformity to Federal Tax Changes

We began the legislative session tracking approximately 350 tax-related bills relating to revenue enhancement, funding for specific programs, economic stimulus, and more.

Of particular interest to you right now are the annual conformity measures, especially with respect to federal provisions that impact returns currently being filed for the 2002 tax year. This year, the companion conformity bills are Senate Bill 1394 and House Bill 1223.

As you know, taxpayers can't file Hawaii returns based on federal law that has not yet been adopted by Hawaii. Returns filed now must be prepared based on current law and amended later if an applicable federal provision is later adopted.

An alternative is to delay filing until the conformity measure becomes law. In this case, taxpayers generally must request an extension of time to file the return, and file the request form on or before the due date of the return.

Beginning this year, individual taxpayers will generally not have to file Form N-101A to request the automatic 4-month extension. Use Form N-101A to accompany any payment of additional tax due. Form N-101B is still required to obtain the additional 2-month extension.

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The Direct Line ☞

By Director Kurt Kawafuchi

There has been a lot of discussion about the cost to the public for Act 221 high technology tax credits, the benefits to Hawaii taxpayers resulting from those credits, and the possibility that certain taxpayers are abusing those credits. In response, we are taking the following 3 steps.

First, we have compiled data regarding the amount of high technology credits claimed for the 2001 tax year, and will do the same for the 2002 tax year in due time.

Second, we have developed new forms and revised existing forms for the high technology business investment tax credit (credit) for the tax year 2002.

New Form N-317, Statement by a Qualified High Technology Business, will require a qualified high technology business (QHTB) to provide information on a calendar year basis on the type of qualified activities it performed; benefits to Hawaii taxpayers (e.g. number and description of temporary and permanent jobs created; salaries, expenditures, and investments in Hawaii; etc.); and investments received by the QHTB. For the calendar year 2002, all QHTBs must submit a signed and completed Form N-317 with any required documents by June 16, 2003.

Form N-318 (Revised in 4/2003) must be used by taxpayers claiming the credit for tax year 2002. Any taxpayer who has filed Form N-318 (Rev. 2002) with the 2002 income or franchise tax return must submit a completed Form N-318 (Rev. 4/2003) with any required documents; otherwise, the taxpayer's claim to the credit for the tax year 2002 will be denied.

New Form N-318A, Statement of Investment in a Qualified High Technology Business, will require an investor to provide information on the credit being claimed (e.g. whether the investor received more or less than a proportionate share of the credit based on the amount actually invested) and a certification of that investment by the QHTB. Any taxpayer claiming the credit must attach Form N-318A to Form N-318 (Rev. 4/2003) with any required documents. For more information, see the instructions for these forms and Department of Taxation Announcement No. 2003-1.

Third, we have issued Tax Information Release No. 2003-1 and Department of Taxation Announcement No. 2003-1 and will be issuing additional guidance to address abusive situations.

Visit our website at www.state.hi.us/tax for the latest forms and information.

Practitioners' Forum

The Department will be holding a Practitioners' Forum on May 28, 2003, from 9:00 a.m. to 12:00 p.m., in the Princess Ruth Keelikolani Building, Rooms 310 and 313. The Practitioners' Forum is an informal meeting with Director Kurt Kawafuchi, key Department of Taxation staff members, and tax practitioners to discuss various matters, raise questions, resolve problems and tax issues. This is not an educational workshop for which educational credits are available, 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. Audience participation and discussions are the key to a successful Forum.

A registration form for the Practitioners' Forum may be obtained from our website at www.state.hi.us/tax, or by calling our request line at 587-7572 (toll-free at 1-800-222-7572).

2003 Hawaii Small Business Fair

The FREE 2003 Hawaii Small Business Fair is coming soon, and we are once again excited to be one of the Fair's organizing members.

The 2003 Hawaii Small Business Fair will be held on Saturday, June 21, 2003, from 8:00 A.M. to 3:30 P.M., at Leeward Community College in and around the Theater on the Diamond Head side of the campus.

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Small Business Fair

(From Page 2)

This unique fair showcases only government and nonprofit organizations that provide free and low-cost services to small businesses. You do not need to register, there is no cost to attend, and even the parking is free!

Visit the exhibitors to learn about the different services, programs, and resources available to small businesses.

Attend free seminars throughout the day on topics ranging from how to get started, marketing, financing, managing the paperwork, exporting and importing, taxes (of course), and much, much, more!

This year's theme is, "Starting and Growing Your Small Business in Hawaii," and the keynote address, currently scheduled for 11:30 A.M., will be given by Ted Liu, Director of the State Department of Business, Economic Development and Tourism. A panel of local business owners will follow Director Liu, and share their personal experiences with you.

So mark your calendar! Call your friends! Tell your clients! We'll see you there!

For more information, visit the Fair's website at <http://smallbusinessfair.state.hi.us>, or call Cathy Tokishi of our External Training & Outreach staff at 587-1786.

Taxation of Foster Care Payments

We have been informed that notices have been sent to care givers from businesses or non-profit organizations regarding the income taxation of foster care payments. These notices indicate that the amendments to Internal Revenue Code (IRC) section 131 made by the Job Creation and Worker Assistance Act (JCWAA) of 2002 (Public Law 107-147) apply to care providers.

Current Hawaii Income Tax Law provides that Hawaii conforms to IRC section 131 as amended as of December 31, 2001. Although our annual conformity bill proposes conformity with respect to IRC section 131, to date, Hawaii has not adopted the amendments to IRC section 131 made by the JCWAA of 2002. See sections 235-2.3 and 235-2.4, Hawaii Revised Statutes (HRS). Until the amendments to IRC section 131 made by the JCWAA of 2002 are adopted by the State of Hawaii, these amendments do not apply for Hawaii income tax purposes for taxable years beginning after December 31, 2001. **The amendments that are not**

applicable for Hawaii income tax purposes include the following:

(1) the expansion of the definition of qualified foster care payments to include payments by any placement agency that is licensed or certified by a State or local government, or an entity designated by a State or local government to make payments to providers of foster care, and

(2) the expansion of the definition of a qualified foster care individual to include foster care individuals placed by a qualified foster care placement agency (regardless of the individual's age at the time of placement).

If any of the amendments to IRC section 131 made by the JCWAA of 2002 impact a return currently being filed by a care provider for the 2002 tax year, please refer to the article, Conformity to Federal Tax Changes, on page 1 for information on filing the 2002 return.

We have also been informed that care givers may be under the impression that IRC section 131 applies to Hawaii general excise tax purposes.

IRC section 131 does not apply for Hawaii general excise tax purposes. Hawaii Income Tax Law and Hawaii General Excise Tax Law are two separate laws. Unless expressly exempted and/or excluded under Hawaii General Excise Tax Law, gross income derived by care providers are subject to Hawaii general excise tax. Please be advised that section 237-24(15), HRS, provides for a general excise tax exemption for "money paid by the State or eleemosynary child-placing organizations to foster parents for their care of children in foster homes."

Questions on this matter may be answered by our Taxpayer Services Branch by e-mail at Taxpayer_Services@tax.state.hi.us; by phone at (808) 587-4242 or 1-800-222-3229; or by mail at Taxpayer Services, P.O. Box 259, Honolulu, HI 96809. Additional information is available at our website at www.state.hi.us/tax.

Ice Storage Systems

We have been informed that advertisements have been circulated suggesting that refrigerators and/or freezers qualify for the energy conservation income tax credit with respect to ice storage systems under section 235-12(b)(8), Hawaii Revised Statutes (HRS).

Refrigerators and/or freezers are not ice storage systems for the purpose of the energy conservation income tax credit. Section 235-12(e), HRS, defines an ice storage system as "ice banks or other cool energy

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Ice Storage Systems

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storage tanks, containers, accessories, and controls that are specifically designed to store ice or chilled fluids for the express purpose of shifting the consumption of energy to off-peak periods.” Emphasis added. The legislature intended to provide an income tax credit for ice storage systems that are specifically designed to shift air conditioning or commercial refrigeration loads to electric utilities’ off-peak demand periods. See Senate Standing Committee Report No. 88-86, and Senate Standing Committee Report No. 345-86, Act 70, Session Laws of Hawaii 1986.

Refrigerators and/or freezers are not specifically designed for the express purpose of shifting air conditioning loads or commercial refrigeration to electric utilities’ off-peak periods. Since refrigerators and/or freezers do not meet the definition of ice storage systems in section 235-12(e), HRS, refrigerators and/or freezers do not qualify for the energy conservation income tax credit.

Any taxpayer who has filed a Hawaii income tax return or franchise tax return (if applicable) claiming the energy conservation income tax credit for a refrigerator and/or freezer, should file an amended Hawaii income tax return or franchise tax return (if applicable) to remove the claim for the credit. Taxpayers who (1) claimed the energy conservation income tax credit for refrigerators and/or freezers and (2) do not file amended returns to remove the claims for the credit may be subject to the provisions in sections 231-36 and 231-39, HRS, upon examination of their returns.

Questions on this matter may be answered by our Taxpayer Services Branch by e-mail at Taxpayer_Services@tax.state.hi.us; by phone at (808) 587-4242 or 1-800-222-3229; or by mail at Taxpayer Services, P.O. Box 259, Honolulu, HI 96809. Additional information is available at our website at www.state.hi.us/tax.

Certification For Vehicles Purchased Outside Hawaii

Beginning January 1, 2003, Act 225, Session Laws of Hawaii 2002 (Act 225), requires owners of motor vehicles of the current, previous, and subsequent model years to provide proof of payment of the Hawaii use tax at the time they register their vehicles

in Hawaii. For vehicles registered in 2003, this requirement will apply to 2002, 2003, and 2004 model year vehicles imported into Hawaii.

Persons registering motor vehicles they imported at any county motor vehicle registration office generally must complete Form G-27, Motor Vehicle Use Tax Certification, to certify that (1) the use tax due on the imported vehicle has been paid, OR (2) no use tax is due on the imported vehicle. Form G-27 is submitted with the application for motor vehicle registration. Auto dealers, government agencies, and nonresident active-duty military personnel who have already paid sales or use taxes to their home states are not required to complete Form G-27.

The Hawaii use tax is levied at the rate of 4% on the value of goods, services, and contracting imported into Hawaii for use in Hawaii, and is supposed to level the playing field between in-State businesses subject to the general excise tax and out-of-State businesses that don’t pay either the Hawaii general excise tax or an equal or greater amount of sales/use tax to another state. Additional information on the use tax imposed on motor vehicles is available in Tax Information Release No. 93-3. General information about the use tax also is available in our brochure, *An Introduction to the Use Tax*, and Tax Facts No. 95-1, *All About the Hawaii Use Tax*.

Form G-27, Frequently Asked Questions about Act 225, and the publications mentioned above are available on our website at www.state.hi.us/tax. Form G-27 also is available by calling our request line at 587-7572 (toll-free at 1-800-222-7572), from any district tax office, and at all county motor vehicle registration offices.

Withholding on Nonresident Employee’s Wages

A supplemental insert to Booklet A, Employer’s Tax Guide (Revised 2001) was mailed to all employers registered for Hawaii withholding taxes. Several sections of Booklet A were revised to discuss changes to Form HW-6, Employee’s Statement to Employer Concerning Nonresidence in the State of Hawaii, and to introduce new Form HW-7, Exemption From Withholding on Nonresident Employee’s Wages.

Form HW-6 was revised to include additional questions regarding the employee’s residency status. Form HW-6 must be completed by the nonresident employee and filed with their employer in order to

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Nonresident Employee

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qualify for the exemption from withholding on their wages. By filing Form HW-6 with their employer, the employee is informing their employer that the employee is a nonresident of Hawaii.

The employer must file Form HW-7, along with the original Form HW-6 completed by the nonresident employee, with the Department of Taxation when withholding is **not** required on the employee's wages because **all** of the following conditions apply:

- Wages are being paid for services performed in Hawaii,
- The employee establishes that the employee is a nonresident,
- The employee is performing services in the State for an aggregate of not more than 60 days during the calendar year,
- The employee is paid for the employee's services in the State from an office outside the State,
- The employee's regular place of employment (where the employee regularly performs services for the employer) is outside the State, and
- The employer does not reasonably expect the employee to perform services in the State an aggregate of more than 60 days during the calendar year.

If all of the above conditions are met, except for the 60-day requirement, and if the Director of Taxation finds that the withholding requirement is unduly onerous or impracticable of enforcement, the Director may grant permission to an employer for exception from the withholding requirement. However, a nonresident employee performing services for a contractor will not qualify for a withholding exemption when the contractor is performing work for a construction project located in Hawaii.

The employer should not file Form HW-7 or Form HW-6 with the Department of Taxation when withholding is not required on the employee's wages because **both** of the following conditions apply:

- Wages are being paid for services performed outside Hawaii, and
- The employee establishes that the employee is a nonresident.

If both of the above conditions are met, withholding is not required on the employee's wages. The employer should keep a copy of their employee's Form HW-6 for their records.

Form HW-6, Form HW-7, and the supplemental insert to Booklet A are available 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.

For more information on Forms HW-6 and HW-7, including information on the determination of residency status or whether Form HW-7 should be submitted to the Department of Taxation, call the Department at 587-4242 (toll-free at 1-800-222-3229).

Tax Review Commission Report

The Report of the 2001 – 2003 Tax Review Commission was completed and submitted to the Legislature in December, and should be of interest to all taxpayers in Hawaii.

A Tax Review Commission is convened every five years in accordance with the Hawaii Constitution. The commission members, who serve without pay, are appointed by the Governor with the advice and consent of the Senate to independently evaluate the State's tax structure and recommend revenue and tax policy.

With the Legislature currently in full swing and a number of tax measures on the table, you may find the report of immediate interest and thought provoking with respect to tax policy affecting both you and your business.

The Report of the 2001 – 2003 Tax Review Commission begins by establishing the framework used to evaluate Hawaii's tax system as a whole. The five principles of sound tax policy presented in the report are: (1) the provision of appropriate revenues, (2) neutrality, (3) equity, (4) easy and economical to administer, and (5) accountability.

The second section, "Recommendations and Analysis," addresses the following 11 specific areas: (1) streamlined sales tax project, (2) business incentive tax credits, (3) general excise tax, (4) taxation of nonprofit organizations, (5) net income tax, (6) taxation of retirement income, (7) estate and transfer tax, (8) Department of Taxation operations, (9) revenue sufficiency for future needs, (10) enhancement of research and modeling capabilities, and (11) other considerations.

The appendices at the end of the report include special reports to the Commission and a letter from the Tax Foundation of Hawaii.

To view the Report of the 2001 – 2003 Tax Review Commission, go to our website at www.state.hi.us/tax, select "Useful Links," and then select "2001-2003 Tax Review Commission Report."

Corrections to 2002 Tax Forms

The following errors were found on the 2002 Hawaii tax forms.

Form N-332

- On page 1, line 6, the area is shaded. The area should not be shaded.
- On page 1, line 11 which reads, “. . . Schedule CR, Part I, line 9R; or . . . on Form N-40, Schedule E, line 9R.” should read “. . . Schedule CR, Part I, line 11; or . . . on Form N-40, Schedule E, line 11.”

Form N-332 Instructions

- On page 1, third column, last sentence of first paragraph which reads, “Examples of things which would **not** qualify include repainting your house inside and outside, . . .” should read “Examples of things which would **not** qualify include repainting your house inside, . . .”

Form N-615 Instructions

- On page 1, third column, line 9, the income limits under the heading “the amount on Form N-615, line 8, is over” are incorrect. The following income limits should be used:
Single - \$20,000
Married filing joint return or qualifying widow(er) with dependent child - \$40,000
Married filing separate return - \$20,000
Head of Household - \$30,000

Form N-11/N-12 Instructions

- On page 29, Form N-12 - Capital Gain/Loss Worksheet, line 4 and line 11 should have parentheses.
- On page 29, Form N-12 - Capital Gain/Loss Worksheet, line 6 and line 13 should **not** have parentheses.

Form VP-1

- The top right corner which reads, “2002” should read “2003”

Form N-35

- On page 2, Schedule B, line 11 which reads, “(1) filed its election to be an S corporation after 1986” should be deleted.

Form N-30

- On page 1, at the bottom left of the page, “Paid Preparer’s Information” heading should be printed on 3 lines instead of 4 lines. (“Information” is printed on two lines instead of one.)
- On page 1, at the bottom of the page which reads, “i May the Hawaii Department of Taxation discuss this

return . . .” should read “* May the Hawaii Department of Taxation discuss this return . . .”

Form N-20 Instructions

- On page 6, middle column, line 22, 1st paragraph, last sentence which reads, “. . . for costs incurred before July , 2003,” should read “. . . for costs incurred before July 1, 2003,”

Schedule D-1

- On page 1, line 8 which reads, “. . . unless line 8 is a gain & S corp subject to capital gains tax.” should be deleted.

Schedule D-1 Instructions

- On page 3, column 1, 2nd to the last paragraph which reads, “Partnerships should enter . . . Enter the section 179 expense deduction on Form N-20, Schedule K, line 28.” should read “Partnerships should enter . . . Enter the section 179 expense deduction on Form N-20, Schedule K, line 30.”

Schedule K-1 (Form N-20)

- On page 2, line 30b which reads, “Other than on line 28a.” should read “Other than on line 30a.”

Schedule K-1 (Form N-35)

- On page 2, line 23 which reads, “. . . in lines 1 through 21. . .,” should read “. . . in lines 1 through 22. . .”

Schedule K-1 (Form N-40)

- Decedent is misspelled (decendent) in three places.

Form N-304

- On page 1, 3rd line which reads, “Has the group made the election . . .” should be deleted.

Form N-70NP

- On page 1 in the Paid Preparer’s Section which reads, “Printe Preparer’s Name,” should read “Print Preparer’s Name”

Form FP-1

- On the reverse side of Vouchers 1, 2, 3, and 4, 1st paragraph which reads, “Act 38, Session Laws of Hawaii 1992,” should read “Sections 241-5 and 239-7, HRS, . . .”

Form RV-5

- Line 6, rates, column c rate which reads “\$65⁸,” should read “\$65”

See Department of Taxation Announcement No. 2003-2, A Listing of New and Obsolete Tax Forms, Instructions, and Schedules; Errors Found on Hawaii Tax Forms.



Recently Issued Tax Publications

The following is a list of the publications issued by the Department of Taxation from August 2002 through April 2003. 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. 2002-4 - Provides information on Act 98, SLH 2002, Relating to the Conformity of the State Tax Laws to the United States Constitution.

TIR No. 2003-1 - Provides information on the proper application of the law regarding the high technology business investment tax credit.

TIR No. 2003-2 - Provides information on the extension of deadlines and other tax relief for members of the armed forces, reserves, and Hawaii National Guard.

Announcement No. 2002-18 - Announces the adoption of amendments to chapters 18-243 and 18-251, HAR, and the repeal of chapter 18-244D, HAR.

Announcement No. 2002-19 - Provides additional

information on Act 246, SLH 2002, which increases the excise tax on cigarettes.

Announcement No. 2002-20 - Provides information on the general excise tax exclusion for certain amounts collected under Act 176, SLH 2002, which implements a "bottle bill."

Announcement No. 2003-1 - Provides information on the new and revised high technology business investment tax credit forms.

Announcement No. 2003-2 - A listing of new and obsolete tax forms, instructions, and schedules; errors found on Hawaii tax forms.

Announcement No. 2003-3 - Provides a list of candidates for political office who voluntarily filed affidavit forms with the campaign spending commission.

Second Quarter State Tax Collections

October 2002 - December 2002

(In Millions of Dollars)

	FY 2003	FY 2002	Difference	
			Amount	Percent
Individual Income Tax	\$ 271.9	\$ 260.7	\$ 11.1	4.3%
Corporate Income Tax	6.7	-10.2	16.9	nm*
General Excise Tax	410.3	409.5	0.8	0.2%
Transient Accommodations Tax	36.7	36.0	0.7	1.9%
All Others	170.8	156.3	14.4	9.2%
Total Tax Collections	\$ 896.5	\$852.5	\$44.0	5.2%
General Fund Revenues	\$ 776.0	\$ 740.0	\$ 36.1	4.9%

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

*nm = not meaningful

Total tax collections for the second quarter of fiscal year 2003 amounted to \$896.5 million, or \$44.0 million more than the same period of last fiscal year. General fund revenues of \$776.0 million for the second quarter also advanced \$36.1 million from last year's total of \$740.0 million. As illustrated above, all major tax categories showed increases from the previous year. A large amount of income tax refunds in December 2001 explains the big increase in corporate (\$16.9 million) and individual (\$11.1 million) income taxes. However, general excise and transient accommodations taxes collections increased only 0.2% and 1.9%, respectively. Also, an additional \$9.7 million for public service company taxes, \$5.6 million for franchise taxes (banks), and \$2.1 million for employment security taxes contributed to the \$14.4 million increase in the all others category. For the first half of fiscal year 2003, total state tax collections are ahead 5.5% over the first half of last 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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