

Hawaii Tax News

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State of Hawaii • Department of Taxation

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State's First Performance-Based Contract Signed!



The Department has entered into the State's first performance-based information technology contract with American Management Systems, Inc. (AMS). The company has agreed to develop a new integrated tax information management system (ITIMS) that will significantly upgrade the State's current system.

Under the performance-based contract, which was authorized by the Legislature in 1996, the contractor will receive payment only if performance standards are met. In short, that means the contractor will receive payment only if the State Tax Department experiences increased tax revenues as a result of the new automated system. The contract is a benefitting partnership, one in which both parties have a direct stake in its resulting success.

With the technology that this new system offers, Hawaii taxpayers can expect to get their tax refunds sooner, receive quicker responses to their inquiries on tax returns and accounts, and see their tax problems resolved quicker. In turn, the State can look forward to increased revenues. The impact of this advanced system will be felt far and wide.

AMS is an acknowledged leader in the information technology industry and has built similar tax and revenue systems for tax departments in several other states. Under the contract, AMS will deliver the system in five years at a cost of \$50 million.

The significant points of this performance-based information technology contract are:

• Development of a new technologically advanced, highly efficient and responsive tax information

management system that would benefit Hawaii's people and businesses.

- Cost of the contract paid only from increased tax revenue attributable to the implementation of the new system.
- Vendor will receive payment only upon standards being met, and increased tax revenues generated.

As the Department develops its new ITIMS, we will be asking the practitioner community for their input. Our goal is to have a system that addresses the needs of the user community as well as the business and individual taxpayer community. We will keep you updated as ITIMS progresses. ■

Hilo Problem Solving Day

On July 14, the Department of Taxation and the Internal Revenue Service held a joint problem solving day in Hilo. State and IRS officials were on hand to meet and work with taxpayers who were experiencing problems with their State or federal taxes. An offer-in-compromise workshop also was held in the afternoon. Since 1998, the Hilo problem solving day was the seventh joint problem solving day in Hawaii.

IN THIS ISSUE

State's First Performance-Based Contract Signed!
Credit For Qualified Improvements Not Available

The Direct Line 🕿

By Director Ray K. Kamikawa



Now that the Department's performance-based contract has been signed (finally!), we are on the way to moving light years ahead in our technology. This new system will be customer-oriented and user-friendly, with flexibility Our built in. business reauirements will drive the systems, not the other way around. Our employees, who must bear the

brunt of the current systems' limitations every day, will be liberated. Congratulations to all who made this possible, especially Deputy Director Marie Okamura, who took over the leadership of this procurement project last year and saw it through to completion.

On legislative guidance, special recognition goes to our Rules Office staff who have worked hard on the technical issues raised by the 1999 legislation, i.e., Act 70 (exported services exemption), Act 71 (pyramiding), and Act 178 (hi-tech tax incentives). Industry meetings were set up to exchange ideas and information on the impact of these new tax proposals. More refinement and workshops are planned. See our website for new guidance on these Acts starting September 10, with periodic updates thereafter.

I appreciate the calls, e-mail, and letters about our initiatives--even the complaints. Keep them coming!

Self-Assessment Project Update

pilot self-assessment project was conducted by the Department of Taxation to educate a selected group of taxpayers on Hawaii's use tax law and to give them the opportunity to report any use tax which they may have previously overlooked. The project involved taxpayers who reported retail sales of more than \$2,000,000, but no, or minimal, use tax on imported property. From a population of 800 taxpayers, 30 were sent information packets describing Hawaii's use tax law and were asked to file original or amended tax returns to report any unreported use tax, if appropriate. The self-assessment project was very effective as all 30 taxpayers selected to participate have responded - 25 taxpayers voluntarily reported use taxes totaling \$522,849 (of which \$422,608 has been collected), and 5 taxpayers owed no additional use tax.

Electronic Filing Program Update

E arlier this year, the Department initiated an limited number of payroll service providers began filing their 1999 withholding returns via modem transmission rather than by paper or magnetic tape. Since the ELF withholding program has been running smoothly, the initial "pilot" designation has been removed, enabling the Department to now accept any qualified payroll provider. Payroll providers who are interested in participating in the program may request an ELF informational and enrollment packet by calling the Department's Forms Request Line at 808-587-7572. □

August Workshop Report

Over 220 people attended the Department's August Workshop which was held on August 25 at the State Capitol Auditorium. Director Ray Kamikawa discussed the new laws relating to the general excise tax pyramiding relief, the general excise tax exemption for exported contracting and services, and the use taxation of imported services. Deputy Director Marie Okamura gave an update on the Department's new integrated tax information management system.

The last workshop for the year will be held in December. □



News Office: and 450 for Kauai District Office.

The use of private collection services will allow Department personnel to concentrate on larger and more difficult accounts. This action is in accordance with Governor Cayetano's efforts to privatize appropriate state services to foster efficiencies within state government.

These contracts will be the first since Act 68, Session Laws of Hawaii 1999, became effective on June 10, 1999. Act 68 allows the collection agency to recover its collection fee from the taxpayer when it collects delinquent taxes under a contract with the Department of Taxation. This will streamline the collection process so the collection agency can now list their fee on the billing sent to the taxpayer. Thus, when the taxpayer pays the amount on their bill in full, the account will be closed and the Department will not have to bill the collection agency fee later.

New Deputy Director



Effective June 14, 1999, our own Marie Y. Okamura, Tax Services and Processing Chief, was appointed the new Deputy Director of Taxation. Marie's appointment was based on the Department's need for someone who will provide the leadership for our Integrated Tax Information Management Systems (ITIMS) project in recognition of the fact that this will and must be the Department's initiative in the next several years. Marie brings to the deputy position the needed maturity, expertise, and competence to lead the Department in this new direction. Marie volunteered to serve as head of our ITIMS executive team, and most recently, our ITIMS project leader. In her new position, she will continue this good work.

Marie joined the Department in 1981 as a field auditor. She has served as the Tax Services and Processing Chief for the past 13 years and is valued as an effective manager with an easy manner. Marie has been a strong supporter of our efforts to move forward

See New Deputy Director, Page 4

Fiscal Year 1999 State Tax Collections

Cumulative state tax collections for fiscal year 1999 amounted to \$3,346.7 million, which was \$12.4 million or 0.4% more than the amount collected during the previous fiscal year.

Collections from the state's largest revenue source, general excise and use taxes, advanced \$21.9 million or 1.5% ahead of the amount collected during the previous fiscal year.

Taxes withheld on individual wages dropped \$35.4 million due to the reduction in income tax rates for tax year 1999. A \$16.9 million increase in estimated taxes declared by individuals partially counterbalanced this decline. As a result, cumulative fiscal year revenue from the individual income tax fell \$15.9 million or 1.4% behind the total for the previous fiscal year.

Thanks to the increase in the transient accommodations tax rate from 6% to 7.25%, fiscal year revenue from this source increased \$9.5 million or 7.4%.

Cumulative general fund deposits for fiscal year 1999 amounted to \$2,854.5 million, an increase of \$5.3 million or 0.2% when compared with the prior fiscal year. The Council on Revenues had projected an increase of 0.5% in general fund revenue. ■

Private Collection Services

The Department is preparing to enter into four separate contracts for private collection services for delinquent tax liabilities owed to the State of Hawaii. There will be one contract for each of the four district offices.

The Oahu District Office has issued a Request for Proposals (RFP) for its contract. This contract will involve approximately 10,000 accounts with balances less than \$5,000, the largest ever to be awarded by the Oahu District Office. The Oahu District Office has had four previous contracts with private collection agencies, each involving 2,000 accounts. The total amount the State realized from each contract are as follows: \$314,000 by Credit Associates of Maui, Ltd; \$165,000 from Pacific Collections; \$288,000 from NCO Financial Systems, Inc.; and \$169,000 from Payco-General American Credits (which is currently in progress).

The Hawaii District Office, Maui District Office, and Kauai District Office have issued Invitation for Bids (IFB) for their contracts. The number of accounts being referred for these contracts, the first for these districts, will be smaller: 2,000 for Maui; 1,000 for Hawaii District

New Deputy Director

(From Page 3)

with many taxpayer service initiatives. We are both honored and privileged to have such a dedicated and hard-working individual with strong leadership abilities assist in leading our Department into the new millennium.

Credit For Qualified Improvements Not Available

A ct 306, Session Laws of Hawaii 1999, provides for two qualified improvement tax credits: one for the construction or renovation of a "qualified resort facility" and another for the construction and renovation of a "qualified general facility." The credit amounts were to be based on a percentage of the capitalized costs for equipment of a permanent nature and construction, including the cost of infrastructure. This percentage, however, was left blank. Without this percentage, no credit amount can be calculated. Accordingly, the Department cannot allow any amount of credit to be claimed for 1999. ■

Taxation of Nonresidents

Effective for taxable years beginning after December 31, 1998, Act 253, Session Laws of Hawaii 1999, 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 personal exemption and standard deduction amounts.

Questions have been raised regarding the taxation of nonresidents and part-year residents. Here are some of the commonly asked questions.

Question: Since a nonresident will be taxed on income only from Hawaii sources, will a nonresident still need to complete Column A (total income, regardless of source, and adjustments to total income as if a full-year Hawaii resident) when the nonresident files Form N-15 for the 1999 tax year?

Answer: Yes. Column A on Form N-15 will be used to compute the ratio of Hawaii adjusted gross income to total adjusted gross income from all sources, which in turn will be used to compute the nonresident's (and part-year resident's) allowable personal exemption and standard deduction amounts. The ratio also will be used to compute the allowable amount of certain itemized deductions.

Question: Section 18-235-92(a)(1)(B), Hawaii Administrative Rules, requires an individual to file a return if the individual's gross income exceeds the combined amount of their personal exemption and standard deduction. How will a nonresident or part-year resident determine whether they need to file Form N-15 for 1999?

Answer: A nonresident or part-year resident must file Form N-15 if their Hawaii gross income exceeds the combined amount of their **prorated** personal exemption and standard deduction. Therefore, a nonresident or part-year resident must first compute their ratio of Hawaii adjusted gross income to total adjusted gross income from all sources to determine their prorated personal exemption and standard deduction amounts. If their Hawaii gross income exceeds the sum of their prorated standard deduction and personal exemption, they must file Form N-15.

Question: Since a nonresident will be taxed on income only from Hawaii sources, will a nonresident's itemized deductions be limited?

Answer: Yes. A nonresident or part-year resident (for the period of nonresidency) may not claim itemized deductions which are tied to a specific investment, property, or activity carried on outside Hawaii; or which results in income which is not subject to taxation by Hawaii. ■

Criminal Investigations

The following cases are recent criminal investigations which have resulted in guilty pleas.

Honolulu Attorney Pleads Guilty to Failing to File General Excise Tax Returns - On August 9, 1999, Honolulu attorney Richard G. MacMillan changed his previous plea of not guilty to guilty for failing to file his annual general excise tax returns for the 1995 and 1996 tax years. Mr. MacMillan received a fine of \$2,500 for each year, for a total fine of \$5,000. Mr. MacMillan agreed to pay the fine within 60 days and also was granted a Deferred Acceptance of Guilty Plea.

Contractor Pleads Guilty to Failing to File See Criminal Investigations, Page 5

Criminal Investigations

(From Page 4)

General Excise Tax Returns - On August 9, 1999, a former contractor, David B. Pocock, changed his previous plea of not guilty to guilty for failing to file his annual general excise tax returns for the years 1995, 1996, and 1997. Mr. Pocock received a fine of \$2,500 for each year, for a total fine of \$7,500. Mr. Pocock agreed to pay the fine within 60 days and also was granted a Deferred Acceptance of Guilty Plea.

Public Service Company Operator Sentenced For Failing to File Public Service Company Tax Returns - On August 13, 1999, a public service company operator, Mr. William H. Campbell, Jr., was sentenced for his previous "no contest" plea for failing to file his public service company tax returns for the 1996 and 1997 tax years. Mr. Campbell, who operates his trucking company "Hiki No Trucking", received a fine of \$2,500 for each year for a total fine of \$5,000. Mr. Campbell agreed to pay the fine within a period of one year and also received a Deferred Acceptance of No Contest Plea. ■

CD-ROM Update

axpayers have inquired as to whether the Department of Taxation will be upgrading the capability of its Tax Information CD so that tax forms with writable fields also perform computations. Each year, Hawaii tax forms are included both on our Tax Information CD and on our website. Selected 1998 tax forms on the current compact disc were formatted to have writable fields so that users could enter information onto the form from their computer and print the completed form; however, calculations could not be done due to software limitations. We did look into having the forms programmed to perform certain computations, but the cost was prohibitive given the rather limited distribution of the compact disc. Therefore, the Tax Information CD will not have the capability to perform computations on its tax forms. For the present, the Department will continue to focus on providing a convenient source of State tax information at nominal cost.

Recently Issued Tax Publications

The following is a list of the publications issued by the Department of Taxation from January 1999 through September 1999. 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., "intermediary services"); 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. To access a specific rule, go to the Announcement regarding the adoption of those rules and click on the link to the applicable rule (e.g., to access the intermediary services rules, go to Announcement No. 99-2 and click on the link to those rules).

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)

TIR No. 99-1 - Provides information on the filing of tax returns required by taxpayers who pay taxes by electronic funds transfer.

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.

Announcement No. 99-1 - Provides a list of candidates for political office who have registered with the campaign spending commission.

Announcement No. 99-2 - Announces the adoption of Hawaii Administrative Rules, relating to the intermediary services rate.

Announcement No. 99-3 - A Listing of New and Obsolete/Retired Tax Forms, Instructions, and Schedules; Errors Found on Hawaii Tax Forms As of February 19, 1999.

Announcement No. 99-4 - Announces the adoption of Hawaii Administrative Rules, relating to the exemption from withholding of income taxes on wages of qualifying nonresident employees.

Announcement No. 99-5 - Confirms that a multistate taxpayer must include dividends, interest, royalties, and gains received from a foreign corporation in its business income that is subject to apportionment.

Announcement No. 99-6 - A listing of the Tax Information Releases in effect and obsolete as of March 17, 1999, and a listing of Hawaii Administrative Rules related to taxation.

Announcement No. 99-7 - Announces the extension of time for filing 1998 Hawaii tax returns and the See Recent Publications, Page 6

Recent Publications

(From Page 5)

payment of taxes for taxpayers serving in the Kosovo conflict.

Announcement No. 99-8 - Provides information on Act 10, SLH 1999, which restores the cigarette and tobacco tax exemption for sales of cigarettes and tobacco products to the United States or any of its instrumentalities (e.g., military installations).

Announcement No. 99-9 - Provides information on Act 24, SLH 1999, which allows insurance companies to offset their insurance premium taxes with the low-income housing tax credit.

Announcement No. 99-10 - Requesting suggestions for improving the tax forms.

Announcement No. 99-11 - Informs taxpayers of the Hawaii Income Tax Conformity to the Internal Revenue Code.

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 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.

See Recent Publications, Page 7

Recent Publications

(From Page 6)

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. □

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. (Jayna Uyehara, 587-1553)

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)
- Filing of composite returns. (Dana Viola, 587-1564)
- Withholding required for nonresident employees of contractors performing work on a construction project in Hawaii. (Johnson Lau, 587-1562)
- Low-income housing credit. (Marshall Dimond, 587-1533)
- Application of the income tax to nonresident taxpayers section 235-2.4(a), 235-4.3, 235-5, HRS. (Dana Viola, 587-1564)

General Excise Tax Law

- Application of the general excise tax to prepaid telephone calling cards section 237-13, HRS. (Jayna Uyehara, 587-1553)
- Use of resale certificates section 237-13, HRS. (Dana Viola, 587-1564)
- 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. (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 eating and drinking retailers. (Dana Viola, 587-1564)

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)

Franchise Tax Law

• Application of the franchise tax to mortgage brokers, including sole proprietors and flow-through entities - section 241-3, HRS. (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. (Dana Viola, 587-1564) ■

Taxpayer Services Branch State of Hawaii Department of Taxation P.O. Box 259 Honolulu, HI 96809-0259

P.M.

Mondays through Fridays, except State holidays, from 7:45 A.M. to 4:30 Forms and Information may be obtained from any district tax office, I-800-887-8974 (TDD Toll-Free - For the hearing impaired) WEB INFORMATION AND FORMS Fax Forms and CD-ROM (Nominal Cost) by Mail All Others: 808-678-0522 from your fax machine 808-587-1418 (TDD - For the hearing impaired) DISTRICT TAX OFFICES http://www.state.hi.us/tax/tax.html HAWAII DISTRICT OFFICE **KAUAI DISTRICT OFFICE OAHU DISTRICT OFFICE** MAUI DISTRICT OFFICE Princess Ruth Keelikolani Building 808-587-6515 (January - April 20) FAX: 808-984-8522 TELEPHONE: 808-984-8500 TELEPHONE: 808-974-6321 **FELEPHONE: 808-274-3456** I-800-222-3229 (Toll-Free) I-800-222-7572 (Toll-Free) Honolulu, HI 96813-5094 Wailuku, HI 96793-2198 54 S. High Street, #208 State Office Building 3060 Eiwa Street, #105 75 Aupuni Street, #101 **830 Punchbowl Street** Lihue, HI 96766-1889 Hilo, HI 96720-4245 State Office Building State Office Building For Tax Information: FAX: 808-974-6300 FAX: 808-274-3461 FAX: 808-587-1488 On Oahu: 587-7572 ax Forms by Fax: **TELEPHONE:** 808-587-4242 808-587-7572