DEPARTMENT OF TAXATION
STATE OF HAWAII

ANNUAL REPORT
2008–2009

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July 6, 2010

The Honorable Linda Lingle
Governor, State of Hawaii
Executive Chambers
State Capitol, Fifth Floor
Honolulu, HI 96813

Dear Governor Lingle:

I am pleased to present you with this summary of the major accomplishments of the Department of Taxation for the fiscal year ending June 30, 2009.

The impact of the recession on Hawaii's tax revenues has led to a redoubling of our efforts to maximize efficiencies in collecting needed revenue while maintaining a high level of customer service. That all of the Department's employees have pulled together to do so is nothing short of remarkable, and also speaks volumes about the leadership exhibited by our group, section, branch, and division chiefs and staff officers.

Nowhere was the extraordinary effort put forth by both leadership and staff more evident than in the execution of the General Excise Tax Non-Filer Project, a component of the Delinquent Tax Project, and the Fresh Start Program. Though the entire Department was involved in some manner, the Tax Services and Processing Division and the Compliance Division deserve particular credit for the success of these initiatives. The collective result was the filing of 21,721 previously unfiled tax returns and the collection of an additional $61.8 million.

The Department also realized processing efficiencies by expanding the use of 2D Barcodes from a single form, the N-11 Resident Individual Income Tax Return, to two additional frequently filed forms, the N-15 Nonresident and Part-Year Resident Individual Income Tax Return and the G-45 Periodic General Excise Tax Return. Through the collaborative efforts of the Tax Services and Processing Division, the Compliance Division, the Technical Section of the Rules Office, and the Information Technology Services Office, this one change, in which tax return entries are encoded into a 2D Barcode, allowed us to process paper returns both faster and with fewer errors.

Some cost-cutting measures, such as the elimination of the automatic mailing of tax form and instruction booklets, temporarily resulted in more taxpayers needing assistance. On Oahu, the Taxpayer Services Branch met the challenge by increasing their call answer rate from 78% in 2008 during the January through June peak tax filing period, to 88% in 2009, while simultaneously increasing the number of calls answered by more than 34,000 calls. On the neighbor islands, Compliance Division staff also stepped up and ably assisted the significantly higher number of taxpayers who visited and corresponded with their offices.

A total of $4.9 billion was collected in fiscal year 2009, a decline of 9.8% from the $5.5 billion collected in fiscal year 2008. Clearly, however, this decline was a function of the economy rather than a lack of effort. Our Office Audit and Field Audit units closed many more cases this fiscal year than in the previous year, and although total cash collections of delinquent taxes fell by 4.5% to $178.4 million, collection goals were met in three of the four taxation districts, and there was a significant increase in the number of payment plans initiated and levies served. Of the total tax collected, $4.2 billion (85.0%) was deposited into the State's General Fund.

As we enter the 2010 fiscal year, new and ongoing initiatives to increase tax compliance and revenue collections are going forward. We have implemented or are in the process of implementing recent legislation, including the Cash Economy Enforcement Act of 2009 (Act 134, Session Laws of Hawaii 2009), a significant administration legislative proposal that provides the Department with new enforcement tools. We will continue to facilitate the revenue and total personal income forecasting work of the Council on Revenues during this critical period, while also preparing to support the work of the new Tax Review Commission when the members are appointed and confirmed during the 2010 legislative session. I am confident that, as the State gradually emerges from this global recession, the employees of the Department of Taxation will continue to provide the highest possible level of public service.

Very truly yours,

STANLEY SHIRAKI
Acting Director of Taxation

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THE YEAR IN REVIEW

TAX SERVICES AND PROCESSING DIVISION

The Tax Services and Processing (TSP) Division consists of three branches: (1) Document Processing, (2) Taxpayer Services, and (3) Revenue Accounting. Each branch's objectives are unique to its specific functions, with an overall division objective to perform all functions relating to the centralized processing, editing, and controlling of tax information through paper documents or electronic data; receiving, securing, depositing, and accounting for tax payments; and functions relating to account management, licensing, and providing taxpayer services to the public.

Using process change, technology, and our strategic vision, the TSP Division continues to improve upon its operations and further enhance the Department of Taxation's Integrated Tax Information Management System (ITIMS) technology platform, especially in terms of electronic processing and the ITIMS Imaging System (IIS), which is an integrated scan, recognition, and storage platform for tax returns and other documents.

In fiscal year (FY) 2009, the Department continued the expansion of its scalable IIS technology by extending the use of 2D Barcodes to the Form G-45, Periodic General Excise/Use Tax Return, and Form N-15, Nonresident and Part-Year Resident Individual Income Tax Return, in addition to the Form N-11, Resident Individual Income Tax Return, for the 2009 tax season. The use of 2D Barcodes speeds up the processing of paper tax returns by eliminating the manual, keyed entry of taxpayer information from the forms. The weighted average read rate for processed 2D Barcode returns was an incredible 95.9% and far surpassed the industry standards. As with the Form N-11, the Web-fillable versions of Forms G-45 and N-15 with 2D Barcodes were available on the Department's website and Tax Information CD. In addition, the Web-fillable version of Form G-45 was enhanced to have a very popular auto-calculation feature that made filing that much easier for Hawaii businesses.

Selected paper tax returns and payment vouchers continue to be made available for scanning into digital images that are stored in a repository during processing. In FY 2009, over 2.1 million paper returns and payments were processed through the IIS. Staff can quickly retrieve the scanned, on-line images of tax returns and payments directly from the taxpayers' ITIMS tax accounts, greatly enhancing the staff's ability to resolve taxpayer issues quickly at any of our offices statewide with the click of a button.

The state-of-the-art IIS scanning and character recognition technology has enabled the Department to reduce the time required for data entry by an order of magnitude. Of the total volume of 3.37 million documents processed in FY 2009, 66.3% were returns and payments processed through the IIS. Electronic processing accounted for 26.2% of the total volume, and 2D Barcodes accounted for another 3.9%. As additional forms are migrated from the key-from-paper technology, the time needed to post paper returns and process refunds will decline even further.

Document Processing Branch

The major function of the Document Processing (DP) Branch is to orderly process and control all tax returns and documents; receive, secure, deposit, and account for tax payments; and store, file, and retrieve such documents.

During FY 2009, the DP Branch processed 3,371,377 returns and payments, 883,513 (26.2%) of which were electronically transmitted. The DP Branch processed approximately 1.72 million payments totaling more than $4.81 billion during the year.

The Joint Electronic Filing Program (JELF) with the Internal Revenue Service (IRS) is in its ninth year. The JELF program allows certain individual taxpayers who file either the Form N-11 or the Form N-15 to file those returns electronically. The number of Hawaii returns filed through JELF increased by 8.7%, from 276,481 returns last year to 302,934 returns this year.

Taxpayers may also electronically file some returns through the Department's website. In FY 2009, taxpayers filed 313,833 returns for various taxes through our website. Filing electronically allows tax return data to flow into internal systems with a minimal amount of manual contact, which enhances operational efficiency.

In total, the DP Branch processed 41% of all returns and payments within seven calendar days in FY 2009, and 82% of all returns and payments, within 30 calendar days.

Taxpayer Services Branch

The major functions of the Taxpayer Services (TPS) Branch are three-fold: (1) to provide efficient customer assistance and information on all taxes administered by the Department (Customer Inquiry); (2) to perform computer-based error correction activities to allow for expedient processing, posting or updating of tax returns, payments, and other documents (Account Management); and (3) to process, issue and update all licenses and permits issued by the Department in a timely and efficient manner (Licensing).

Customer Inquiry: 2009 Tax Season Telephone Call Statistics:

During the January through June 2009 income tax filing season, a total of 210,818 calls were received, of which 64,273 (31%) were handled by the automated Interactive Voice Response (IVR) system, and 121,056 (57%) were handled by tax representatives. As a result, the overall call answer rate for the 2009 tax season was 88%, which was significantly higher than the 78% call answer rate for the same period in 2008, slightly lower than the 90% call answer rate in 2007, and considerably higher than the 50% call answer rate in 2006.

Year*	Total Calls Received	Total Calls Answered	Overall Call Answer Rate
2009	210,818	185,329	88%
2008	193,131	151,154	78%
2007	181,663	162,576	90%
2006	299,582	148,981	50%

* The six-month net income tax filing season beginning January 1 and ending on June 30.

The improved call answer rate in 2009 was directly attributable to having adequate staffing levels in the Call Center, supplemented by well-trained temporary staff allocated to the TPS Branch from the General Excise Tax Non-Filer Project,[1] which began in June 2008 and continued in 2009.

Account Management: Error Correction Statistics

During FY 2009, the Account Management Section corrected and posted to the Integrated Tax Processing System (ITPS) a total of 168,826 tax returns, payments, and other tax forms that were "worklisted" (i.e., removed from the processing cycle due to critical errors), as compared to 203,451 in FY 2008. The decline in FY 2009 is attributable to the significant increase in the number of income tax returns that were electronically-filed during the 2009 tax season. In addition, there was no backlog of worklisted income tax returns requesting refunds during the period leading up to the July 20, 2009, deadline for processing refund claims without paying interest. In 2008, there was a backlog of 500 worklisted returns for this period; the careful planning for the 2009 filing season and the efficiency of the staff saved the State unnecessary interest expenses.

Licensing: Statistics on Processing Business License Applications and Cancellations

In FY 2009, the Licensing Section processed 29,020 Business License applications, of which 6,757 (23%) were processed on-line through the Hawaii Business Express. The section also processed 30,012 license cancellations, a 100% increase over the 15,000 cancellations processed in FY 2008. The General Excise Tax Non-Filer Project prompted the surge in cancellations filed in response to the nearly 70,000 notices mailed to taxpayers requesting the filing of either their unfiled annual general excise/use tax returns or a cancellation form to close their accounts, as applicable.

Responsibility for handling licensing and permitting for all miscellaneous taxes was transferred from the district tax offices to the TPS Branch on Oahu. As part of this consolidation, the Licensing Section incorporated all miscellaneous tax licenses into a single numbering system. In FY 2009, the Licensing Section also renewed 1,328 currently active retail tobacco licenses.

[1] Information about the General Excise Tax Non-Filer Project is provided on page 13.

Revenue Accounting Branch

The major function of the Revenue Accounting (RA) Branch is the maintenance of revenue control and subsidiary ledgers. As such, the RA Branch controls, and is responsible for, all adjustment, error resolution, accounting, and reconciliation functions for all State tax revenues. Specific tasks include the preparation of the Preliminary Report, Statement of Tax Operations (STO), and related reports.

The Preliminary Report is a monthly statewide summary of all revenues received by the Department, less the amount of tax refunds, that must be prepared by the fifth working day of each month. The STO is a formal, detailed report of State revenues that is based on the Preliminary Report, and that must be prepared by the tenth working day of each month. The RA Branch has met these urgent goals each month.

Secondary functions of this branch include statewide processing and manual accounting activities for all miscellaneous taxes except the estate and transfer tax; controlling and accounting for all State tax refunds resulting from either overpayments or adjustments; maintaining the statewide accounting records and preparing journal entries associated with the Delinquent Tax Project's[2] administratively established trust account; maintaining the manual accounting system for all protested payments and tax appeals; and handling all State refund exception activities (e.g., returned checks, tracers, forgeries, etc.).

COMPLIANCE DIVISION

The objective of the Compliance Division is to maximize taxpayer compliance with Hawaii's tax laws in a consistent, uniform, and fair manner. The Compliance Division is composed of the Oahu Office Audit Branch, Oahu Field Audit Branch, Oahu Collections Branch, and the Maui, Hawaii, and Kauai District Tax Offices. Three programs are established in the Division to meet the objectives of the voluntary compliance, self-assessment system: (1) auditing/examination, (2) collection, and (3) taxpayer services (information dissemination).

Auditing/Examination

To support the voluntary compliance, self-assessment system of taxation, the Office Audit and the Field Audit units performed the following examinations and audits during the fiscal year.

[2] Information about the Delinquent Tax Project is provided on page 13.

	Office Audit		Field Audit	
	Number of Audits Completed	Dollars Assessed	Number of Audits Completed	Dollars Assessed
Oahu	15,330	$ 63,135,906	241	$ 141,555,325
Maui	3,804	15,078,911	29	7,010,212
Hawaii	1,699	6,610,409	49	2,635,505
Kauai	1,688	3,111,205	54	6,859,584
Total FY 2009	22,521	$ 87,936,431	373	$ 158,060,626
Total FY 2008	10,730	55,903,300	320	161,162,850
Difference	11,791	$ 32,033,131	53	$ (3,102,224)

The Office Audit units increased by 109.9% the number of audit cases closed in FY 2009 over FY 2008, and increased by 57.3% the total dollars assessed. The Field Audit units increased by 16.6% the number of audit cases closed in FY 2009 over FY 2008; the total dollars assessed, however, decreased by 1.9%.

The dollar amount collected at the time the audits were closed, and prior to the mailing of any billing notices, decreased from $37.5 million in FY 2008 to $33.5 million in FY 2009.

Criminal Tax Unit

The Criminal Tax unit increased its activities during the fiscal year, leading to indictments and complaints against 41 taxpayers. These activities resulted in $137,250 in judicial fines and $1.8 million in tax assessments. In addition, $1.4 million in taxes, penalties, interest charges, and fines were collected.

Special Projects

The Oahu Field Audit Branch conducted the following special projects during the fiscal year:

- Federal Contractors Project: This project, which targets unlicensed contractors working on federal installations, was started in 1983 and is an ongoing activity. This fiscal year, 13 audits were completed and resulted in $3.8 million in assessments.

- Referral Cases from Criminal Investigation Unit: During this fiscal year, 12 cases that were originally considered for possible criminal prosecution, or that arose pursuant to a criminal investigation, were completed and resulted in $2 million in assessments.

- Research Tax Credit: During this fiscal year, 19 cases involving taxpayer claims for the tax credit for research activities were completed and resulted in $6 million in assessments.

Delinquent Tax Collections

The operations of Compliance Division's Tax Enforcement Program consist of the Oahu Collection Branch and the Collections Sections in the Maui, Hawaii, and Kauai District Tax Offices.

Although three of the four district tax offices attained their tax collection goals, combined tax collections for FY 2009 fell by $8.5 million, from $186.9 million in FY 2008 to $178.4 million in FY 2009, a 4.5% decrease.

Another notable decrease was in the amount of new delinquent referrals, which fell by $24.6 million, from $231.7 million in FY 2008 to $207.1 million in FY 2009. The success of the Department's Fresh Start (Amnesty) Program,[3] which required taxpayers to make payment in full, may have contributed to the decrease in new delinquent referrals.

A table of major performance measures for FY 2009 is presented below:

Measure	FY 2009	FY 2008	Difference Amount	Difference %
Total Delinquent Tax Balance ($ Millions)	$ 398.3	$ 374.9	$ 23.4	6.2
Total New Delinquent Referrals ($ Millions)	$ 207.1	$ 231.7	$ (24.6)	(10.6)
Total Cash Collected ($ Millions)	$ 178.4	$ 186.9	$ (8.5)	(4.5)
Uncollectible Tax Write-Offs ($ Millions)	$ 8.3	$ 13.7	$ (5.4)	(39.4)
Payment Plans Initiated	24,997	20,731	4,266	20.6
Tax Liens Filed	6,048	6,071	(23)	(0.4)
Levies Served	13,257	10,314	2,943	28.5

Taxpayer Assistance Provided

During FY 2009, the neighbor island district tax office personnel helped taxpayers properly file numerous tax returns and other documents over the telephone, at the service counter, and via correspondence. The Oahu Office Audit, Field Audit, and Collection units also provided support services to the neighbor island district tax offices and to the Oahu TPS Branch when requested.

[3] Information about the Fresh Start Program is provided on page 14.

The following summarizes the taxpayer assistance activities of the Maui, Hawaii, and Kauai District Tax Offices:

			Difference	
	FY 2009	FY 2008	Amount	%
Counter	76,488	74,964	1,524	2.0
Phone Services	49,700	51,426	(1,726)	(3.4)
Tax Clearances	6,454	7,197	(743)	(10.3)
Correspondence	17,736	6,245	11,491	184.0

The reduction in telephone services is due to the centralization of customer services within the Oahu TSP Division and continued increases in efficiencies in processing resulting from the scanning of returns and improvements to electronic filling, forms design, and mail processes.

Increases in counter services and correspondence were due to Department cost-cutting in response to the decline in the State's economy (e.g., reducing the mailing of tax forms booklets and encouraging taxpayers to e-file their returns), changes in the tax law, etc.

The assistance provided to taxpayers is part of the Compliance Division's continuing emphasis on taxpayer education and problem resolution in all its contacts with taxpayers. The Compliance Division continues to believe in the importance of maintaining taxpayers' willingness to accurately and voluntarily comply with the State tax laws. This "taxpayer enabling and empowering activity" will continue to be emphasized.

STAFF OFFICES

Administrative Services Office

Fiscal Office

The Administrative Services Office submitted to the 2009 Legislature the budget for the fiscal biennium encompassing FY 2010 and FY 2011. The Legislature appropriated $22.6 million for FY 2010 and another $22.6 million for FY 2011 to the Department.

In discharging its duties and responsibilities, the Department of Taxation incurred operating expenses of $21.6 million for FY 2009.

Personnel Management

The Department had 391.5 authorized positions for FY 2009, which was less than the 407.5 positions authorized for the previous year. Employees were geographically distributed as follows: Oahu, 326.5; Hawaii, 27; Maui/Molokai, 22; and Kauai, 16.

Personnel actions included 39 new civil service hires, 6 retirements, 100 temporary hires, 9 promotions, 2 demotions, 8 transfers, and 19 resignations. Other personnel actions included temporary assignments of employees to higher levels.

STAFFING PATTERN
(Number of Authorized Permanent Positions)

By Organization/Operating Program	2009	2008	2007	2006
Headquarters Administration	66.0	74.0	67.0	67.0
Tax Services and Processing Division	138.0	138.0	110.0	110.0
Compliance Division	187.5	195.5	195.5	189.5
TOTAL	391.5	407.5	372.5	366.5

Rules Office

The Rules Office is currently comprised of the Rules staff and the Technical Section. The function of the Rules Office is to serve as a resource for complex policy recommendations and complex taxpayer support.

Rules Staff

The Rules staff serves as the Department's advisory arm to the Director of Taxation on tax policy and counsels the Director's Office and Department on legal and tax issues. The Rules staff also assists, counsels, and represents the Department's compliance personnel with tax disputes and other administrative tax controversies. For example, the Rules staff provided assistance and counsel to the Department's compliance function in settlement negotiations and closings, and appeared on behalf of the Department before the Boards of Taxation Review. Assistance was also provided to the Tax Division Deputy Attorneys General in support of the Department's tax cases being litigated.

For the 2009 legislative session, the Rules staff drafted and submitted five administration-sponsored bills. Prior to the start of the legislative session, the Rules staff also reviewed and commented on proposed tax legislation submitted by other executive departments.

After reviewing 3,523 bills introduced to the 2009 Legislature, 1,843 House Bills and 1,680 Senate bills, the Rules staff determined that over 300 measures proposed tax law changes and analyzed them in depth. These measures were also tracked throughout the legislative session. The Rules staff prepared 344 written testimonies for measures scheduled for public hearings by legislative committees, 180 for the House and 164 for the Senate. Letters to legislative committee chairs were also drafted after the public hearings to respond to specific questions or to address certain concerns of committee members. In addition, the Rules staff was asked to submit comments and recommendations to the Governor on 26 bills passed by the Legislature with possible impact on the Department. Provisions of all five of the Department's administration-sponsored bills became law in some form.

During the fiscal year, the Rules staff prepared letters for the Governor and the Director, announcements, tax information releases, directives, and other publications. The Rules staff also assisted in the Department's implementation of new legislation.

The Rules and Technical Section staff reviewed and certified 1,445 requests for the high technology business investment tax credit and 1,141 requests for the credit for research activities in accordance with Act 215, Session Laws of Hawaii (SLH) 2004. The Rules staff also responded to 37 requests for ruling on qualified high technology business activities.

The Rules staff also testified at legislative committee hearings on behalf of the Director, provided training for Department employees, and spoke at several workshops for practitioners.

<u>Technical Section</u>

The Technical Section answers questions received by telephone, e-mail, and correspondence, and reviews applications for certain tax exemptions. In FY 2009, staff approved 240 applications filed by nonprofit organizations for an exemption from the general excise tax and 3,456 conveyance tax exemptions.

A major responsibility of this section is the development and revision of tax forms and instructions to make improvements and to incorporate changes needed to conform to changes in Hawaii and federal tax law. During FY 2009, the Technical Section reviewed 381 tax forms and 53 instructions, and terminated 4 forms that were determined to be obsolete.

The Technical Section staff also reviews, researches, analyzes, and provides comments and recommendations on the technical and procedural aspects of the drafts of legislative bills, administrative rules, and tax information releases. Staff also provided training for Department employees and spoke at several workshops for practitioners and new entrepreneurs.

Information Technology Services Office

The Information Technology Services (ITS) Office is responsible for the development, modification, and maintenance of the Department’s computerized tax systems, network, and related components.

During FY 2009, the ITS Office played a key role in implementing changes that reduced the Department's operating costs. First, ITS staff evaluated data to assess the potential savings that would result from eliminating the mailing of various tax form and instruction booklets unless specifically requested by taxpayers. Numerous modifications were required to then implement this program and to accommodate special situations that later arose. Second, ITS staff tested and successfully networked lower-cost multi-function printer devices that replaced multiple devices for printing, scanning and faxing.

The ITS Office also undertook a number of projects to support the tax compliance and collection functions of the Department. The most visible of those projects was the addition of a new feature to the Department's website that listed the names of taxpayers who owed very large amounts of delinquent taxes. It was hoped that the taxpayers would pay the amounts due to avoid having their names publicized on the Internet. The new feature was uploaded on April 24, 2009, and listed 39 individual and business entities with delinquent tax balances as high as $2 million.

In January 2009, the ITS Office also successfully implemented a program to prevent the release of potentially fraudulent claims for refunds of individual income taxes, and in March 2009, participated in the design, analysis, and eventual implementation of an automated program that allows taxpayers to set up payment plans by phone, through the Department's Interactive Voice Response unit, for delinquent tax balances that cannot be paid in full.

A number of updates and technical enhancements to improve the stability and service reliability of the ITIMS system were completed in FY 2009. The annual ITIMS update to implement changes needed as a result of changes to State tax laws took place during the second and third quarters of the fiscal year, and was completed on time. Other system improvements, including approximately 120 changes to improve and stabilize the ITIMS system, were also made.

In October 2008, a high capacity tape file server was installed to allow ITS staff to back up and restore neighbor island district tax office system applications from Oahu. Additional disk space was added in November 2008 to accommodate the growth of tax records. In January 2009, five batch servers were physically relocated to the Department of Accounting Services' Information and Communications Services Division (ICSD) computer facilities in the Kalanimoku Building. The secure ICSD facilities have appropriate cooling, fire suppression, and backup power generation systems that improve security and ensure uninterrupted server operations. Department operating systems and software packages were also upgraded to Windows XP and Microsoft Office 2007, respectively, to ensure ongoing software support.

The Department relies on federal tax return data from the IRS for many of its compliance and research functions. In January 2009, the ITS Office completed the IRS Trading Partners Secure Data Transfer project, which enables secure, two-way file transfers between the Department and the IRS. Federal tax return information, as well as State tax return information, is confidential, and in March 2009, the IRS conducted a Safeguard review of Department systems and operations to ensure that IRS data are properly used and secured. As part of this review, ITS staff reconfigured all network routers, switches, and firewalls to meet new IRS requirements mandating compliance with National Institute of Standards and Technology (NIST) security standards.

The ITS Office has a number of ongoing projects that will continue into FY 2010, and other projects that will begin in the new fiscal year. The ITIMS system will be updated to implement the increased transient accommodations tax enacted by Act 61, SLH 2009, the new general excise tax periodic return filing deadlines enacted by Act 196, SLH 2009, and other changes resulting from changes in tax laws, changes in the processing of Form 1099 informational statements, and the consolidation of regular and amended tax returns into a single form. Work to complete the Department's conversion from the manual processing of tax forms through the

Unisys Data Entry System to automate processing through the IIS data capture system is in progress. In addition, ITS staff will continue various projects to ensure compliance with IRS Safeguard review requirements and the NIST security standards.

Tax Research and Planning Office

The Tax Research and Planning (TRP) Office (1) prepares analytical and statistical reports on Department activities, including statewide tax collections, the income patterns of individual and business taxpayers, and tax credits claimed by Hawaii taxpayers; (2) prepares long-range and short-range forecasts of General Fund tax revenues for State budget planning purposes; (3) develops tax plans to meet administrative policies and programs; (4) prepares analytical reports on the revenue effects of proposed tax legislation for the governor, legislature, and other agencies; and (5) provides administrative and technical support for various attached agencies.

In FY 2009, the TRP Office, pursuant to Act 206, SLH 2007, compiled data reported on Forms N-317 that were filed by companies that benefited from the qualified high technology business investment tax credit, and the report, *Descriptive Statistics on the Operations of Qualified High Technology Businesses From 2002 Through 2007*, was submitted to the Legislature in August 2008. The TRP Office also conducted a study of the credit as required, and submitted its report, *The Impact of the High Technology Business Investment Tax Credit on Hawaii's Economy for Calendar Year 2007*, in December 2008. In March 2009, the Department of Taxation's *Annual Report 2007–2008* was published.

The TRP Office also prepared the monthly preliminary General Fund tax collection reports for dissemination by the Director of Taxation, and it prepared and disseminated monthly final reports on State tax collections and distributions, revenue trends, general excise and use tax collections, fuel tax collections and allocations, liquor tax collections, and tobacco tax collections. Summary final reports were also prepared for both the fiscal year ending June 30, 2008, and the calendar year ending December 31, 2008.

In preparation for and during the 2009 Legislative session, TRP staff reviewed and tracked hundreds of tax-related and potentially tax-related legislative bills and resolutions, and prepared estimates of the tax revenue impacts of almost 285 bills. New tax revenue impact statements were prepared when new drafts were proposed or passed, new information became available, or requests were received from the Administration, legislators, and others.

The work of the TRP Office in producing long-range and short-range forecasts of General Fund tax revenues and in providing administrative and technical support to the Council on Revenues (COR) garnered increased attention this fiscal year.

The seven members of the COR are responsible for forecasting State revenues and the State's total personal income. The COR's State revenue forecasts for the current and five subsequent fiscal years are required on September 10, January 10, March 15, and June 1, for use by the Governor and Legislature in developing, passing, and administering the State's budget. The COR's total personal income forecasts for the current calendar year and the immediately following calendar year are required on August 5 and November 5; the State's growth rate (the average annual percentage change in Hawaii total personal income for the preceding three calendar years) is used to set the State General Fund expenditure ceiling.

As Hawaii's economy, and that of the nation and the world, slipped into a deep recession, the COR's forecasts and the estimates prepared by the TRP Office became critically important to the administrative and legislative budgetary processes. TRP staff utilized advanced econometric modeling techniques, State tax data, and other economic data to prepare materials that inform the COR's State General Fund tax revenue forecasts. In addition to the four State revenue forecasts required by statute, the Council reviewed and revised its previous forecasts of General Fund tax revenues in July 2008 at the request of the Governor, and again in October 2008 at the request of the Legislature.

Efforts begun by the TRP Office last fiscal year to obtain a new econometric model for forecasting General Fund tax revenues came to fruition at the end of this fiscal year. The contractor presented the new model at a special COR workshop in June 2009. Due to budgetary constraints, additional work on the model was not funded. The annual report on the efforts to improve revenue forecasting, as required by Act 213, SLH 2007, section 120, was submitted to the Legislature in January 2009, prior to the delivery of the new model.

Taxpayer Advocacy Program

The Taxpayer Advocacy Program is administered by the Department's Taxpayer Advocate under the direction of the Director of Taxation. The Taxpayer Advocate assists taxpayers who are not able to resolve their problems through the normal channels. The Taxpayer Advocate also identifies and addresses systemic and procedural problems and recommends corrective changes. This position is a one-person operation, the main focus of which are the unique needs of each taxpayer requiring assistance while simultaneously identifying issues that impact multiple taxpayers.

During FY 2009, the Taxpayer Advocacy Program helped 286 taxpayers resolve their tax matters. Problems included erroneous billings, non-receipt of refunds, waivers of penalty and interest charges, verifications of tax liabilities, non-filed returns, collection issues, inability to access the Call Center, e-filing issues, and delays in responses to inquiries. Additional cases did not require an intervention, but were instead resolved by the Taxpayer Advocate providing the taxpayers with general tax information, explanations of letters and assessments, and/or a referral to appropriate management personnel.

The Taxpayer Advocate identified specific systemic issues with computer-generated notices and tax forms in FY 2009, and recommended the implementation of standard procedures at all district tax offices to proactively address those issues.

The Taxpayer Advocacy Program also coordinates a joint outreach project with various partners to provide tax services to communities that do not normally have access to these services. A variety of tax services are provided, including the acceptance of general excise tax license applications, assessment notice explanations, payment plan arrangements, voluntary compliance, penalty and interest waivers, individual income tax and general excise tax return preparation, and assistance with general tax questions.

During the 2009 tax season, the Department partnered with the AARP's Tax Aide Program to bring tax assistance to the Waianae community on Oahu. Tax Aide Program volunteer counselors are trained and certified by the IRS to assist the elderly, low-income, limited-English speaking, and/or disabled taxpayers in the preparation of their federal and State income tax returns. Approximately 65 taxpayers were assisted at this joint outreach event. At each outreach event, the Taxpayer Advocate was on hand to assist taxpayers with their questions and with the resolution of their tax concerns. In past tax seasons, the Department also partnered with the AARP to provide tax assistance to the Molokai community; due to budget constraints, however, the Department was unable to participate this fiscal year.

In general, the majority of the taxpayers were satisfied with the outcome of their cases regardless of whether a decision was made in their favor. The Taxpayer Advocacy Program focuses on taxpayers' needs while maintaining taxpayer confidence that Hawaii's tax laws are administered in a consistent, uniform and fair manner.

SPECIAL REVENUE-GENERATING INITIATIVES

As the depth of the forecasted decline in State tax revenues became increasingly clear, the Department quickly marshaled its resources to plan and implement a number of revenue-generating initiatives. Two major initiatives, the Delinquent Tax Project and the Fresh Start Program, occurred in FY 2009. Although both initiatives required the participation of the entire Department, the bulk of the additional workload was borne by the TSP Division and the Compliance Division.

Delinquent Tax Project

The Delinquent Tax Project has three main objectives: (1) to encourage taxpayers to timely file their tax returns and pay the tax owed as required (i.e., to encourage voluntary compliance through education and other means); (2) to enhance the Department's ability to collect taxes legally owed to the State; and (3) to clear the business account registration rolls of accounts that are no longer active by encouraging taxpayers to cancel unneeded accounts. Although ambitious, the project was begun in June 2008, with required ITIMS enhancements financed through the delinquent taxes collected.

The first phase is the Registered Business Non-Filer Project. This fiscal year, we began with the General Excise Tax Non-Filer Project component, which focused on general excise tax licensees who had not filed general excise tax returns for tax years 2001 through 2007. The purpose was threefold: (1) to inform the taxpayers about the requirement that they file all periodic and annual general excise tax returns, even if there was no gross income to report and/or no tax due; (2) to obtain all unfiled returns and unpaid tax, penalty, and interest amounts owed; and (3) to encourage those who had not filed any returns because they were no longer in business to cancel their accounts.

Through ITIMS, 69,076 letters were printed and mailed to taxpayers informing them of their non-filer status and of the general excise tax filing and/or cancellation procedures required of them. The TSP Division's TPS Branch handled thousands of inquiries from taxpayers who called, e-mailed, mailed, and visited the Department in response to the letters. In addition, the Division's DP Branch expedited the processing of the 19,028 previously unfiled returns and 12,895 license cancellations submitted by the letter recipients. The TSP Division's efforts resulted in the collection of nearly $44.8 million in previously uncollected tax revenue in FY 2009.

In addition to the letter campaign, the Compliance Division generated 13,279 assessment notices based on data obtained from the IRS. Because most of the assessment notices were prepared by the Office Audit Branch, those office auditors were primarily responsible for responding to the thousands of inquiries from assessment notice recipients. The Compliance Division's efforts generated an additional $2.6 million in revenue for FY 2009, with more expected in FY 2010.

This project greatly stretched the Department's resources, especially the staffing resources needed to field the thousands of additional taxpayer inquiries and to process the high volume of additional documents filed. However, the extraordinary staff effort resulted in a very successful first phase of the Delinquent Tax Project.

Fresh Start Program (AKA Tax Amnesty)

For the first time in State history, amnesty was offered to Hawaii taxpayers. Under the Fresh Start Program, qualified taxpayers were granted amnesty from the assessment of penalties and possible criminal prosecution, and were assessed interest at the rate of 4% per year, rather than 8% per year, on the balances owed.

To qualify, taxpayers were required to file all previously unfiled returns and/or amended returns to report previously unreported income, and pay the full amount of tax and reduced interest due. Only returns filed for tax periods ending on or before December 31, 2007, were eligible for amnesty. Taxpayers who were already being audited or investigated, in a collection program, or in litigation with the Department were ineligible for amnesty.

Though the Fresh Start Program was only in effect from May 27, 2009, through June 26, 2009, it resulted in the filing of 2,693 tax returns with the Office Audit Branch of the Compliance Division, and the payment of $14.4 million in additional taxes. Of the total, 1,600 returns and $8.4 million in collections came from taxpayers who qualified for the program; the remainder came from taxpayers who did not qualify, but who nevertheless came forward to file their returns and pay at least a portion of the amounts owed, or were for tax periods ending after December 31, 2007.

MANAGEMENT PERSONNEL
(FY 2008–2009)

OFFICE OF THE DIRECTOR

Director of Taxation..Kurt Kawafuchi
Deputy Director of Taxation..Sandra Yahiro

STAFF OFFICES

Rules Officer..Johnnel Nakamura
    Technical Section Supervisor..Denise Inouye
Tax Research & Planning Officer..Tu Duc Pham
    Economist..Yvonne Chow
Information Technology Services Officer..Robert Su
Administrative Services Officer..Suzanne Efhan
    Personnel Officer..Sharon Iwamura
Taxpayer Advocate..Fern Elizares
External Training & Outreach Officer..Vacant*

OPERATIONS STAFF

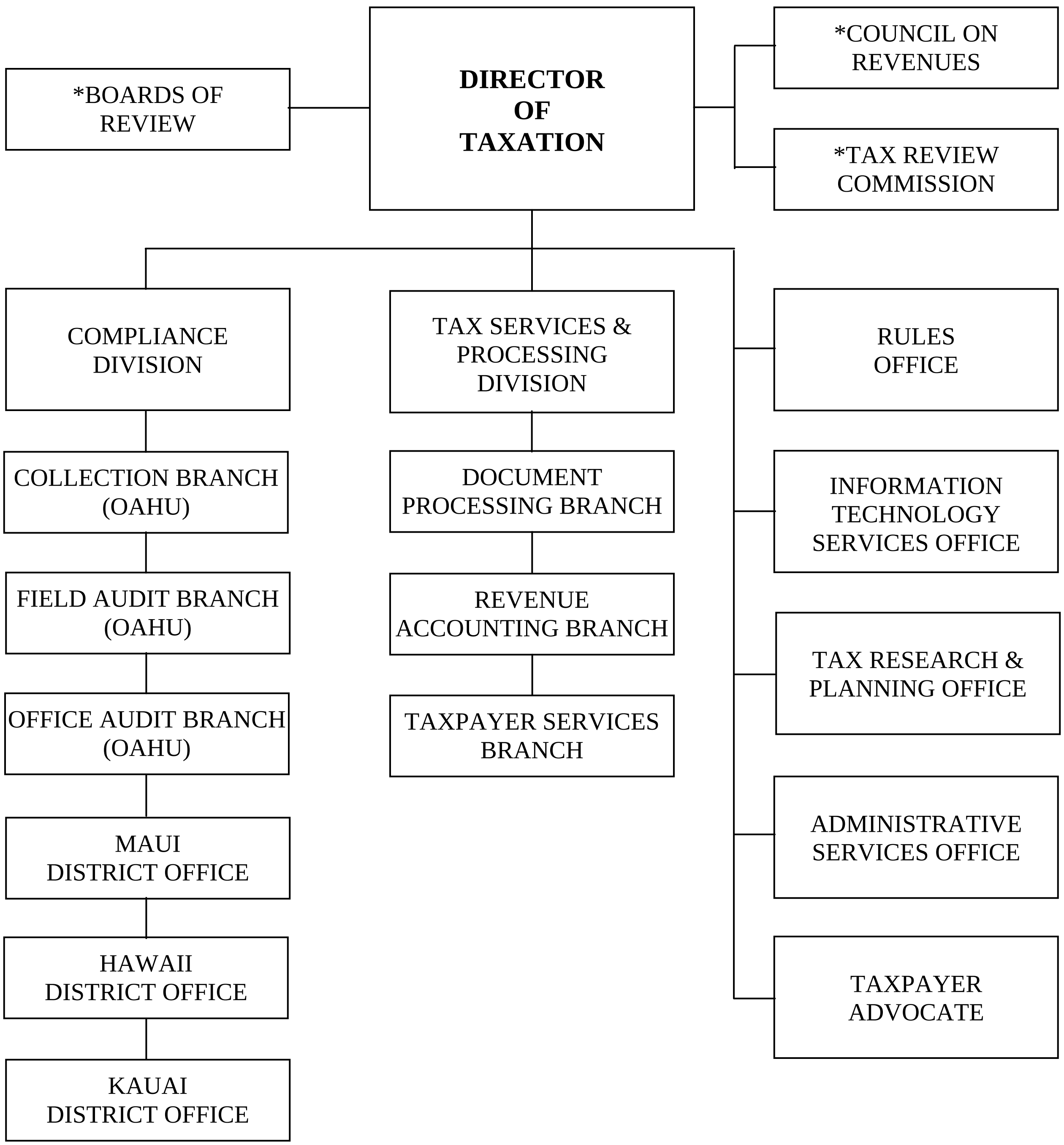
Compliance Division Chief..Ronald Randall
    Tax Audit Technical Coordinator..Vacant
    Tax Collection Technical Coordinator..Wayne Kinoshita
    Oahu Field Audit Branch Chief..Gayle Nakagawa
    Oahu Office Audit Branch Chief..Kenneth Cook
    Oahu Collection Branch Chief..Lynne Kaneta
    Maui District Tax Manager..Wayne Fujita
    Hawaii District Tax Manager..Roy Hamakawa
    Kauai District Tax Manager..Dulcie Yano

Tax Services and Processing Division Chief..Joan Bolte
    Taxpayer Services Branch Chief..Annette Yamanuha
    Document Processing Branch Chief..Jerry Ebesu
    Revenue Accounting Branch Chief..Deanne Obatake

*NOTE: The External Training & Outreach Office was eliminated, effective July 1, 2009.

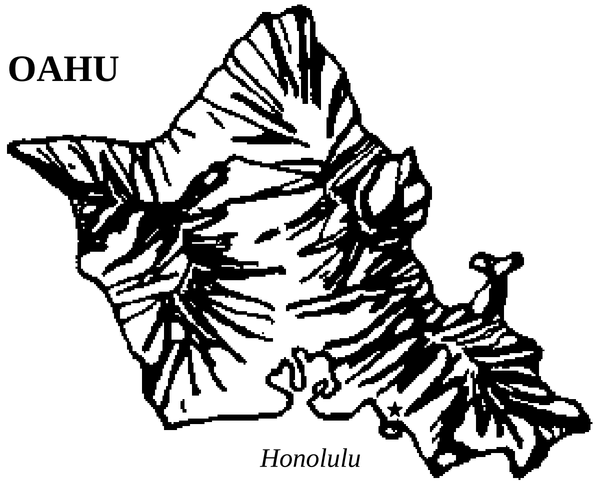
ORGANIZATION CHART

Department of Taxation
State of Hawaii



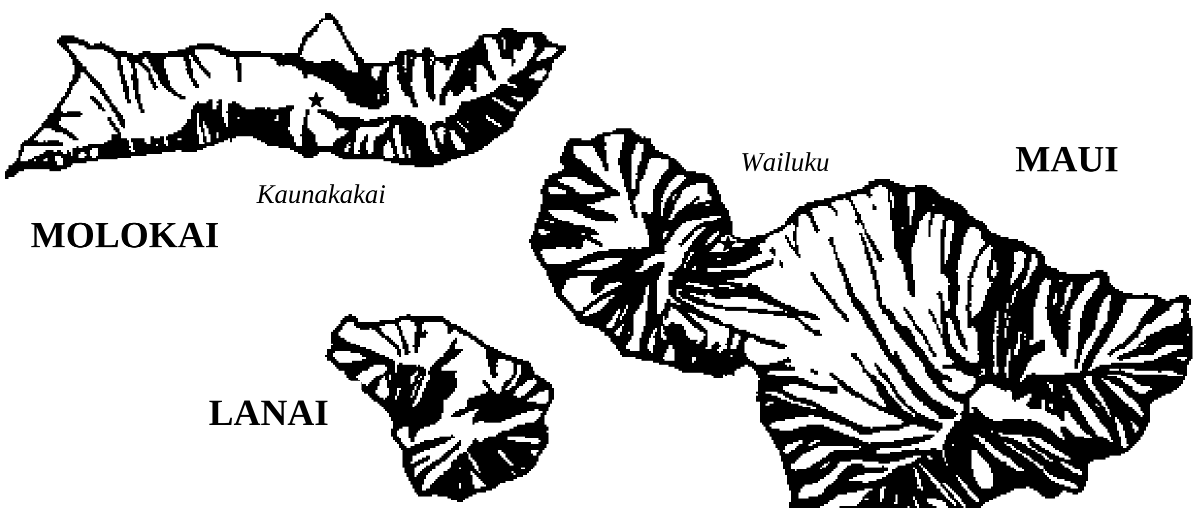
*For Administrative Purposes

FIRST TAXATION DISTRICT
City & County of Honolulu



Oahu Office
830 Punchbowl Street
Honolulu, Hawaii 96813

SECOND TAXATION DISTRICT
Counties of Maui and Kalawao



Maui Office
54 South High Street
Wailuku, Hawaii 96793

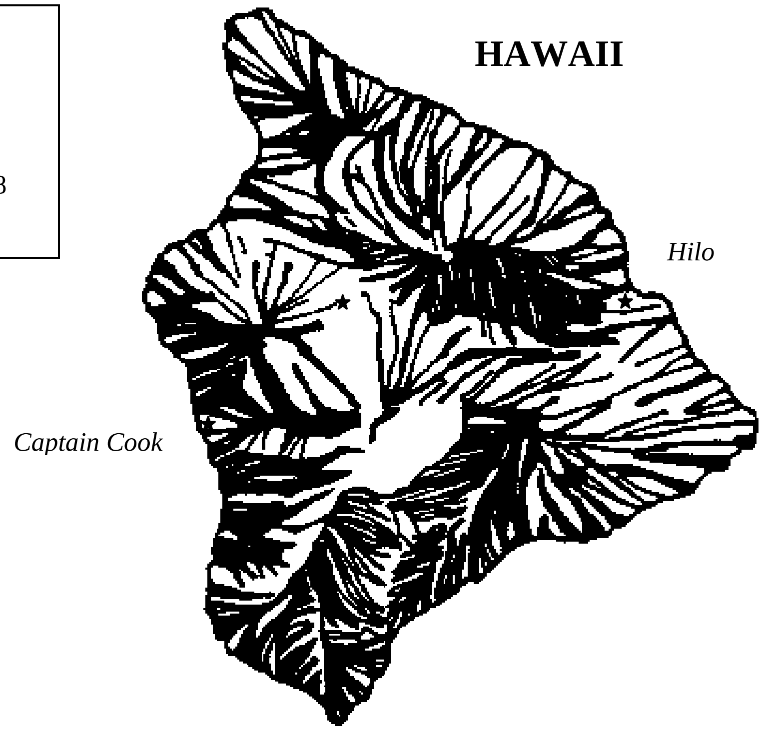
Molokai Office
35 Ala Malama Street #101
Kaunakakai, Hawaii 96748

THIRD TAXATION DISTRICT

County of Hawaii

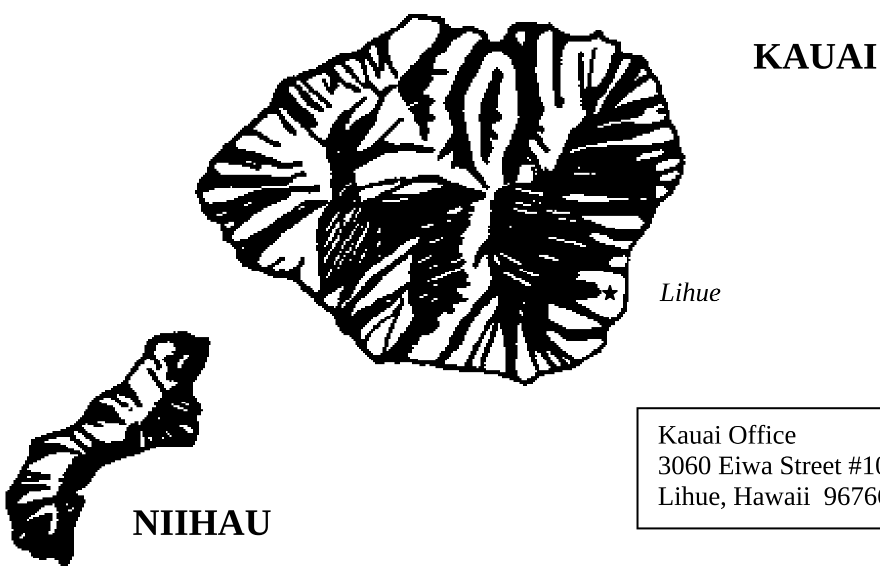
Hilo Office
75 Aupuni Street
Hilo, Hawaii 96720

Kona Office
82-6130 Mamalahoa Highway #8
Captain Cook, Hawaii 96704



FOURTH TAXATION DISTRICT

County of Kauai



Kauai Office
3060 Eiwa Street #105
Lihue, Hawaii 96766

TAX APPEALS AND LITIGATION

BOARDS OF TAXATION REVIEW

Each taxation district has an administrative (i.e., non-judicial) Board of Taxation Review consisting of five members. Tax disputes that are not resolved at the district tax office level may be appealed to a Board of Taxation Review unless the dispute involves the Constitution or laws of the United States. Statewide, the boards began the fiscal year with 102 pending tax appeals. During FY 2009, 90 new appeals were filed, 24 appeals withdrawn, and 46 appeals settled; a total of 122 appeals to the Boards of Taxation Review were pending at the end of the fiscal year.

The following table details appeals to the Boards of Taxation Review by taxation district:

Taxation District	First (Field Audit)	First (Office Audit)	Second	Third	Fourth	Total
Appeals Pending (Beginning)	75	7	1	9	10	102
New Appeals	40	28	14	5	3	90
Appeals Withdrawn	17	0	6	1	0	24
Appeals Settled	8	30	7	0	1	46
Appeals Pending (Ending)	90	5	2	13	12	122

CIVIL DECISIONS, SETTLEMENTS, AND OTHER LEGAL MATTERS

During FY 2009, the Tax Division of the Department of the Attorney General closed 853 legal matters related to the Department of Taxation, excluding legislative matters that have not yet been closed in the case management system by the Department of the Attorney General's Legislative Division. Also not included are all charitable oversight and charitable solicitation matters the Tax Division routinely handles.

MATTERS CLOSED	
Appeals	37
Bankruptcies	378
Contracts	2
Foreclosures	357
Legislation	0
Opinions	4
Quiet Title	23
Subpoenas	13
Miscellaneous	39

AMOUNTS COLLECTED[4]	
Tax Appeals	$ 7,519,513
Foreclosures	57,824
Bankruptcies	1,134,546
Trusts	0
Miscellaneous	0
TOTAL	$8,711,883

[4] The Tax Division of the Department of the Attorney General also secured the dismissal of several tax appeals that would have potentially resulted in refunds to taxpayers from the General Fund and won cases on appeal that will have fiscal impact on similarly situated taxpayers and result in future tax collections that are impossible to forecast.

Settled Cases

Tax Appeal Court

In the Matter of the Tax Appeals of Central Pacific Bank, T.A. Nos. 02-0075, 03-0155, 05-0041, and 07-0098, Tax Appeal Court, State of Hawaii.

> Taxpayer filed returns claiming the dividends received deduction for dividends it received from its wholly owned real estate investment trust (REIT). The Department denied the deduction and assessed Taxpayer on the previously deducted income. The Department won a motion for summary judgment in its favor and the appeals were subsequently settled on terms favorable to the State. All tax appeals were dismissed by stipulation.

In the Matter of the Tax Appeal of Hale Kupuna Heritage Home, LLC, T.A. No. 04-0042, Tax Appeal Court, State of Hawaii.

> The Department assessed Taxpayer for Hale Omao Inc.'s general excise tax liabilities and Benjamin and Mary Aranio's income tax liabilities pursuant to § 237-43, HRS (2001), because no bulk sales report was obtained or filed when Taxpayer bought Hale Omao's 84-bed care home business and the Aranios' real property where the care home business was located. The case was settled and the appeal dismissed.

In the Matter of the Tax Appeal of the Director of Taxation, State of Hawaii v. Sunamerica Securities, Inc., T.A. No. 05-0075, Tax Appeal Court, State of Hawaii.

> Taxpayer is a mainland securities dealer with local independent contractors providing sales services to its Hawaii customers. Taxpayer bought securities from underwriters and facilitated sales to Hawaii consumers through its independent contractors located here. The Department assessed general excise taxes on Taxpayer's gross receipts based on its commissions received from the underwriters. The case was settled and the appeal dismissed by stipulation.

Costco Wholesale Corp. vs. Director of Taxation, State of Hawaii, T.A. No. 06-0001, Tax Appeal Court, State of Hawaii.

> Taxpayer filed a complaint for a refund of tax payments made under protest for the period September 1, 1999, through August 31, 2002, inclusive. Taxpayer challenged the Department's assessment that reclassified certain wholesale transactions to retail transactions, thereby imposing the 0.5% use tax and 4% general excise tax on the importation and sale of the products to a customer. The case was settled and the tax appeal dismissed.

In the Matter of the Appeal of Moana Pa‘akai, Inc., T.A. No. 06-0094, Tax Appeal Court, State of Hawaii.

> Taxpayer, a.k.a. Hawaiian Tug & Barge, filed a notice of appeal and complaint appealing general excise tax assessments for tax years 2001 through 2004. Taxpayer argued that the

Department failed to apply exemptions or lower tax rates under §§ 237-4, 237-13, 237-13.3, and 237-24.3, HRS. This case was settled and the appeal dismissed.

Completed Cases

Intermediate Court of Appeals

In the Matter of the Appeal of Spirent Holdings Corp. & Subsidiaries, S. Ct. No. 29199, Intermediate Court of Appeals, State of Hawaii.

The Intermediate Court of Appeals issued a decision on July 14, 2009, ruling in favor of the Department and reversing the Tax Appeal Court's decision. The Court determined that Taxpayer failed to timely file a request for additional research activities tax credits. This case involved Taxpayer challenging the Department's assessment denying its request for additional research activities credits for tax year 2001. Taxpayer filed an original 2001 corporate income tax return on or about October 21, 2002 (originally due on April 21, 2002). Subsequently, on October 20, 2003, Taxpayer filed an amended return increasing the amount claimed for the research activities credit. The Department denied Taxpayer's amended return because it was not filed within twelve months after the close of the 2001 tax year. The Tax Appeal Court determined that the claim for additional research activities credit was timely because § 235-110.9, HRS, did not contain "including amended claims" in the general provisions of § 235-110(b), HRS, that allows a three-year period to amend returns. Taxpayer's statute of limitations to appeal to the Hawaii Supreme Court has yet to run.

Tax Appeal Court

In the Matter of the Tax Appeal of Takeno Group, LLC, T.A. No. 05-0069, Tax Appeal Court, State of Hawaii.

Taxpayer filed its notice of appeal challenging general excise taxes for tax years 2002 through 2004, and a withholding tax assessment for tax year 2005. In the Notice of Appeal, Taxpayer claimed: (a) the assessments overstate Taxpayer’s liability by making assumptions; (b) Taxpayer did not pay employees in 2004 and therefore did not owe any withholding tax; and (c) Taxpayer operates in the Enterprise Zone. The Court granted the Director's motion for summary judgment.

In the Matter of the Appeal of Jarrett Technology Solutions, Inc., T.A. Nos. 05-0076 and 06-0068 (Consolidated), Tax Appeal Court, State of Hawaii.

Taxpayer filed two appeals for tax years ending June 30, 2000, through June 30, 2003. Taxpayer claimed that: (a) the assessments erroneously treat sales of tangible goods to the federal government as taxable transactions and/or treat sales of goods as if they were sales of services; (b) the use tax cannot apply to Taxpayer as a seller of goods, where title to the goods passed before the goods arrived in Hawaii and the federal government was the owner of the goods at the time they entered Hawaii; (c) any attempt to apply the general excise and use taxes to sales at issue of the goods involved violates the Due Process Clause, Commerce Clause, Equal Protection Clause, and/or other clauses or provisions of the United States Constitution and/or other federal law; and (d) the assessments overstate Taxpayer's actual tax liability by (i) assuming that sales took place in Hawaii when in fact they did not; (ii) assuming that all sales were taxable when in fact most sales were exempt; (iii) wrongly treating wholesale transactions as sales at retail and by wrongly denying all exemptions applicable to services; (iv) assuming Taxpayer imported goods into Hawaii when in fact it did not; (v) basing the use tax assessments on erroneous numbers and inconsistent methods of computation; and (vi) making assumptions unfavorable to Taxpayer to meet the deadline for assessment.

In the Matter of the Appeal of Jarrett Technology Solutions, Inc., T.A. No. 07-0107, Tax Appeal Court, State of Hawaii.

Taxpayer filed two appeals for tax years ending June 30, 2000, through June 30, 2003. Taxpayer claimed that: (a) the assessments erroneously treat sales of tangible goods to the federal government as taxable transactions and/or treat sales of goods as if they were sales of services; (b) the use tax cannot apply to Taxpayer as a seller of goods, where title to the goods passed before the goods arrived in Hawaii and the federal government was the owner of the goods at the time they entered Hawaii; (c) any attempt to apply the general excise and use taxes to sales at issue of the goods involved violates the Due Process Clause, Commerce Clause, Equal Protection Clause, and/or other clauses or provisions of the United States Constitution and/or other federal law; and (d) the assessments overstate Taxpayer's actual tax liability by (i) assuming that sales took place in Hawaii when in fact they did not; (ii) assuming that all sales were taxable when in fact most sales were exempt; (iii) wrongly treating wholesale transactions as sales at retail, and by wrongly denying all exemptions applicable to services; (iv) assuming Taxpayer imported goods into Hawaii when in fact it did not; (v) basing the use tax assessments on erroneous numbers and inconsistent methods of computation; and (vi) making assumptions unfavorable to Taxpayer to meet the deadline for assessment.

In the Matter of the Tax Appeal of BHP Hawaii, Inc., T.A. No. 08-0012, Tax Appeal Court, State of Hawaii.

Assessments were made for general excise tax for tax years 2000 and 2001, for which Taxpayer failed to file general excise tax returns. Taxpayer subsequently filed tax returns showing tax liabilities that were less than the amount assessed. Taxpayer paid under protest the difference between the assessments and its returns and filed a complaint for refund under § 40-35, HRS. A stipulation to dismiss the appeal was filed on August 22, 2008.

In the Matter of the Tax Appeal of Aalapapa Enterprises, L.L.C., T.A. No. 08-0083, Tax Appeal Court, State of Hawaii.

Taxpayer appealed from the assessment of general excise tax for the rental income of property located in Lanikai. Taxpayer maintained that, as a convenience to Seller, it allowed Seller to continue to occupy the property in exchange for a reduction in the purchase price of the property; no rent was paid. The Department's position was that the discount in purchase price constitutes gross income subject to the general excise tax. Taxpayer decided not to pursue this case and paid the amount in controversy totaling $763.53.

In the Matter of the Tax Appeal of James H. Kobayashi, T.A. No. 08-0084, Tax Appeal Court, State of Hawaii.

Taxpayer appealed from his own general excise tax return. Taxpayer also claimed that he was not individually liable for partnership general excise taxes. Taxpayer further claimed that the assessment statute of limitations had lapsed prior to the Department's assessment against Taxpayer. The Department maintained that Taxpayer could not appeal a self-assessment, that the appeal was improper for failing to serve the Director, and Taxpayer failed to pay the full amount upon filing his appeal. Taxpayer decided not to pursue the appeal.

In the Matter of the Tax Appeal of Charles Youngren, III, T.A. No. 08-0103, Tax Appeal Court, State of Hawaii.

Taxpayer appealed from the Board of Review regarding the Department's denial of various business expenses, medical expenses, and charitable deductions. The appeal was dismissed on Director's motion for failing to timely file his Notice of Appeal to Tax Appeal Court pursuant to §§ 232-17 and 235-114, HRS, and Rule 2(a)(3) of the Rules of the Tax Appeal Court and failure to pay the tax assessment upon filing his appeal.

In the Matter of the Tax Appeals of David Dorn, T.A. Nos. 08-0105 and 08-0106, Tax Appeal Court, State of Hawaii.

Taxpayer, a non-filer, appealed assessments of general excise and net income tax returns, claiming that his taxes were paid by the hotel that he contracted his services with and that he was entitled to the intermediary service rate. Taxpayer did not serve the Director timely. The Director filed a motion to dismiss and the cases were dismissed.

In the Matter of the Tax Appeal of Daniel Aregger and Susan Rogers Aregger, T.A. No. 08-0110, Tax Appeal Court, State of Hawaii.

Taxpayers appealed from the Board of Review regarding the denial of part of the Taxpayers' remodeling expenses for failing to qualify under the terms of the 2003 residential construction and remodeling tax credit. The tax appeal was dismissed for failing to serve the Director pursuant to § 232-17, HRS (Supp. 2007). Taxpayers are appealing the Tax Appeal Court's ruling, but it appears that Taxpayers' appeal jurisdiction is improper.

In the Matter of the Tax Appeal of Calvin and Doreen Katsutani, T.A. No. 09-0018, Tax Appeal Court, State of Hawaii.

Taxpayer filed their notice of appeal challenging assessments for general excise and income taxes. The basis of the appeal was stated as follows in the Notice of Appeal: "WE DO NOT AGREE WITH THE AMOUNT WE OWE THE STATE." The Court granted the Director's motion to dismiss.

Pending Appeals

Intermediate Court of Appeals

In the Matter of the Tax Appeal of CompUSA, S. Ct. No. 29597, Intermediate Court of Appeals, State of Hawaii.

The Department assessed use tax on Taxpayer's business income derived from the importation of products for resale to the general public for the period July 1, 1999, through December 31, 2002. Taxpayer claims that the assessments are incorrect pursuant to In Re Tax Appeal of Baker and Taylor, 103 Haw. 359, 82 P.3d 804 (2004). The Tax Appeal Court determined in the Department's favor and ruled that Taxpayer is subject to the use tax on the value of goods it purchases outside Hawaii, imports into Hawaii, and resells to the public. Taxpayer appealed to the Intermediate Court of Appeals challenging the Tax Appeal Court's decision.

Reel Hooker Sport Fishing, Inc. vs. Department of Taxation, State of Hawaii; Exact Game Fishing, Inc. vs. Department of Taxation, State of Hawaii; Finest Kind, Inc. vs. Department of Taxation, State of Hawaii, S. Ct. No. 29598, Intermediate Court of Appeals, State of Hawaii.

Taxpayers filed a complaint for a refund of a tax payment made under protest for tax year 2004, claiming that it is exempt from the general excise tax pursuant to the Supremacy and Tonnage Clauses of the U.S. Constitution. The Tax Appeal Court determined and ruled that Taxpayer's gross income from their sport fishing charters business was subject to the general excise tax. Taxpayers appealed to the Intermediate Court of Appeals, challenging the Tax Appeal Court's decision.

Tax Appeal Court

In the Matter of the Tax Appeal of Bobby R. Narmore, T.A. No. 02-0066, Tax Appeal Court, State of Hawaii.

The Hawaii Supreme Court (S. Ct. No. 27023) remanded the case back to the Tax Appeal Court, holding that the Tax Appeal Court has jurisdiction over Taxpayer's case. Taxpayer appealed the Board of Review's decision in favor of the Department. Taxpayer argued that the Department failed to assess him within the three-year period after he presented his federal income tax return and return information to the Department, despite the fact that he had submitted an income tax return to the Department for processing.

Make-up Arts Cosmetics, Inc. v. Director of Taxation, State of Hawaii, T.A. No. 03-0259, Tax Appeal Court, State of Hawaii.

The Department assessed Taxpayer the general excise tax as follows: 0.5% for the wholesale of make-up products sold, 4% on services provided at its counters in the stores, and 4.5% on the import and sale of furniture and fixtures. The case is currently in discovery to determine the validity of Taxpayer's claims that the assessments are incorrect for the following reasons: it did not sell any products in Hawaii, it did not import any products into Hawaii, and it had sharing agreements with the stores concerning the employees at the counters. The Court granted partial summary judgment for the Taxpayer, and the parties have reached a tentative settlement on the remaining issues.

In the Matter of the Appeal of ICH Group, LLC, T.A. No. 05-0070, Tax Appeal Court, State of Hawaii.

Taxpayer filed its Notice of Appeal challenging general excise, use, and income tax assessments for tax years 2001 through 2003, claiming that: (a) the assessments erroneously treat all amounts deposited into Taxpayer's bank accounts as gross income although substantial amounts were simply transfers from one bank account held by Taxpayer to another and thus not includible in gross income; (b) additional amounts were advances from related entities or repayments of advances to related entities, and were similarly not part of gross income; (c) the assessments wrongly deny tax benefits to which Taxpayer is entitled as an Enterprise Zone business; and (d) the assessments include use tax for which Taxpayer is not actually liable. The Director moved for summary judgment, which was granted. It is unknown whether Taxpayer will appeal.

In the Matter of the Tax Appeal of Nordstrom, Inc., T.A. No. 06-0079, Tax Appeal Court, State of Hawaii.

The Department denied Taxpayer's refund request on use taxes paid on Taxpayer's business income derived from the importation of products for resale to the general public for the tax period from February 1, 2001, through January 31, 2004, inclusive. Taxpayer claims that the assessments are incorrect pursuant to In Re Tax Appeal of Baker and Taylor, 103 Haw. 359, 82 P.3d 804 (2004). Trial is scheduled for January 3, 2011.

In the Matter of the Tax Appeal of Zale Delaware, Inc., T.A. No. 06-0080, Tax Appeal Court, State of Hawaii.

The Department denied Taxpayer's refund request for use taxes paid on Taxpayer's business income derived from the importation of products for resale to the general public for the tax period from August 1, 2001, through July 31, 2004, inclusive. Taxpayer claims that the assessments are incorrect pursuant to In Re Tax Appeal of Baker and Taylor, 103 Haw. 359, 82 P.3d 804 (2004). Trial is scheduled for January 3, 2011.

In the Matter of the Tax Appeal of Territorial Mutual Holding Company and Subsidiaries, T.A. Nos. 06-0096 and 07-0079, Tax Appeal Court, State of Hawaii.

Taxpayer appealed from assessments of franchise taxes resulting from the disallowance of a deduction for dividends it received from a wholly owned REIT. Taxpayer claimed that, because § 857(c), Internal Revenue Code (IRC) (which is operative in Hawaii and denies the deduction for dividends paid by a REIT), refers to § 243, IRC (which is inoperative), it was entitled to take a deduction for dividends it received from a REIT. Trial is scheduled for March 15, 2010.

In the Matter of the Tax Appeal of Ohana Foundation for Technical Development, T.A. No. 07-0009, Tax Appeal Court, State of Hawaii.

Taxpayer filed a refund claim for research credits under § 235-110.91, HRS, which the Department denied. The parties filed cross-motions to dismiss that were taken under advisement. Trial is scheduled for February 1, 2010.

In the Matter of the Tax Appeal of Safeway, Inc., T.A. No. 07-0042, Tax Appeal Court, State of Hawaii.

The Department denied Taxpayer's refund request on use taxes paid on Taxpayer's business income derived from the importation of products for resale to the general public for the tax period from 2002 through 2004, inclusive. Taxpayer claims that the assessments are incorrect pursuant to In Re Tax Appeal of Baker and Taylor, 103 Haw. 359, 82 P.3d 804 (2004). Trial is scheduled for January 3, 2011.

In the Matter of the Tax Appeals of First Hawaiian Insurance, T.A. Nos. 07-0101 and 07-0103, Tax Appeal Court, State of Hawaii.

Taxpayer was denied the tax credit for research activities provided under § 235-110.91, HRS. The Department argued that, among other things, Taxpayer's work did not qualify for the research credit because it did not meet the requirements imposed by § 41, IRC, which is made operative for State tax purposes by § 235-110.91, HRS. Trial is scheduled for August 19, 2010.

In the Matter of the Tax Appeal of June H. Kawasaki, T.A. No. 07-0112, Tax Appeal Court, State of Hawaii.

This tax appeal involves a disputed income tax assessment against Taxpayer covering the tax year ending December 31, 2003. At issue is whether Taxpayer timely claimed the residential construction and remodeling tax credit. The order granting the Director's motion for Summary Judgment and Judgment were not yet filed in FY 2009.

In the Matter of the Tax Appeal of American Technologies, Inc., T.A. No. 08-0011, Tax Appeal Court, State of Hawaii.

Taxpayer appealed from an assessment of additional general excise taxes for taxable years 2002 through 2005. The Department disallowed the subcontractor deductions for amounts paid to other companies in conjunction with work Taxpayer performed for the federal government. Trial is scheduled for February 22, 2010.

In the Matter of the Tax Appeal of Charles Schwab, Inc., T.A. No. 08-0013, Tax Appeal Court, State of Hawaii.

Taxpayer was assessed additional general excise taxes on commissions it earned on sales of financial products. Taxpayer claimed that the bulk of the commissions were passed on to the Hawaii brokers and should not be included in its gross receipts. The amount in controversy is $1,811,867.07. Trial is scheduled for December 13, 2010.

In the Matter of the Tax Appeal of Medical Underwriters, T.A. No. 08-0014, Tax Appeal Court, State of Hawaii.

The Department assessed Taxpayer the 4% general excise tax on income from providing management services to certain insurance companies. Taxpayer filed an appeal challenging the calculations of the assessment, arguing that only the income from services that are performed in Hawaii is subject to the 4% tax. The Department's position is that all services that are attributable to Hawaii, whether it was rendered inside or outside Hawaii, are subject to tax.

In the Matter of the Tax Appeal of UXB International, Inc., T.A. Nos. 08-0020, 08-0021, 08-0022, 08-0023, 08-0024, 08-0025, 08-0026, 08-0027, and 08-0028, Tax Appeal Court, State of Hawaii.

> Taxpayer was assessed general excise taxes on amounts it received for services provided to a joint venture where Taxpayer was one of the partners. Taxpayer claimed the amounts it received were partnership distributions and the services were performed outside the State. Trial is scheduled for July 19, 2010.

Marriott Cases, T.A. Nos. 08-0032, 08-0033, 08-0034, 08-0045, 08-0047, 08-0048, 08-0049, 08-0050, 08-0051, 08-0053, 08-0054, 08-0055, 08-0056, 08-0057, 08-0058, 08-0059, 08-0060, 08-0061, 08-0062, 08-0063, 08-0064, 08-0066, 08-0067, 08-0068, 08-0069, 08-0071, 08-0074, 08-0075, 08-0076, 08-0077, 08-0078, 08-0079, 08-0080, 08-0082, 08-0116, 09-0061, 09-0065, 09-0066, 09-0077, and 09-0081, Tax Appeal Court, State of Hawaii.

> Various Marriott entities filed tax appeals challenging the Department's assessments of general excise and transient accommodation taxes on the Marriott Rewards Program and preview packages program, as well as the imposition of the general excise tax on certain management fees, retail sales, royalty income, maintenance fees, and tidy room fees. One entity challenged the assessment related to its income tax return with respect to the dividends received deduction, captive insurance income, the disposition of assets, refund adjustments, the hotel construction and remodeling credit, and the capital goods excise tax credit. Various entities challenged the imposition of penalties and interest, the imposition of tax on reimbursements, and that certain credits and liabilities should be offset with other entities. Trial is scheduled for November 29, 2010.

In the Matter of the Tax Appeal of Agnes P. Etscheit, T.A. No. 08-0046, Tax Appeal Court, State of Hawaii.

> Taxpayer appealed from assessment of tax on the sale of real property by a nonresident person. Taxpayer claims the denial of her refund was erroneous because she is a resident of Micronesia and is exempt from United States income taxes. The Department maintains the taxpayer is subject to the tax. In addition, the Department further maintains that the tax appeal is improper due to the failure to serve the Director. Trial has not yet been scheduled in this case.

In the Matter of the Tax Appeals of Worldmark, The Club, T.A. Nos. 08-0072 and 08-0073, Tax Appeal Court, State of Hawaii.

> Taxpayer was assessed additional general excise and transient accommodations taxes for income received from its operations of timeshare properties in the State. The Department's assessments were estimates based on income apportioned to Hawaii on Taxpayer's income tax returns. Trial is scheduled for October 26, 2009.

In the Matter of the Tax Appeal of Pacific Communications, LLC, T.A. No. 08-0085, Tax Appeal Court, State of Hawaii.

> Taxpayer appealed from a final assessment of $262,514 in general excise, use, and withholding taxes. The general excise tax assessment was based on Taxpayer's income

tax returns and on 1099-MISC forms issued to Taxpayer. Trial is scheduled for April 14, 2010.

In the Matter of the Tax Appeal of Kaanapali Beach Owners Association, T.A. No. 08-0089, Tax Appeal Court, State of Hawaii.

Taxpayer appealed from a final assessment of general excise taxes. The Kaanapali Beach Owners Association is an interval owners association. Included in its annual assessment to its members are amounts owed by the owners to the Association of Apartment Owners (AOAO). Taxpayer is asserting that the amounts are exempt under the reimbursement exemption and because it acted as a true agent for the AOAO. Trial is scheduled for March 8, 2010.

In the Matter of the Tax Appeal of Moffatt & Nichols, Engineers, T.A. No. 08-0096, Tax Appeal Court, State of Hawaii.

Plaintiff appealed the Department's assessments on gross business income, claiming that out-of-state services should be apportioned, that it deserves the intermediary rate for services, and that it paid Washington State excise taxes for which it is entitled to a deduction. Trial is scheduled for March 1, 2010.

In the Matter of the Tax Appeal of Exclusive Resorts, T.A. No. 08-0101, Tax Appeal Court, State of Hawaii.

Taxpayer was assessed additional transient accommodations tax under § 237D-2(c), HRS. Taxpayer asserts, among other things, that it is not a timeshare and is not subject to tax under chapter 237D, HRS. Trial has not yet been scheduled in this case.

In the Matter of the Tax Appeals of TEAM TV, T.A. Nos. 08-0107 and 09-0046, Tax Appeal Court, State of Hawaii.

Taxpayer was denied the high technology business investment tax credit provided under § 235-110.9, HRS. The Department argues that Taxpayer has, among other things, not made an "investment" as required by § 235-110.9, HRS, to claim this credit. Trial is scheduled for July 12, 2010.

In the Matter of the Tax Appeal of Hardy Spoehr and Joyce Spoehr, T.A. No. 08-0114, Tax Appeal Court, State of Hawaii.

Taxpayer appealed from assessments of income tax, which disallowed insufficiently substantiated deductions. Trial is scheduled for May 10, 2010.

In the Matter of the Tax Appeal of Yibo Hsu and Helen Yao, T.A. No. 08-0123, Tax Appeal Court, State of Hawaii.

Taxpayers appealed from an assessment of income tax for tax year 2002 that disallowed the residential construction and remodeling tax credit because the documents Taxpayers provided indicated that the expenses were paid in 2001. Trial is scheduled for April 19, 2010.

In the Matter of Kahana Falls Interval Owners Association, T.A. No. 09-0014, Tax Appeal Court, State of Hawaii.

Taxpayer appealed general excise tax assessments on the bases that maintenance fees are not taxable to a taxpayer acting as an agent and conduit, and that Taxpayer relied on the advice of others who did not inform Taxpayer that there were taxes due. Trial is scheduled for September 20, 2010.

In the Matter of the Tax Appeals of Old Republic, T.A. Nos. 09-0016 and 09-0068, Tax Appeal Court, State of Hawaii.

Taxpayers were assessed penalties and interest for late filing HARPTA withholding returns per § 235-68, HRS. Under Hawaii law, buyers of real property from out-of-state sellers are required to withhold a portion of the sales price to ensure the State collects the proper amount of taxes from the out-of-state seller. Old Republic was the company that handled escrow for the property sales at issue and is representing the buyers in these appeals. Trial is scheduled for February 28, 2011.

In the Matter of the Tax Appeal of The Centech Group, Inc., T.A. No. 09-0017, Tax Appeal Court, State of Hawaii.

Taxpayer appealed from assessments of general excise tax and the county surcharge. In the Notice of Appeal, Taxpayer claims: (a) its income is exempt under § 237-26, HRS; (b) its income is for out-of-state activities; (c) its income is exempt under the federal immunity doctrine; (d) the assessments are unconstitutional; (e) the assessments are excessive; (f) its income is exempt under § 237-25, HRS; and (g) Taxpayer should not be subject to penalties and interest. Trial is scheduled for June 28, 2010.

In the Matter of the Tax Appeals of Kahana Beach Vacation Club, T.A. Nos. 09-0027 and 09-0028, Tax Appeal Court, State of Hawaii.

Taxpayer was assessed additional general excise and transient accommodations taxes for income received from its operations of timeshare properties in the State. The Department's assessments were estimates based on income apportioned to Hawaii on Taxpayer's income tax returns. Trial is scheduled for September 20, 2010.

In re Tax Appeals of Paradise Cruise, Ltd., T.A. Nos. 09-0033, 09-0037, and 09-0054; In re Tax Appeals of Royal Princess Cruises, Inc., T.A. Nos. 09-0048, 09-0052, and 09-0058; and In re Tax Appeals of Seabird Charters, Inc., T.A. Nos. 09-0047 and 09-0053; Tax Appeal Court, State of Hawaii.

Taxpayers filed Notices of Appeal to Tax Appeal Court challenging the Department's denial of their refund claims. Taxpayers are claiming that a portion of their income is exempt from the general excise tax pursuant to the Supremacy and Tonnage Clauses of the United States Constitution. Trial is scheduled for May 24, 2010.

In the Matter of Watanabe Wedding Corporation, T.A. No. 09-0036, Tax Appeal Court, State of Hawaii.

Taxpayer appealed the denial of a tax refund on the grounds that it was exporting tangible personal property and/or not conducting services in the State. Trial has not yet been scheduled in this case.

In the Matter of the Tax Appeal of John M. Dimitrion, T.A. No. 09-0038, Tax Appeal Court, State of Hawaii.

Taxpayer was assessed general excise taxes on income related to the business activity of Total Advantedge, LLC. The Department made jeopardy assessments against Taxpayer based on the best available information. Taxpayer denies the income should be attributable to him and that any income should be subject to the franchise tax, not the general excise tax. Trial is scheduled for November 22, 2010.

In the Matter of the Tax Appeal of Total Advantedge, LLC, T.A. No. 09-0039, Tax Appeal Court, State of Hawaii.

Taxpayer was assessed additional general excise taxes on its business activities. The Department made jeopardy assessments against Taxpayer based on the best available information. Taxpayer argues that any income should be subject to the franchise tax, not the general excise tax, and that Taxpayer was not allowed to take certain deductions allowed under chapter 241, HRS. Trial is scheduled for November 22, 2010.

In the Matter of the Tax Appeal of Jack L. Phillips, T.A. No. 09-0040, Tax Appeal Court, State of Hawaii.

Taxpayer was assessed additional general excise and transient accommodations taxes for amounts he received from properties located within the State. Taxpayer claims the disputed income is not taxable because it was received for long-term rentals that are not subject to the transient accommodations tax. Taxpayer claims the income is exempt from § 237-29, HRS, because the units at issue are low-income housing. Trial is scheduled for September 6, 2011.

In the Matter of the Tax Appeal of Four Seasons, Ltd., T.A. No. 09-0051, Tax Appeal Court, State of Hawaii.

Taxpayer was assessed additional general excise taxes for amounts it received for performing hotel management services in Hawaii. Taxpayer claims the amounts are not subject to tax because most of the services were performed outside the State. Trial is scheduled for November 1, 2010.

In the Matter of the Tax Appeal of Eric and Amanda Horst, T.A. No. 09-0055, Tax Appeal Court, State of Hawaii.

Taxpayers were assessed additional income taxes, interest, and penalties for taxable years 2005 through 2007. Taxpayers argue the Department's assessments are erroneous because (a) the disputed income was earned outside the State; and (b) if the income was taxable, the Department improperly disallowed Taxpayer from claiming certain deductions. Trial is scheduled for June 14, 2011.

In the Matter of the Tax Appeal of Antonio and Carol Tagal, T.A. No. 09-0063, Tax Appeal Court, State of Hawaii.

Taxpayers appealed from an assessment of $33,651 of income taxes. The Department moved to dismiss this appeal because it was not timely appealed. The Court has continued the hearing on the motion to December 31, 2009, to provide the *pro se* taxpayers the opportunity to file a memorandum that supports their argument that the period of time to file the notice of appeal should have been equitably tolled while they were out of the country. Trial has not yet been scheduled in this case.

In re Tax Appeal of Radio Shack Corp., T.A. No. 09-0064, Tax Appeal Court, State of Hawaii.

The Department denied Taxpayer's refund request on use taxes paid on Taxpayer's business income derived from the importation of products for resale to the general public for tax years 1998 through 2004, inclusive. Taxpayer argues that the denial is incorrect pursuant to In Re Tax Appeal of Baker and Taylor, 103 Haw. 359, 82 P.3d 804 (2004). Trial has not yet been scheduled in this case.

In the Matter of the Tax Appeal of Conrado C. Valdriz, T.A. No. 09-0067, Tax Appeal Court, State of Hawaii.

Taxpayer, a non-filer, appealed from assessments of general excise and net income taxes because he claims that the Department did not take into account applicable deductions and credits. The Department served Taxpayer with discovery to ascertain what those deductions and credits are and how Taxpayer will document them. Trial is scheduled for May 10, 2010.

In the Matter of the Tax Appeal of One Napili Way Interval Owners Association, T.A. No. 09-0069, Tax Appeal Court, State of Hawaii.

Taxpayer was assessed additional general excise taxes for amounts it received for condominium maintenance fees that it collected on behalf of its members and paid to the One Napili Way AOAO. Taxpayer asserts the fees it collected are not income for purposes of chapter 237, HRS, and, alternatively, that the amounts are exempt reimbursements under § 237-20, HRS. Trial has not yet been scheduled in this case.

In the Matter of the Tax Appeal of Maria Q. Galicia, Inc., T.A. No. 09-0070, Tax Appeal Court, State of Hawaii.

Taxpayer appealed from an assessment of $56,415 in general excise and income taxes. The court may lack subject matter jurisdiction over this appeal, because the notice of appeal was not served on the Director. Trial is scheduled for January 31, 2011.

In the Matter of the Tax Appeals of TMI Management, Inc., T.A. Nos. 09-0071 and 09-0072, Tax Appeal Court, State of Hawaii.

Taxpayer was assessed additional general excise taxes on amounts received for performing work for the federal government. Taxpayer argues, among other things, that the disputed income is exempt because Taxpayer is an employee leasing company and the disputed income was for salaries and expenses of leased employees. Trial is scheduled for November 15, 2010.

In the Matter of the Tax Appeal of Willem Vanderlee, T.A. No. 09-0073; and In the Matter of Van Der Lee Concrete Products, Inc., T.A. No. 09-0074, Tax Appeal Court, State of Hawaii.

Taxpayers, non-filers, appealed from assessments of general excise taxes, claiming that they are wholesalers, not retailers or contractors, who are entitled to the 0.5% rate, rather than the 4% rate. Trial is scheduled for May 10, 2010.

CRIMINAL CASES

During FY 2009, the Criminal Justice Section of the Department of the Attorney General filed complaints or indictments against 41 taxpayers[5] for violating Hawaii tax laws as set out in §§ 231-34, 231-35, and 231-36, HRS. The complaints and indictments filed against the 41 taxpayers accounted for over $1,791,541 in unpaid taxes (excluding civil assessments, penalties, and interest). To date, the courts have imposed criminal fines of $137,250 based on these complaints and indictments.[6] The Department of Taxation collector assigned to criminal cases collected $1,414,449 in unpaid taxes, penalties, and interest during the fiscal year.

The 41 cases accounted for a total of $40,408,575 in unreported income. Ten of these cases involved taxpayers with more than $1 million in gross income for the prosecution years. The highest grossing business was a hearing aid sales company with over $7 million in unreported income over five years.

The number of criminal complaints and indictments filed in FY 2009 increased by more than 20% over the 34 filed in FY 2008. Three were filed against taxpayers on the island of Hawaii (two in Kona and one in Hilo), and three others were filed against taxpayers on the island of Maui; the remainder were filed against taxpayers on Oahu.

Cases of Note

A Kailua-Kona man who hid over $500,000 in income he received as a mason was indicted for tax evasion. Taxpayer took payments received from general contractors and deposited them into his girlfriend's bank accounts to conceal his income in an effort to avoid paying child support. The unpaid tax totaled $22,897. Taxpayer fled the State but was extradited from Las Vegas, Nevada. He was sentenced to a one-year prison term and ordered to pay $3,260.45 for the extradition costs.

A woman e-filed 13 false and fraudulent income tax returns via the Internet to claim over $57,200 in refunds that she was not entitled to, and attempted to claim an additional $15,900. Taxpayer gave some of the money to family and friends and used some of it to pay her bills and to pay for her baby's birthday party. She pled guilty and was ordered to pay $57,000 in restitution.

A complaint was filed against a well-known local entertainer for failing to file his general excise tax returns. Taxpayer received over $336,000 in income from services during the five-year period from 2002 through 2006. He pled guilty and is awaiting sentencing.

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[5] Of these 41 cases, 25 taxpayers have pled guilty or no contest and 16 taxpayers are awaiting arraignment and/or trial.

[6] Criminal fines are imposed at sentencing; of the 25 taxpayers who have pled guilty or no contest, six are awaiting sentencing.

A criminal complaint was filed against a man for multiple violations relating to his bed and breakfast properties. Taxpayer failed to file annual general excise and transient accommodations tax returns for tax years 2001 through 2005. The total unpaid general excise tax was $39,880, and the total unpaid transient accommodations tax was $69,393.

Complaints were filed against two tax preparers for failing to file their own general excise tax returns. Because tax preparers assist others to comply with State tax laws, their noncompliance is particularly egregious.

Given the current economic climate, it is even more important that taxpayers be aware of the criminal consequences of noncompliance. The Criminal Justice Section of the Department of the Attorney General works closely with the Department of Taxation's Criminal Investigations Unit, which is a small, but important component of the Department's compliance efforts that annually receives numerous referrals and reports of potential cases. Their combined efforts to successfully prosecute tax offenders, including tax preparers, combined with media coverage, such as the considerable coverage received by the prosecution of prominent personalities, serve to deter other potential offenders.

LEGISLATION

The Twenty-Fifth Legislature enacted the following major tax-related measures during the 2009 Regular and Special Sessions:

REGULAR SESSION 2009

Act	Brief Description
005	**Relating to the Bureau of Conveyances.** Allows the redaction of the first five digits of social security numbers on judgments, court orders, and decrees of documents to be filed, recorded, or registered at the Bureau of Conveyances. *Effective April 16, 2009.*
011	**Relating to Statutory Revision: Amending or Repealing Various Provisions of the Hawaii Revised Statutes and the Session Laws of Hawaii for the Purpose of Correcting Errors and References, Clarifying Language, and Deleting Obsolete or Unnecessary Provisions.** In part, this Act (1) amends § 237-31, HRS, to delete paragraph (3); (2) corrects a reference in § 43, Act 28, SLH 2008, to § 23 of that Act; (3) repeals chapter 235D, HRS; (4) repeals § 237-27.1, HRS; and (5) amends the definition of "person totally disabled" in § 235-1, HRS. *Effective April 21, 2009; provided that (1) § 23 of the Act is retroactively effective June 29, 2008; (2) Part II of the Act is retroactively effective April 3, 2008; provided that § 58 and § 59 are effective on July 1, 2009; and (3) § 62 shall not be repealed when § 461-1, HRS, is reenacted on July 1, 2010, pursuant to § 11, Act 190, SLH 2004.*
030	**Relating to Tobacco.** Makes permanent the retail tobacco permit law. *Effective June 30, 2009.*
040	**Relating to the Rate of Interest Applicable to Overpayments of Tax.** Reduces the interest rate payable on overpayments of tax from two-thirds of one percent to one-third of one percent. *Effective May 5, 2009; applies to claims for refund made on or after January 1, 2009.*
056	**Relating to Taxation.** Increases the per-cigarette tax to 13 cents beginning July 1, 2009, 14 cents beginning July 1, 2010, and 15 cents beginning July 1, 2011. Amends the dates on which changes in the amount of cigarette tax collections deposited into various special funds occur to coincide with the dates of the tax increases. *Effective June 30, 2009.*

058 **Relating to Tax on Tobacco Products Other Than Cigarettes.** Adds a new definition for "little cigar," and amends the definition of "tobacco products" to exclude little cigars. Taxes little cigars at the rate of 11 cents per little cigar on and after October 1, 2009, and at the same rate as cigarettes for periods on and after October 1, 2010. Increases the tax on the wholesale price of tobacco products other than cigars sold on or after September 30, 2009, from 40% to 70%. Assesses a tax of 50% on the wholesale price of cigars sold, used, or possessed by a wholesaler or dealer on and after September 30, 2009. The additional revenues shall be deposited into the General Fund. *Effective May 9, 2009; provided that the amendments made to § 245-1, HRS, shall not be repealed when that section is reenacted on July 1, 2009, pursuant to § 9 of Act 131, SLH 2005.*

059 **Relating to the Conveyance Tax.** Temporarily reduces the distribution of conveyance tax revenues to the Rental Housing Trust Fund and the Natural Area Reserve Fund, and increases the conveyance tax on the conveyance of properties with a value of $2 million or more. *Effective July 1, 2009.*

060 **Relating to Taxation.** Temporarily increases the standard deduction and personal income amounts for individual taxpayers, and temporarily adds three income tax brackets that increase the tax on individuals with high net taxable incomes from a maximum of 8.25% to a maximum of 11%. *Effective May 8, 2009; provided that (1) § 2 of the Act shall apply to taxable years beginning after December 31, 2008; (2) § 1 and § 3 shall apply to taxable years beginning after December 31, 2010; and (3) the Act shall be repealed on December 31, 2015, and §§ 235-2.4(a), 235-51(a)–(c), and 235-54(a), HRS, shall be reenacted in the form in which they read on the day before May 8, 2009.*

061 **Relating to Taxation.** Adds to the 7.25% transient accommodations tax an additional 1% for the period July 1, 2009, through June 30, 2010, and an additional 2% for the period July 1, 2010, through June 30, 2015. The additional 1% and 2% transient accommodations tax collections shall be deposited into the General Fund; the distribution of the existing 7.25% transient accommodations tax is unchanged. *Effective July 1, 2009; provided that this Act shall be repealed on June 30, 2015, and §§ 237D-2 and 237D-6.5, HRS, reenacted in the form in which they read on June 30, 2009.*

070 **Relating to General Excise Taxation.** Excludes from the general excise tax amounts received by a managed care support contractor of the federal TRICARE program for the actual cost or advancement to third-party health care providers pursuant to a contract with the United States. *Effective July 1, 2009; provided that this Act shall be repealed on December 31, 2013, and § 235-24, HRS, reenacted in the form in which it read on June 30, 2009.*

084 **Relating to Income Tax Credit.** Provides a one-time, refundable, income tax credit of $1 for each qualified exemption, except additional exemptions for age and disability, claimed by resident individuals to satisfy the requirements of Article VII, section 6, of the Constitution of the State of Hawaii. *Effective June 2, 2009.*

091 **Relating to the State of Hawaii College Savings Program.** Allows persons other than the account holder (e.g., relatives and friends) to make contributions to an established college savings account. *Effective July 1, 2009; applies to taxable years beginning after December 31, 2008.*

102 **Relating to Real Property.** Divides chapter 502, HRS, "Bureau of Conveyances; Recording," into 11 parts, and adds a new part, Uniform Real Property Electronic Recording Act, which allows the Bureau of Conveyances to accept electronic documents with electronic signatures for recording. Also allows the Bureau of Conveyances to convert existing documents into electronic form. *Effective July 1, 2009.*

120 **Relating to Bureau of Conveyances.** Makes various amendments to transfer fee time share interests from the Land Curt system to the regular system, allow owners to "opt out" of Land Court and deregister land to the regular system; establish a working group to resolve implementation issues; establish a pilot program to implement the electronic recording of fee time share interests; allow the Bureau of Conveyances to charge a fee for deregistering a fee time share interest; and allow the Bureau of Conveyances to accept electronic documents and instruments with electronic signatures for recording. *Effective July 1, 2009; provided that (1) § 2 is effective July 1, 2011, and repealed on December 31, 2014; (2) § 16 is effective July 1, 2009, and repealed on the effective date of administrative rules adopted by the Department of Land and Natural Resources establishing transaction fees for each recording in the Bureau of Conveyances and in the office of the assistant registrar of the Land Court; (3) § 17 is effective January 1, 2012; and (4) § 18 is effective upon approval and repealed on January 31, 2010.*

133 **Relating to Conformity of the Hawaii Income Tax Law to the Internal Revenue Code.** Amends Hawaii's income tax law to conform with changes to the IRC, with exceptions. *Effective July 1, 2009.*

134 **Relating to Tax Administration.** Enacts the "Cash Economy Enforcement Act of 2009." Provides for the creation of a new special enforcement section to carry out civil enforcement efforts; allows the special enforcement section to issue cease and desist citations, which may include a monetary fine if so provided by future legislation. Provides a definition of a "cash-based business." Imposes new civil fines for violations including the failure of a person to produce a required tax license upon demand by the special enforcement section, the failure to keep adequate books and records, and other violations; provides for higher fines on cash-based businesses for certain violations. Amends the definition of "person" in § 231-1, HRS, and provisions in § 235-20.5, HRS, relating to the Tax Administration Special Fund. Adds a new section to chapter 237, HRS, to require persons not having a general excise tax license at the time the federal government awards the person a contract for any construction project in Hawaii to report certain information to the Department of Taxation; failure to file the required report is subject to a penalty of $1,000 per month, or fraction thereof, up to $6,000. Provides for a fine of up to $500 (not less than $500 and not more than $2,000 if a cash-based business) if a person with gross income subject to the general excise tax fails to obtain a general excise tax license. *Effective June 18, 2009; provided that (1) amendments made to*

§ 235-20.5, HRS, shall not be repealed when § 235-20.5, HRS, is reenacted on January 1, 2011, pursuant to section 8 of Act 206, SLH 2007; (2) new §§ 231-F and 231-J through 231-P in section 2 are effective July 1, 2009; and (3) this Act shall be repealed on June 30, 2014, and § 235-20.5, HRS, reenacted in the form in which it read on the day before the effective date of section 8 of Act 206, SLH 2007, and §§ 231-1, 237-9, and 237-12(b), HRS, reenacted in the form in which they read on the day before June 18, 2009.

154 **Relating to Taxation.** Amends § 235-12.5, HRS, regarding the renewable energy technologies income tax credit, to reduce the three technology categories (solar thermal energy systems, photovoltaic energy systems, and wind-powered energy systems) to two categories (solar energy systems and wind-powered energy systems). The maximum credit amounts that previously applied to solar thermal energy systems now apply to solar energy systems primarily used to heat water. The maximum credit amounts that previously applied to photovoltaic energy systems now apply to all other solar energy systems, with the proviso that the credit for photovoltaic energy systems on single-family residential property is reduced by 35% of the system's cost or $2,250, whichever is less, if all or a portion of the system is used to fulfill the variance allowed pursuant to § 196-6.5(3), HRS. The maximum credit amounts for wind-powered energy systems are unchanged except for a new proviso that the credit for single-family residential property is reduced by 20% of the system's cost or $1,500, whichever is less, if all or a portion of the system is used to fulfill the variance allowed pursuant to § 196-6.5(3), HRS. This Act also permits the credit to be refundable in certain cases, deletes the provision prohibiting residential home developers from claiming the credit for systems installed and placed in service in 2009, and adds a provision disallowing the credit for the portion of a system that is required by § 196-6.5, HRS, and that is installed and placed in service on new single-family residential property authorized by a building permit issued on or after January 1, 2010. *Effective July 1, 2009.*

155 **Relating to Energy Resources.** This Act in part amends § 235-12.5, HRS, regarding the renewable energy technologies income tax credit, to reduce the credit for wind-powered and photovoltaic energy systems on single-family residential property if all or a portion of the system is used to fulfill the variance allowed pursuant to § 196-6.5(3), HRS. *Effective July 1, 2009.*

165 **Relating to State Income Tax.** Decouples State income tax law from the federal Internal Revenue Code with respect to wagering losses, such that wagering losses are not deductible and cannot be used to offset gambling winnings. *Effective July 1, 2009, and applies to taxable years beginning after December 31, 2008.*

166 **Relating to Taxation.** Part I of this Act, Tax Return Preparers, provides for a tax return preparer penalty for the understatement of a taxpayer's liability. Part II of this Act, Fraudulent Tax Practices, adds new sections to chapter 231, HRS, to deter tax fraud and amends §§ 235-111, 237-40, 237D-9, 238-7, 243-14, 247-6.5, 251-8, 346E-6, and 431:7-204.6, HRS, to provide for a 15-year statute of limitations on collection actions. Part III of this Act, Tax Administration, in part authorizes the implementation of an administrative appeals and dispute resolution program, provides for the disclosure of any and all advice given or communications made by the Department in conformity with § 6110, IRC, and authorizes the adoption of temporary rules. Part IV of this Act, Criminal Tax Enforcement, establishes as a class C felony the willful failure to collect and pay over any tax, and makes other conforming changes to chapter 231, HRS. *Effective July 1, 2009; provided that (1) this Act does not affect returns prepared and transactions promoted, rights and duties that matured, penalties that were incurred, and proceedings that were begun before July 1, 2009; (2) §§ 1, 3–8, 10, and 11 shall apply to any return prepared, refund claim, understatement, omission, or fraud contained in any return for which the statute of limitations has not expired; and (3) this Act shall not apply to any return prepared, refund claim, understatement, omission, or fraud in any return for which an amended return is filed by October 1, 2009, to the extent the amended return cures, corrects, or eliminates any item constituting an unreasonable position, erroneous refund claim, substantial understatement, substantial omission, or fraud as provided in this Act.*

174 **Relating to State Enterprise Zones.** This Act in part allows limited liability companies to be qualified businesses and service businesses; allows the receipts, sales, and employees of a business's establishments in all enterprise zones within the same county to count towards the business's qualification requirements; allows the general business credit for manufacturers and agricultural producers to continue at the 20% rate beyond the seventh year for an additional three years; and allows the general excise tax exemption for manufacturers and agricultural producers to continue beyond the seventh year for an additional three years. *Effective July 1, 2009.*

178 **Relating to Taxation.** For taxable years beginning on or after January 1, 2009, and ending before January 1, 2011, the Act limits claims for the technology infrastructure renovation credit (§ 235-51, HRS) and the high technology business income tax credit (§§ 235-110.9, 241-.8, and 431:7-209, HRS) to no more than 80% of the taxpayers' tax liability for the taxable year, and disallows the carryover of any excess credit to subsequent years. Makes operative § 704, IRC, with respect to allocations of the high technology business investment tax credit. Amends § 235-110.7, HRS, to reduce the capital goods excise tax credit rate from 4% to 0% for calendar years beginning after December 31, 2008, but restores the 4% credit rate for calendar years beginning after December 31, 2009. *Effective July 15, 2009, and applies to investments made, renovations costs incurred, or eligible depreciable property placed in service on or after May 1, 2009.*

181 **Relating to Taxation.** Excludes from treatment as a tax-free rollover transfers of pre-tax employee deferrals or contributions from § 403, IRC, employee annuity plans, and § 457, IRC, state and local government and tax-exempt organization deferred compensation plans, that are used solely to obtain retirement credits under the State employee retirement system, such that these transfers are subject to Hawaii income tax. *Effective July 1, 2009, and applies to taxable years beginning after December 31, 2008.*

184 **Relating to Liquor.** This Act in part amends §§ 231-28 and 281-45, to allow liquor licenses to be issued, renewed, or transferred if applicants who cannot obtain a tax clearance certificate have entered into an installment plan agreement with the Department of Taxation and are in compliance with the installment plan agreement. *Effective July 15, 2009.*

196 **Relating to Taxation.** Part I of this Act (1) authorizes the Director of Taxation to require persons who are required to file a federal return or remit federal taxes electronically to also electronically file Hawaii returns and remit Hawaii taxes; (2) authorizes the Director of Taxation to require employers who are required to remit federal income tax withheld from employees on a semi-weekly schedule to also remit Hawaii income tax withheld from employees on a semi-weekly schedule; and (3) changes the deadline for filing periodic general excise tax returns and remitting the amounts due from the last day of the month following the close of the period to the twentieth day of the month following the close of the period. Part II of this Act delays the repeal of Act 239, SLH 2007, from December 31, 2009, to December 31, 2010, such that the extension to suboperators and timeshares of the exemption from the general excise tax of certain amounts received by hotel operators is allowed for an additional year, but only up to a maximum aggregate exemption of $400,000 per taxable year ending on or before January 1, 2010, and January 1, 2011. *Effective July 15, 2009; applies to returns and payments due after May 31, 2009; provided that Part II is effective July 15, 2009.*

198 **Relating to Taxation.** In part increases the tax on naphtha sold for use in a power-generating facility from 1 cent per gallon to 2 cents per gallon, and changes the sunset date of amendments made by Act 103, SLH 2007, to enact a specific tax on naphtha sold for use in a power-generating facility from December 31, 2009, to December 31, 2012. *Effective July 1, 2009.*

FIRST SPECIAL SESSION 2009

Act **Brief Description**

014 **Relating to Tax Exemptions.** Conforms Hawaii income tax law to § 151(d)(3), IRC, with respect to the phaseout of the personal exemption, but setting the Hawaii threshold income amounts at 75% of the federal threshold income amounts as of July 1, 2008. *Effective July 15, 2009, and shall apply to taxable years beginning after December 31, 2008; provided that this Act shall be repealed on June 30, 2015, and § 235-54, HRS, reenacted in the form in which it read on July 14, 2009.*

COLLECTION AND DISTRIBUTION OF TAXES

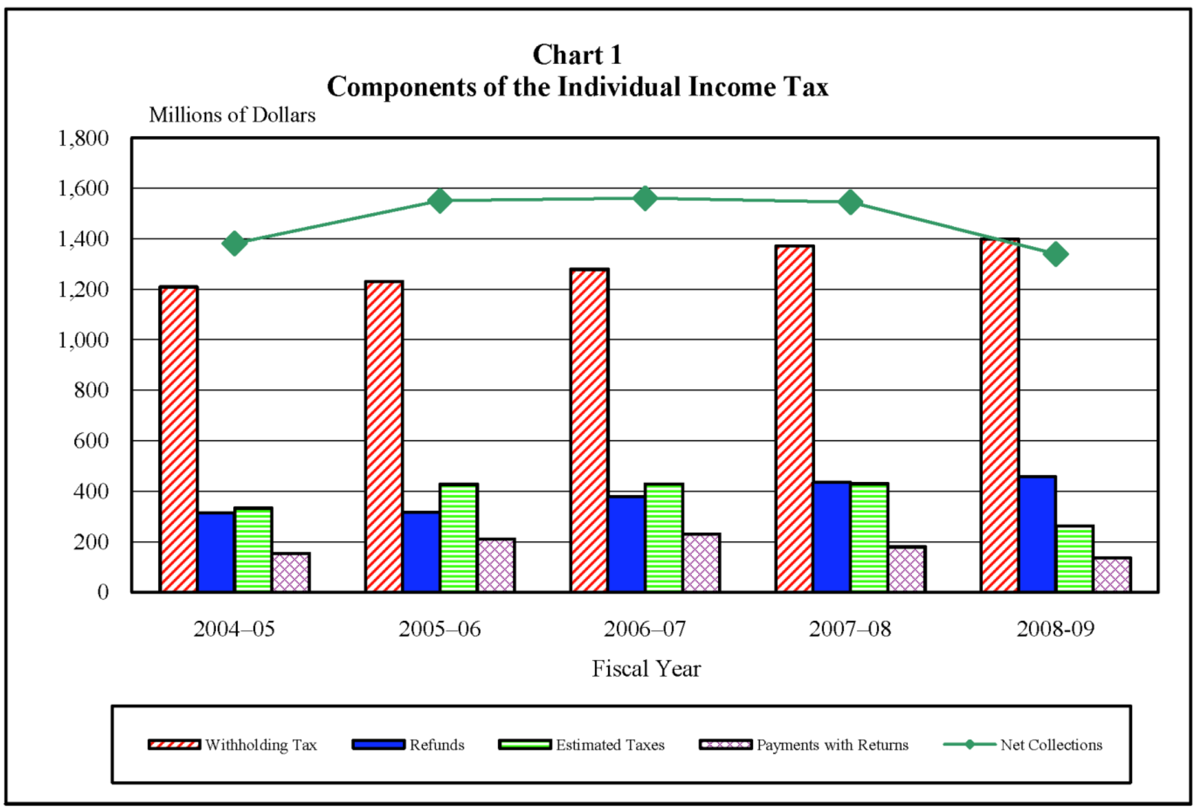
INDIVIDUAL INCOME TAX

Net individual income taxes paid by individuals in FY 2009 decreased by 13.3% over FY 2008. This is the second year-over-year net individual income tax loss since the losses in FY 2002 and FY 2003.

TABLE 1—TAXES PAID BY INDIVIDUALS
(In thousands of dollars)

	FY 2009	FY 2008	Difference Amount	Difference %
Declaration of Estimated Taxes	$ 262,540	$ 430,197	$ (167,657)	(39.0)
Payment with Return	135,354	179,209	(43,855)	(24.5)
Withholding Tax on Wages	1,398,639	1,370,854	27,785	2.0
Subtotal	$ 1,796,533	$ 1,980,260	$ (183,727)	(9.3)
Refunds	457,477	435,424	22,053	5.1
NET	$ 1,339,056	$ 1,544,835	$ (205,779)	(13.3)

NOTE: Due to rounding, details may not add to totals.



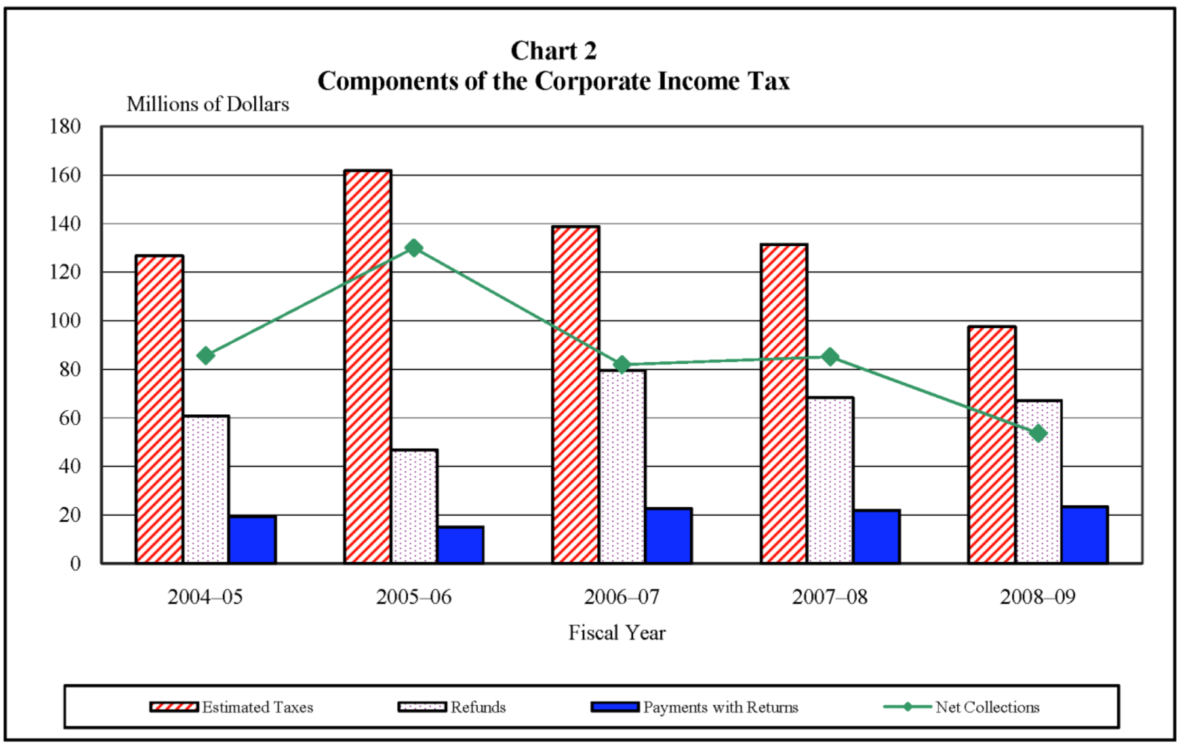
CORPORATE INCOME TAX

Net corporate income tax collections totaled $53.5 million in FY 2009, decreasing by 37.1% from the previous year's total of $85.1 million. Although payments with returns increased, a negative net loss of $31.6 million resulted due to a significant 25.9% reduction in declarations of estimated taxes.

TABLE 2—TAXES PAID BY CORPORATIONS
(In thousands of dollars)

	FY 2009	FY 2008	Difference Amount	Difference %
Declaration of Estimated Taxes	$ 97,456	$ 131,462	$ (34,006)	(25.9)
Payment with Return	23,307	21,851	1,456	6.7
Subtotal	$ 120,763	$ 153,313	$ (32,550)	(21.2)
Refunds	67,241	68,232	(991)	(1.5)
NET	$ 53,522	$ 85,081	$ (31,559)	(37.1)

NOTE: Due to rounding, details may not add to totals.



GENERAL EXCISE AND USE TAXES

General excise and use taxes, which made up 48.9% of total tax collections in FY 2009, decreased by 7.7% from FY 2008 to a total of $2.4 billion in FY 2009. All components, except all other rentals and manufacturing, were lower in FY 2009 than in FY 2008. Tax revenues from retailing were lower by $74.6 million or 7.1% from FY 2008. Contracting revenues were down by $9.3 million or 3.0% from last year. Transient accommodation rental revenues were down by $20.4 million or 15.3% in the same period. Another general excise tax component with a large decrease was wholesaling, which decreased by $6.2 million or 9.1% from FY 2008.

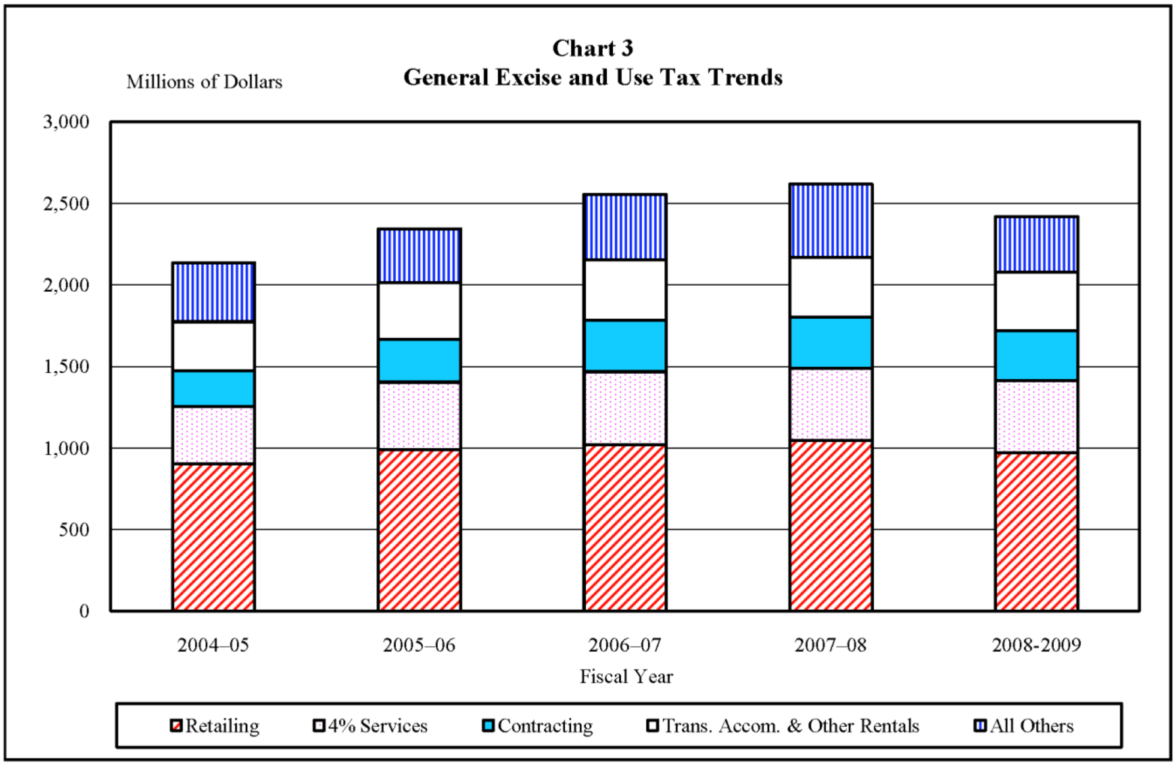


TABLE 3—GENERAL EXCISE AND USE TAX BASE AND TAXES
FOR FISCAL YEARS ENDING JUNE 30, 2009, AND JUNE 30, 2008
(In thousands of dollars)

SOURCE OF REVENUE	Rate	FY 2009	FY 2008	Difference Amount	Difference % Change
TAX BASE					
Retailing		$ 24,318,203	$ 26,183,495	$ (1,865,292)	(7.1)
Services		11,058,912	11,072,727	(13,815)	(0.1)
Contracting		7,631,024	7,863,437	(232,413)	(3.0)
Trans. Accom. Rentals		2,812,103	3,321,011	(508,908)	(15.3)
All Other Rentals		6,094,050	5,817,945	276,104	4.7
All Others (4%)		4,374,367	5,238,402	(864,034)	(16.5)
Subtotal		$ 56,288,658	$ 59,497,017	$ (3,208,358)	(5.4)
Wholesaling		$ 12,501,827	$ 13,745,938	$ (1,244,111)	(9.1)
Manufacturing		809,111	760,854	48,257	6.3
Producing		404,545	457,163	(52,618)	(11.5)
Wholesale Services		610,900	648,415	(37,515)	(5.8)
Use (1/2%)		6,883,063	7,214,491	(331,428)	(4.6)
Insurance Commissions		535,417	543,835	(8,418)	(1.5)
Subtotal		$ 21,744,864	$ 23,370,697	$ (1,625,833)	(7.0)
TOTAL—ALL ACTIVITIES		$ 78,033,522	$ 82,867,713	$ (4,834,191)	(5.8)
TAX					
Retailing	4.00%	$ 972,728	$ 1,047,340	$ (74,612)	(7.1)
Services	4.00%	442,357	442,909	(552)	(0.1)
Contracting	4.00%	305,241	314,537	(9,296)	(3.0)
Trans. Accom. Rentals	4.00%	112,484	132,840	(20,356)	(15.3)
All Other Rentals	4.00%	243,762	232,718	11,044	4.7
All Others (4%)	4.00%	174,974	209,536	(34,562)	(16.5)
Subtotal		$ 2,251,546	$ 2,379,881	$ (128,335)	(5.4)
Wholesaling	0.50%	$ 62,509	$ 68,730	$ (6,221)	(9.1)
Manufacturing	0.50%	4,045	3,804	241	6.3
Producing	0.50%	2,023	2,286	(263)	(11.5)
Wholesale Services	0.50%	3,055	3,242	(187)	(5.8)
Use (1/2%)	0.50%	34,415	36,072	(1,657)	(4.6)
Insurance Commissions	0.15%	803	816	(13)	(1.6)
Subtotal		$ 106,850	$ 114,950	$ (8,100)	(7.0)
Unallocated*		$ 59,184	$ 123,956	$ (64,772)	(52.3)
TOTAL—ALL ACTIVITIES		$ 2,417,580	$ 2,618,787	$ (201,207)	(7.7)

*Included are collections from penalty and interest, assessments and corrections, delinquent collections, refunds, protested payments, settlements, etc.

NOTE: Due to rounding, details may not add to totals.

TRANSIENT ACCOMMODATIONS TAX

Transient accommodations tax collections totaled $210.6 million for FY 2009, a decrease of $18.8 million or 8.2% from last fiscal year. Transient accommodations tax funds are distributed as follows: (1) 44.8% to the counties; (2) 17.3% to the Convention Center Enterprise Special Fund, provided that the revenues in excess of $33.0 million in any calendar year are deposited into the General Fund; (3) 34.2% to the Tourism Special Fund, provided that, of the first $1.0 million, 90.0% is transferred to the State Parks Special Fund, and 10.0% into the Special Land and Development Fund, and further provided that 0.5% of the 34.2% is transferred to a sub-account in the Tourism Special Fund to fund a safety and security budget, and additional amounts are transferred into the Tourism Emergency Trust Fund, as needed, to maintain a fund balance of $5.0 million; and (4) 3.7% to the General Fund. In FY 2009, only $13.6 million was deposited into the General Fund; a decrease of $2.4 million or 14.9% from FY 2008.

TABLE 4—TRANSIENT ACCOMMODATIONS TAX
(In thousands of dollars)

			Difference	
	FY 2009	FY 2008	Amount	%
Transient Accommodations Tax	$ 199,594	$ 222,685	$ (23,091)	(10.4)
Time Share Occupancy Tax	11,020	6,693	4,327	64.6
Trans. Accom./Time Share Occ. Fees	8	10	(2)	(17.5)
TOTAL	$ 210,622	$ 229,388	$ (18,766)	(8.2)
Counties' Share	$ 94,355	$ 102,761	$ (8,406)	(8.2)
Convention Center Fund	30,663	32,453	(1,790)	(5.5)
Tourism Special Fund	72,030	78,229	(6,199)	(7.9)
General Fund	13,574	15,944	(2,370)	(14.9)
TOTAL	$ 210,622	$ 229,388	$ (18,766)	(8.2)

NOTE: Due to rounding, details may not add to totals.

FUEL AND MOTOR VEHICLE TAXES

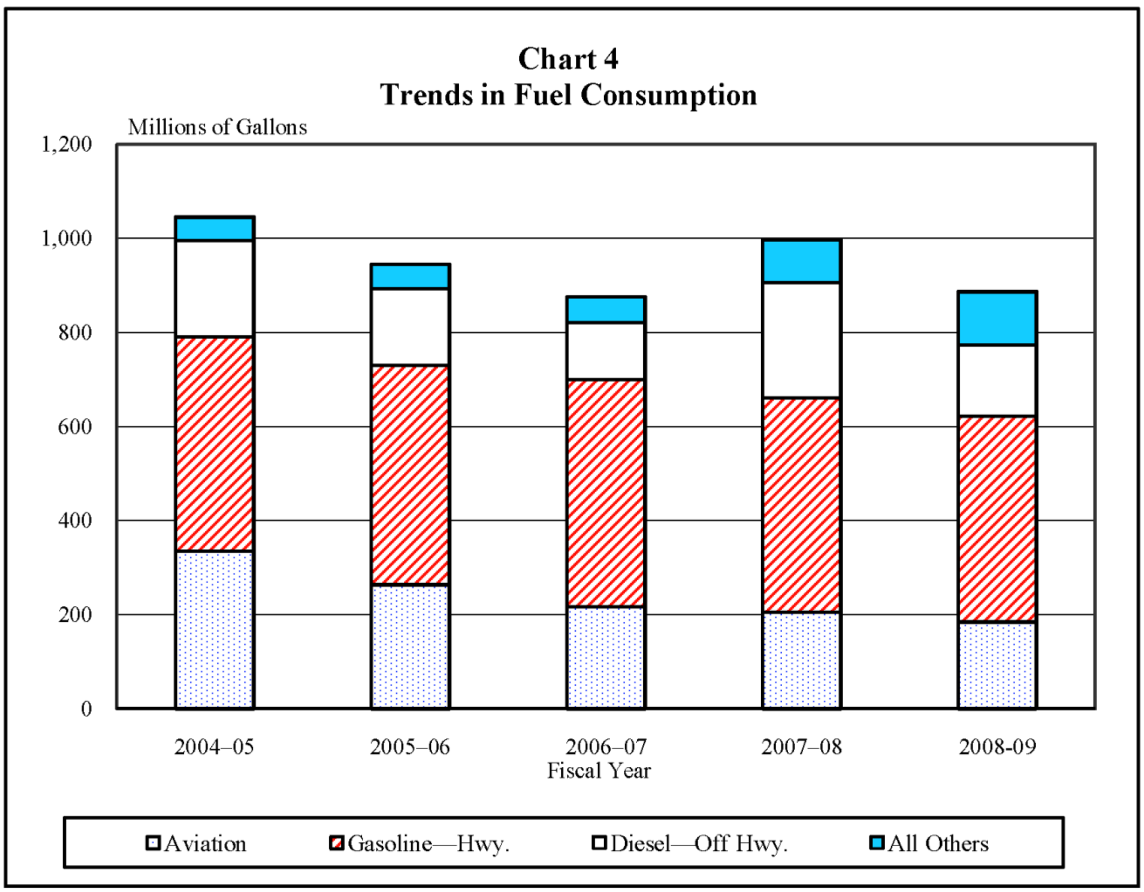
Total taxable fuel consumption decreased by 11.1% to 886.6 million gallons in FY 2009. An environmental response tax of five cents is imposed on each barrel of petroleum product sold by a distributor to any retail dealer or end user. A total of 31.8 million barrels of petroleum was subjected to the environmental response tax in FY 2009, a decline of 6.2% from the previous year.

TABLE 5—GALLONS OF FUEL CONSUMED
(In thousands of gallons)

	FY 2009	FY 2008	Difference Amount	Difference %
Gasoline	436,475	454,939	(18,464)	(4.1)
Diesel Oil—Off Highway	152,359	244,385	(92,026)	(37.7)
Diesel Oil—Highway	64,923	51,184	13,739	26.8
Liq. Pet. Gas—Off Highway	0	0	0	n/m
Liq. Pet. Gas—Highway	84	102	(18)	(17.3)
Small Boats—Gasoline	413	451	(38)	(8.3)
Small Boats—Diesel Oil	5,288	1,172	4,116	351.0
Aviation Fuel	185,309	206,307	(20,998)	(10.2)
Other Fuel*	41,778	38,786	2,992	7.7
TOTAL GALLONS	886,629	997,327	(110,698)	(11.1)
Environmental Tax (Barrel)	31,792	33,909	(2,117)	(6.2)

*Prior to September 2007, this category included ethanol, methanol, and biodiesel. Beginning September 2007, this category includes ethanol, methanol, biodiesel, naphtha, compressed natural gas, and liquefied natural gas.

NOTE: Due to rounding, details may not add to totals; n/m=not meaningful.



The revenues from fuel taxes are distributed to several special funds. Fuel taxes paid on liquid fuel sold for use in or used for small boats are deposited into the Boating Special Fund. Fuel taxes paid on sales of aviation fuel are deposited into the Airport Revenue Fund. Environmental response tax collections are deposited into the Environmental Response Revolving Fund, which is administered by the Department of Health for oil spill prevention and remediation programs. The remaining State fuel tax revenues are deposited into the State Highway Fund, while the remaining county fuel tax revenues are deposited into the respective county's highway fund. The State Highway Fund also receives monies from the motor vehicle weight taxes and registration fees, which are administered and collected by the counties, and the rental motor vehicle and tour vehicle surcharge taxes.

TABLE 6—ALLOCATION OF FUEL TAXES
(In thousands of dollars)

			Difference	
	FY 2009	FY 2008	Amount	%
STATE HIGHWAY FUND:				
Fuel	$ 86,401	$ 88,135	$ (1,734)	(2.0)
Motor Vehicle Tax & Fees	101,991	112,448	(10,457)	(9.3)
TOTAL	$ 188,392	$ 200,583	$ (12,191)	(6.1)
COUNTY HIGHWAY FUND:				
City & County of Honolulu	$ 50,316	$ 50,633	$ (317)	(0.6)
County of Maui	10,499	11,383	(884)	(7.8)
County of Hawaii	7,661	8,006	(345)	(4.3)
County of Kauai	3,941	4,218	(277)	(6.6)
TOTAL	$ 72,416	$ 74,240	$ (1,824)	(2.5)
BOATING SPECIAL FUND:	$ 1,604	$ 1,640	$ (36)	(2.2)
STATE AIRPORT FUND:				
Aviation Fuel	$ 3,706	$ 4,216	$ (510)	(12.1)
ENVIRONMENTAL TAX FUND:	$ 1,590	$ 1,695	$ (105)	(6.2)

NOTE: Due to rounding, details may not add to totals.

The State Legislature sets the State fuel tax rates, while the county councils set the county rates. The effective rates for FY 2009 are shown below:

FUEL TAX RATES PER GALLON*

TYPE OF FUEL	State	County	Total
Gasoline & Diesel Oil (Highway Use)			
City & County of Honolulu	17.0¢	16.5¢	33.5¢
County of Maui	17.0¢	16.0¢	33.0¢
County of Hawaii	17.0¢	8.8¢	25.8¢
County of Kauai	17.0¢	13.0¢	30.0¢
Liquid Petroleum Gas (Highway Use)			
City & County of Honolulu	5.2¢	5.4¢	10.6¢
County of Maui	5.2¢	4.3¢	9.5¢
County of Hawaii	5.2¢	2.9¢	8.1¢
County of Kauai	5.2¢	4.3¢	9.5¢
Ethanol			
City & County of Honolulu	2.4¢	2.4¢	4.8¢
County of Maui	2.4¢	3.8¢	6.2¢
County of Hawaii	2.4¢	1.3¢	3.7¢
County of Kauai	2.4¢	1.9¢	4.3¢
Methanol			
City & County of Honolulu	1.9¢	1.8¢	3.7¢
County of Maui	1.9¢	2.9¢	4.8¢
County of Hawaii	1.9¢	1.0¢	2.9¢
County of Kauai	1.9¢	1.4¢	3.3¢
Biodiesel			
City & County of Honolulu	4.0¢	8.3¢	12.3¢
County of Maui	4.0¢	0.0¢	4.0¢
County of Hawaii**	4.0¢	0.0¢	4.0¢
County of Kauai	4.0¢	0.0¢	4.0¢
Compressed Natural Gas			
City & County of Honolulu	0.8¢	7.6¢	8.4¢
County of Maui	0.8¢	7.6¢	8.4¢
County of Hawaii	0.8¢	7.6¢	8.4¢
County of Kauai	0.8¢	7.6¢	8.4¢
Liquefied Natural Gas			
City & County of Honolulu	2.4¢	28.3¢	30.7¢
County of Maui	2.4¢	28.3¢	30.7¢
County of Hawaii	2.4¢	28.3¢	30.7¢
County of Kauai	2.4¢	28.3¢	30.7¢
Environmental Response Tax (Per Barrel)			
All Counties	5.0¢	0.0¢	5.0¢

* Diesel oil (off highways) and aviation fuel are taxed by the State at the rate of 2¢ per gallon. Naphtha sold for use in a power-generating facility is taxed by the State at the rate of 1¢ per gallon.

** The County of Hawaii's tax on biodiesel was reduced from 2.2¢ per gallon to 0.0% effective October 1, 2007.

PUBLIC SERVICE COMPANY TAXES

Public utilities paid $126.1 million in public service company tax, penalty, and interest in FY 2009, compared to $127.5 million in FY 2008.

ESTATE AND TRANSFER TAXES

During FY 2009, estate tax collections totaled $274,164, compared to $164,149 in the previous fiscal year.

The federal Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) gradually phases out the estate and transfer taxes and replaces the federal credit for state death taxes with a deduction. Hawaii's tax was effectively eliminated for decedents dying after December 31, 2004, when the federal credit was replaced with a deduction. Under current federal and Hawaii law, Hawaii's estate tax becomes effective again on January 1, 2011.

OTHER TAXES

Total revenues from other miscellaneous taxes amounted to $529.2 million in FY 2009, $61.1 million less than the previous fiscal year. Employment security contributions decreased by $43.2 million in FY 2009. Insurance premium tax collections were lower by $2.0 million this fiscal year, while tobacco tax collections rose by $3.5 million.

Contributing to the increase in tobacco tax collections was Act 316, SLH 2006, which increases the excise tax per cigarette by one cent per year over a six-year period that began on September 30, 2006; on September 30, 2008, the tax per cigarette increased from nine cents per cigarette to ten cents per cigarette. This Act also provided for the allocation of a portion of the tobacco tax collections to the following special funds: the Hawaii Cancer Research Special Fund, the Trauma System Special Fund, the Emergency Medical Services Special Fund, and the Community Health Centers Special Fund. Allocations to the Hawaii Cancer Research Special Fund began on October 1, 2006. Allocations to the Trauma System Special Fund and the Emergency Medical Services Special Fund began a year later, and allocations to the Community Health Centers Special Fund began on October 1, 2008.

Conveyance taxes collected by the Bureau of Conveyances under the Department of Land and Natural Resources decreased significantly by $19.6 million, a decline of 45.3% from the previous fiscal year. The amount of conveyance tax allocated to the Rental Housing Fund, Natural Area Reserve Fund, and Land Conservation Fund remained at 30%, 25%, and 10%, respectively.

Liquor tax collections increased by 3.6% to $47.2 million. Franchise taxes collected from banks and other financial corporations increased by 38.9 % to $28.1 million.

Act 247, SLH 2005, granted counties the authority to pass an ordinance imposing a county surcharge of no more than 0.5% on gross income subjected to the State's 4% general excise tax to fund county public transportation systems. The Act specified that the county surcharge tax be levied no earlier than January 1, 2007, and that the ordinance be automatic repealed on December 31, 2022. The Department of Taxation is required to levy, assess, collect, and administer the county surcharge tax for the counties. The City and County of Honolulu was the only county to adopt an ordinance levying a 0.5% county surcharge tax. The Honolulu county surcharge tax took effect on January 1, 2007. In FY 2009, $178.7 million in county surcharge tax was collected on behalf of the City and County of Honolulu, a decrease of 4.9% compared to the $187.9 million collected in FY 2008.

TABLE 7—MISCELLANEOUS TAXES*
(In thousands of dollars)

			Difference	
	FY 2009	FY 2008	Amount	%
Banks & Other Financial Corporations	$ 28,075	$ 20,212	$ 7,863	38.9
Conveyance*	23,772	43,421	(19,649)	(45.3)
Employment Security Contributions	49,071	92,279	(43,208)	(46.8)
Insurance Premiums	93,720	95,742	(2,022)	(2.1)
Liquor & Permits	47,242	45,620	1,622	3.6
Tobacco & Licenses	108,164	104,624	3,540	3.4
General Excise Licenses & Fees	457	487	(30)	(6.1)
Honolulu County Surcharge	178,729	187,904	(9,175)	(4.9)
TOTAL	$ 529,230	$ 590,290	$ (61,060)	(10.3)

* Before allocation to special or other funds.

NOTE: Due to rounding, details may not add to totals.

TOTAL TAX COLLECTIONS

Total tax collections in FY 2009 amounted to $4.9 billion, which is 9.8% less than the $5.5 billion collected in the previous fiscal year. While the Department of Taxation collected the majority of the $4.9 billion in total taxes, the counties collected $63.3 million in State motor vehicle weight taxes and registration fees, the Department of Commerce and Consumer Affairs collected $93.7 million in insurance premium taxes, the Department of Land and Natural Resources collected $23.8 million in conveyance taxes, and the Department of Labor and Industrial Relations collected $49.1 million in employment security contributions.

TABLE 8—TAX COLLECTIONS
(In thousands of dollars)

SOURCE OF REVENUE	FY 2009 Amount Collected	FY 2009 % of Total	FY 2008 Amount Collected	FY 2008 % of Total
Banks – Financial Corporations	$ 28,075	0.57	$ 20,212	0.37
Conveyance	23,772	0.48	43,421	0.79
Employment Security Contributions	49,071	0.99	92,279	1.68
Fuel	165,717	3.35	169,927	3.10
General Excise & Use Tax	2,417,580	48.90	2,618,787	47.80
Honolulu County Surcharge	178,729	3.61	187,904	3.43
Income – Corporations	53,522	1.08	85,081	1.55
Income – Individuals	1,339,056	27.08	1,544,835	28.20
Inheritance and Estate	274	0.01	164	0.00
Insurance Premiums	93,720	1.90	95,742	1.75
Liquor & Permits	47,242	0.96	45,620	0.83
Motor Vehicle Tax*	101,991	2.06	112,448	2.05
Public Service Companies	126,069	2.55	127,481	2.33
Tobacco & Licenses	108,164	2.19	104,624	1.91
Transient Accommodations Fees	8	0.00	10	0.00
Transient Accommodations Tax	210,614	4.26	229,378	4.19
All Others**	528	0.01	576	0.01
TOTAL	$ 4,944,133	100.00	$ 5,478,491	100.00

* Includes motor vehicle weight tax, registration fees, commercial driver's license, periodic motor vehicle inspection fees, rental motor vehicle and tour vehicle registration fees, and rental motor vehicle and tour vehicle surcharge tax.

** Includes fuel retail dealer permits, fuel penalty and interest, and general excise fees.

NOTE: Due to rounding, details may not add to totals.

DISTRIBUTION OF TAXES

Of the total $4.9 billion in tax revenues collected, $4.2 billion or 85.0% was deposited into the State's General Fund. The four counties received $166.8 million or 3.4% of the tax collections, which came from county fuel taxes and 44.8% of the transient accommodations tax collections. In addition, $178.7 million was collected and credited to the City and County of Honolulu county surcharge tax.

The remaining $396.3 million of tax revenue not deposited into the General Fund or transferred to the counties was distributed among several State special funds. The State Highway Fund received the largest portion, $188.4 million. All $49.1 million of the employment security contributions went into the Unemployment Trust Fund for unemployment benefits. Portions of the transient accommodations tax went to the next two largest special funds: $72.0 million to the Tourism Special Fund and $30.7 million to the Convention Center Fund.

The temporary increase in the amount of conveyance tax revenue allocated to the Rental Housing Trust Fund from 30% to 50% (Act 100, SLH 2006) was extended by Act 222, SLH 2007, through June 30, 2008, such that 15% of the conveyance tax revenue, rather than 35%, was deposited into the General Fund. The share of the amount of conveyance tax returned to 35% in FY 2009.

On September 30, 2008, the amount of tobacco tax revenues deposited into the Hawaii Cancer Research Special Fund was increased from 1.5 cents per cigarette to 2.0 cents per cigarette, and the amount deposited into the Trauma System Special Fund was increased from 0.25 cents per cigarette to 0.5 cents per cigarette. The 0.25 cents per cigarette deposited into the Emergency Medical Services Special Fund remained unchanged, while an additional 0.25 cents per cigarette was deposited into the Community Health Centers Special Fund. In FY 2009, $20.0 million was deposited in the Hawaii Cancer Research Fund, $4.7 million in Trauma System Special Fund, $2.7 million in the Emergency Medical Services Fund, and $2.0 million in the Community Health Centers Special Fund.

Distributions of State tax revenue into the General Fund are shown in Table 9. Distributions of all tax collections are shown in Table 10.

TABLE 9—STATE GENERAL FUND*
(In thousands of dollars)

	FY 2009		FY 2008	
SOURCE OF REVENUE	Amount Collected	% of Total	Amount Collected	% of Total
Banks – Financial Corporations	$ 26,075	0.62	$ 18,212	0.39
Conveyance	8,311	0.20	6,513	0.14
General Excise & Use Tax	2,417,580	57.53	2,618,787	56.42
Income – Corporations	53,522	1.27	85,081	1.83
Income – Individuals	1,338,451	31.85	1,544,307	33.27
Inheritance and Estate	274	0.01	164	0.00
Insurance Premiums	93,720	2.23	95,742	2.06
Liquor & Permits	47,242	1.12	45,620	0.98
Public Service Companies	126,069	3.00	127,481	2.75
Tobacco & Licenses	76,955	1.83	83,443	1.80
Transient Accommodations Tax	13,566	0.32	15,935	0.34
All Others**	535	0.01	586	0.01
TOTAL	$ 4,202,301	100.00	$ 4,641,872	100.00

* Net of transfers to special funds.

** Includes fuel retail dealer permits, fuel penalty and interest, general excise fees, and transient accommodations fees.

NOTE: Due to rounding, details may not add to totals.

TABLE 10—DISTRIBUTION OF COLLECTIONS
(In thousands of dollars)

	FY 2009		FY 2008	
	Amount Collected	% of Total	Amount Collected	% of Total
STATE FUNDS				
State General Fund	$ 4,202,301	85.00	$ 4,641,872	84.73
State Highway Fund	188,393	3.81	200,583	3.66
State Airport Fund	3,706	0.07	4,216	0.08
Boating Special Fund	1,604	0.03	1,640	0.03
Environmental Fund	1,590	0.03	1,695	0.03
Cigarette Stamp Admin/Enforcement Fund	1,782	0.04	1,665	0.03
Compliance Resolution Fund	2,000	0.04	2,000	0.04
Unemployment Trust Fund	49,071	0.99	92,279	1.68
Election Campaign Fund	205	0.00	107	0.00
Tourism Special Fund	72,030	1.46	78,229	1.43
Rental Housing Fund	7,136	0.14	21,711	0.40
Natural Area Reserve Fund	5,947	0.12	10,855	0.20
Convention Center Fund	30,663	0.62	32,453	0.59
Public Libraries Fund	96	0.00	98	0.00
School Repair & Maintenance Fund	111	0.00	114	0.00
Land Conservation Fund	2,379	0.05	4,342	0.08
Domestic Violence/Child Abuse Fund	191	0.00	209	0.00
Cancer Research Fund	20,018	0.40	15,359	0.28
Trauma System Fund	4,674	0.09	2,079	0.04
Emergency Medical Services Fund	2,714	0.05	2,079	0.04
Community Health Centers Fund	2,021	0.04	0	0.00
Subtotal – State	$ 4,598,633	93.01	$ 5,113,585	93.34
HONOLULU COUNTY SURCHARGE	$ 178,729	3.61	$ 187,904	3.43
REVENUES TRANSFERRED TO COUNTIES				
Other County Revenues				
Fuel	$ 72,416	1.46	$ 74,240	1.36
Transient Accommodations Tax	94,355	1.91	102,761	1.88
Subtotal – Counties	$ 166,771	3.37	$ 177,001	3.23
TOTAL	$ 4,944,133	100.00	$ 5,478,491	100.00

NOTE: Due to rounding, details may not add to totals.

BRIEF SUMMARY OF HAWAII'S TAX SYSTEM

Hawaii has 17 separate tax laws, of which 14 are administered by the State. The counties administer the remaining three—the real property tax, motor vehicle weight tax, and public utility franchise tax—although the revenue from the motor vehicle weight taxes accrues to both the State and county highway funds. The number of taxes administered by the State is indicative of the highly centralized nature of the State's governmental structure.

The State's primary revenue source is the general excise tax. Unlike more common sales taxes, the general excise tax is levied on the business receiving the income, rather than the customer, for the privilege of doing business in the State. Despite the relatively low tax rates, substantial revenue is generated in large part due to the broad tax base on which this tax, as well as its complement, the use tax, is levied. Gross income from most business activities, including most sales, services, contracting, and rental activities, are subject to the general excise tax. In general, the general excise tax law levies the tax on all business activities at a 4% retail rate, while allowing a lower rate on some transactions, including many business-to-business transactions, and exempting some other transactions because those transactions are subject to other taxes or because the legislature wished to grant a preference to that economic activity.

Although not a State tax realization, the Department of Taxation is required to administer the county surcharge on the State's general excise tax for the counties. Act 247, SLH 2005, authorized the counties to establish by ordinance a surcharge of up to 0.5% to fund public transportation systems; only the City and County of Honolulu adopted a surcharge. Beginning January 1, 2007, the county surcharge tax adopted pursuant to City and County of Honolulu Ordinance No. 05-027 has been levied at the rate of 0.5% on transactions that are subjected to the State general excise or use taxes at the 4% rate and that are attributable to business conducted in the City and County of Honolulu. Act 247, SLH 2005, and Ordinance No. 05-027 will both be automatically repealed on December 31, 2022.

Second in revenue generation is the State's income tax, the majority of which is from the income tax levied on individual taxpayers. A number of tax credits are available to mitigate the income tax burden. Two refundable nonbusiness income tax credits, the food/excise tax credit and the credit for low-income household renters, specifically provide tax relief to lower-income taxpayers.

The refundable food/excise tax credit is allowed resident individuals, including those with no gross income, in amounts ranging from $85 to $25 per qualified exemption for resident individuals who have less than $50,000 of federal adjusted gross income; those with the lowest incomes are eligible for the highest credit amounts. The credit for low-income household renters is $50 per qualified exemption, including the extra exemption for taxpayers who are age 65 or older, for resident individuals with less than $30,000 of Hawaii adjusted gross income.

A one-time, refundable, general income tax credit of $1 for each qualified exemption, except additional exemptions for age and disability, was available to resident individuals for tax year

2008. This credit was enacted (Act 58, SLH 2008) to satisfy the requirements of Article VII, section 6, of the Constitution of Hawaii.

Revenues from 11 of the State-administered taxes go into the General Fund and are used to provide government services. Although the fuel tax is administered by the State, it is a source of revenue for both the State and county highway funds. Employment security tax collections are deposited into the Unemployment Trust Fund and used exclusively to provide benefits to unemployed workers. Rental motor vehicle and tour vehicle surcharge taxes are deposited into the State Highway Fund.

OUTLINE OF THE HAWAII TAX SYSTEM AS OF JULY 1, 2009

Issued by the Department of Taxation

KIND OF TAX & LEGAL REFERENCES (HAWAII REVISED STATUTES)	MEASURE AND RATE OF TAX	REPORTS	TAX PAYABLE
(1) Net Income Chapter 235 — Section 235-1 to 235-130	For taxable years beginning after December 31, 2008, Act 60, SLH 2009, increases the income tax for the highest income bracket. The tax rates for individuals range from 1.4% to 11% of taxable income. The standard deduction amounts are as follows: married filing joint return or surviving spouse with dependent child is $4,000; single or married filing separately is $2,000; and head of household is $2,920. The tax rates for estates and trusts range from 1.4% to 8.25%. The tax rates for corporations are 4.4% up to $25,000, 5.4% over $25,000 but not over $100,000, and 6.4% over $100,000 of taxable income.	Returns due 20th day of 4th month following the close of taxable year. Withholding returns due monthly on or before the 15th day of the following calendar month. When the total tax liability is less than $5,000 for the calendar year, returns may be filed quarterly on or before the 15th day of the month after the close of each quarter. An annual employer's return and reconciliation of Hawaii income tax withheld, Form HW-3, must be filed together with a duplicate copy of each employee's tax statement, Form HW-2, on or before the last day of February following the close of the calendar year. Estimates of income of individuals not subject to withholding, estates, trusts, and corporations, April 20th.	In general, at time of filing returns. Estimates of individuals, estates, trusts, and corporations, one-quarter, April 20th; June 20th; September 20th; and January 20th. See Booklet A, Employer's Tax Guide, for the withholding requirements for employers who are required to pay the taxes withheld by electronic funds transfer (EFT).
(2) Estate and Transfer (for decedents dying after 6/30/83 and before 1/1/05) Chapter 236D — Section 236D-1 to 236D-18	Every resident decedent is taxed on transfer of taxable estate equal to federal credit for estate death taxes allowed by IRC section 2011. Credit is allowed for death tax imposed by another state not qualified by reciprocal provision. For nonresident decedent, tax is based on transfer of taxable estate located in Hawaii by use of ratio. Exemption afforded resident estate equally applicable to nonresident, with certain exceptions. **Note:** From January 1, 2005 through December 31, 2010, the federal state death tax credit was repealed and replaced with a deduction for state death taxes. Therefore, Hawaii's estate and transfer tax is not effective for decedents dying after December 31, 2004 through December 31, 2010. For generation-skipping transfers, a tax in an amount equal to the federal credit is imposed on every generation-skipping transfer of (1) property located in Hawaii and (2) property from a resident trust. **Note:** From January 1, 2005 through December 31, 2010, the federal state death tax credit was repealed and replaced with a deduction for state death taxes. Therefore, Hawaii's generation-skipping transfer tax is not effective after December 31, 2004 through December 31, 2010.		
(3) General Excise (Gross Income) Chapter 237 — Section 237-1 to 237-49	This is a business privilege tax measured by gross proceeds of sales or gross income. The tax rate is 0.5% on wholesaling and wholesale services, producing, sugar processing and pineapple canning; all other activities (retailing business and professional services, contracting, theatre, amusement, radio, interest, commissions, rentals) are taxed at 4%, except insurance commissions received by general agents, subagents and solicitors who are taxed at 0.15%. The licensing fee for general excise tax licensees and nonprofit organizations is a one-time fee of $20. Effective January 1, 2007, a county surcharge of 0.5% will be added to the State's 4% general excise tax for business conducted in the City and County of Honolulu.	For returns and payments due after May 31, 2009, Act 196, SLH 2009, advances the filing and payment of monthly, quarterly, and semi-annual general excise taxes as follows: Monthly returns are due on or before the 20th day of the following month. When the total tax liability does not exceed $4,000 for the calendar or fiscal year, returns may be filed quarterly on or before the 20th day of the month after the close of each quarter. When the total tax liability does not exceed $2,000 for the calendar or fiscal year, returns may be filed semiannually on or before the 20th day of the month after the close of each semiannual period. An annual summary and reconciliation return must be filed on or before the 20th day of the 4th month following the close of the taxable year.	At time of filing returns.

KIND OF TAX & LEGAL REFERENCES (HAWAII REVISED STATUTES)	MEASURE AND RATE OF TAX	REPORTS	TAX PAYABLE
(4) Transient Accommodations Tax Chapter 237D — Section 237D-1 to 237D-16	This is a tax levied on the furnishing of a room, apartment, suite, or the like which is customarily occupied by the transient for less than 180 consecutive days for each letting by a hotel, apartment, motel, horizontal property regime or cooperative apartment, rooming house, or other place in which lodgings are regularly furnished to transients for consideration. Act 61, SLH 2009, increases the transient accommodations tax from 7.25% to 8.25% on July 1, 2009 and to 9.25% on July 1, 2010. The registration fee for transient accommodations operators is a one-time fee of $5 for each registration consisting of 1 to 5 units and $15 for 6 or more units. Plan managers are liable for and pay to the State the transient accommodations tax of 7.25% that is imposed on the fair market rental value of time share vacation units.	Monthly returns are due on or before the last day of the following month. When the total tax liability does not exceed $4,000 for the calendar or fiscal year, returns may be filed quarterly on or before the last day of the month after the close of each quarter. When the total tax liability does not exceed $2,000 for the calendar or fiscal year, returns may be filed semiannually on or before the last day of the month after the close of each semiannual period. An annual summary and reconciliation return must be filed on or before the 20th day of the 4th month following the close of the taxable year.	At time of filing returns.
(5) Use Chapter 238 — Section 238-1 to 238-16	This is an excise tax levied on tangible personal property which is imported or purchased from an unlicensed seller for use in the State. The tax is based upon the purchase price or value of the tangible personal property purchased or imported, whichever is applicable. Rates: 0.5%, if for resale at retail; 4%, if for use or consumption. For exceptions, see sections 238-3 and 238-4. The use tax is imposed on the value of services or contracting that are performed by an unlicensed seller at a point outside the State and imported or purchased for use in the State. Effective January 1, 2007, a county surcharge of 0.5% will be added to the State's 4% use tax for the importation or purchase of tangible personal property or services for use in the City and County of Honolulu.	Monthly returns are due on or before the last day of the following month. When the total tax liability does not exceed $4,000 for the calendar or fiscal year, returns may be filed quarterly on or before the last day of the month after the close of each quarter. When the total tax liability does not exceed $2,000 for the calendar or fiscal year, returns may be filed semiannually on or before the last day of the month after the close of each semiannual period. An annual summary and reconciliation return must be filed on or before the 20th day of the 4th month following the close of the taxable year. These returns have been consolidated with the general excise (gross income) tax returns and are filed simultaneously.	At time of filing returns.
(6) Public Service Company Chapter 239 — Section 239-1 to 239-25	Nature of Tax—Public utility business in lieu of general excise tax. (a) Measurement of assessment—general rule: Gross income from public utility business of public utilities for preceding calendar year. For exception, see section 239-9. (b) Rates: (i) Gross income from passenger fares for transportation between points on a scheduled route by a carrier of passengers, 5.35%. (ii) Sale of its products or services to another public utility which resells such products or services, 0.5%. (iii) Sale of telecommunications services by a public utility to an interstate or foreign telecommunications services provider that is subject to the general excise tax and that resells the services to retail customers, 0.5%. (iv) All other revenues: 4% of gross income.	Returns filed on or before the 20th day of the 4th month following the close of the taxable year, based upon operations of the preceding taxable year.	First installment at the time of filing return, or, on or before the 20th day of the 4th month. Other installments due on the 20th day of the 2nd, 5th, and 8th month thereafter. If the total tax liability for the taxable year exceeds $100,000, 1st installment on or before the 10th day of the 1st month. Remaining installments due on or before the 10th day of each calendar month thereafter.
(7) Banks, Building and Loan, Financial Services Loan Companies and Certain Other Financial Corporations Chapter 241 — Section 241-1 to 241-7	(1)(a) Assessment Date: January 1. (b) Nature of Tax: a franchise tax (in lieu of net income and general excise taxes) on banks, building and loan associations, development companies, financial corporations, financial services loan companies, trust companies, mortgage loan companies, financial holding companies, small business investment companies, or subsidiaries not subject to the tax imposed by chapter 235. (2) Measure of Assessment: Net income for the preceding year from all sources as defined by chapter 235 (Income Tax Law) with modifications. (3) Rate: 7.92% of taxable income.	Returns filed on or before the 20th day of the 4th month following the close of the taxable year, based upon operations of the preceding taxable year.	First installment at the time of filing return, or, on or before the 20th day of the 4th month. Other installments due on the 20th day of the 2nd, 5th and 8th month thereafter. If the total tax liability for the taxable year exceeds $100,000, 1st installment on or before the 10th day of the 1st month. Remaining installments due on or before the 10th day of each calendar month thereafter.

KIND OF TAX & LEGAL REFERENCES (HAWAII REVISED STATUTES)	MEASURE AND RATE OF TAX	REPORTS	TAX PAYABLE
(8) Fuel Chapter 243 — Section 243-1 to 243-16	Distributors, as defined, are required to pay: 2¢ per gallon on aviation fuel, an initial 2¢ per gallon on diesel oil, 2¢ per gallon (increased from 1¢ per gallon effective July 1, 2009, pursuant to Act 198, SLH 2009) of naphtha fuel sold for use in a power-generating facility, as defined, .25¢ per gallon on alternative fuels for operation of an internal combustion engine and at the rates specified below per gallon on alternative fuels, and from 25.8¢ to 33.5¢ per gallon on liquid fuels other than the foregoing; also, pay additional taxes from 23.8¢ to 31.5¢ per gallon on diesel oil used to operate motor vehicles upon the public highways, however, they are not required to pay the additional tax on diesel oil and the tax on alternative fuels if purchasers furnish Exemption Certificates, Form M-38. Refunds of liquid fuel used for agricultural equipment not operated upon the public highways, diesel oil used for motor vehicles not operated upon the public highways, and alternative fuels used for motor vehicles and internal combustion engines not operated upon the public highways may be claimed on Form M-36. Distributors are required to register and be licensed. Licenses are valid until revoked. An Environmental Response Tax of 5¢ per barrel or a fractional part of a barrel of petroleum product sold by a distributor to a retail dealer or end user is also imposed. The fuel tax is adjusted to reflect the energy content of alternative fuels as follows: ethanol- 0.145 times the rate for diesel; methanol- 0.11 times the rate for diesel; biodiesel- 0.25 times the rate for diesel; liquefied petroleum gas- 0.33 times the rate for diesel; and for other alternative fuels, the rate is based on the energy content of the fuels as compared to diesel fuel, using a lower heating value of 130,000 BTUs per gallon as a standard for diesel, so that the tax rate, on an energy content basis, is equal to one-quarter the rate for diesel fuel.	Returns are due monthly on or before the last day of the following month.	At time of filing returns.
(9) Liquor Chapter 244D — Section 244D-1 to 244D-17	This is a gallonage tax imposed upon "dealers" as defined in the law and certain others who sell or use liquor. A $2.50 liquor tax permit is required and must be renewed before July 1st of each year. See section 244D-4 for exemption from tax. The tax rates per wine gallon are $5.98 on distilled spirits, $2.12 on sparkling wine, $1.38 on still wine, $.85 on cooler beverages, $.93 on beer other than draft beer, and $.54 on draft beer.	Returns are due monthly on or before the last day of the following month.	At time of filing returns.
(10) Cigarette and Tobacco Chapter 245 — Section 245-1 to 245-63	"Wholesalers" and "dealers" as defined in the law must pay an excise tax on the sale or use of tobacco products and on each cigarette sold, used, or possessed. Act 56, SLH 2009, increases the tax on cigarettes to 13¢ per cigarette sold on and after July 1, 2009. Act 58, SLH 2009, imposes the tobacco tax as follows: (1) Tobacco products (other than cigars): From May 8, 2009 through September 29, 2009, no tax. From September 30, 2009, 70% of the wholesale price. (2) Cigars: From May 8, 2009 through September 29, 2009, no tax. From September 30, 2009, 50% of the wholesale price. (3) Little cigars: From May 8, 2009 through September 30, 2009, no tax. From October 1, 2009, 11¢ for each little cigar. A $2.50 tobacco tax license is required and must be renewed before July 1st of each year. Cigarette and tobacco wholesalers and dealers are required to affix stamps to individual cigarette packages as proof of payment of cigarette taxes. Every retailer engaged in the retail sale of cigarettes and other tobacco products is required to obtain a $20.00 retail tobacco permit that must be renewed before December 1st of each year.	Returns are due monthly on or before the last day of the following month.	At time of filing returns. Cigarette tax paid through the purchase of cigarette tax stamps by licensees.

KIND OF TAX & LEGAL REFERENCES (HAWAII REVISED STATUTES)	MEASURE AND RATE OF TAX	REPORTS	TAX PAYABLE
(11) Conveyance Chapter 247 — Section 247-1 to 247-13	This tax is imposed on all documents transferring ownership or interest in real property and is based on the actual and full consideration paid or to be paid. Minimum $1 tax for each taxable transaction. Effective July 1, 2009, Act 59, SLH 2009, increases the conveyance tax rate for certain sales. The conveyance tax rate ranges from 10¢ per $100 for properties with a value of less than $600,000 to $1 per $100 for properties with a value of $10,000,000, or greater. For the sale of a condominium or single family residence for which the purchaser is ineligible for a county homeowner's exemption on property tax, the conveyance tax rate ranges from 15¢ per $100 for properties with a value of less than $600,000 to $1.25 per $100 for properties with a value of $10,000,000, or greater. (Documents of certain conveyances are exempted.)	A certificate of conveyance must be filed with the document at the Bureau of Conveyances within 90 days after a taxable transaction; a claim for exemption from the conveyance tax must be filed for certain exempt conveyances.	At time of filing the certificate, but no later than 90 days after the taxable transaction.
(12) Rental Motor Vehicle and Tour Vehicle Surcharge Tax Chapter 251 — Section 251-1 to 251-15	There is a rental motor vehicle surcharge tax of $3 a day or any portion of a day that a rental motor vehicle is rented or leased. The tax is levied on the lessor. There is also a tour vehicle surcharge tax of $65 per month for each tour vehicle in the 25 passenger seat and over category and $15 per month for each tour vehicle in the 8 to 25 passenger seat category. The tax is levied on the tour vehicle operator. There is a one-time $20 registration fee. Effective September 1, 2011, Act 226, SLH 2008, decreases the rental motor vehicle surcharge tax to $2 a day or any portion of a day that a rental motor vehicle is rented or leased.	Monthly returns are due on or before the last day of the following month. When the total tax liability does not exceed $4,000 for the calendar or fiscal year, returns may be filed quarterly on or before the last day of the month after the close of each quarter. When the total tax liability does not exceed $2,000 for the calendar or fiscal year, returns may be filed semiannually on or before the last day of the month after the close of each semiannual period. An annual summary and reconciliation return must be filed on or before the 20th day of the 4th month following the close of the taxable year.	At time of filing returns.
(13) Unemployment Insurance Chapter 383 — Section 383-1 to 383-176	This is a tax on wages paid by employing units with 1 or more employees with certain exemptions. The unemployment tax rate is determined according to a multi-contribution schedule system. Each year, 1 of 8 contribution schedules is applicable depending on the condition of the UI Trust Fund. An employer's contribution rate is not less than 0.00% or greater than 5.4%. There is also an additional employment and training (E & T) fund assessment on taxable wages paid to an employee. The percentage rate for this additional tax is .01%. The E & T assessment is applicable to all employing units with unemployment insurance contribution rates greater than 0.00% and less than 5.4%. There is a limitation of the tax on wages paid to an employee called the "tax base". The tax base represents 100% of the state's average annual wages reported by employers contributing to the unemployment trust fund. **Note:** The tax base for calendar year 2008, 2009, and 2010 has been set at $13,000, so long as the balance of the unemployment trust fund does not fall below the adequate reserve fund as specified by section 383-63.	On a quarterly basis, employers submit Form UC-B6, "Quarterly Wage, Contribution and Employment and Training Assessment Report." The report must be filed on or before the last day of the month following the report quarter.	At time of filing returns.
(14) Insurance Premiums Chapter 431 — Section 431:7-201 to 431:7-209	Tax on insurance companies (Underwriters) based on premiums written in Hawaii. In lieu of all taxes except property tax and taxes on the purchase, use or ownership of tangible personal property. Tax Rates: Life Insurance, 2.75%; Surplus Lines, 4.68%; Ocean Marine, .8775% on gross underwriting profit; and Other Insurance, 4.265%. To insurers who qualify, there is a 1% tax credit to facilitate regulatory oversight. This law is administered and the tax collected by the Insurance Commissioner, who is required to report to the Director of Taxation all amounts of taxes collected under this chapter.	Quarterly tax statement is due on or before the last day of the calendar month following the quarter in which the tax accrued. Annual Tax Statement is due on or before March 1 with the Insurance Commissioner.	At time of filing statements.

ADMINISTRATIVELY ATTACHED ENTITIES

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Jack P. Suyderhoud, Vice Chair
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