KEEPING ON TOP OF STATE TAX LAW CHANGES

Hawaii's competitive environment in the real estate industry requires all licensees to ensure that they are not overpaying their State tax obligations. Last year, two major pieces of general excise tax reducing legislation were enacted that you may be eligible for.

Act 70, Session Laws of Hawaii 1999, provides a new exemption from the general excise tax effective January 1, 2000, for service and contracting activities that are performed in Hawaii and then exported out of Hawaii for resale, use, or consumption outside Hawaii. Commission income does not qualify for this exemption. However, if you provide consulting services to an out-of-State client regarding the sale, purchase, or development of a property located outside Hawaii, you may exempt the gross income from this transaction from the general excise tax. Form G-61, Export Exemption Certificate for General Excise and Liquor Taxes, has been revised for use in substantiating the exported services deduction.

In addition to the general excise tax exemption, Act 70 also imposes a complementary use tax on services performed outside Hawaii for use in Hawaii. The purpose of this provision is to allow Hawaii businesses to compete on a level playing field for in-State work with out-of-State businesses that are not subject to Hawaii's general excise tax. In general, the use tax on imported services is 0% when out-of-State services are imported by an in-State business and become identifiable elements of products or services that the importer resells subject to the general excise tax at the wholesale rate of 0.5%. The use tax on imported services is 0.5% when out-of-State services are imported by an in-State service business and become identifiable elements of products or services that the importer resells subject to the general excise tax at the retail rate of 4%. The use tax on imported services is 4% in all other cases.

Act 71, Session Laws of Hawaii 1999, provides general excise tax pyramiding relief effective January 1, 2000, for certain sales of goods to service and transient accommodations businesses, as well as services provided to service, contracting, manufacturing, producing and transient accommodations businesses that previously were taxed at the 4% retail rate. Instead of the 4% rate, a preferred tax rate is now applicable to mixed goods and services transactions that are shown to be identifiable elements in the final retail product or service for resale to a client.

For example, real estate consulting services provided to another business for use in providing to that other business' client a report and recommendation about a real estate transaction will qualify for the preferred rate. Commission income does not qualify for pyramiding relief, since income-splitting is permitted to brokers and licensees, no pyramiding occurs). Goods and services provided to businesses and that constitute overhead also are not eligible for the preferred rate. Overhead is defined as the continuous or general costs occurring in the normal course of a business. For example, the sale of paper to a copy center for use in making copies for a customer qualifies for the preferred rate, but the sale of paper to a real estate company that uses that paper for their correspondence, billings, notices, and other office uses does not qualify.

The preferred tax rate on qualifying transactions is being phased-in over a 7-year period. Beginning January 1, 2000, the preferred rate on qualifying transactions is 3.5%. In subsequent years, the rate will be reduced by an additional 0.5% per year until the 0.5% rate is reached in 2006. The new preferred rates are not reflected on general excise tax returns for the year 2000. Instead, a deduction method is used to accommodate the rate change. A new Form G-81, Phased-In Wholesale Deduction Worksheet, is used to compute the deduction amount and is included in all general excise tax forms booklets issued in 2000. Another new form, Form G-82, Certificate for Sales of Goods and Services Which Qualify for the Phased-In Wholesale Deduction, is used to certify that goods and/or services purchased will be resold as required by Act 71.

Detailed information about Acts 70 and 71 are posted on our website at http://www.state.hi.us/tax under “Department of Taxation Legislative Initiatives.” Forms G-61, G-81, and G-82 may be obtained from any district tax office, by calling our Forms Request Line at 587-7572 (toll-free at 1-800-222-7572), or at our website.

As we proceed through the 2000 legislative session, be sure to visit our website regularly, or register for automatic e-mail notification of website updates (see our “What’s New @ Tax” page). As bills passed during the current legislative session are enacted into law, we will issue Department of Taxation Announcements that summarize the provisions of the acts. In the fall, a Digest of Tax Measures passed during the session will be published and posted. Make sure that you not pay more tax than is required by staying on top of the latest changes to Hawaii’s tax laws.