Department of Taxation

TAX AUDIT GUIDELINE 2009-02

TO: COMPLIANCE DIVISION

FROM: RULES OFFICE
[Rules Officer Approval Johnny C. Nakamura **]**

RE: EXTENDING THE STATUTE OF LIMITATIONS ON ASSESSMENT FOR SUBSTANTIAL OMISSIONS

DATE: OCTOBER 26, 2009

The purpose of this document is to provide Compliance Division personnel with an analytical matrix relating to extending the statute of limitations on assessment due to the discovery of substantially omitted items.

This analytical guideline is for internal use only, is intended to be a reference tool, and is not authoritative. Relevant Hawaii and federal statutes, administrative rules and regulations, case law, and formal Department of Taxation positions (TIRs) will control over this document.

<u>Statute of Limitations; Extension for Substantial Omissions—HRS § 231-40.5</u>

- Where a person has "substantially omitted" an item on a return, the statute of limitations is six years rather than three years.
- The six year statute of limitations provision for substantial omissions is not limited to income for income tax purposes. The statute of limitations extension authority applies to all tax types and all measures of tax.
- The following are examples of substantially omitted items and the relevant tax types:

Measure	Tax Type
Gross income, gross receipts, or gross proceeds	GET, net income, franchise tax, PSC tax
Gross rental or gross rental proceeds	TAT
Price, value, or consideration for property	Net income, conveyance tax, use tax
Gallonage	Liquor tax, fuel tax
Weight	Tobacco tax, certain motor vehicle taxes
Day	Rental Motor Vehicle Surcharge Tax
Cigarette count	Tobacco tax

- An item is "substantially omitted" if the amount properly includable exceeds the amount stated on the return by 25% of the amount on the return.
- Amounts related to omitted items that are disclosed on the return shall not be taken into account when computing whether there has been a substantial omission.