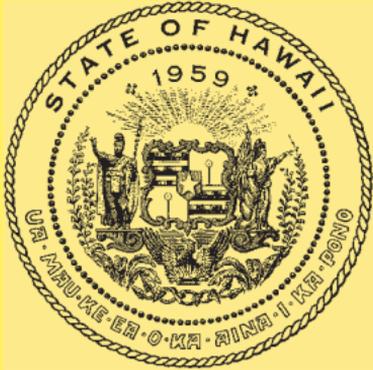


An Introduction to the Use Tax



**State of Hawaii
Department of Taxation**

Revised April 2021

Overview

This brochure provides basic information about the use tax and complements our “An Introduction to the General Excise Tax” brochure. Please refer to this brochure for more information on the general excise tax (GET).

If you have any questions, please call or email us. Our contact information is provided at the back of this brochure.

Note: This brochure provides general information and is not a substitute for legal or other professional advice. The information provided in this brochure does not cover every situation and is not intended to replace the law or change its meaning. If there is a conflict between the text in this brochure and the law, then the application of tax will be based on the law and not on this brochure.

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General Information

1. What is use tax?

Use tax is a tax on purchases made from unlicensed sellers located outside the State and imported for use in Hawaii. An unlicensed seller is a seller who is not subject to GET. If the seller is unlicensed, then the **purchaser** is subject to the use tax. For more information, see Department of Taxation Announcement Nos. 99-17 and 2000-15 and Tax Facts 95-1.

2. What is subject to use tax?

Use tax is due on goods, intangibles, services, and contracting purchased from unlicensed sellers and imported for use in Hawaii. The use tax is based on the landed value of the goods, intangibles, services, or contracting when it is imported. Landed value includes the purchase price, shipping and handling fees, insurance costs, customs duty, and other related costs. It does not include sales tax paid to another state.

Examples include, but not limited to: clothing, equipment, supplies, food, furniture, toys, repair services, consulting services, legal services, medical services, granting of a license to access and use software online, architectural contracting, and engineer contracting.

3. What does “use in Hawaii” mean?

In general, the term “use” means keeping goods, intangibles, services, or contracting in Hawaii to resell or lease to others, for personal or business use, or for your own consumption.

4. What is the difference between the GET and use tax?

The GET and use tax are complementary taxes. This means that a sale will be subject to either the GET or use tax, but not both taxes.

If you are **doing business in Hawaii**, then you are required to obtain a GET license. The GET is imposed on a licensed seller’s gross income from doing business in Hawaii. Since the sales of a licensed seller are subject to GET, customers (purchasers) are not subject to the use tax. The licensed seller is responsible for reporting and paying GET to the Department of Taxation (Department). Businesses are subject to the GET on their sales to

customers and may also be subject to the use tax at the time of import if the same goods, intangibles, services, or contracting was purchased from an unlicensed out-of-state seller.

If you are **not doing business in Hawaii**, then you are not required to obtain a GET license. Instead of GET, use tax is imposed on a customer who purchases and imports for use in Hawaii goods, intangibles, services, and contracting from an unlicensed seller located outside the State. Since the sales of an unlicensed seller are not subject to GET, the customer is subject to the use tax. The **customer** (purchaser) is responsible for reporting and paying use tax to the Department.

5. How do I determine whether GET or use tax applies?

If the purchase is made in Hawaii from a GET licensed seller, it generally will be subject to GET. If the purchase is made outside Hawaii from an unlicensed seller, it generally will be subject to use tax.

6. When is the use tax imposed?

Use tax is imposed when the goods, intangibles, services, or contracting are imported into the State from an unlicensed seller.

7. Are there any use tax exemptions?

Yes. A list of exemptions and information on what you need to report and what you do not need to report are in the general excise/use tax return instructions. See the sections titled “General Information on Use Tax Law” and “Schedule of Use Tax Exemptions and Deductions” for more information.

In general, if GET does not apply to a purchase made from a licensed seller, then use tax would not apply to a similar purchase made from an unlicensed seller located outside of Hawaii. See questions 26 to 31 for examples.

8. Are nonprofit and religious organizations exempt from use tax?

No. Although many nonprofit and religious organizations, such as churches, are exempt from federal and State income taxes, there is no similar use tax exemption. Just like individuals and businesses, nonprofit and religious organizations are subject to use tax on their purchases made from unlicensed sellers located outside the State and imported for use in Hawaii.

9. Does the use tax apply to imports from foreign countries?

Yes. Use tax is imposed on imports from any unlicensed seller located outside the State, including foreign countries, the continental United States, and U.S. territories, that are imported for use in Hawaii.

10. Are Internet purchases subject to GET or use tax?

If the seller has a GET license, then the **seller** is subject to GET on its Internet sales. If the seller is unlicensed, then the **purchaser** is subject to use tax on its purchases.

11. What are the use tax rates?

The use tax rates are 0%, 0.5%, and 4% (4.5% if applicable to the county surcharge) depending on how the importer “uses” what was imported (for example, resells, leases, uses, or consumes).

A licensed seller is not subject to use tax on imports for resale at wholesale, but is subject to use tax at the rate of 0.5% on imports for resale at retail or for lease to others. Imported goods must remain perceptible to the senses and imported services or contracting must be identifiable elements of the product, service, or contracting being resold to qualify for the 0% or 0.5% use tax rates. Imports for personal use, business use (such as overhead), or consumption are subject to use tax at the rate of 4% (4.5% if applicable to the county surcharge).

12. What does “remains perceptible to the senses” mean?

It means the imported goods can be seen, touched, or otherwise perceived by unaided human senses as being the item imported after it is incorporated into the finished product, service, or contracting.

For example, if a contractor imports doorknobs and installs them as part of a construction project, the doorknobs are still recognizable as doorknobs when the project is completed. Other examples include fabric, wood, and nails.

What is Subject to Tax

Tangible Personal Property (Goods)

13. I am a Hawaii distributor. I purchase goods from an unlicensed seller located outside Hawaii. I resell goods at the wholesale level to my customers in Hawaii. Do I have to pay use tax?

No. Goods imported into Hawaii for resale at the wholesale level are not subject to use tax.

14. I am a Hawaii retailer. I purchase goods online from an unlicensed seller located outside Hawaii. I resell goods at retail to my customers in Hawaii. Do I have to pay use tax if the vendor delivers the goods directly to my Hawaii customers?

Yes. The landed value of goods imported into Hawaii for resale at retail is subject to use tax at the rate of 0.5%. Because you imported the goods, you are subject to use tax whether the goods are delivered to you or directly to your customers.

15. We are a Hawaii leasing company. We purchase machinery by catalog from an unlicensed seller located outside Hawaii. We lease the machinery to our customers for use in Hawaii. Do we have to pay use tax if the vendor delivers the machinery directly to our Hawaii customers?

Yes. The landed value of machinery imported into Hawaii and leased to your customers for use in Hawaii is subject to use tax at the rate of 0.5%. Because you imported the machinery, you are subject to use tax whether the machinery is delivered to you or directly to your customers.

16. We are a Hawaii business. We purchase office supplies from an unlicensed seller located outside Hawaii. The supplies are for our own use and not for resale. Do we need to pay use tax?

Yes. The landed value of the office supplies imported into Hawaii for use in your business is subject to use tax at the rate of 4% (4.5% if applicable to the county surcharge).

17. I am a Hawaii resident. I will be purchasing a car from a car dealership in another state to use while I am on vacation in that state. After my vacation, I am

shipping the car home to Hawaii. Do I need to pay use tax?

Yes. The landed value of a new or used vehicle purchased out-of-state and imported into Hawaii is subject to use tax at the rate of 4% (4.5% if applicable to the county surcharge). The sales or use tax you paid to another state for your vehicle purchase may be claimed as a credit against your Hawaii use tax. The maximum credit is 4% (4.5% if applicable to the county surcharge). For more information, see Form G-26, Use Tax Return.

Note: In order to register a vehicle imported into Hawaii, the owner must show proof that use tax was paid or that no use tax is due (see question 26).

Intangibles

18. What is intangible property?

Intangible property is something which a person can have ownership of and can transfer ownership to another person, but it has no physical substance, such as a license to access and use something online.

19. What is the GET/use tax consequences of purchasing an intangible from an out-of-state business?

The sale of the right to access something online is considered the granting of a license to access and use that particular something. Granting Hawaii customers a license which will be exercised predominantly or exclusively in Hawaii establishes nexus to Hawaii for the business granting the licenses, even though the business is not present in Hawaii. Once nexus is established, all gross income derived from engaging in business in Hawaii is subject to the GET. Therefore, the gross income that the out-of-state business receives from the sale of the licenses to Hawaii customers is subject to the GET at the rate of 4% (4.5% if applicable to the county surcharge) and the Hawaii customers are not subject to the use tax on the value of the licenses they are purchasing (importing) from the out-of-state business.

20. Since an out-of-state business is subject to the GET on the sale of licenses to Hawaii customers (as discussed in question 19), is there any instance when a Hawaii customer would be subject to the

use tax on such a purchase from an out-of-state business?

Until such time the out-of-state business obtains a GET license, the out-of-state business is considered an unlicensed seller for GET purposes. In this instance, the Hawaii customer is considered to have made a purchase from an unlicensed seller and, thus, is subject to the use tax on the value of the license purchased (imported) from the out-of-state business.

Note: To check if the out-of-state business has a GET license, go to the Department's website (tax.hawaii.gov) and click on "Search Tax Licenses."

Services

21. I am a doctor in Hawaii. I send samples to an unrelated laboratory located outside Hawaii for testing. I use this information to diagnose my patients in Hawaii. The laboratory is not licensed for GET. Do I need to pay use tax?

Yes. The value of the services imported into Hawaii and incorporated with the medical services you provide is subject to use tax at the rate of 0.5%.

22. We are a Hawaii law firm representing a client in a medical malpractice lawsuit. We will hire a doctor in California, who is not licensed for GET, to analyze medical reports and records that will be used during litigation. The doctor will not perform any services in Hawaii. Do we need to pay use tax?

Yes. The value of the doctor's services imported into Hawaii and incorporated into the legal services your firm provides is subject to use tax at the rate of 0.5%.

23. I am a Hawaii resident. I sent my camera to a repair shop located outside Hawaii that is not licensed for GET. Do I have to pay use tax?

Yes. The value of the repair services imported for use in Hawaii is subject to use tax at the rate of 4% (4.5% if applicable to the county surcharge).

Contracting

24. I am a Hawaii homeowner. I hired an architect, located outside Hawaii, who is not licensed for GET, to draw plans to build an extension on my Hawaii

home. The architect did not perform any work in Hawaii. Do I need to pay use tax?

Generally, for contracting, if the project situs is in Hawaii, then the architect should be licensed for GET and the homeowner would not be subject to use tax. However, if the architect does not have a GET license, then the homeowner would be subject to use tax on the value of contracting imported into Hawaii at the rate of 4% (4.5% if applicable to the county surcharge).

25. I am a Hawaii general contractor. I hired an engineering firm, located in another state, who is not licensed for GET, to perform contracting work for a project located in Hawaii. The engineering firm did not perform any work in Hawaii. Do I have to pay the use tax?

Generally, for contracting, if the project situs is in Hawaii, then the engineering firm should be licensed for GET and the general contractor would not be subject to use tax. However, if the engineering firm does not have a GET license, then the general contractor would be subject to use tax at the rate of 4% (4.5% if applicable to the county surcharge).

Exemptions and Credits

26. I purchased a used car from an individual in California and imported it to Hawaii for my personal use. Do I have to pay use tax?

If the vehicle you purchased was the individual's personal car, then you do not need to pay use tax. The sale of goods by someone not in the business of selling the goods is called a casual sale. **Casual sales** are not subject to use tax and do not need to be reported on a use tax return.

Note: In order to register a vehicle purchased in a casual sale and imported into Hawaii, you will need to complete Form G-27, Motor Vehicle Use Tax Certification, to certify you are not subject to use tax and provide it to the Motor Vehicle Registration Office of the county that you are registering the car in. If your vehicle purchase was not a casual sale, then you are subject to the use tax. See question 17.

27. While visiting some friends outside of Hawaii, I was given some jewelry as a birthday present. Do I have to pay use tax when I return to Hawaii?

No. Gifts you receive are not subject to use tax and you do not need to report gifts on a use tax return.

Caution: Imported goods you purchase with money given to you as a gift is subject to use tax. See question 31 and Appendix III for more information.

28. I am moving to Hawaii. Do I have to pay use tax on my household goods that I ship to Hawaii?

Your household goods are not subject to use tax and do not need to be reported on a use tax return if you meet all of the following conditions:

- a. You acquired the goods outside Hawaii;
- b. You were not a resident of Hawaii when you acquired the goods;
- c. You acquired the goods for use outside Hawaii; and
- d. You made substantial use of the goods outside Hawaii.

If you acquired the goods **less** than three months before they are imported to Hawaii, then you are subject to use tax because the goods are treated as though they were acquired for use in Hawaii.

29. I am a contractor working on a project in Hawaii. To complete the project, I am importing a specialized machine for six months from my main location in another state. Do I have to pay use tax?

No. Temporary use property is not subject to use tax and does not need to be reported on a use tax return (Form G-26.) The property must be imported for temporary use and not for sale and cannot be perishable or quickly consumable. Temporary use means the property is located in and used in Hawaii for **365 days or less**.

See Appendix I for a complete list of exclusions.

30. I import goods for resale at wholesale and retail. How do I figure out my use tax deduction for goods imported for resale at wholesale if at the time I import the goods, I do not know if I will resell the goods at wholesale or retail?

You may use the direct cost method, the percentage of wholesale sales to total sales method, or the gross profit

percentage method to figure out your deduction. If none of these methods reflect your correct tax liability, then you may ask the Department to approve another method. See Appendix II of this brochure for more information.

31. I purchased an item in another state and paid that state's sales tax. Do I have to pay use tax when I bring the item back to Hawaii?

Sales or use tax paid to another state for goods, intangibles, services, or contracting may be **credited** against Hawaii use tax due for the same goods, intangibles, services, or contracting imported to Hawaii. The credit is the lesser of the sales or use tax paid to the other state or the Hawaii use tax due on the same imported goods, intangibles, services, or contracting.

Note: The sales tax you paid on any item may only be used to offset the use tax on that item. Any excess sales tax paid may not be used to offset the use tax due on the landed value of a different item, nor would it be refunded. Information on claiming this credit is found in Appendix III of this brochure.

Registration & Licensing

32. Our company is not located in Hawaii. We sell goods to customers throughout the United States, including Hawaii, through our website and mail order catalog. Do we need to register?

If you have nexus with Hawaii, then you are required to register with the Department for a GET license. In general, nexus can be established through physical presence such as having an office, employees or representatives, inventory or other goods in Hawaii, or providing services in Hawaii such as installation, training, maintenance, or repair services. For more information, see the brochure "An Introduction to the General Excise Tax." Once nexus is established, then all your transactions in Hawaii are subject to Hawaii taxes. Act 41, Session Laws of Hawaii 2018, provides that a person is engaging in business in the State, regardless of whether the person is physically present in the State, if the person has gross income of \$100,000 or more in the State or has entered into 200 or more transactions in the State in the current or preceding calendar year. For more information see Tax Announcement No. 2018-10.

If you do not have nexus with Hawaii, then you are not required to register for a license since you are not subject to GET. Even if you are not required to register, you may voluntarily register for the **seller's collection** of the use tax. This benefits your **nonbusiness** customers by relieving them of the responsibility to individually report and pay use tax due to the State on their purchases from you. If you register for seller's collection, you do not have to collect use tax from your Hawaii **business** customers since they are required to report any use tax due on their general excise/use tax returns.

33. How do I register for the use tax?

You may register for the use tax by completing Form BB-1, State of Hawaii Basic Business Application. Your application may be submitted online through our website at **hitax.hawaii.gov**, by mail, or in person at any district tax office. The use tax registration options are discussed below.

GET/Use Tax

If you are a business that is required to register, complete Form BB-1, State of Hawaii Basic Business Application, and select "General Excise/Use" to register for a GET license. When you register for GET, you will automatically be registered for use tax. The registration fee is \$20 for a GET license. Taxpayers with a GET license should report their use tax on Forms G-45 and G-49. These forms are available online at **tax.hawaii.gov** or may be picked up from any district tax office.

Submit applications online through our website at **hitax.hawaii.gov** or through the Hawaii Business Express website at **hbe.ehawaii.gov**, by mail, or in person at any district tax office.

You may also file your application with one of the Department of Commerce and Consumer Affairs' Business Action Centers.

Seller's Collection

If you are a business that is not required to register, but want to voluntarily register to collect use tax from your Hawaii nonbusiness customers, complete Form BB-1 and select "Seller's Collection." There is no registration fee for registering for seller's collection.

Submit applications online through our website at **hitax.hawaii.gov** or by mail.

Nonbusiness Taxpayers

If you are an individual, who is not in business, and you **occasionally** need to report and pay use tax, then you do not need to register. You may report and pay use tax using Form G-26 or by sending a letter to the Department (see question 39.) For example, an individual who occasionally purchases goods online from an unlicensed retailer for personal use would fall into this category.

If you are an individual, who is not in business, and you **frequently** need to report and pay use tax, complete Form BB-1 and select “Use Tax Only” to register for a use tax license. For example, an individual who frequently purchases goods online from an unlicensed retailer for personal use would fall into this category. These taxpayers should file Form G-26.

34. Is there a registration fee for use tax?

No. There is no registration fee if you are registering for seller’s collection or use tax only.

35. How long does it take to process my application?

Once your application is processed, you will be issued your Hawaii Tax Identification Number within a few business days if you applied online through Hawaii Business Express; two to four business days if you applied online through our website; the same day if you applied in person at a district tax office; or within three to four weeks if you mailed or dropped off your application.

36. I already have a GET license. Do I need to amend my application to add the use tax?

No. You were automatically registered for use tax when you registered for GET. Your Hawaii Tax Identification Number is used to report both GET and use tax.

37. How do I make changes to my application form?

Changes to your address may be made on the Change of Address Form (Form ITPS-COA).

Other changes such as changes to the taxpayer’s name or business name, adding or deleting partners or corporate officers, etc., are made on Form BB-1.

38. How do I cancel my use tax license?

Submit the Notification of Cancellation of Tax Licenses and Tax Permits (Form GEW-TA-RV-1) to the Department.

Tax Forms & Filing Requirements

39. What form do I use to report use tax?

GET/Use Tax

If you have a GET license, use Forms G-45 (periodic GET/Use tax return) and G-49 (annual GET/Use tax return) to report and pay your use tax. Form G-45 is due on the 20th day of the month following the close of your monthly, quarterly, or semiannual filing period. Form G-49 is due on the 20th day of the fourth month following the close of your tax year. See the instructions for Forms G-45 and G-49 for more information.

Seller's Collection

If you registered for seller's collection, use Form G-45 to report and pay the 4% (4.5% if applicable to the county surcharge) use tax collected from your Hawaii nonbusiness customers. Form G-45 is due on the 20th day of the month for the previous month's sales. Quarterly, semiannual and annual filings are not permitted. You do not need to file Form G-45 for the months in which no use tax was collected.

Nonbusiness Taxpayers

If you are registered for use tax only, use Form G-26 to report and pay your use tax. Form G-26 is due on the 20th day of the month after the goods, intangibles, services, or contracting are imported into the State. Quarterly, semiannual and annual filings are not permitted. You do not need to file Form G-26 for the months in which you are not subject to use tax. Do not file Forms G-45 and G-49.

If you did not register for use tax because you only need to report and pay use tax occasionally, use Form G-26 to report and pay your use tax. Form G-26 is due on the 20th day of the month after the goods, intangibles, services, or contracting are imported into the State. Do not file Forms G-45 and G-49.

You can also send a letter to the Department with your payment. The letter must contain:

- a. Your name;
- b. Your social security number;
- c. Month and year of importation to Hawaii;
- d. Taxation district into which you imported goods, intangibles, services, or contracting;
- e. Landed value of goods, intangibles, services, or contracting;
- f. The amount of use tax due; and
- g. If you are importing a motor vehicle, include the vehicle's make, model, year, and vehicle identification number along with documentation (for example, copies of the vehicle purchase invoice, freight bill, etc.) to support the calculation of the landed value of the motor vehicle.

40. Do I need to report my use tax exemptions?

Yes. If you are claiming any exemptions on Form G-45, Form G-49, or both, then you must also complete Schedule GE, General Excise/Use Tax Schedule of Exemptions and Deductions, and attach it to your GET/Use tax return. If you are filing Form G-26, Schedule GE is not required.

41. Where do I file my tax returns?

Your completed tax returns must have an original signature, be dated, and be submitted with your payment to the Department. The mailing addresses are listed on the forms.

Forms G-45 and G-49 can be filed electronically through the State's Internet portal at **hitax.hawaii.gov**.

In addition, for taxable years beginning on or after January 1, 2020, if your GET liability exceeds \$4,000 annually, Forms G-45 and G-49 will be required to be filed electronically unless a waiver is obtained by filing Form L-110. A penalty of 2% of the tax due will be assessed if a taxpayer who is required to file electronically fails to do so. Act 66, Session Laws of Hawaii 2018, amends section 231-8.5, Hawaii Revised Statutes (HRS), to enable the Department to require certain taxpayers to file electronically. For more information, see Department of Taxation Announcement No. 2019-16.

42. What happens if I do not pay my use tax on time?

Penalties and interest are assessed on any tax that is not paid on time.

If the tax return is filed after the due date, the penalty is assessed on the tax due at the rate of 5% per month, or part of a month, up to a maximum of 25%.

If the tax return is filed on time but no payment or an insufficient payment is made, a penalty of 20% of the unpaid tax will be assessed if it is not paid within 60 days of the due date of the tax return.

Interest is assessed at the rate of 2/3 of 1% per month or part of a month, on any unpaid taxes and penalties.

If you are required to file electronically and fail to do so or if you are required to pay by EFT and do not timely pay by EFT, a penalty of 2% is assessed on the amount of the tax due.

Important: Payments are applied to fees first, then interest, penalty, and then the tax. Contact the Department if you need help calculating penalty and interest charges.

Amended Returns

43. What should I do if I made a mistake on my use tax return?

File an amended tax return to correct any mistakes. If correcting the error results in a tax credit, the credit (noted on the credit to be refunded line) will be refunded to you. If you have a balance due, it must be paid with your amended tax return.

GET/Use Tax

If you have a GET license and you made an error on your periodic tax return (Form G-45), report the correct amounts when you file your annual return (Form G-49). Another option is to file an amended periodic tax return by using Form G-45 and selecting “Amended” at the top of the form. An amended periodic tax return may only be filed if your annual tax return for that tax year has not yet been filed. If you report the correct amounts on Form G-49, it is not necessary to file an amended periodic return (Form G-45).

If you made an error on your annual tax return, file an amended annual tax return by using Form G-49 and selecting “Amended” at the top of the form.

Seller's Collection

If you registered for seller's collection and you made an error on your periodic tax return (Form G-45), file an amended periodic tax return by using Form G-45 and selecting "Amended" at the top of the form.

Nonbusiness Taxpayers

If you made an error on your use tax return (Form G-26), file an amended use tax return by using Form G-26 and selecting "Amended" at the top of the return.

44. How does paying my use tax affect my State income tax?

The use tax that you pay may not be taken as a credit against your income tax liability. However, if you are in business, the use tax may be taken as a business expense deduction.

45. Where can I get tax forms and instructions?

Tax forms and instructions are available online at **tax.hawaii.gov** or may be picked up from any district tax office. You may also contact the Taxpayer Services Branch if you would like a form mailed to you. Our contact information is provided to you on the back of this brochure.

Appendix I

Imported Goods, Intangibles, Services, or Contracting Which is Not Reported on Use Tax Returns

The following types of goods, intangibles, services, or contracting are not subject to the use tax. Do **not** include them in the total landed value of goods, or value of services and contracting reported on your return.

1. Property other than goods, intangibles, services, or contracting (for example: currency, stocks, bonds, patents, and licenses).
2. Newspapers and other periodical publications purchased on a subscription plan, that qualify for the second class mail rate.
3. Goods not perishable or quickly consumable imported into Hawaii for temporary use (not sale), and which is not intended to be kept permanently in the State. Generally, property remaining in Hawaii for 365 days or less is deemed in the State for temporary use. Temporary use means the property is located in and used in Hawaii for 365 days or less.
4. Goods received solely as a gift.
5. Goods examined and then returned, such as goods that are returned after a trial period.
6. Goods that are imported by the owner of vessels engaged in interstate or foreign commerce and that are used as ship stores for the vessels.
7. Household goods, personal effects, and private automobiles imported into Hawaii for nonbusiness use by a person who 1) acquired them outside Hawaii; 2) acquired them while the person was not a Hawaii resident; 3) acquired the goods for use outside of Hawaii; and 4) made actual and substantial use of the goods outside of Hawaii. If the article was acquired less than three months before it was imported, then it is presumed to have been purchased for use within Hawaii and that the actual and substantial use test has not been met.
8. Aircraft kept solely for renting to lessees using the aircraft for commercial transportation of passengers or goods.
9. The acquisition or importation of aircraft or aircraft engines by any lessee engaged in interstate air transportation.
10. Oceangoing vessels that are used by a public service company to provide transportation from one point in the State to another.
11. Material, parts, or tools imported or purchased by a person subject to GET which are used for aircraft service and maintenance, or for the construction of an aircraft service and maintenance facility.

12. The use of goods, intangibles, services, or contracting imported by foreign diplomats and consular officials holding cards issued by the United States Department of State granting them an exemption from State taxes.
13. Any goods, intangibles, services, or contracting which cannot legally be taxed under the Constitution or laws of the United States.
14. Goods, intangibles, services, or contracting purchased from a seller who was subject to GET upon the sale or transfer of the goods, intangibles, services, or contracting to the user.
15. Goods, intangibles, services, or contracting which has previously been subject to the Hawaii use tax.
16. Aircraft or marine vessels acquired by sale or lease from a seller or lessor subject to GET on gross income from the sale or lease of the aircraft or marine vessel.
17. Intoxicating liquor, cigarettes and tobacco products imported into the State and sold to any person or common carrier in interstate commerce, whether oceangoing or air, for consumption out-of-state by such person, crew, or passengers on the shipper's vessels or airplanes.
18. Vessels constructed under section 189-25, HRS, prior to July 1, 1969.
19. Goods, intangibles, services, or contracting exempted from GET for certain scientific contracts with the United States, and for certain low and moderate income housing projects.
20. Goods exempted from GET in regards to air pollution control facilities.

Appendix II

Exemptions and Deductions

A. Tangible Personal Property (Goods)

Hawaii's Use Tax Law allows taxpayers to exempt the landed value of goods in three situations. In each case, the landed value must be included in the total landed value reported on use tax returns and then deducted. These exemptions are only applicable if you are subject to GET in addition to the use tax. As a result, these exemptions may only be claimed on the periodic and annual general excise/use tax returns (Form G-45 and Form G-49). The three exemptions are listed below.

1. Goods imported by a wholesaler or jobber for sale at wholesale.
2. Materials or commodities that are imported by a manufacturer and incorporated into a finished or saleable product (including the container or package in which the product is contained) in such a way that they remain perceptible to the senses. In addition, the gross income derived from the sale of the finished or saleable product into which the materials or commodities are incorporated must be subject to GET as a manufacturing or wholesaling activity.
3. Commodities, materials, items, services, or living things, such as fertilizer, seedlings, hatching eggs, breeding stock, feed, bait for catching fish, etc., which are imported into Hawaii by a producer or an agricultural or fishing cooperative association for sale to a licensed producer, or a licensed person, provided that the gross income derived from the sale must be subject to GET as a wholesaling activity.

Because you may not know whether the goods imported will be sold at wholesale or retail at the time it is imported, the Hawaii Administrative Rules (HAR) require that the value of all imports for sale be reported and the use tax at the rate of 0.5% paid at the time they are imported. When sold, a claim for a refund of the use tax paid on the value of imports sold at wholesale may be made with the Department by filing amended periodic or annual GET returns (Form G-45 and Form G-49).

As an alternative, you may elect to choose one of four methods to compute the landed value of goods imported for sale at wholesale. The amount computed then can be deducted from the total landed value at the time it is reported so that you only pay the actual use tax due. You do not have to pay the use tax on the entire landed value

first and then go through the process of claiming a refund on an amended tax return.

The four prescribed methods described below are detailed in section 18-238-2(h), HAR.

Method 1 - The Direct Cost Method (Specific Identification)

The first method used to compute the deduction allowed on Form G-45 or G-49 is the direct cost method. Under this method, you deduct in column b the value of the items actually sold at wholesale. In order to use this method, you must be able to accurately ascertain from your records, category by category, the specific cost of the items on which you are subject to GET as a manufacturing or wholesaling activity that you included in imports and purchased from unlicensed sellers for the month.

Method 1 Example

1.	Landed Value of All Imports for Resale (Line 5, Column a)	\$50,000
2.	Landed Value of Automobiles and Accessories Included in Item 1 Sold at Wholesale	
	Model "X" Sedans	\$4,000
	Model "Y" Delivery Trucks	6,000
	Model "Z" Station Wagons	2,000
	Accessories	<u>1,000</u>
	Landed Value to be Excluded (Line 5, Column b)	<u>\$13,000</u>
3.	Balance Subject to the Use Tax (Line 5, Column c)	<u>\$37,000</u>

Method 2 - Percentage of Wholesale Sales to Total Sales Method

The second method used to compute the deduction allowed on Form G-45 or G-49 is the percentage of wholesale sales to total sales method. Under this method, you first need to determine what percent of your total sales for the month are sales at wholesale. To obtain this percentage, you divide your gross income from wholesaling (line 1, column a) by the gross income from both wholesaling and retailing (line 1, column a, plus line 8, column a). Next, multiply the total value of all imports for sale (line 5, column a) by this percentage. The result is the value of imports for sale at wholesale which can be deducted in column b of line 5.

Method 2 Example

1.	Landed Value of All Imports for Resale (Line 5, Column a)	\$50,000
2.	Gross Income from Wholesaling (Line 1, Column a)	\$15,000
3.	Gross Income from Retailing (Line 8, Column a)	<u>85,000</u>
4.	Total Gross Income from All Sales	<u>\$100,000</u>
5.	Percentage of Wholesale Sales to Total Sales ($\$15,000 \div \$100,000$)	15%
6.	Landed Value to be Excluded ($\$50,000 \times .15$) (Line 5, Column b)	<u>7,500</u>
7.	Balance Subject to the Use Tax (Line 5, Column c)	<u>\$42,500</u>

Method 3 - Gross Profit Percentage Method

The third method used to compute the deduction allowed on Forms G-45 and G-49 is the gross profit percentage method. First, determine your average gross profit percentage by dividing the excess of the sales price over the cost of the imported item by the sales price, and then computing the average of all those percentages. Second, multiply your gross income derived from sales at wholesale (line 1, column a) by the average gross profit percentage to get your gross profit on wholesale sales. Third, subtract your gross profit on wholesale sales from your gross income from sales at wholesale. The result is the cost of items sold at wholesale which can be deducted in column b of line 5.

Method 3 Example

1.	Landed Value of All Imports for Resale	\$50,000
2.	Gross Income from Wholesaling of Imported Items (Line 1, Column a)	\$10,000
3.	The Average Gross Profit Percentage as Determined from the Taxpayer's Records	<u>40%</u>
4.	Gross Profit on Wholesale Sales ($\$10,000 \times .40$)	<u>\$4,000</u>
5.	Landed Value to be Excluded ($\$10,000 - \$4,000$) (Line 5, Column b)	<u>6,000</u>
6.	Balance Subject to Use Tax (Line 5, Column c)	<u>\$44,000</u>

Method 4 - Other Methods

The fourth method is not a Departmentally specified method. Rather, you are allowed to use any other method which will reflect your correct tax liability. If you choose this option, your proposed method must first be submitted to the Department for approval.

Copies of section 18-238-2(h), HAR, may be obtained from the Department's website or from any district tax office.

B. Services and Contracting

Hawaii's Use Tax Law allows taxpayers to exempt the value of services and contracting in four situations. In each case, the value must be included in the total value reported on use tax returns and then deducted. These exemptions are only applicable if you are subject to GET and the use tax. As a result, these exemptions may only be claimed on the periodic and annual general excise/use tax returns (Forms G-45 and G-49). The four exemptions are listed below.

1. Imported services or contracting that become identifiable elements (excluding overhead) of a product or service which the importer or purchaser resells at the 0.5% GET rate.
2. Services or contracting that are imported by a manufacturer and that become identifiable elements (excluding overhead) of a finished or saleable product (including the container or package in which the product is contained). Also, the gross income from the sale of the finished or saleable product in which the services or contracting become identifiable elements (excluding overhead) must be subject to GET as a wholesaling activity.
3. Services or contracting imported for resale where the contracting or services are for resale, consumption, or use outside the State.
4. Contracting imported or purchased by a contractor, who is licensed under the GET Law, engaged in business as a contractor, and subject to the tax imposed under section 238-2.3, HRS.

Appendix III

Credit for Sales Tax Paid to Another State

The Use Tax Law provides for a credit against your use tax liability for sales or use taxes paid to another state on that goods, intangibles, services, or contracting. This credit is goods, intangibles, services, or contracting specific; that is, the sales or use tax paid on a specific goods, intangibles, services, or contracting imported may only be used to offset the use tax due on that same property, intangibles, services, or contracting. Any excess sales tax paid cannot be used to offset the use tax due on a different goods, intangibles, services, or contracting. Therefore, the maximum amount of credit which you can claim is the lesser of the sales tax paid on the specific goods, intangibles, services, or contracting imported or the use tax due on the landed value or value of the same imported goods, intangibles, services, or contracting.

Caution: A tax paid for manufacturing, extraction, and the like, which is not a sales or use tax may **not** be taken as a credit against the Hawaii use tax due.

Although the use tax return for reporting imports for consumption (Form G-26) has a special line for claiming this credit, the periodic and annual general excise/use tax returns (Forms G-45 and G-49) do not. As a result, the following special steps should be taken to claim the credit when reporting the use tax on the periodic and annual general excise/use tax returns.

- STEP 1 - Determine the exact amount of use tax due on the goods, intangibles, services, or contracting imported.
- STEP 2 - Compare the use tax due with the sales or use tax paid to another state on that goods, intangibles, services, or contracting. Divide the lesser of the two amounts by .005 if the landed value or value of that goods, intangibles, services, or contracting was reported on line 5, or by .04 if the landed value or value of that goods, intangibles, service, or contracting was reported on line 16.
- STEP 3 - Enter the amount computed in step 2 above in column b of line 5 or 16 as applicable. Subtract this amount from column a of the same line and enter the result in column c. Multiply column c by the rate in the column to the right of column c and enter the result in column d. This is the use tax which exceeds the sales tax paid.

Example

Mary Smith purchased a specialized machine for use in her business for \$500 from an out-of-state vendor not doing business in Hawaii. In addition, she had to pay \$15 (3%) in state sales tax and \$50 in shipping, handling and insurance charges. She will report the import on line 16 on her periodic GET return, Form G-45.

STEP 1 - Sales Price (Does not include sales tax paid)	\$500
Shipping, Handling and Insurance	50
Total Landed Value	<u>\$550</u>
Use Tax Rate	<u>4%</u>
USE TAX DUE	<u><u>\$22</u></u>

STEP 2 - The sales tax paid (\$15) is less than the use tax due (\$22).

Calculate the amount of deduction needed to equal the amount of sales tax paid. $\$15 \div .04 = \375

STEP 3 - Line 16, of Mary's periodic general excise tax return will be completed as follows:

16. Landed Value of Imports for Consumption	550	375	175
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In this example, please note that \$175 multiplied by .04 is the additional \$7 of use tax due and is the difference between the use tax due and the credit for state sales or use tax paid to another state (\$22 - 15 = \$7).

STEP 4 - Line 19, the county surcharge will be completed as follows:

PART IV - COUNTY SURCHARGE — Enter the amounts from Part II, line 17, Column c attributable to each county. Multiply Column c by the applicable county rate(s) and enter the total of the result(s) on Part VI, line 27, Column e.

19. Oahu (rate = .005)	550		550
27. COUNTY SURCHARGE TAX. See Instructions for Part IV. Multi district complete Form G-75 ...27.			2.75
28. TOTAL TAXES DUE. Add column e of lines 24 through 27 and enter result here (but not less than zero). If you did not have any activity for the period, enter "0.00" here28.			2.75

In the above example, you would report the full gross amount for the county surcharge tax (\$550 X .005 = \$2.75).

For More Information, Forms, Publications, & Assistance

Website: tax.hawaii.gov

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Regular office hours are Monday through Friday, except State holidays, as follows:

Oahu, Hilo, and Kauai offices: 7:45 A.M. to 4:30 P.M.

Maui, Molokai, and Kona offices: 8:00 A.M. to 4:00 P.M.