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State of Hawaii

Department of Taxation

General Excise Tax Memorandum No. 1

(Revised and updated to conform with Hawaii Revised Statutes)

TO ALL MANUFACTURERS AND PRODUCERS TAXABLE AT THE ONE HALF OF ONE PER CENT GENERAL EXCISE TAX RATE, WHO SELL THEIR PRODUCTS FOR DELIVERY OUTSIDE OF THE STATE, OR WHO SHIP OR TRANSPORT THEIR PRODUCTS OUT OF THE STATE WITHOUT SALE HAVING BEEN MADE.

Subject: Determination of the Tax Base

Scope of this memorandum. This memorandum relates to the determination of the tax base to be used when a manufacturer or producer who is taxable at the one half of one per cent general excise tax rate ships or transports his products out of the State without sale having been made, or sells his products for delivery outside the State (for example, consigned to a mainland purchaser via common carrier f.o.b. Honolulu).

This memorandum applies to all products taxable at the one half of one per cent rate which enter interstate or foreign commerce.

Tax base. Section 237-13(1)(B) of the general excise tax law provides that:

"(B) The measure of the tax on manufacturers is the value of the entire product, for sale, regardless of the place of sale or the fact that deliveries may be made to points outside the State."

Section 237-13(1)(C) of the general excise tax law provides as follows:

"(C) If any person liable for the tax on manufacturers shall ship or transport his products, or any part thereof, out of the State, whether in a finished or unfinished condition or shall sell the same for delivery outside of the State (for example, consigned to a mainland purchaser via common carrier f.o.b. Honolulu), the value of the products in the condition or form in which they exist immediately before entering interstate or foreign commerce, determined as hereinafter provided, shall be the basis for the assessment of the tax imposed by this paragraph (1).¹ This tax shall be due and payable as of the date of entry of such products into interstate or foreign commerce, whether the products are then sold or not. The department of taxation shall determine the basis for assessment, as provided by this paragraph, as follows:

1 [subsection]

"(i) If the products at the time of their entry into interstate or foreign commerce already have been sold, the gross proceeds of sale, less the transportation expenses, if any, incurred in realizing the gross proceeds for transportation from the time of entry of the products into interstate or foreign commerce, including insurance and storage in transit, are the measure of the value of the products.

"(ii) If the products have not been sold at the time of their entry into interstate or foreign commerce, and in cases governed by paragraph (i),² in which the products are sold under circumstances such that the gross proceeds of sale are not indicative of the true value of the products, the value of the products constituting the basis for assessment shall correspond as nearly as possible to the gross proceeds of sales for delivery outside the State, adjusted as provided in paragraph (i),³ or if sufficient data are not available, sales in the State, of similar products of like quality and character and in similar quantities, made by the taxpayer (unless not indicative of the true value) or by others. Sales outside the State, adjusted as provided in paragraph (i),⁴ may be considered when they constitute the best available data. The department shall prescribe uniform and equitable rules for ascertaining such values.

"(iii) At the election of the taxpayer and with the approval of the department, the taxpayer may make his returns under paragraph (i)⁵ even though the products have not been sold at the time of their entry into interstate or foreign commerce.

"(iv) In all cases in which products leave the State in an unfinished condition the basis for assessment shall be adjusted so as to deduct such portion of the value as is attributable to the finishing of the goods outside the State."

The same principles apply to producers of agricultural products and the like as apply to manufacturers.

If the products already have been sold at the time of their entry into interstate or foreign commerce the gross proceeds of sale are the measure of the value of the products and must be returned for taxation in the usual case. Except when products leave the State in an unfinished condition, the only deductible expenses are those incurred after entry of the products into interstate or foreign commerce, for freight

2 [subparagraph (i)]

3 [subparagraph (i)]

4 [subparagraph (i)]

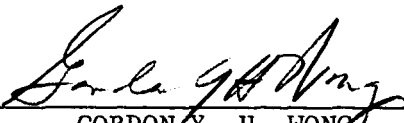
5 [subparagraph (i)]

or parcel post, and for insurance in transit (also storage in transit to delivery point), when these expenses are borne by the manufacturer or producer and are not reimbursed by or collected from the buyer as an addition to the reported sales proceeds. These deductions are to be in the amount actually incurred.

Even though the products have not been sold at the time of their entry into interstate or foreign commerce the tax base may be determined in the same way as when sale already has occurred, if the taxpayer so elects and the department approves. All manufacturers and producers who ship or transport their products out of the State without sale having been made should communicate with the department and indicate whether or not they make this election. After the department has received information as to the promptness with which sales are made after the products leave the State and other information as needed in the particular instance, the department will inform the manufacturer or producer as to how he is to report such products.

In all cases in which products leave the State in an unfinished condition, the manufacturer or producer should consult with the department concerning his right to an adjustment.

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