



TAX FACTS 2001-2

TAXATION OF AGRICULTURAL AND AQUACULTURAL PRODUCERS IN HAWAII

This publication provides general information about the application of the general excise, use, fuel, and net income taxes to agricultural and aquacultural producers in Hawaii. Agricultural producers are in the business of raising, producing, and selling agricultural products or natural resource products such as floricultural, horticultural, viticultural, forestry, nut, coffee, dairy, livestock, poultry, bee, animal, and other farm, agronomic, or plantation products. Aquacultural producers are in the business of fishing or raising aquacultural products and selling fish or aquacultural products.

This publication refers to specific agricultural and aquacultural products for discussion purposes. Tax treatment is not unique to that specific product. You may substitute that specific product with another agricultural or aquacultural product.

General Excise Tax

1 What is the general excise tax (GET)?

GET is a tax imposed on business activity in the state and is often called a gross income tax because the computation is based on the business' total gross income and not on the business' net profit. For basic information on GET, see the brochure "An Introduction to the General Excise Tax" and Tax Facts 37-1, "General Excise Tax (GET)."

2 Are agricultural/aquacultural producers subject to GET?

Yes, they are subject to GET.

3 How do I get a GE license and file GET returns?

To obtain a GE license, complete Form BB-1, State of Hawaii Basic Business Application, and pay a one-time \$20 registration fee to the Department of Taxation (Department). You can apply at any district tax office, by mail or online through our website at: hitax.hawaii.gov.

Use Forms G-45 (periodic return) and G-49 (annual return) to report and pay your general excise, use and county surcharge taxes. See the form instructions for more information.

4 I sell my agricultural/aquacultural products to a business who resells these products to their customers. Where do I report these sales on my GET returns?

Since the agricultural/aquacultural products were sold to a retailer for resale, your tax rate is 0.5% and reported as a wholesale activity on Forms G-45 and G-49, line 1.

5 If I sell agricultural/aquacultural products to customers for their use, where do I report these sales on my GET returns?

These are retail transactions taxed at 4% (plus any applicable county surcharge) and reported as retailing activities on Form G-45 and G-49, line 8.

6 If I sell my agricultural/aquacultural products to a state agency, is this exempt from GET?

There are no exemptions for sales to a state agency. Your sales to the state agency is a retail transaction and taxed at 4% (plus any applicable county surcharge) and reported as retailing activities on Forms G-45 and G-49, line 8.

However, sales of tangible personal property to the federal government are exempt from GET.

7 Are my sales of products shipped outside the State exempt from GET and how are they reported on my GET returns?

Yes. Income from sales are exempt from GET if the products are delivered outside the State for use, consumption, or resale. The customer must provide you with a completed Form G-61, Export Exemption Certificate for General Excise and Liquor Taxes. Retain Form G-61 for your records.

Exempt sales are reported on Forms G-45 and G-49, line 8, Column a, and exemptions on line 8, Column b. Use Schedule GE to report your allowable exemptions and attach it to Forms G-45 and G-49. If you do not attach Schedule GE, then your exemptions will be disallowed.

For more information, see Tax Information Release (TIR) No. 98-5, "General Excise Tax Exemption for Tangible Personal Property, Including Souvenirs and Gift Items, Shipped Out of the State."

8 Are agricultural/aquacultural products that are delivered to the airport for the tourist to take home (out of state) exempt from GET?

No, because delivery occurred in Hawaii. Since the agricultural/aquacultural products will be consumed or used by the tourists, these sales are retailing activities, taxed at the rate of 4% (plus any applicable county surcharge), and reported on Forms G-45 and G-49, line 8.

9 Other farmers pay me to spray or harvest their agricultural products. Are these payments subject to GET?

The payments could be treated as either employee wages or business income. If you are being paid as an employee (receiving a W-2), then you are not subject to GET.

If you are not an employee (receiving Form 1099-NEC), and the payments are treated as business income (services) then you are subject to GET.

Generally, services are subject to GET at the rate of 4% (plus any applicable county surcharge) and reported on Forms G-45 and G-49, line 9, Column a. However, qualified services may be taxed at the wholesale tax rate of 0.5% and reported on Forms G-45 and G-49, line 4. If your services qualify as wholesale, the farmers must provide you with a completed Form G-82, Certificate for Sales of Goods and Services which Qualify as Wholesale Transactions and Amusements, and you must retain this form for your files.

10 I test product samples for an out-of-state firm and I send them a report for use outside Hawaii. Am I subject to GET?

No, gross proceeds derived from services used or consumed outside the State are not subject to GET.

Income from services is reported on Forms G-45 and G-49, line 9, Column a, and the exported services exemption is reported on line 9, Column b. Be sure to check the proper section and line for the exemption on Schedule GE and attach it to Forms G-45 and G-49.

Out-of-state customers must provide you with a completed Form G-61, Export Exemption Certificate for General Excise and Liquor Taxes. Retain Form G-61 for your records.

11 I rent farmland (lease) from a landowner (lessor). I (sublessor) rent (sublease) the land to another farmer (sublessee). Is the rent I collect from the sublessee subject to GET?

Yes, the money you collect from the sublessee is subject to GET. Generally, leasing activities are subject to GET at the rate of 4% (plus any applicable county surcharge). However, you may qualify for a sublease deduction. You may be able to pay 4% GET on the money collected from the sublessee minus the amount of the sublease deduction. The sublease deduction is not subject to the county surcharge.

The sublease deduction is calculated on Form G-72, Sublease Deduction Worksheet, by taking the lesser of the following:

- (1) Allocation of the rent you paid to the lessor for the subleased property multiplied by 87.5%, or
- (2) Rent paid by the sublessee to you.

To qualify for a sublease deduction, the following requirements must be met:

- (1) The lease and sublease are in writing, and
- (2) The lessor certifies that it is subject to GET at the rate of 4% (plus any applicable county surcharge) on the rent you paid to it. The certification is shown on Form G-71, General Excise Sublease Deduction Certificate.

For more information, see Tax Announcement No. 98-23, "Adoption of sections 18-237-16.5-01 to 18-237-16.5-07, Hawaii Administrative Rules (HAR), relating to the application of GET to written real property leases and the sublease deduction" and Forms G-71 and G-72.

Use Tax

12 What is use tax?

The use tax complements the GET. Use tax is a tax on imported tangible personal property (TPP), services, contracting, or intangibles in Hawaii purchased from those who are not licensed to do business in Hawaii.

Use tax is imposed on the landed value of the imported TPP and the value of the services, contracting, or intangibles. Landed value includes the price of the item, shipping, handling or delivery charges, insurance, and any other cost incurred to import the item into Hawaii. Value means the fair and reasonable cash value at the time of accrual of the tax. For more information on the use tax, see the brochure "An Introduction to the Use Tax."

13 Am I subject to use tax?

Yes, anyone who imports TPP, services, contracting or intangibles from an unlicensed vendor is subject to use tax.

14 How do I report and pay use tax?

There are three different ways you can report use tax.

- (1) If you have a GET license, use Forms G-45 and G-49 to report your use tax on either lines 5 or 16, whichever is applicable. Submit your payment with your GE return.
- (2) If you do not have a GET license, you may use Form G-26 to report and pay your use tax.
- (3) If you do not have a GET license, you may, in lieu of filing Form G-26, submit a letter to the Department with payment. The letter should contain the following information:
 - Purchaser's name and address
 - Purchaser's social security number
 - Month and year of importation into Hawaii
 - Taxation district into which you imported
 - Landed value of the imported TPP, services, contracting or intangibles
 - Amount of use tax due
 - If you are importing a motor vehicle you must include the vehicle's make, model year, and the vehicle identification number along with documentation to support the landed value.

15 Am I subject to use tax on my purchases in Hawaii?

No. Since you are purchasing goods or services from a licensed business in Hawaii, your purchases are not subject to use tax. See question 12 regarding imposition of the use tax.

16 Am I subject to use tax on out-of-state purchases?

Yes, you may be subject to use tax on the landed value of imported supplies if purchased from an out-of-state supplier who is not licensed to do business in Hawaii.

Purchased materials or commodities, such as farm chemicals, fertilizers, fish food, polyethylene mulch films, pond liners, etc., that are essential to planting, growth and nurturing of agricultural/aquacultural products are taxed at the 0.5% use tax rate on the landed value of the imported items. The 0.5% use tax rate also applies to purchases of packing materials for retail sales or shipments out of Hawaii.

Packing materials used to pack agricultural/aquacultural products that are sold at wholesale are not subject to use tax. See TIR No. 98-8.

However, items such as construction materials, equipment, repair parts, water quality analyses equipment, office supplies, safety equipment, etc., are taxed at the 4% (plus any applicable county surcharge) on the landed value of the imported items.

For more information, please refer to Tax Facts No. 95-1, "Use Tax."

17 If I paid sales or use tax to another State, am I still subject to use tax?

Yes, you are required to report and pay use tax. Sales or use tax paid to another State for goods or services may be credited against Hawaii use tax due for the same goods or services 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 property or services.

Report this deduction on Forms G-45 and G-49 in Column b on either lines 5 or 16 and on Schedule GE, General Excise/Use Tax Schedule of Exemptions and Deductions, checking the appropriate box. Schedule GE must be attached to your GET returns.

18 I send water samples to an unlicensed out-of-state vendor for analysis and receive a report. Am I subject to use tax?

Yes, use tax applies to imported services and contracting that are purchased from an out-of-state supplier who is not licensed

to do business in Hawaii. The value of the imported water quality analysis service is subject to 0.5% use tax, reported on Forms G-45 and G-49, line 5. See question 16.

Fuel Tax

19 Is my fuel purchase exempt from state and county fuel tax?

All fuel consumed by agricultural equipment while operating off public highways are eligible for a refund of fuel tax paid in excess of one cent per gallon. To file for a refund, complete Form M-36, Combined Claim for Refund of Fuel Taxes Under Chapter 243, HRS.

20 Does it matter if I purchase my fuel from a retail dealer or a fuel distributor?

No, you are still eligible for a refund. However, for an exemption on diesel oil or liquefied petroleum gas (LPG) purchased directly from a distributor, file Form M-38, Exemption Certificate. The distributor will not pass on the fuel tax.

21 What happens if I use my agricultural equipment on public highways after receiving a fuel tax refund?

You must pay fuel tax for fuel used on public highways by filing Form M-22, Quarterly Tax Return for Additional Fuel Taxes Due, and submit it with your payment to Hawaii Department of Taxation, P.O. Box 259, Honolulu, HI 96809-0259.

Income Tax

22 Are self-employed farmers subject to income tax on their Hawaii farming business?

Yes, income generated by Hawaii's farming business is subject to Hawaii's income tax. The amount reported on the federal tax return (adjusted for Hawaii income tax purposes) would be the amount reported on the Hawaii income tax return.

23 Can I get a tax credit for purchasing equipment?

The capital goods excise tax credit reimburses businesses for GET or use tax paid on the purchased or imported tangible personal property.

To claim this credit, the property must be depreciable and used in the farming business. The GET or use tax must be paid at the rate of 4% (plus any applicable county surcharge). The credit is equal to 4% of the eligible property cost. Complete Form N-312, Capital Goods Excise Tax Credit, and attach it to your Hawaii income tax return. The deadline to claim the credit is 12 months after the close of your taxable year.

For more information, see TIR Nos. 88-6, 88-8, and 89-4. For farm income averaging, use Form N-168. Forms and publications are available at the Department's website.

Where to Get Forms and Information

Website: tax.hawaii.gov

Telephone: 808-587-4242

Toll-Free: 1-800-222-3229

Telephone for the hearing impaired: 808-587-1418

Toll-Free for the hearing impaired: 1-800-887-8974

Tax Facts is a publication that provides general information on tax subjects of current interest to taxpayers and is not a substitute for legal or other professional advice. The information provided in this publication does not cover every situation and is not intended to replace the law or change its meaning. Furthermore, the information in this publication is subject to change without notice due to changes in the law or rules, judicial decisions, or changes in official Department positions.

For more information, visit the Department of Taxation's website at tax.hawaii.gov