



TAX FACTS 2017-2

Advertising and Display Requirements for Operators of Transient Accommodations

This Tax Facts provides information about the advertising and display requirements for operators of transient accommodations in Hawaii. For information about the Transient Accommodations Tax, see Tax Facts 96-2.

Transient Accommodations Basics

1 What is a transient accommodation?

A transient accommodation is an apartment, house, condominium, beach house, hotel room, suite, or similar living accommodation rented to a transient person for less than 180 consecutive days in exchange for payment in cash, goods, or services.

2 Who is an operator?

An operator is any person who furnishes transient accommodations. In situations where an owner of a unit hires a rental management company to carry out the day-to-day operations, including providing guests with access to the unit, cleaning the unit, and collecting payment, there is sometimes confusion over who is the operator. In these situations, the owner of the unit is the operator. The rental management company is merely an agent of the owner/operator. (See question 5 below for cases where the rental management company is also the operator of the transient accommodations.)

3 What is a “certificate of registration”? What is a “registration identification number”?

The certificate of registration is the paper copy of the document issued by the Department of Taxation (Department) on Form TA-4A, entitled “Transient Accommodations Tax Certificate of Registration.” The registration identification number, also commonly referred to as the transient accommodations tax license number, is the “Hawaii Tax I.D. number” that appears on your certificate of registration and is the number you are required to use to identify yourself on your transient accommodations tax returns.

4 Do I need a new certificate of registration? If so, how do I get one?

If you are an operator of a transient accommodation, you need a certificate of registration with a registration identification number. However, if you have been operating transient accommodations prior to 2016 and have been reporting and paying your transient accommodations taxes, you already have a certificate of registration with a registration identification number and do not need to register with the Department again.

If you are unsure whether you have registered as an operator of a transient accommodation and already have a registration identification number, you may search the tax licenses on the Department’s website at: <https://dotax.ehawaii.gov/tls/app>.

If you do not have a registration identification number, please complete Form BB-1, Basic Business Application, being sure to check “Transient Accommodations” and “General Excise/Use” in Boxes 22c and 22b.

If you already have a registration identification number but need to request a new copy of your certificate of registration, please contact Taxpayer Services at 808-587-4242 or toll-free at 1-800-222-3229, or log on to your account using Hawaii Tax Online at hitax.hawaii.gov.

5 Does a rental management company need a certificate of registration?

A rental management company does not need a certificate of registration if it is only carrying out the day-to-day rental operations on behalf of the owner/operator. If, however, the rental management company owns or leases units and intends to furnish them as transient accommodations, the rental management company needs its own certificate of registration. Whether a rental management company is merely carrying out the day-to-day operations for an owner/operator or is itself the operator of the transient accommodations, the rental management company is required to obtain a general excise license because it is engaged in business in Hawaii.

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

6 Are plan managers and resort time share vacation plans subject to the registration, display and advertising requirements?

Yes. However, this Tax Facts only addresses the requirements placed on operators of transient accommodations and not plan managers of resort time share vacation plans. If you are a plan manager and have questions about compliance with the display and advertising requirements, please contact the Rules Office at 808-587-1530.

Advertising Requirements: General Information

7 What are the advertising requirements?

All advertisements for transient accommodations and resort time share vacation interests, plans, and units must include the registration identification number of the operator or plan manager or an electronic link to the registration identification number. Also, unless the guest is provided the local contact's information before his or her stay, the advertisement must include the name, phone number, and email of a local contact.

8 Who is a local contact?

Local contact means an individual residing on the same island as the transient accommodation or an entity with a place of business and at least one employee, officer, partner, member, or other person working on behalf of the entity who is residing on the same island as the transient accommodation unit.

Please note that a local contact you hire may be subject to licensing or other requirements under real estate or consumer protection laws that are not enforced by the Department.

9 What qualifies as an advertisement?

An advertisement is any publication, whether digital or in print, that announces or provides information about renting a transient accommodation or time share. An advertisement may be online or in an app, such as a posting on a website, forum, social media account, or blog. An advertisement may also be printed in a magazine, newspaper, flyer, or brochure.

10 What are the fines for failing to comply with the advertising requirements?

Violation	Fines for Violation of the Advertising Requirements
1 st violation:	\$500 per day per transient accommodation or resort time share
2 nd violation:	\$1,000 per day per transient accommodation or resort time share
3 rd violation:	\$5,000 per day per transient accommodation or resort time share

The fines are per day and per unit. Accordingly, if you posted an advertisement without a registration identification number for 10 days, and this is the first citation you have received for that transient accommodation, you will be fined \$5,000.

11 Will I receive a warning before being cited?

If you fail to comply with the advertising requirements, the Department will first send you a written warning. If you fail to correct the violation within 15 days after the date of the written warning, the Department will issue you a citation with a fine. Only one written warning will be provided per person. If you have previously received a written warning, the Department will issue you a citation with a fine, even if this is your first violation for this particular unit.

Example 1: You received a written warning dated January 15 for failing to comply with the advertising requirements. After you received the written warning, you did not edit or remove the advertisement. It is now January 31. You will be subject to a fine of \$8,000 (\$500 x 16 days) because you failed to correct the violation within 15 days of the written warning.

Example 2: You received a written warning dated January 15 for failing to comply with the advertising requirements. You edited the advertisement to include the required information on January 30. You will not be subject to a fine because you corrected the violation within 15 days of the written warning.

Example 3: You received a written warning dated January 15 for failing to comply with the advertising requirements. You edited the advertisement to include the required information on January 30 and did not receive a citation. On April 1, you posted an advertisement for the same transient accommodation, but failed to include your registration identification number. Because you previously received a written warning, you will not receive another warning. You will be subject to a citation for a first violation and will be fined \$500 per day from April 1 that you are in violation.

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12 What is the difference between a citation for a first, second, and third violation?

You will receive a citation for a first violation if you have never received a citation for violating the advertising requirements for that same transient accommodation unit. You will receive a citation for a second violation if you previously received a citation for a first violation for violating the advertising requirements for the same transient accommodation. You will receive a citation for a third violation if you previously received a citation for a second violation for violating the advertising requirement for the same transient accommodation. Only one citation for violation of the advertising requirements will be issued for a particular transient accommodation within a 30-day period.

Example 4: You previously received a citation for a second violation of the advertising requirements. You are now in violation of the advertising requirements again for the same transient accommodation. You will be subject to a citation for a third violation and will be fined \$5,000 per day.

Example 5: You own two transient accommodations, Unit A and Unit B. You previously received a citation for violating the advertising requirements for Unit A. You recently posted an advertisement for Unit B, but failed to include the registration identification number. You will be subject to a citation for a first violation for Unit B and will be fined \$500 per day.

Example 6: You previously received a citation for a first violation of the display requirements (discussed below). You are now in violation of the advertising requirements for the same transient accommodation. You will be subject to a citation for a first violation and will be fined \$500 per day.

Display Requirements Inside Units

13 What are the display requirements?

The following must be displayed in every place for which a certificate of registration is issued: (1) the certificate of registration or a notice stating where the registration may be viewed and (2) the name, phone number, and email address of the local contact. You may display a copy of the certificate of registration; it does not need to be the original. Please also note these items must be conspicuously displayed and cannot be placed in a difficult-to-find location such as an unmarked drawer or behind a locked door the guest cannot access.

14 Who must comply with the display requirements?

The display requirements apply to operators and plan managers.

15 What are the fines for failing to comply with the display requirements?

Violation	Fines for Violation of the Display Requirements
1 st violation	\$500 per day per transient accommodation or resort time share
2 nd violation	\$1,000 per day per transient accommodation or resort time share
3 rd violation	\$5,000 per day per transient accommodation or resort time share

The fines are per day and per unit. Accordingly, if you receive a citation for failing to display a certificate of registration in one of your transient accommodations for 10 days, and this is the first citation you have received for that transient accommodation, you will be fined \$5,000.

16 Will I receive a warning before being cited?

If you fail to comply with the display requirements, the Department will issue you a citation with a fine. The Department is not required to send you a written warning prior to issuing a citation for failure to display inside a unit. Please note that this is in contrast to violations of the advertising requirements (discussed above), where the Department will issue written warnings before issuing citations in certain situations.

17 What is the difference between a citation for a first, second, and third violation?

You will receive a citation for a first violation if you have never received a citation for violating the display requirements for that same transient accommodation unit. You will receive a citation for a second violation if you previously received a citation for a first violation for violating the display requirements for the same transient accommodation unit. You will receive a citation for a third violation if you previously received a citation for a second violation for violating the display requirement for the same transient accommodation. Only one citation for violation of the display requirements will be issued for a particular transient accommodation within a 30-day period.

Example 7: You previously received a citation for a first violation of the display requirements. You are now in violation of the

display requirements again for the same transient accommodation. You will be subject to a citation for a second violation and will be fined \$1,000 per day.

Example 8: You own two transient accommodations, Unit A and Unit B. You previously received a citation for violating the display requirements for Unit A. You now fail to display the certificate of registration or local contact information in Unit B. You will be subject to a citation for a first violation for Unit B and will be fined \$500 per day.

Responding to Citations

18 How do I respond to a citation for violating the display or advertising requirements?

Within 30 days from the date the citation was issued, you must either (1) pay the fine in full or (2) appeal the citation. To appeal the citation, you must complete the Response to Citation for Failure to Display (which is on the back of the citation issued to you)

and submit it to the Department of Taxation, Special Enforcement Section, 830 Punchbowl Street, Room 228, Honolulu, Hawaii 96813.

19 What if I miss the 30-day deadline to appeal the citation?

If you miss the 30-day deadline, you will not be able to appeal the citation and the Department may begin collection efforts.

Additional Information

20 Where can I get additional information?

For more information, visit our website at tax.hawaii.gov or contact the Rules Office at 808-587-1530.

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

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