



# TAX FACTS 2019-1

## Information on Hawaii State Taxes for Taxpayers Doing Business in Hawaii

This Tax Facts provides a general overview of the most common Hawaii State taxes paid by businesses that are located in Hawaii and by businesses that are not located in Hawaii but conducts business in Hawaii.

### General Information

#### 1 Do I need to file and pay taxes?

Every person doing business in the State during the taxable year must file returns and pay the applicable taxes to the Department of Taxation (Department). Most commonly, a person doing business would be subject to the general excise, use, income, and withholding taxes. The filing requirement applies whether or not the person derives any taxable income from the business. The filing and tax payment requirements are located in the applicable chapters of the Hawaii Revised Statutes (HRS). Tax forms and information about the proper reporting methods are available on the Department's website at [tax.hawaii.gov](http://tax.hawaii.gov) and at all district offices.

Also, every person doing business within the State who is liable for any tax or filing requirement imposed under the HRS must keep full, complete, regular, and accurate books of account of the person's business transactions. The person must make available to the Director of Taxation (Director) or a responsible person designated by the Director, all account books, bank books, and all other documents and evidence that are relevant to the tax or reporting requirements under the HRS.

### General Excise Tax (GET)

#### 2 What is the GET?

The GET is a broad-based tax that applies to virtually all business activities in the State. The GET is levied on gross receipts that persons (individuals, corporations, partnerships, or other entities) derive from their business activities, with no deductions for business expenses such as materials, labor, travel, office supplies, or other costs of doing business.

#### 3 Is the GET a sales tax?

The GET is not a sales tax. Unlike sales taxes found in other states, the legal incidence of the tax is on the business and not on the customer. Whether the business passes the tax on to the customer is a matter of private agreement. A business is not required to separately state an amount of the sales price representing a GET pass-on, but if the tax is passed on, it becomes part of the taxable gross receipts of the business. Also, unlike most sales taxes, the GET is levied on the gross income of all types of business activity, unless specifically exempted by law. Sales taxes, on the other hand, typically are levied only on sales of tangible personal property and only at the retail level. Examples of income subject to the GET include gross income derived from sales of tangible personal property at both wholesale and retail; contracting; the rendering of services; leasing of intangible property; and the rental of personal or real property.

#### 4 Are sales to nonprofit organizations and government agencies exempt from the GET?

No. Because the GET is levied on the business rather than the customer, the gross income a business receives from sales to tax exempt customers, such as nonprofit organizations and government agencies, is subject to GET. The customer's GET status does not affect the business' GET liability on the business income. For example, a business must pay GET on the gross amount it derives from contracts with a State or county government agency. There are, however, a few activities specifically exempt by law when dealing with the federal government, its agencies and instrumentalities.

A tax exempt organization is not subject to the GET on certain types of income it receives in the course of its business. An organization may apply for exempt status. Go to [hitax.hawaii.gov](http://hitax.hawaii.gov) to apply for an exemption from GET. A one-time \$20 registration fee must be paid with your application.

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if the organization does not have a valid GET license. If the \$20 fee for a GET license was already paid, you must log in to the organization's Hawaii Tax Online account to submit the application. See the instructions for Form G-6 for more information on applying for a GET exemption.

## **5 Are out-of-state businesses subject to the GET?**

Yes. Gross income is subject to GET if the seller has sufficient presence in the State. Presence in the State is established in a variety of ways, not all of which are listed in this publication. For example, if your business has an office, inventory, property, employees, or other representation in the State, or if services in conjunction with the sales of property, such as training, installation, or repairs, are provided in the State, or if your business has annual gross receipts of \$100,000 or more from customers in the State, or has 200 or more transactions with customers in the State, your business has presence in the State. The furnishing of personal or other services in the State and the leasing of tangible personal property located in Hawaii are other examples of transactions that establish presence in the State. You must thoroughly analyze the facts and circumstances when determining whether there is sufficient presence. Out-of-state businesses are encouraged to contact the Department regarding their specific circumstances.

## **6 How do I apply for a GET license?**

An application for a GET license, Form BB-1, must be completed and submitted to the Department with a \$20 license fee prior to doing business in the State. A "one-time" license may be requested if you do not anticipate doing any additional business in the State. Your application may be submitted online through our website at [hitax.hawaii.gov](http://hitax.hawaii.gov) or through the Hawaii Business Express website at [hbe.hawaii.gov](http://hbe.hawaii.gov), by mail, or in person at any district office. You may also file your application with any of the Department of Consumer Affairs' Business Action Centers.

## **7 What are the GET rates?**

For income derived from wholesaling, wholesale services, manufacturing, or producing, the GET rate is 0.5%. Gross income from all other business activities is taxed at the rate of 4% except for a special 0.15% rate for insurance commissions. If applicable, a county surcharge is imposed on all gross receipts in the county that are subject to the GET at the 4% tax rate. Taxpayers are encouraged to contact

the Department regarding their specific circumstances because certain business activities, such as wholesaling and contracting are narrowly defined in the law and some exemptions or credits are available.

## **8 What form do I use to report the GET?**

GET must be reported on periodic returns (Form G-45) on a monthly, quarterly, or semiannual basis and are due on the 20th day of the month after the close of each period. An annual return (Form G-49) is a summary of your activity for the entire year. Form G-49 is also used to make corrections to the amounts previously reported. Form G-49 must be filed by the 20th day of the fourth month following the close of the tax year.

### **Use Tax**

## **9 What is the use tax?**

Use tax is a tax on imported tangible personal property (goods), services, contracting, and intangibles from an unlicensed seller. The use tax is based on the landed value of the goods, services, contracting, or intangibles when imported. The landed value of goods, services, contracting, and intangibles 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.

## **10 What are the use tax rates?**

The use tax complements the GET and is levied at comparable rates. The use tax is imposed at the rate of 0.5% if property or services are imported for resale at retail, or if they are incorporated by a manufacturer into the saleable product or by a contractor into the finished product, where the imported goods or services are identifiable elements of the manufactured product or construction product; or at the rate of 4%, if the property, services or contracting are for consumption or use by the importer and not for sale. No use tax is imposed if the imported property or services are for sale at wholesale. Also, as with the GET, if applicable, a county surcharge is imposed on all imports into the county that are subject to the use tax at the 4% tax rate.

## **11 Do I have to register for the use tax?**

It is not necessary for a taxpayer with a GET license to register for the use tax. When you register for a GET license, you will automatically be registered for the use tax. For taxpayers who are not subject to the GET but who sell

tangible personal property or services to purchasers in Hawaii, there is a separate registration and reporting procedure named the Seller's Collection of Use Tax.

## 12 What form do I use to report the use tax?

If you have a GET license, use Forms G-45 and G-49 to report your use tax when filing your periodic or annual GET returns. If you do not have a GET license, you may use Form G-26 to report and pay your use tax.

### Net Income Tax

## 13 Do I need to file income tax returns?

Income tax returns must be filed by all taxpayers (e.g. individuals, corporations, trusts, and other entities) doing business in Hawaii, whether or not a net profit or loss is realized. Hawaii resident individuals are taxed on all income from all sources. Hawaii corporations are taxed on all income, except income apportionable and taxable under the law of another state. Generally, all other taxpayers are taxed on income from their activities in Hawaii. Income tax returns are due by the 20th day of the fourth month following the close of the tax year.

### Withholding Tax

## 14 Do I need to withhold taxes on my employees' wages?

Section 235-61, HRS, requires the employer to withhold taxes on wages paid to employees for services performed in Hawaii. For employers using nonresident employees within the State, under section 18-235-61-04(b) (1), Hawaii Administrative Rules (HAR), the withholding of taxes on the wages is not required if all the following conditions are met:

- (A) The employee is temporarily performing services in the State (not more than 60 days);
- (B) The employee is a nonresident as set forth in section 235-1, HRS, or the employer reasonably believes the employee is a nonresident;
- (C) The employee is paid from an office located outside the State;

(D) The employee's regular place of employment (where the employee regularly performs services for the employer) is outside the State; and

(E) The employer does not reasonably expect the employee to perform services in the State for an aggregate of more than sixty days during the calendar year.

However, a nonresident employee performing services for a contractor as defined in section 237-6(1), HRS, will not qualify for a withholding exemption when the contractor is performing work for a construction project located in Hawaii.

To qualify for the exemption from withholding on wages, nonresident employees must file a statement of nonresidence on Form HW-6 with their employer. The employer must then submit the Form to the Department. Form HW-6 can be obtained from any district office.

## 15 How do I register for a withholding tax license?

Complete Form BB-1, State of Hawaii Basic Business Application, and select "Withholding" to register for a withholding tax license. Your application may be submitted online through our website at [hitax.hawaii.gov](http://hitax.hawaii.gov) or by mail, or in person at any district office. A business may apply for a withholding tax license at the same time it applies for a GET license using Form BB-1, or may later change the original application to add the withholding.

## 16 What form do I use to report the withholding taxes?

Form HW-14 is used to report the wages paid and the tax withheld for the quarter. Form HW-14 is due on the 15th day of the month following the close of the quarterly period. Form HW-30, which is filed annually, is a summary of all your withholding tax activity for the year and is used to transmit the paper version of copy A of Form HW-2 (or federal Form W-2). Form HW-30 may not be used to make corrections to the total wages, tax withheld and tax paid which was previously reported: you must amend the affected periods using the appropriate Form HW-14. Form HW-30 must be filed by the last day of January following the close of the calendar year. If you submit the Form HW-2 electronically, a Form HW-30 is not required.

Section 231-8.5(b)(1), HRS, requires employers whose total withholding tax liability exceeds \$40,000 annually to file withholding tax returns electronically. This includes

mandatory electronic submissions of the Form HW-2. For more information, see Department of Taxation Announcement No. 2019-11.

## 17 How do I report unemployment insurance?

The unemployment insurance tax is not administered by the Department of Taxation. Anyone with employees in the State should contact the State Department of Labor and Industrial Relations for information. Employers are required to register with the Unemployment Insurance Division. For more information, go to [labor.hawaii.gov/ui](http://labor.hawaii.gov/ui).

### Penalties and Interest

## 18 When am I subject to penalties and interest?

Penalties and interest are imposed under sections 231-34 through 231-36 and 231-39, HRS. Examples of assessment of penalties and interest are taxpayers who fail to timely file returns, who fail to withhold and timely pay over withholding taxes to the State, or who fail to keep and make available for inspection adequate and complete records.

## 19 What are the penalty and interest rates?

Following are some specific penalties and their rates:

- A penalty for failing to file a return by the due date is assessed on the tax due at the rate of 5% per month, or part of a month, up to a maximum of 25%.
- A penalty also is assessed when a return is filed on time but the tax due is not paid in full. The failure to pay penalty is 20% of the tax unpaid within 60 days of the due date of the return.
- A penalty of up to 25% may be imposed if any part of an underpayment is due to negligence or intentional disregard of rules.
- Taxpayers may be also subject to the penalty for underpayment of estimated taxes if not enough tax is paid through withholding or estimated tax payments. The penalty is 8% per annum for the period of underpayment.

Interest at the rate of  $\frac{2}{3}$  of 1% per month, or part of a month, is assessed on unpaid taxes and penalties beginning with the first calendar day after the date prescribed for payment. Payments are first applied to any interest due, then

to penalties, and finally to taxes. In general, penalties and interest are assessed at the same rates for all State taxes. More than one penalty can be imposed at one time.

## 20 What is the penalty for failure to file or to pay electronically?

For taxpayers who are required to file electronically or to make payments by electronic funds transfer (EFT) and fail to timely do so are subject to a penalty of 2% of the amount of the total tax. This penalty is in addition to the failure to file and failure to pay penalties. Tax payments are required to be made by EFT if the taxpayer's annual liability for all taxes other than withholding is more than \$100,000. Electronic filing is required for the public service company tax, the franchise tax, the rental motor vehicle and car sharing surcharge tax, the fuel tax, the liquor tax, the tobacco tax, the GET and transient accommodations tax for those with annual liabilities greater than \$4,000, and wage withholding for those with annual withholding tax liabilities greater than \$40,000.

### Tax Clearances

## 21 Do I need a tax clearance?

Tax clearance certificates issued by the Department and the Internal Revenue Service (IRS) may be required for various purposes. For example, a tax clearance must be obtained before acquiring or renewing a State contractor's license or a county liquor license, or submitting a bid for or receiving final payment on a State or county government contract.

Under current Hawaii law, any business entity intending to enter into (or to bid on) a contract with an agency of the State or with any county is required to obtain a tax clearance certificate from both the Department and the IRS prior to entering in to a State or county contract, as well as upon completion of the contract before final payment is made. The vendor may register with Hawaii Compliance Express and have their tax clearance status available online for all state, city, or county contracts. For more information, go to [vendors.ehawaii.gov](http://vendors.ehawaii.gov).

A completed Tax Clearance Application, Form A-6, may be submitted either to the Department or to the IRS by mail, fax, or in person. A tax clearance may also be applied for via the Internet at: [hitax.hawaii.gov](http://hitax.hawaii.gov). A tax clearance certificate is issued if all returns due are filed and all tax

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liabilities are paid. There is no fee for obtaining tax clearance certificates. However, if you are obtaining a tax clearance certificate through Hawaii Compliance Express, there is an annual registration fee.

### Additional Information

## 22 Where can I get more information?

Tax forms, publications, other documents such as Tax Information Releases, Tax Announcements and Administrative Rules are available on our website at **tax.hawaii.gov**, or at the most convenient district office. You may also call any district tax office for information and forms using the contact information below.

Office Location and Mailing Address	Telephone Number:
Oahu District Office 830 Punchbowl Street Honolulu, HI 96813 P.O. Box 259 Honolulu, HI 96809-0259	(808) 587-4242 Toll free 1-800-222-3229
Maui District Office 54 South High Street #208 Wailuku, HI 96793	(808) 984-8500
Molokai Office 35 Ala Malama Street #101 Kaunakakai, HI 96748 P.O. Box 275 Kaunakakai, HI 96748	(808) 553-5541
Hawaii District Office 75 Aupuni Street #101 Hilo, HI 96720	(808) 974-6321
Kona Office 82-6130 Mamalahoa #8 Captain Cook, HI 96704	(808) 323-4597
Kauai District Office 3060 Eiwa Street #105 Lihue, HI 96766	(808) 272-3456

### Where to Get Forms and Information

Website: [tax.hawaii.gov](https://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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