



# TAX FACTS 96-2

## Transient Accommodations Tax

This Tax Facts provides information about the transient accommodations tax (TAT). The TAT is a tax imposed on gross rental proceeds from the rental of a transient accommodation, on the fair market rental value of a time share vacation unit in the State of Hawaii, and on the gross receipts of transient accommodations brokers, travel agents and tour packagers from arranging to furnish transient accommodations at noncommissioned negotiated contract rates. The TAT rate is 10.25%. Besides the TAT, operators of transient accommodations and transient accommodations brokers, travel agents and tour packagers who arrange to furnish transient accommodations at noncommissioned negotiated contract rates must also pay the general excise tax (GET) at the rate of 4% plus 0.5% county surcharge. For more information on the TAT, see our brochure "An Introduction to the Transient Accommodations Tax." For more information on the TAT on time share occupancy, see Tax Facts 98-4. For more information on the TAT on transient accommodations brokers, travel agents and tour packagers, see Tax Information Release (TIR) No. 2018-07.

Following are answers to some commonly asked questions about the TAT and transient accommodations.

### 1 What is a transient accommodation?

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

### 2 Who is a transient?

A transient is any person, including a Hawaii resident, who has a permanent home elsewhere or does not intend to make the accommodation being rented a permanent place of residence.

### 3 What is the TAT and who is subject to the tax?

Although often called a hotel room tax, Hawaii's TAT applies to all transient accommodations, not just hotel rooms. Also, whereas the hotel room tax is imposed on the guests or tenants, the TAT is levied on the operator of the transient accommodation and on transient accommodations brokers, travel agents and tour packagers who arrange to furnish transient accommodations at noncommissioned negotiated contract rates.

### 4 What income is subject to the TAT?

The TAT is levied on gross rental or gross rental proceeds, which are any amounts received by an operator in cash, goods, or services for renting a transient accommodation without any deductions for costs. The TAT is also levied on amounts received by a transient accommodations broker, travel agent or tour packager for arranging to furnish transient accommodations at noncommissioned negotiated contract rates. However, where transient accommodations are furnished through such arrangements and the gross income is divided between the operator of transient accommodations on the

one hand and the transient accommodations broker, travel agency, or tour packager on the other hand, the TAT applies to each operator and transient accommodations broker, travel agency, or tour packager with respect to that person's portion of the proceeds and no more.

Gross rental proceeds do not include separate charges for guest amenities, such as meals, laundry services, or telephone calls, and they also do not include any GET or TAT that is visibly passed on to the guest or tenant. However, gross rental proceeds do include fees, such as maintenance fees, cleaning or housekeeping fees, and management fees that are mandatory for the guest to pay in order to stay in the rental. Gross rental proceeds also include any mandatory resort fees charged for use of the transient accommodation's property, services, or amenities.

### 5 Are complimentary rooms subject to TAT?

Yes, complimentary rooms are subject to TAT on the value of the service received unless it qualifies for exemption under section 237D-3(7), HRS.

### 6 What are "noncommissioned negotiated contract rates?"

"Noncommissioned negotiated contract rates" means the rates specified in a negotiated contract between a transient accommodations broker, travel agent or tour packager and the operator of a transient accommodation that the operator of the transient accommodation will receive for a transaction booked by the travel agent or tour packager. When transient accommodations are furnished through arrangements made by a transient accommodations broker, travel agent or tour packager at noncommissioned negotiated contract rates, the transient accommodations broker, travel agent

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or tour packager may unilaterally determine the mark-up of the negotiated contract rate and the total price charged to the customer; the operator of the transient accommodations has no control over the mark-up or the total price.

## **7 Is a month-to-month lease subject to TAT?**

The owner would be subject to TAT and may visibly pass the tax on to you if the accommodation is rented to you for less than 180 consecutive days and you have a permanent home elsewhere. However, if you do not have a permanent home elsewhere and you establish the accommodation as your permanent home, the rent is not subject to TAT.

## **8 Are Hawaii residents subject to the TAT?**

A transient accommodation is a temporary place for you to stay, not your permanent home. Therefore, although you are a Hawaii resident, the owner of a transient accommodation is subject to TAT on the rental income from you and may visibly pass the TAT on to you.

## **9 If a tour package includes airfare, hotel room, and car rental, is TAT imposed on the entire amount?**

No. Only the portion of the total package price allocated to the hotel room is subject to TAT. (When the transient accommodation is furnished through arrangements made by a travel agency at noncommissioned negotiated contract rates, TIR No. 2018-07 describes the acceptable methods for allocating the total package price among the gross rental proceeds of the travel agency that are subject to TAT and the amounts allocated to other parts of the package.)

## **10 Is TAT imposed on a Las Vegas hotel accommodation that I buy?**

The TAT is imposed on rental activity in the State of Hawaii. Therefore, the Las Vegas hotel accommodation is not subject to TAT.

## **11 Are any transient accommodations exempt from TAT?**

Transient accommodations specifically exempt from TAT include:

- Health care facilities;
- School dormitories;
- Lodging provided by nonprofit corporations or associations organized for religious, charitable, or educational purposes;

- Living accommodations for military personnel on permanent duty assignment to Hawaii, including military persons who receive a temporary lodging allowance while seeking accommodations in Hawaii or while awaiting reassignment outside Hawaii;
- Low-income renters receiving rental subsistence from the state or federal governments and whose rental periods are for durations shorter than 60 days;
- Operators furnishing accommodations to full-time students at post-secondary education institutions;
- Accommodations furnished without charge, such as, complimentary accommodations and accommodations furnished to contract personnel or to employees who receive room and board as part of their salary or compensation; and
- Accommodations furnished to foreign diplomats and consular officials who are holding cards issued or authorized by the United States Department of State granting them an exemption from state taxes.

## **12 I am in the military and am renting a house. Why did my landlord ask to see my permanent change of station orders?**

Your landlord may be exempt from the TAT during the period you were temporarily renting the house. The landlord must provide documentation that you are in the military and are paying from a temporary lodging allowance to be entitled to exempt the income.

## **13 How do I claim the exemption from TAT for accommodations furnished to foreign diplomats and consular officials?**

To claim the exemption, you must have documents to support the exemption. You may photocopy the card authorized by the U.S. Department of State (both sides if the exemption information is on the back of the card) and retain it with your records. Alternatively, you may record the customer's name, mission (country), card number, expiration date, and level of exemption. See Tax Facts 2016-1 for more information.

## **14 If I rented my time share unit to someone else, is the rental income subject to TAT?**

Yes. You will be subject to TAT if you rent your time share unit for less than 180 consecutive days. You will not be subject to TAT if you exchange your stay at a time share unit for a stay at an out-of-state time share unit.

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## **15 Do I pay both the GET and TAT on a beach house I rent out on weekends only?**

Yes. You are required to be registered for, and to pay **both** the GET and the TAT.

## **16 If I receive prepayment for a guests' stay in my rental and the deadline passes for the guest to receive a refund, is this income subject to both TAT and GET?**

Yes, this income is subject to both the GET and the TAT.

## **17 How do I register for the TAT?**

Complete Form BB-1, State of Hawaii Basic Business Application, to register for both the GET and the TAT.

The registration fee for the GET is \$20. The registration fee for the TAT is \$5 if you have 1 to 5 transient accommodation units and \$15 if you have 6 or more units. The registration fee is \$15 for a transient accommodations broker, travel agency or tour packager that arranges to provide transient accommodations at noncommissioned negotiated contract rates.

## **18 What other requirements must I meet to rent a transient accommodation?**

Operators must display their TAT registration certificate in each room, apartment, or other transient accommodation unit being rented out. Instead of posting the certificate, you may post a notice informing the guest or tenant where the certificate may be inspected. You must also provide the name, phone number and email address of a local contact in the same place that the registration certificate or notice is posted. A local contact is an individual or business entity located on the same island as the transient accommodation or time share unit who is available to address questions or concerns of the transient renter.

Failure to meet these conditions is subject to a fine of \$500 per day for a first violation, \$1,000 per day for a second violation, and \$5,000 per day for a third or subsequent violation.

## **19 My property manager issued me a Form 1099-MISC showing how much rent he collected and paid over to me for the year. Why is the amount shown as "Rents" on Form 1099-MISC different from the gross rental proceeds I report for TAT and GET purposes?**

The difference is that the "Rents" noted on Form 1099-MISC is the gross rental proceeds that is reported for income tax purposes. For income tax purposes, "Rents" basically includes everything that the tenant is charged and must pay (including any TAT and GET visibly passed on) in order to stay in the rental unit. For more information on what is included in gross rental proceeds, see the Department of Taxation's (Department) brochures entitled, "An Introduction to the Transient Accommodations Tax" and "An Introduction to the General Excise Tax."

## **20 What records are required to be kept?**

Every operator shall keep an accurate record of gross proceeds and gross income derived from the furnishing/arranging of transient accommodations. These records include, but are not limited to, journal entries, ledger entries, profit and loss statements, contracts and agreements, invoices, and all records involving the furnishing/arranging of transient accommodations.

## **21 Where can I get additional information?**

For general information, please refer to the Department's brochures entitled, "An Introduction to the Transient Accommodations Tax" and "An Introduction to the General Excise Tax." Information about both the GET and the TAT as they apply to rental activity may be found in the brochure entitled, "An Introduction to Renting Residential Real Property." Brochures and forms are available at any district tax office and on the Department's website at [tax.hawaii.gov](http://tax.hawaii.gov). You may also contact a customer service representative at (808) 587-4242 or toll-free at 1-800-222-3229 to have copies mailed to you.

### **Where to Get Forms and Information**

Website: [tax.hawaii.gov](http://tax.hawaii.gov)  
Telephone: 808-587-4242  
Toll-Free: 1-800-222-3229

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