

STATE OF HAWAII  
**DEPARTMENT OF TAXATION**  
P.O. BOX 259  
HONOLULU, HAWAII 96809

November 13, 2000

## **TAX INFORMATION RELEASE NO. 2000-1**

RE: Imposition of the General Excise Tax on Retailing Activities Under Hawaii Revised Statutes (HRS) §§ 237-16 and 237-13

This Tax Information Release (TIR) discusses the imposition of the general excise tax (GET) on retailing activities.

### **I. HRS § 237-16 Imposes the GET at the 4 Percent Rate on Certain Retailing Activities**

HRS § 237-16 imposes the GET at the 4 percent rate on the gross proceeds of sale or gross income received from the following retailing activities:

- The sale of tangible personal property for consumption or use (not for resale) by the purchaser, the renting of tangible personal property, and the rendering of services (as defined in HRS § 237-7) to a person who is not purchasing the services for resale;
- The business of a construction industry contractor (as defined in HRS § 237-6); or
- The furnishing of transient accommodations in a hotel, apartment hotel, or other place in which lodgings are regularly furnished to transients, including the services rendered with the transient accommodations.

### **II. Retailing Activities Not Taxed Under HRS § 237-16 are Taxed Under HRS § 237-13**

HRS § 237-16 also specifies that certain activities are not taxed under this section. These activities include the sale or renting of tangible personal property, the rendering of services, and construction industry contracting or subcontracting to:

- The State, its political subdivisions, or agencies or instrumentalities of the State or its political subdivision;
- The United States or its agencies or instrumentalities (other than national banks);
- A corporation, organization, or other person designated in section 237-23 who is not subject to the GET; or
- A person licensed under this chapter in connection with the person's business.

Retailing activities not taxed under HRS § 237-16 are taxed under HRS § 237-13 because HRS § 237-13 imposes the GET at the 4 percent rate on retailing and other activities unless the activity is taxed under HRS § 237-16. These HRS sections are complementary and impose the GET on all retailing activities when applied together.

HRS § 237-13 provides nine categories of business activities that are subject to the GET, including the retail sale of tangible personal property, contracting, and the rendering of services. *See* HRS §§ 237-13(2), 237-13(3), and 237-13(6). If an activity is not classified under a specific category in HRS § 237-13, then the “catch-all” category which imposes the GET at the 4 percent rate on any business, trade, activity, occupation, or calling is applicable. *See* HRS § 237-13(9).

The imposition of the GET on all retailing activities is further supported by HRS § 237-14, which states in part, “[i]f a business is within the purview of two or more of the paragraphs of section 237-13 or other provisions of this chapter all of them apply, each provision being applicable to the appropriate item of gross income, gross proceeds of sales, or value of products.” HRS § 237-14 is read together with HRS § 237-16(d), which provides that, “[t]his section shall not cause the tax upon a taxpayer, with respect to any item of the taxpayer’s gross income to exceed four per cent.” Therefore, retailing activities that are subject to the imposition of the GET under both HRS §§ 237-13 and 237-16 are taxed only under one section.

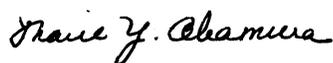
**Example 1:** Office supply company selling copier paper to the State government is subject to GET at the 4 percent rate. While this is a retailing activity not taxed under HRS § 237-16, the sale of the paper is taxed under HRS § 237-13.

**Example 2:** Construction industry contractor building housing units on a Hawaii military base for the federal government is subject to GET at the 4 percent rate. While this is a retailing activity not taxed under HRS § 237-16, the contracting is taxed under HRS § 237-13.

**Example 3:** Company providing furniture refurbishing services for the federal government is subject to GET at the 4 percent rate. While this is a retailing activity not taxed under HRS § 237-16, the services are taxed under HRS § 237-13.

**Example 4:** Office supply company selling copier paper to the federal government is exempt from the GET. While this is a retailing activity not taxed under HRS § 237-16, the sale of the paper would be taxed under HRS § 237-13, except that HRS § 237-25 provides an exemption on the sale of tangible personal property to the federal government.

**Example 5:** Office supply company selling copier paper to a non-profit organization designated in HRS § 237-23 is subject to GET at the 4 percent rate. While this is a retailing activity not taxed under HRS § 237-16, the sale of the paper is taxed under HRS § 237-13. The GET exemption under HRS § 237-23 does not extend to purchases of goods and services by the non-profit organization.



MARIE Y. OKAMURA  
Director of Taxation