



STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809-0259

RICHARD F. KAHLE, JR.
DIRECTOR OF TAXATION
ALFRED C. LARDIZABAL
DEPUTY DIRECTOR
LLOYD I. UNEBASAMI
DEPUTY DIRECTOR

January 3, 1992

TAX INFORMATION RELEASE No. 92-2

RE: The Administration and Application of the Conveyance Tax Law

PART I. ADMINISTRATION

The purpose of this Tax Information Release is to announce the revisions to the yellow "Conveyance Tax Certificate" (Form P-64A) and green "Exemption From Conveyance Tax" (Form P-64B). Also, the Department of Taxation has coordinated with the Department of Land and Natural Resources, Bureau of Conveyances, to implement certain new administrative procedures to more effectively administer the provisions of the Conveyance Tax Law. The following changes will take effect on Monday, March 2, 1992.

PART II. APPLICATION

Yellow "Conveyance Tax Certificate" Form (P-64A, Revised 1991).

A revised version of the Form P-64A (Rev. 1991) will replace all previous editions. The newly revised form clarifies the reporting of the actual and full consideration with respect to the various forms of transfers subject to the conveyance tax. The various forms of transfers were divided into four major groups. The first group includes the transfer of a real property interest by way of sale, agreement of sales (A/S), assignment of A/S, or other transfer. The sale price (or amount) to be reported shall include if any, the value of any liens or encumbrances thereon at the time of sale, A/S, assignment of A/S, or other transfer or conveyance.

The second group involves the exchange of properties. The amount of consideration shall be the market value of all properties exchanged plus any other consideration. For example, the conveyance tax shall be levied on XYZ taxpayer on its transfer of parcel A to LMN taxpayer based on the market value of the parcel. Conversely, the tax shall apply equally to LMN taxpayer on its transfer of parcel B to XYZ taxpayer as part of the exchange.

The third group affects transfers regarding the assignment of lease. In this situation, the amount subject to the conveyance tax shall be based on the actual and full consideration paid for the leasehold and the value of any increase in lease rental discounted to present value at the rate of 6 percent.

The final group relates to transfers by way of a lease or sublease. The statute provides that the tax shall apply only to a lease or sublease whose full unexpired term is for a period of five years or more, and in those cases, including where appropriate those cases where the lease has been extended or amended, the conveyance tax shall be based on the cash value of the lease rentals discounted to present day value and capitalized

January 2, 1992

at the rate of 6 percent, plus the actual and full consideration paid or to be paid for any and all improvements, if any, which shall include on site as well as off site improvements. In addition, where the lease or sublease includes a sales price or premium paid, the full amount of sales price or premium shall be subject to the tax without discounting and capitalizing at 6 percent.

Reporting of Real Property Interests Located on the Island of Oahu That Are Owned or Acquired by Foreign Persons. Under Honolulu Ordinance No. 90-68 which took effect on July 26, 1990, the Department of Taxation has cooperated with the City and County of Honolulu to require certain foreign persons to report their real property holdings on Oahu. The foreign person need only check mark the appropriate box(es) indicating the person as a transferor and/or transferee. Any questions or concerns relating to this reporting requirement should be directed to:


City and County of Honolulu
Department of Finance
Real Property Technical Office
842 Bethel Street
Honolulu, Hawaii 96813

Phone: (808) 527-5524 or (808) 527-5512

Addition of Penalty and Interest. The penalty for late filing and interest for late payment of the conveyance tax shall be enforced. A penalty of 5 percent of the tax due for each month or part of a month up to a maximum of 25 percent shall be added to the tax unless you can show reasonable cause for the delay. Also, interest will be charged on taxes not paid by their due date. The interest rate for not paying the tax when due is 2/3 of 1 percent of the unpaid amount (i.e., sum of tax due plus amount of penalty) for each month or part of a month it remains unpaid.

Green "Exemption From Conveyance Tax" (Form P-64B, Revised 1991). Like the yellow Form P-64A, there is also a similar requirement to report the date of transaction. It is either the date the document is executed, or the date of the last acknowledgment, whichever is later. Also, foreign persons must indicate whether the conveyance involves a real property interest on Oahu.

A copy of the new yellow "Conveyance Tax Certificate" (Form P-64A) and the green "Exemption From Conveyance Tax" (Form P-64B) are attached to this Tax Information Release.


RICHARD F. KAHLE, JR.
Director of Taxation

Attachments

HRS Sections Explained: 247-1, 247-2, 247-6, 231-26, and 231-39
Rule Section Explained: 18-247-1.1 Definitions