



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

November 27, 1992

## TAX INFORMATION RELEASE

NO. 92-6

RE: Application of the Rental Motor Vehicle Surcharge Tax for  
Vehicles Leased on a Month-to-Month Basis

Section 18-251-2-03, Hawaii Administrative Rules (HAR), provides that where a motor vehicle or vehicle is customarily rented or leased for 6 months or less, it shall be presumed that the vehicle is subject to the rental motor vehicle surcharge tax. This section further provides that no presumption applies if the motor vehicle or vehicle is rented or leased for a period longer than 6 months, and the burden of proof regarding the imposition or exemption from the tax remains with the lessor. If the lessor is able to prove that the vehicle is rented or leased for more than 6 months, the rental motor vehicle surcharge tax will not be imposed.

When a vehicle is rented or leased under separate month-to-month contracts for a period over 6 months, an intention to rent or lease the vehicle for more than 6 months does not arise, only an intention to rent the vehicle for 1 month at a time. The rental motor vehicle surcharge tax, therefore, is imposed in this situation.

If, however, the lessor is able to show that the month-to-month rental or lease contracts conform to certain criteria, an intent to rent or lease for more than 6 months may be found for the lessor. All of the following criteria must be met before the rental or lease of a vehicle for more than 6 months for vehicles under month-to-month rental or lease contracts is no longer subject to the rental vehicle motor surcharge tax:

1. The monthly rental or lease contracts are continuous with less than 24 hours elapsed time between the expiration of one contract and the next monthly contract;
2. The monthly rental or lease contracts are for consecutive days without any breaks for a continuous rental or lease period totaling more than 6 months; and
3. The lessor has written documentation to substantiate the continuous rental or lease of the vehicle for more than 6 months under the above circumstances.

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The rental motor vehicle surcharge tax will not be imposed on the lessor for the 7th month and each month thereafter on the rental or lease of the vehicle under month-to-month contracts which conform with the criteria set forth above. The rental motor vehicle surcharge tax, nevertheless, is applicable for the preceding 6-month period.

  
RICHARD F. KAHLE, JR.  
Director of Taxation

HRS Section Explained: §251-2  
Hawaii Administrative Rules Section Explained: §18-251-2-03