



STATE OF HAWAII
DEPARTMENT OF TAXATION

P.O. BOX 259
HONOLULU, HAWAII 96809

May 21, 1993

TAX INFORMATION RELEASE No. 93-1

RE: Exemption from the Transient Accommodations Tax (TAT) on Certain Accommodations as a Result of Hurricane Iniki

The purpose of this Tax Information Release is to provide notification of procedures for the exemption in Act 129, Session Laws of Hawaii 1993, benefitting operators of transient accommodations located in the County of Kauai as a result of Hurricane Iniki. Beginning May 1, 1993, and through December 31, 1994, an exemption from the transient accommodations tax (TAT) is granted for amounts received by a qualified facility furnishing transient accommodations; provided that the qualified facility is located in a county with a current resident population under 100,000, i.e., Kauai county. A "qualified facility" is defined in the Act as a hotel/hotel-condominium establishment consisting of any building or structure used primarily for the business of providing for consideration transient accommodation lodging facilities and that furnishes, as part of its routine operations, one or more customary lodging services, other than living accommodations and the use of furniture and fixtures, including, but not limited to, restaurant facilities, or room attendant, bell, telephone switchboard, laundering, or concierge services, and is subject to the Transient Accommodations Tax Law.

The following examples illustrate "qualified facility". All of the operators of the properties illustrated are subject to the transient accommodations tax.

EXAMPLE 1:

Hotel A provides short-term living accommodations, for a fee, primarily to visitors to Kauai. Services provided to its guests include the usual hotel services such as daily maid service, telephone and message services, laundry, and bell services. A central kitchen services several different restaurant facilities located within the hotel and also provides room service to Hotel A's guests. Hotel A is a qualified facility.

EXAMPLE 2:

Resort Condominium B also provides short-term living accommodations for visitors to Kauai. The rental of the units in Resort Condominium B, which are each owned by individual owners, is handled through a hotel management association which also provides maid, telephone, and concierge services. Resort Condominium B is a qualified facility.

EXAMPLE 3:

Resort Condominium C contains several units which are rented by the unit owners to visitors for short-term periods. There is no restaurant facility in Resort Condominium C and neither the complex or the unit owners provide services to the tenants other than the use of the living accommodations and the furnishings contained in the units. Resort Condominium C is not a qualified facility.

EXAMPLE 4:

Bed and Breakfast D rents out a spare bedroom to transient visitors and provides breakfast and maid service to the visitors renting its accommodations. Since the home is not used primarily for the business of providing transient accommodations, Bed and Breakfast D is not a qualified facility.

To properly claim this exemption, first report the gross rental proceeds or gross rental for "TAXATION DISTRICT 4 (KAUAI)" in column a of the TAT period (i.e., monthly, quarterly, or semiannually) return (Form TA-1) or Transient Accommodations Tax Annual Return and Reconciliation return (Form TA-2), as the case may be. Second, report the exempt gross rental proceeds or gross rental from qualified facilities located on Kauai in column b entitled "EXEMPTIONS/DEDUCTIONS." Third, subtract the amount in column b from the amount in column a and enter the difference, if any, in column c entitled "TAXABLE PROCEEDS." If the amount in column b is the same as the amount in column a, enter "-0-" in column c. Finally, report and explain on the reverse side of the form, in the space for "DISTRICT 4", that the amount claimed in column b is due to the "Iniki exemption". If the exemption is not initially claimed for any period during the exemption period, May 1, 1993, through December 31, 1994, the transient accommodations operator may file a claim for the exemption by either amending the TAT period return or by claiming the exemption on the annual return and reconciliation.

Since the Act was not signed until May 21, 1993, many hotel/hotel-condominium businesses have passed on and collected the TAT from their visitors for the period from May 1 to May 20, 1993. There thus arises a question regarding the treatment of the moneys collected. Since an exemption must be claimed, these businesses may choose not to claim the exemption and report and pay the TAT collected for the period from May 1 to May 20, 1993. If TAT is collected after May 20, 1993, substitute the day TAT was last collected for May 20th. In the alternative, if the exemption is claimed, businesses may either (1) return the TAT passed on to the visitors, or (2) retain the moneys represented to the visitor as TAT and pay the general excise tax upon this amount. The requirement to pay the general excise tax is placed on income. If the TAT is not imposed due to the claim of the Iniki exemption, the exemption from the general excise tax may no longer be claimed for this income and it is taxable.

EXAMPLE :

Hotel A invoices and collects from its guests the following:

Room	\$100.00
GE Tax	4.00
TAT	<u>5.00</u>
Total	\$109.00

If Hotel A claims the Iniki exemption and refunds the \$5.00 TAT collected to its guests, Hotel A will report gross rental proceeds of \$100.00 and claim an exemption of \$100.00 for TAT and report gross income of \$104.00 for general excise tax. If the hotel does not refund the TAT collected it must then report \$105.00 for TAT, claim an exemption of 105.00, and report \$109.00 for general excise tax.


RICHARD F. KAHLE, JR.
Director of Taxation

HRS Sections Explained: A new section in Chapter 237D