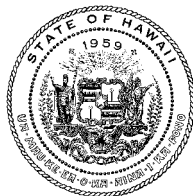


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July 25, 1997

TAX INFORMATION RELEASE NO. 97-3

RE: The Expansion Of The “Timely Mailing Treated As Timely Filing/Paying Rule” To Documents And Payments Delivered By A Designated Private Delivery Service (PDS)

The Internal Revenue Code (IRC) provision which expands the “timely mailing treated as timely filing/paying rule” to documents and payments delivered by a designated PDS has been adopted by an amendment to section 231-8, Hawaii Revised Statutes (HRS). The Department of Taxation (Department) will conform to the list of designated PDS companies, the type of delivery services, and the effective date published in the Internal Revenue Service (IRS) Notice 97-26. This TIR applies to documents or payments delivered to the Department by a designated PDS in accordance with section 231-8, HRS.

I. Background

Section 231-8, HRS, in part, provides that “[a]ny report, claim, tax return, statement, or other document required or authorized to be filed with or any payment made to the State which is...transmitted through the United States mail, shall be deemed filed and received by the State on the date shown by the post office cancellation mark stamped upon the envelope or other appropriate wrapper containing it[.]” Further, “[i]f any report, claim, tax return, statement, remittance, or other document is sent by United States registered mail, certified mail, or certificate of mailing, a record authenticated by the United States Post Office of the registration, certification, or certificate shall be considered competent evidence that the report, claim, tax return, statement, remittance, or other document was delivered to the state officer or state agency to which addressed, and the date of registration, certification, or certificate shall be deemed the postmarked date.”

Act 297, Session Laws of Hawaii (SLH) 1997, amends section 231-8, HRS, by adopting a provision in the Taxpayer Bill of Rights 2 (Public Law 104-168) which amends IRC section 7502 to allow documents and payments delivered by a designated PDS to qualify for the “timely mailing treated as timely filing/paying rule.”

Act 297, SLH 1997, adds a new subsection (c) to section 231-8, HRS, as follows: “Any reference in this section to the United States mail shall be treated as including a reference to a designated delivery service, and any reference to a postmark by the United States Postal Service

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shall be treated as including a reference to any date recorded or marked by the designated delivery service. As used in this section, "designated delivery service" means any delivery service designated for purposes of section 7502 of the federal Internal Revenue Code."

For example, under the present law, an individual State income tax return for a calendar year is considered timely filed even though the tax return is received by the Department after the April 20 due date (without filing extension) when the tax return is delivered by United States mail in a postage paid, properly addressed envelope that has a United States Post Office postmark dated on or before April 20. The amendment to section 231-8, HRS, would allow a tax return delivered by an IRS designated PDS to be treated as timely filed when the date recorded or marked by the PDS is on or before April 20.

The IRS recently issued Notice 97-26 in Internal Revenue Bulletin 1997-17, listing the PDS and the type of delivery services qualifying for the "timely mailing treated as timely filing/paying rule." Notice 97-26 applies to documents and payments given to a designated PDS on or after April 11, 1997. The Department adopts the list of PDS, type of delivery services (available for shipments to Hawaii), and the effective date in Notice 97-26.

II. Designated PDS Companies And Type Of Delivery Services In Notice 97-26

The following is the list of IRS designated PDS and type of delivery services:

IRS Designated PDS

Type Of Delivery Services

Airborne Express (Airborne)

Overnight Air Express Service
Next Afternoon Service
Second Day Service

DHL Worldwide Express (DHL)

DHL "Same Day" Service
DHL USA Overnight

Federal Express (FedEx)

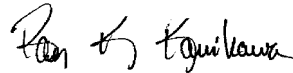
FedEx Priority Overnight
FedEx Standard Overnight
FedEx 2Day

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United Parcel Service (UPS)

UPS Next Day Air
UPS Next Day Air Saver
UPS 2nd Day Air
UPS 2nd Day Air A.M.

Only the designated PDS and the type of delivery services listed above qualify for consideration of the “timely mailing treated as timely filing/paying rule” in section 231-8, HRS. The designated PDS and the type of delivery services listed in this TIR are effective until the IRS issues a revised list, in which case the Department will automatically conform (without notice or TIR) to that list unless otherwise stated to the contrary in a future TIR.



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Director of Taxation

HRS Section Explained: HRS Section 231-8