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TAX INFORMATION RELEASE NO. 2025-01

RE: General Excise Tax Obligations of Transportation Network Companies and Drivers

The purpose of this Tax Information Release (TIR) is to clarify the general excise tax (GET) obligations of transportation network companies (TNCs) and transportation network company drivers ("TNC Drivers"). This TIR supersedes TIR 2018-01, and supplements TIR 2019-03 (Revised), which established that TNCs and TNC Drivers must report their GET obligations under the marketplace facilitator framework. This TIR also provides clarification on reporting GET on tip income.

Definitions

For purposes of this TIR:

A TNC, also referred to as rideshare company or rideshare platform, is defined in section 431:10C-701, Hawaii Revised Statutes (HRS), as follows:

[A]n entity that uses a digital network or software application service to connect passengers to transportation network company drivers; provided that the entity:

- (1) Does not own, control, operate, or manage the personal vehicles used by transportation network company drivers; and
- (2) Is not a taxicab association or a for-hire vehicle owner.

A TNC Driver, also referred to as rideshare driver, is defined in section 431:10C-701, HRS, as follows:

[A]n individual who operates a personal vehicle used to transport a passenger between points chosen by the passenger and prearranged through a transportation network company and that is:

- (1) Owned, leased, or otherwise authorized for use by the individual;
- (2) Not a taxicab or for-hire vehicle; and
- (3) Used to provide prearranged rides to passengers.

GET Liability of TNCs and TNC Drivers

A TNC is a “marketplace facilitator” for purposes of section 237-4.5, HRS. As a marketplace facilitator, a TNC is subject to GET on the gross income or gross proceeds of sale (*i.e.*, the total amount collected from a passenger), except for discretionary tips remitted to the TNC Driver, at the **retail rate** of 4 percent plus the county surcharge.

A TNC Driver is a marketplace seller for purposes of section 237-4.5, HRS, and is subject to GET on its gross income or gross proceeds of sale at the **wholesale rate** of 0.5 percent. As further explained below, a TNC Driver is also subject to GET on discretionary tips they receive at the retail rate of 4 percent plus the county surcharge.

Example 1: Drew Driver engages in business in Hawai‘i as a rideshare driver (TNC Driver) via TinyCar (TNC), an application and platform that connects passengers to drivers of motor vehicle transportation. Ronnie Ryder uses TinyCar to arrange transportation with Drew Driver. TinyCar charges Ronnie Ryder \$22.00 for the fare and \$3.00 in fees, resulting in a total charge of \$25.00. Pursuant to the agreement between TinyCar and Drew Driver, Drew Driver’s gross income from the transaction is \$25.00.

TinyCar will be liable for GET at the retail rate on the \$25.00 charged to Ronnie Ryder. Drew Driver will be liable for GET at the wholesale rate on his gross income of \$25.00.

GET on Tip Income

The person who ultimately receives a discretionary tip is subject to GET on the tip at the retail rate of 4 percent plus the county surcharge. If a tip is divided between the TNC and TNC Driver, the GET applies to both the TNC and TNC Driver at the retail rate on each person’s respective portion.

A tip is discretionary if it is:

- (1) an amount the passenger pays that is not part of the negotiated price of the transportation service;
- (2) given voluntarily by the passenger; and
- (3) given by the passenger in a situation where the payment is clearly a discretionary tip such as a labeled, separate line to add a tip on a paper credit card receipt, a labeled, separate field in an electronic payment application, or the opportunity to hand cash in addition to the negotiated price directly to a driver.

Mandatory tips, such as an automatic gratuity added to large parties or rides requiring special automobiles or other special accommodations, or other mandatory payments, are considered part of the gross income or gross proceeds of sale. A TNC is subject to GET on the full amount of the mandatory tip or mandatory payment at the retail rate. Additionally, if any

portion of the mandatory tip or payment is remitted to the TNC Driver, the TNC Driver is subject to GET on the amount remitted at the wholesale rate.

Example 2: Assume the same facts as in Example 1, except that Ronnie Ryder adds a discretionary tip of \$5.00, resulting in a total charge of \$30.00. TinyCar does not retain any portion of tips and instead remits 100 percent of tips to Drew Driver.

TinyCar will be liable for GET at the retail rate on \$25.00 (the total charge less the \$5.00 discretionary tip). Drew Driver will be liable for GET at the wholesale rate on \$25.00 and will also be liable for GET at the retail rate on the \$5.00 tip.

If you have any questions about this TIR, please contact the Department of Taxation's Rules Office at (808) 587-1530 or e-mail at Tax.Rules.Office@hawaii.gov.

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