



Hawaii Tax News

Administering the tax laws for the State of Hawaii in a consistent, uniform, and fair manner

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State of Hawaii • Department of Taxation

WINTER 2002

New Deputy Director

We are pleased to announce that Governor Linda Lingle has appointed Mr. Kurt Kawafuchi as our New Deputy Director of Taxation. As the supervisor of the Tax Division for the Department of the Attorney General, Mr. Kawafuchi represented the Attorney General as *parens patriae* over charities and nonprofits, and managed the Tobacco Enforcement Unit.

"Kurt brings a wealth of experience in all areas of taxation," said Governor Lingle. "It's clear by his background this is an area that Kurt truly excels in and is committed to, and he will be an outstanding deputy tax director for our administration."

Previously, Mr. Kawafuchi was a tax attorney with Goodsill Anderson Quinn & Stifel. He also was an appointed trial attorney with the U.S. Department of Justice, Tax Division, in Washington, D.C., and represented the Internal Revenue Service in federal and state courts in Hawaii and California.

Mr. Kawafuchi is a certified public accountant in Hawaii and California, and a certified specialist in taxation law with the State Bar of California. He served as chair of the Tax Section of the Hawaii State Bar Association, chair of the Tax Committee of the Hawaii Society of Certified Public Accountants (HSCPA), and director of HSCPA. He has taught graduate tax and business courses at the University of Hawaii and Hawaii Pacific University. Mr. Kawafuchi earned a masters of law in taxation from Georgetown University Law Center.

Please join us in welcoming Mr. Kurt Kawafuchi as our new Deputy Director!

Lower Tax Rates For 2003

Beginning January 1, 2003, the following tax rates go into effect:

- The phased-in general excise tax deduction factor for qualifying sublease transactions will increase from 0.625 to 0.75 for an effective rate of 1%.
- The phased-in general excise tax deduction factor for

business-to-business transactions that qualify for pyramiding relief under Act 71, Session Laws of Hawaii 1999, and Act 198, Session Laws of Hawaii 2000, will increase from 0.375 to 0.5 for an effective rate of 2%.

- The public service company tax rate on sales of telecommunications services by a public utility to an interstate telecommunications provider for resale is reduced from 4.5% to 4%.

New Remittance Processing System

Our new remittance processing system will be up and running in early 2003! Currently, your payments are promptly deposited into the State's bank accounts, but your tax account records may not be updated for several weeks. The new system cuts the delay to just one day by using payment vouchers to input your payment information separately from your tax return or other document.

Beginning in 2003, most of your payments should be attached to a payment voucher instead of to your return. You already are familiar with the Form N-200V for individual income tax payments, but additional vouchers are coming for corporate and other income tax payments, as well as for general excise, withholding,

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Remittance System

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transient accommodations, and rental motor vehicle and tour vehicle surcharge tax payments.

When you receive your 2003 booklet of general excise, withholding, transient accommodations, and/or rental motor vehicle and tour vehicle surcharge tax forms, the change will be obvious. Instead of the familiar letter-size booklets, the new booklets will be 8½-by-14 inches with a tear-off payment voucher at the bottom of the forms!

If you'd rather not have a legal-sized booklet sent to you, we can stop your booklet from being printed and mailed, and also save the State printing and postage costs. Just go to our website at www.state.hi.us/tax, select "Request to Stop Receiving Tax Booklets," complete the on-line form, and select "Submit Request."

Of course, you still have to file your returns and make your payments, so here are two alternatives.

First, you can electronically file (e-file) and make payments for many of these forms via the State's Internet Portal at www.ehawaii.gov.org/efile.

Second, use the forms with fillable fields that are available on our website. Just type in your entries, print the completed form on letter-size paper, and mail the return, voucher, and payment as usual.

This is just one of the many changes we're making to better serve you!

Sales and Use Tax Offset

Tax Information Release (TIR) No. 2002-4 explains when and how the sales and use taxes you pay to another state may be used to offset the Hawaii use tax on imported goods, services, or contracting AND any general excise tax (GET) due when those imports are resold.

According to the Commerce Clause of the U.S. Constitution, states cannot discriminate against interstate commerce by imposing heavier taxes on transactions that cross state lines than those that occur entirely within the state. Multiple taxation violating the Commerce Clause could occur if you had to pay sales or use taxes to another state and also had to pay Hawaii general excise or use taxes when those same items are imported.

To avoid this, you may first offset any Hawaii use tax due on a specific import with any sales or use tax paid to

another state for that import. The use tax is 4% of the landed value of goods, services, or contracting imported for use or consumption in Hawaii, and 0.5% when imported for resale at retail. No use tax is due on imports into Hawaii that are subject to either the 0.5% GET or to the current phased-in rate (2.5% in 2002, 2% in 2003) when resold.

You may then offset any GET due upon the resale of that same import with any excess sales or use tax paid to the other state for that import.

A deduction method is used to effect the offset because we currently cannot accommodate a direct credit against the Hawaii general excise and use taxes. TIR No. 2002-4 provides several examples that illustrate when the offset applies, and step-by-step instructions on how to claim the offset using the deduction method.

TIR No. 2002-4 is available from our website at www.state.hi.us/tax, by calling our request line at 587-7572 (toll-free at 1-800-222-7572), or from any district tax office.

Tax Exemption for Deposit Beverage Container Fee

Have you noticed the new 0.5¢ per container fee on your beverage purchases? The deposit beverage container fee was enacted as part of Act 176, Session Laws of Hawaii 2002, to create a recycling management program administered by the State

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Tax Exemption

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Department of Health. Beginning October 1, 2002, every "deposit beverage distributor" (i.e., a person who manufactures beverages sold in deposit beverage containers or who imports and sells filled deposit beverage containers to a dealer or consumer) is required to pay a fee of 0.5¢ per deposit beverage container.

Deposit beverage distributors are assessed the fee, but they of course pass the fee on to purchasers who in turn pass the fee on to their customers, and on down the transaction chain until the beverage is purchased by a consumer.

For example, if a beverage company imports or manufactures cans which it fills with a beverage for sale to a retailer, the beverage company will pass on its 0.5¢ per can deposit beverage container fee to the retailer. The retailer will in turn pass the 0.5¢ per can fee on to the consumer.

For tax purposes, the deposit beverage container fee is not subject to the general excise tax (GET). Sellers of deposit beverage containers may find it easier to separately state the deposit beverage container fee on their customer invoices, but they are not required to do so. The exemption will be allowed to sellers that do not separately state the deposit beverage container fee as long as they maintain supporting documentation showing that the fee was added to the sales price of the beverage.

Sellers that choose to visibly pass on the GET to their customers should not include the deposit beverage container fee in the subtotal on which the visible pass-on of the GET is calculated. Since there is no GET on deposit beverage container fees, there is no GET to pass on.

For more information, see Department of Taxation Announcement No. 2002-20, which is available from our website at www.state.hi.us/tax, by calling our request line at 587-7572 (toll-free at 1-800-222-7572), or from any district tax office.

Order the 2002 Tax Information CD

The 2002 Tax Information CDs are now available for a nominal price of \$10! The 2002 CD will include Tax Information Releases, Announcements, Tax Facts, brochures, 2002 tax forms, business registration forms, and employer's reporting forms. All forms will have writable fields.

Order forms are available from our website at www.state.hi.us/tax, by calling our request line at 587-7572 (toll-free at 1-800-222-7572), or from any district tax office. Persons who attended our year-end workshop may purchase the 2002 CD at a discounted price of \$5.00.

Changes to 2002 Tax Forms

Hawaii tax forms have been revised for 2002 to reflect recent tax law changes, and to accommodate our new computer system for the processing of net income tax returns and our new remittance processing system. The following is a summary of some of the changes to the tax forms and new forms for 2002.

Payment Vouchers

- **VP-1G** - Payment voucher used to process general excise tax payments that are due with Forms G-45 and G-49 (preprinted forms in GE booklet).
- **VP-1R** - Payment voucher used to process rental motor vehicle and tour vehicle surcharge tax payments that are due with Forms RV-2 and RV-3 (preprinted forms in RV booklet).
- **VP-1T** - Payment voucher used to process transient accommodations tax payments that are due with Forms TA-1 and TA-2 (preprinted forms in TA booklet).
- **VP-1W** - Payment voucher used to process withholding tax payments that are due with Forms HW-14 and HW-3 (preprinted forms in WH booklet).
- **VP-1** - Payment voucher used to process any general excise tax, rental motor vehicle and tour vehicle surcharge tax, transient accommodations tax, and withholding tax payments that are due with nonpreprinted forms.
- **N-200V** - Payment voucher used to process individual income tax payments due with Forms N-11, N-12, N-13, N-15, and N-310.
- **N-201V** - Payment voucher used to process business income tax payments due with Forms N-30, N-40, N-70NP, and N-310.
- **N-288V** - Payment voucher used to process payments due with Form N-288A, Statement of Withholding on Dispositions by Nonresident Persons of Hawaii Real Property Interests.
- **N-1, N-3, N-5 (Estimated tax forms)** - Revised to conform to the other payment vouchers.

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Tax Forms Changes

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- **N-100, N-100A, N-301 (Extension forms)** - Revised to conform to the other payment vouchers. Note that the taxpayer's signature is required on the back of Forms N-100A and N-301.
- **N-101A** - The 4-month extension of time to file an individual income tax return is automatically granted without filing Form N-101A. Form N-101A is only filed if an individual income taxpayer wants to make a payment.
- **N-101B** - When filing Form N-101B for an additional extension, the individual income taxpayer must have paid through withholdings, estimated tax payments, and/or a payment accompanying Form N-101B, at least 90% of their income tax liability for the 2002 tax year. Note that the taxpayer's signature is required on the back of Form N-101B.

All individual income tax returns

- Any payment due with the individual income tax return, and Form N-200V, should be attached to the left side of the tax return where indicated.
- Instructions were added that for foreign addresses, the country name should not be abbreviated.
- In the exemption area, a check box was added. A taxpayer who is married and filing a separate return and claiming their spouse's exemption must check the box if their spouse meets the requirements allowing the taxpayer to claim the spouse's exemption.
- On the "Tax" line for Forms N-11, N-12, and N-15, added Form N-318 for the recapture of the high technology business investment tax credit.
- In the third party designee area, a statement was added to clarify that the third party designation is not a full power of attorney. For Hawaii income tax purposes, the designee is only authorized to answer any questions that may arise during the processing of the return. Note that this authorization is different than the authorization allowed by the Internal Revenue Service.
- In the paid preparer's information area, space was added for the preparer to print the preparer's name.

All business income tax returns

- Any payment due with the business income tax return, and Form N-201V, should be attached to the left side of the tax return where indicated.
- An amended section (two lines) was added to Forms N-30, N-35, N-40, and N-70NP to enter (1) the amount paid (overpaid) on the original return, and (2)

the balance due (refund) with the amended return.

- A line was added for the recapture of the high technology business investment tax credit.
- Same changes as for the individual income tax returns with respect to the foreign addresses, third party designee, and the print preparer's name.

N-35, S Corporation Income Tax Return

- Form N-201V not required to transmit income tax payment due with Form N-35.
- A line was added for the LIFO recapture tax.
- A line was added for the amount due on the attached Form N-4s.
- Part III, Capital Gains Tax, was removed from Schedule D (Form N-35) to conform to the federal form. Also, the instructions for Schedule D are now included on the back of the form.
- Same changes as for the business income tax returns with respect to the foreign addresses, amended section, third party designee, and the print preparer's name.

N-40T, Allocation of Estimated Tax Payments to Beneficiaries

- Patterned after federal Form 1041-T and replaces Schedule T which was previously a part of Form N-40.
- Used to make the election permitted by IRC section 643(g) to allocate estimated tax payments made by a trust to the beneficiaries of that trust. A decedent's estate also may make this election in the estate's final tax year.
- Must be filed by the 65th day after the close of the tax year.

HW-6, Employee's Statement to Employer Concerning Nonresidence in the State of Hawaii

- Revised to include more questions regarding employee's residency status.
- Filed by employee with employer to notify employer that employee is a nonresident.
- Kept by employer if nonresident employee performs services outside Hawaii.

HW-7, Exemption From Withholding on Nonresident Employee's Wages

- Filed by employer, along with the Form HW-6 completed by the nonresident employee, if nonresident employee performs services in Hawaii and if certain other conditions are met.



Booklet A Supplement

A supplemental insert to Booklet A, Employer's Tax Guide (Revised 2001) was mailed to all employers registered for Hawaii withholding taxes in December. The supplement provides information on the use of the new payment vouchers and new Form HW-7, Exemption From Withholding on Nonresident Employee's Wages.

Booklet A was revised in 2001 to reflect the new wage withholding rates that became effective January 1, 2002. The tables contained in Booklet A (Revised 2001) are still applicable.

The supplement is available from our website at www.state.hi.us/tax, by calling our request line at 587-7572 (toll-free at 1-800-222-7572), or from any district tax office.

Year-End Workshops

The Department held its year-end workshops throughout December on Oahu, Maui, Hawaii, and Kauai. For the second time, two workshops were held on Hawaii - one in Hilo and the other in Kona.

The half-day workshops included presentations on the 2002 tax forms update, new income tax processing system (impact on the upcoming filing season, JELF, E-filing via the Internet, and bulk filing of general excise and other returns via the Internet), recent significant tax decisions, and Hawaii tax requirements for nonprofit organizations.

Recently Issued Tax Publications

The following is a list of the publications issued by the Department of Taxation from January 2002 through December 2002. Copies of these publications may be obtained from our website at www.state.hi.us/tax. With the exception of the Hawaii Administrative Rules, copies of these publications also may be obtained by calling our request line at 587-7572 (toll-free at 1-800-222-7572), or from any district tax office.

Chapter 18-243, HAR - Relating to the fuel tax.

Chapter 18-251, HAR - Relating to the rental motor vehicle and tour vehicle surcharge tax.

TIR No. 2002-1 - Summarizes statutory rights, obligations, and procedures, relating to the audit of net income, general excise, and use tax returns by the

Department which may result in the assessment of additional taxes; appeals from the assessment of taxes; claims for refund or credit; and payment to the State under protest.

TIR No. 2002-2 - Discusses the withholding of state income taxes on the disposition of Hawaii real property by a nonresident person.

TIR No. 2002-3 - Provides guidance regarding the residential construction and remodeling tax credit as amended by Act 174, SLH 2002.

TIR No. 2002-4 - Provides information on Act 98, SLH 2002, Relating to the Conformity of the State Tax Laws to the United States Constitution.

Announcement No. 2002-1 - Provides a list of candidates for political office who have registered with the campaign spending commission.

Announcement No. 2002-2 - A listing of new and obsolete tax forms, instructions, and schedules; errors found on Hawaii tax forms as of January 21, 2002.

Announcement No. 2002-3 - A listing of the Tax Information Releases in effect and obsolete as of January 25, 2002, and a listing of Hawaii Administrative Rules related to taxation.

Announcement No. 2002-4 - Provides information regarding electronic filing as a means of electronic funds transfer.

Announcement No. 2002-5 - Informs taxpayers that the federal Job Creation and Worker Assistance Act of 2002 does not apply to Hawaii income taxes.

Announcement No. 2002-6 - Provides information on Act 110, SLH 2002, which provides persons with impaired sight, hearing, or who are totally disabled the same general excise tax benefits regardless of the entity in which they choose to do business.

Announcement No. 2002-7 - Provides information on Act 153, SLH 2002, regarding collection procedures.

Announcement No. 2002-8 - Provides information on Act 63, SLH 2002, which provides a refundable income tax credit of \$1 per qualified resident individual as mandated by the State Constitution.

Announcement No. 2002-9 - Provides information on Act 94, SLH 2002, which authorizes the Department of Taxation and the Attorney General to inspect any entity or vehicle to enforce the Cigarette and Tobacco Tax Law, and makes the cigarette tax stamping program permanent.

Announcement No. 2002-10 - Provides information on Act 146, SLH 2002, which eliminates the use tax exemption for qualified businesses operating within an enterprise zone.

Announcement No. 2002-11 - Provides information on Act 174, SLH 2002, which extends the residential construction and remodeling tax credit to costs incurred before July 1, 2003, and clarifies costs qualifying for the credit.

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Recent Publications

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Announcement No. 2002-12 - Provides information on Act 190, SLH 2002, which lowers the adjusted gross income threshold for individuals required to make annual payments for their estimated income taxes, and reduces the percentages used to determine the required annual payment.

Announcement No. 2002-13 - Provides information on Act 225, SLH 2002, which requires the owner of a vehicle purchased out-of-State to provide proof the use tax was paid before the owner can receive a certificate of registration.

Announcement No. 2002-14 - Provides information on Act 236, SLH 2002, which clarifies that a telecommunication service provider may segregate its income between the general excise tax and the public service company tax using a reasonable method.

Announcement No. 2002-15 - Provides information on Act 223, SLH 2002, which brings Hawaii Income Tax Law into conformity with many but not all of the changes made to the Internal Revenue Code by the federal Economic Growth and Tax Relief Reconciliation Act of 2001.

Announcement No. 2002-16 - Provides information on Act 246, SLH 2002, which increases the excise tax on cigarettes from 5 cents per cigarette to 6 cents on October 1, 2002, to 6.5 cents effective July 1, 2003, and to 7 cents on July 1, 2004.

Announcement No. 2002-17 - Provides information on Act 209, SLH 2002, which conforms Hawaii's tax law to the federal Mobile Telecommunications Sourcing Act, P.L. 106-252 (July 28, 2000).

Announcement No. 2002-18 - Announces the adoption of amendments to chapters 18-243 and 18-251, HAR, and the repeal of chapter 18-244D, HAR.

Announcement No. 2002-19 - Provides additional information on Act 246, SLH 2002, which increases the excise tax on cigarettes.

Announcement No. 2002-20 - Provides information on the general excise tax exclusion for certain amounts collected under Act 176, SLH 2002, which implements a "bottle bill."

Hawaii Tax Information at a Glance Brochure - Revised May 2002.

Digest of Tax Measures - Enacted by the State of Hawaii, Twenty-first Legislature, Regular Session of 2002.

Report on Tax Credits Claimed by Hawaii Residents (2000).

Pending Tax Publications

The following is a list of the Department's tax projects in progress, and the name and telephone number of the staff member assigned to the project.

Administration of Taxes

- Application of penalties and interest and the waiver of penalties and interest - sections 231-3 and 231-39, HRS.
- Clarify the application of the penalty for failure to pay tax after timely filing a return (section 231-39(b)(3), HRS) where a corporation files an extension for a return and remits taxes with the return.

Income Tax Law

- Clarify the application of the income tax to pension amounts rolled over to an Individual Retirement Account - section 235-7, HRS. (Peter Fritz, 587-1533)
- Clarify whether a taxpayer who files an extension may amend a return during the extension period to change filing status from married filing joint to married filing separate.

General Excise Tax Law

- Clarify the application of the general excise tax for reimbursements - section 237-20, HRS. (Grant Tanimoto, 587-1569)
- Clarify the application of the general excise tax exemption for scientific contracts - section 237-26, HRS.
- Clarify when the Department may disclose tax return information to persons contractually obligated to pay general excise and use taxes assessed against another under section 237-34(b), HRS.
- Application of the general excise, use, and income taxes on agricultural cooperatives organized under chapter 421, HRS, and farmer's cooperatives meeting the requirements of section 521, IRC.
- Pyramiding relief for Hawaii businesses under Act 71, SLH 1999 and Act 198, SLH 2000.
- General excise tax exemption for exported services and contracting and the use taxation of imported services under Act 70, SLH 1999, and Act 198, SLH 2000.

Conveyance Tax Law

- Clarify the application of the conveyance tax, including transactions involving Fannie Mae.

First Quarter State Tax Collections

July 2002 - September 2002

(In Millions of Dollars)

	<u>FY 2003</u>	<u>FY 2002</u>	<u>Difference</u>	
			<u>Amount</u>	<u>Percent</u>
Individual Income Tax	\$ 266.3	\$ 289.4	\$ -23.1	-8.0%
Corporate Income Tax	4.3	11.2	-7.0	-62.0%
General Excise Tax	473.2	406.5	66.7	16.4%
Transient Accommodations Tax	48.2	44.9	3.3	7.3%
All Others	174.2	160.3	13.9	8.7%
Total Tax Collections	\$ 966.2	\$ 912.3	\$ 53.9	5.9%
General Fund Revenues	\$ 820.3	\$ 789.1	\$ 31.2	4.0%

(Note: Totals may not add up due to rounding.)

Total tax collections for the first quarter of fiscal year 2003 amounted to \$966.2 million, or \$53.9 million (5.9%) more than the same period of last fiscal year. Tax collections for the first quarter dropped 62.0% and 8.0% for corporate and individual income taxes, respectively. First quarter general excise tax collections jumped by 16.4%, as did first quarter transient accommodations tax by 7.3%. General fund revenues of \$820.3 million for the first quarter represent a 4.0% increase over last year's total of \$789.1 million.

Total tax collections for the first quarter grew 5.9%, mostly due to technical reasons. The increased filing threshold allowed some monthly and quarterly filers to file quarterly and semiannually, respectively, increasing collections for the period ending July 2002. The "weekend effect" explains the September increase. Since September 30, 2001, fell on a Sunday, taxes normally due on the last day of the month were not due until Monday, October 1, resulting in a drop in last year's collections.

DISTRICT TAX OFFICES

Forms and Information may be obtained from any district tax office,
Mondays through Fridays, except State holidays, from 7:45 A.M. to
4:30 P.M.

WEB INFORMATION AND FORMS

www.state.hi.us/tax

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808-587-6515 (January - April 20)
808-587-4242
1-800-222-3229 (Toll-Free)
808-587-1418 (TDD - For the hearing impaired)
1-800-887-8974 (TDD Toll-Free - For the hearing impaired)
Forms By Fax/Mail:
808-587-7572
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