



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

SPRING 2001

JELF Implementation a Success!

Another milestone in our ongoing evolution into a more efficient, 21st century agency is the successful implementation of our Joint Federal/State Electronic Filing (JELF) program. Our first

electronically filed income tax return was received on January 16, and as of the end of February we had received a total of 8,714 returns!

Hawaii



CLICK. ZIP. FAST ROUND TRIP!

The JELF program has gone relatively smoothly.

A minor problem has occurred where the check box for a new or changed address is not checked when it should be. The check box should be checked when the taxpayer has a new address (the taxpayer is a first-time Hawaii filer) or when the taxpayer has a changed address (the taxpayer has filed a Hawaii tax return in the past but now has a different address).

Electronic Return Originators (EROs) also should keep up with software updates from their tax preparation software developers. Developers are notified as software defects are found. Developers then make the necessary changes to the program and send the "fixes" to their clients. If you are an ERO, please install the "fixes" from your software provider as soon as you receive them.

Tax preparers who want to file their clients' returns through JELF should contact our e-file coordinator, Susan Adaniya, at efile@tax.state.hi.us for more information. Individuals who want to file their own tax return through the Internet have only one option at this time; go to www.completetax.com for more information. In the future, we hope that additional services will be available.

Tax Information You Can Rely On

At one time or another, you've probably needed an answer to a tax question and have experienced the uncertainty that it brings. Who should

you ask? Is the answer correct? Could it be correct in one situation but not in a slightly different situation? What if you are questioned about the answer in the future?

Answers to many tax questions are found in our publications, most of which are posted on our website at www.state.hi.us/tax. These include our administrative rules, brochures, Tax Facts publications, Tax Information Releases, Department of Taxation Announcements, and more.

Other tax questions may be about a specific situation that is not addressed in our publications. In this case, you could call us to get a verbal answer, or you could write a letter or e-mail us to obtain a written answer. In making this decision, take the following into consideration.

The nature of taxes is such that the correctness of an answer depends on the exact set of facts and circumstances presented. For example, if you ask us what general excise tax rate you should pay if you sell equipment, our answer would be, "it depends." The correct rate may be the wholesale rate of 0.5%, the phased-in pyramiding relief rate (3.0% in 2001), the retail rate of 4%, or even 0% if the sale qualifies for an exemption; it just depends on the exact fact pattern.

If you decide to call for a verbal answer, neither the facts presented nor the answer received is documented. As a result, you may not rely upon that oral advice should a question about that issue arise in the future.

If you write or e-mail us with a specific question, you can rely on the written response that is sent to you as long as you provided complete and accurate information to us along with supporting documents when necessary. You

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The Direct Line ☎

By Director Marie Y. Okamura



The 2001 legislative session has been a very challenging one. This year, members of the House of Representatives introduced 1,691 bills and members of the Senate introduced 1,640 bills. Each of the bills was reviewed to determine if it would impact State tax law or departmental operations. The Department has identified 307 bills for tracking.

A Tax Review Commission will be convened July 1, 2001, as provided by Article VII, Section 3 of the State Constitution. "The commission shall submit to the legislature an evaluation of the State's tax structure, recommend revenue and tax policy and then dissolve." In this issue, we discuss the criteria used by the 1995-1997 Tax Review Commission as a framework for evaluating the many tax proposals.

The adoption of the amendments to the IRC for State income tax purposes assures continued State conformity with federal income tax law and minimizes taxpayers' burdens in complying with Hawaii's income tax law. Those provisions that are proposed for adoption this year include: (1) the repeal of the installment method of accounting for accrual basis taxpayers, (2) limits the IRA contributions by a nonworking/lesser earning spouse to the couple's combined earned income, and adds the requirement that nondeductible IRA contributions made by the working/greater earning spouse, in addition to deductible IRA contributions and Roth IRA contributions made by that spouse, be subtracted from the couple's combined income in determining the maximum IRA contribution that can be made for the nonworking/lesser earning spouse, (3) extension of the medical savings account program, and (4) extension and modification of the enhanced charitable deduction for corporate donations of computer technology.

Tax Information

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cannot, however, rely on a written response to another taxpayer's question because the type of taxpayer, the nature of the taxpayer's business, and other factors may not only alter the fact pattern but the answer as well.

Over time, a previously issued written determination may become invalid due to a change in the tax law,

administrative rules, or official Department position. To keep on top of these changes, track the new postings on our website. You can even register for automatic e-mail notification whenever our "What's New @ Tax" page is changed. For a listing of our addresses, telephone numbers, e-mail addresses, and more, look at our newly revised "Hawaii Tax Information at a Glance" publication which can be obtained from any district tax office, by calling our request line at 587-7572 (toll-free at 1-800-222-7572), or on our website at www.state.hi.us/tax.

Improved Forms By Fax/Mail Service

Don't like automated telephone trees with their "If you need... please press..." prompts? Rather have a "live" person answer your call? If so, you are going to love the change in our 24-hour Forms By Fax/Mail Service.

Say "goodbye" to the recorded message that asked you to press buttons, speak slowly, and spell everything, and say "hello" to the live operators provided by our new vendor, Ram Paging Hawaii. Whether you want a form mailed or faxed to you, just call 587-7572 and an operator will take your request. As an added bonus, neighbor island and mainland U.S. callers can now call toll-free at 1-800-222-7572 to have forms mailed or faxed to them (callers outside Oahu previously had to call a non-toll-free number from their fax machine to receive a faxed form).

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Forms By Fax/Mail

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Any State tax form, instruction, or publication can be mailed to you, but only selected income, general excise, transient accommodations, and employer's withholding tax forms are available for faxing. Copies of the newly revised Forms By Fax/Mail brochure are available at all district tax offices and on our website at www.state.hi.us/tax. Of course, you can also request a brochure by calling our newly improved Forms By Fax/Mail Service!

Income Tax Deadline

Everyone is reminded that the deadline for filing their 2000 Hawaii individual income tax returns and calendar year-end business income tax returns is Friday, April 20, 2001. In general, tax returns must be received by the Department no later than April 20th to be considered "on time". Returns sent through the U.S. Postal Service, however, must be postmarked by midnight, April 20, 2001.

If you mail your tax return to the Department, be sure to put sufficient postage on the envelope. Mail with insufficient postage is not accepted by the Department and will be returned to you. The new postmark date will be the official filing date of your return. The Post Office will not have special hours to accept last minute State tax returns.

In addition to the U.S. Postal Service, certain private delivery service companies designated by the Internal Revenue Service can be used to meet the April 20th deadline provided that the date recorded or marked by the private delivery service company is on or before April 20.

The Department will offer curbside service on Oahu for last minute filers on Friday, April 20, 2001, from 5:00 P.M. to midnight. You may drive up to either the Punchbowl Street or Halekauwila Street sides of the Princess Ruth Keelikolani Building where volunteer Department employees will be stationed to accept tax returns, extension requests, and other documents.

If you cannot complete your State tax return on time, apply for an automatic extension of time to file your return by completing and filing the appropriate Hawaii extension form with the Department no later than April 20, 2001. Comparable federal extension forms will be accepted in lieu of the Hawaii extension forms if completed using amounts for Hawaii income tax purposes. Any reference to "federal" should be crossed

off and replaced with "Hawaii".

The extension form, as well as all other tax forms, may be obtained from any district tax office, by calling our request line at 587-7572 (toll-free at 1-800-222-7572), or on our website at www.state.hi.us/tax.

Corrections to 2000 Tax Forms

A few errors were found on the 2000 Hawaii tax forms as of March 1, 2001.

Form N-70NP

- On page 1, line 17, text which reads ". . . Form N-210," should be deleted. An N-70NP filer can only use Form N-220 to compute the underpayment of estimated tax. Pursuant to Internal Revenue Code (IRC) section 6655(g)(3)(A), any organization subject to the tax imposed by IRC section 511, and any private foundation, shall be treated as a corporation.

Form N-152

- On page 2, line 38, text which reads, ". . . Add lines 13 and 45," should read: ". . . Add lines 13 and 37."

Schedule D (Form N-30)

- Part II of the form does not include a separate line to enter the total capital gain distributions paid by a regulated investment company or a real estate investment trust. The amount of these distributions should be included on line 7.

Schedule D (Form N-40)

- On page 2, line 40, which reads, ". . . If line 39 is \$12,000, enter \$636.00", should read: ". . . If line 39 is \$12,000, enter \$670.00."

Schedule K-1 (Form N-40)

- On the back of the Schedule, in the Instructions for line 10a, text which reads, ". . . payment made on January 20, 2000", should read: ". . . payment made on January 20, 2001."

N-11/12 Instructions, pages 6, 11, 18, 24, 26, and 30; N-15 Instructions, pages 6, 24, and 38; N-168 Instructions, page 3

- Any references to federal Form 1040PC should be ignored since the form is obsolete.

Booklet A

- On page 14, Section 12 - Employee's Statement

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Tax Form Corrections

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Concerning Non-Residence in the State of Hawaii, Form HW-6, second paragraph, text which reads, "In order for an employee . . . signed by the employer . . .," should read: "In order for an employee . . . signed by the employee . . ."

Taxpayer Outreach Programs

The Internal Revenue Service and the Department of Taxation were on the road again with the Mobile Tax Service. This was the second year of the joint outreach effort which offers tax assistance directly to the communities that do not normally have easy access to tax services. The mobile tax assistance program was provided at various sites on the neighbor islands. Taxpayers found a range of services available to them including federal and State tax return preparation and help with tax questions or other tax matters.

On Oahu, taxpayers had an opportunity to meet representatives from the Internal Revenue Service and Department of Taxation's taxpayer advocate offices on their tax-related matters. Assistance was provided on a case-by-case basis focusing on the taxpayer's needs. In conjunction with the tax advocate days, AARP Tax-Aide volunteers also provided free federal and State tax return preparation services.

Taxpayers who took advantage of these outreach programs were very appreciative and asked that the programs be continued.

Practitioners' Forum

The Department will be holding a Practitioners' Forum on May 24 in the Princess Ruth Keelikolani Building. The Practitioners' Forum is an informal meeting with Director Marie Okamura and representatives from tax firms to discuss various matters, raise questions, and resolve problems and tax issues. Audience participation and discussions are the key to a successful Forum. The Practitioners' Forum should not be confused with the workshops conducted by the Department, where presentations on various topics are made by Department personnel and for which education credits are available.

A registration form for the Practitioners' Forum may be obtained from any district tax office, by calling our request line at 587-7572 (toll-free at 1-800-222-7572), or on our website at www.state.hi.us/tax.

Evaluating Proposed Tax Changes

Every legislative session brings a flood of tax proposals that could affect you. The problem is getting beyond the "buzz" words and rhetoric, and judging the merits of each proposal. One independent resource to help you is the 1995-1997 Tax Review Commission Final Report.

A Tax Review Commission is convened every 5 years to conduct a systematic review of our tax system and make recommendations. The most recent Commission established 6 evaluation criteria that are discussed below in order of importance to the Commission.

Equity – A tax system is equitable if taxpayers in similar circumstances are taxed alike and if taxpayers in dissimilar circumstances are taxed based on their ability to pay.

A tax with lower tax rates for taxpayers with lower incomes and higher rates for taxpayers with higher incomes, such as the Hawaii income tax, is generally equitable. On the other hand, a tax that imposes the same rate on all taxpayers regardless of circumstances or income, such as the general excise tax (GET), is generally inequitable.

Lowering the rate of an inequitable tax doesn't make it more equitable since all taxpayers are still taxed at the same rate regardless of circumstances. However, the inequity in one tax can be offset by another tax that provides benefits to the disadvantaged taxpayers. For example, the low-income refundable income tax credit mitigates some of the inequity of the GET.

Efficiency – An efficient system does not cause taxpayers to significantly alter their economic behavior or structure their activities in order to avoid a tax or gain a tax advantage. All taxpayers compete on a "level playing field" with respect to tax advantages and disadvantages. This Commission also determined that it is appropriate for Hawaii to "export" a reasonable share of the tax burden to tourists and others who are not subject to taxation but who nonetheless use public services and facilities. The GET, for example, is exported when businesses pass on their GET liability to customers otherwise not subject to Hawaii taxation.

Simplicity – A tax system should be easy to

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Evaluating Proposals

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understand and to comply with. What will the change accomplish? What new record keeping requirements will be required, and will any benefit be worth the extra work and expense?

Stability and Predictability – The tax system should be stable and not require major changes whenever economic conditions change so taxpayers can plan for the future.

Adequacy and Accountability – The tax system should not generate any more revenue than is necessary, and there should be some link between the authority to raise revenue and to spend revenue.

Competitiveness – The tax system as a whole should “compare favorably” with those in other states so as to not deter people from living and conducting business in Hawaii.

One criterion may be at odds with another, but that’s what makes tax legislation so difficult. The 1995-1997 Tax Review Commission Final Report is available on the Internet at www.state.hi.us/tax/pubs/trc_rpt.html.

Criminal Actions

The following cases are the results of recent criminal investigations conducted by the Department.

February 15, 2001 - Trucking firm owners admit theft in tax case - Owners of a local trucking company face up to five years in jail and fines of up to \$10,000 for filing fraudulent tax returns. Thomas W.K. Kam and Herbert W.S. Kam of Kam’s Express Inc. each pled no contest in Circuit Court before Judge Gail Nakatani to second-degree theft. They knowingly filed materially false income tax returns for the 1997 tax year. Kam’s Express Inc. pleaded to three counts of failing to file public service company tax returns for calendar years 1995, 1996, and 1997. The business also pled no contest to failing to provide the Department of Taxation with copies of Forms W-2 given to employees for calendar years 1995, 1996, and 1997. The maximum possible penalty to the company for each count is \$100,000, for a total of \$600,000. As part of the plea agreement, the company and the Kams have agreed to be jointly and severally liable to the State for all unpaid public service company taxes and withholding taxes for calendar years 1995, 1996, and 1997. The Kams will be sentenced on April 11, 2001. The Kams were indicted last summer with more than 100 counts of failure to file tax returns and not paying the State taxes withheld from their

employees’ pay.

February 15, 2001 - Kauai barber charged with tax violations - The State Tax Department has charged a Kauai barber with misdemeanor tax violations. Harry Ikeda is accused of the willful failure to secure a general excise tax license and failing to file his general excise tax returns for 1998 and 1999. The offenses are punishable by not more than \$25,000 in fines, or one year imprisonment, or both. Ikeda will be arraigned March 6, 2001, in District Court in Lihue. Ikeda stated he does not believe that, as an individual, he owes the taxes. Ikeda referred further questions to his sister, restaurateur Barbara Oki, who stated they believe that under State and federal laws, a person’s earned income is exempt from taxation. Mrs. Oki stated, “The fruits of your labor is protected. It is yours.”

Recently Issued Tax Publications

The following is a list of the publications issued by the Department of Taxation from June 2000 through March 2001. 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 from any district tax office or by mail through our request line at 587-7572 (toll-free at 1-800-222-7572).

Copies of Administrative Rules are available for a fee (10¢ per copied page plus postage). To request a copy, mail your request to the Department of Taxation, Attention: Rules Office, P. O. Box 259, Honolulu, Hawaii, 96809-0259. Include your name, address, and telephone number; identify the rule (e.g., “cigarette tax stamping”); and provide a check payable to the “Director of Finance” in the amount specified below. The rule listed below is also available at the Department’s website.

Chapter 18-245, HAR - Relating to the cigarette tax stamping. (\$1.45)

TIR No. 2000-1 - Discusses the imposition of the general excise tax on retailing activities under sections 237-16 and 237-13, HRS.

TIR No. 2000-2 - Provides guidance regarding the types of expenditures that are eligible for the hotel construction and remodeling tax credit.

TIR No. 2000-3 - Clarifies the application of Hawaii’s estate and transfer tax to a nonresident’s interest in a partnership that owns Hawaii real property.

TIR No. 2001-1 - Discusses the application of certain Hawaii taxes to qualified subchapter S subsidiary

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Recent Publications

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corporations, qualified subchapter S trusts, and electing small business trusts.

Announcement No. 2000-14 - Provides information on Act 271, SLH 2000, which applies the 0.5 percent general excise tax rate to the sale by a printer to a publisher of magazines or similar printed materials that are distributed to the public or defined segment of the public without charge under a contract with advertisers. The 0.5 percent use tax rate also is applicable to a publisher importing magazines or printed materials for distribution in like manner.

Announcement No. 2000-15 - Provides information on Act 198, SLH 2000, which (1) makes technical amendments to Act 70 and 71, SLH 1999; (2) extends general excise tax pyramiding relief to the sale of amusements; (3) imposes the use tax on imported contracting; (4) authorizes the director of taxation to exempt, exclude, or apportion the use tax; and (5) provides public service company tax relief for the sale of telecommunications services and transportation services.

Announcement No. 2000-16 - Provides information on Act 262, SLH 2000, which allows contractors to report the general excise tax on a cash basis provided the contractors notify the Department of Taxation.

Announcement No. 2000-17 - Provides information on Act 199, SLH 2000, which eliminates the requirement to pay the tax (including penalties and interest) assessed as a condition to appealing the assessed tax to one of the four independent Boards of Review.

Announcement No. 2000-18 - Provides information on Act 174, SLH 2000, which conforms the Hawaii income tax law with the amendments to the operative sections of the Internal Revenue Code.

Announcement No. 2000-19 - Provides information on Act 249, SLH 2000, which requires cigarette and tobacco wholesalers and dealers (licensees) to affix stamps to individual cigarette packages as proof of payment of cigarette taxes.

Announcement No. 2000-20 - Provides information on Act 195, SLH 2000, which provides tax incentives for the construction and renovation of hotel facilities, including hotel condominiums and time share plans; and the call center industry.

Announcement No. 2000-21 - Provides information on Act 297, SLH 2000, which expands several tax incentives that were enacted in Act 178, SLH 1999, and adding other tax incentives such as the sale of unused net operating loss carryovers.

Announcement No. 2000-22 - Provides information on Act 289, SLH 2000, which provides a refundable

income tax credit for investment in a qualifying ethanol production facility and applies to taxable years beginning after December 31, 2001.

Announcement No. 2000-23 - Provides information on the Department's tax relief for taxpayers affected by rains and flooding on Maui and Hawaii on November 1 and 2, 2000.

Announcement No. 2000-24 - Announces that the Department has revised Form G-37, General Excise Tax Exemption for Certified or Approved Housing Projects, to reflect changes to certain statutory references and the agencies that certify the form.

Announcement No. 2000-25 - Announces the adoption of the IRS optional standard mileage rates for 2001.

Announcement No. 2000-26 - Announces the adoption of Hawaii Administrative Rules which implements the imposition of the cigarette tax through the use of stamps affixed to individual packs of cigarettes.

Announcement No. 2001-1 - Provides a list of candidates for political office who have registered with the campaign spending commission.

Announcement No. 2001-2 - A listing of the Tax Information Releases in effect and obsolete as of January 5, 2001, and a listing of Hawaii Administrative Rules related to taxation.

Announcement No. 2001-3 - A listing of New Tax Forms, Instructions, and Schedules; Errors Found on Hawaii Tax Forms As of March 1, 2001.

Tax Facts No. 2000-1 - Provides information regarding tax clearance requirements and other related tax information for state and county contracts.

Tax Facts No. 2000-2 - Provides information regarding offers in compromise.

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.

Income Tax Law

- Application of the income tax to amounts from a pension plan that are "rolled over" into an Individual

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Pending Publications

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Retirement Account - section 235-7, HRS. (Grant Tanimoto, 587-1569)

- Application of the business entity classification rules under the check the box regulations to the Hawaii income tax. (Johnson Lau, 587-1562)

General Excise Tax Law

- Use of resale certificates - section 237-13, HRS.
- Application of the general excise tax to the sale of gift certificates - section 237-13, HRS. (Grant Tanimoto, 587-1569)
- Application of the general excise tax to employee leasing companies - section 237-13, HRS. (Johnson Lau, 587-1562)
- Application of the general excise tax to reimbursements - section 237-20, HRS. (Grant Tanimoto, 587-1569)
- Application of the general excise tax to scientific contracts - section 237-26, HRS. (Johnson Lau, 587-1562)
- Application of the business entity classification rules under the check the box regulations to the Hawaii general excise tax. (Johnson Lau, 587-1562)
- Application of the general excise tax to sales of computer software, internet service providers, and

online service providers. (Marshall Dimond, 587-1533)

- General excise tax licensing and tax clearance requirements of S corporations. (Johnson Lau, 587-1562)
- Application of the general excise tax to property and services paid with the federal government smart pay credit card. (Johnson Lau, 587-1562)

Use Tax Law

- Temporary use exemption for property - section 238-1, HRS. (Marshall Dimond, 587-1533)
- Application of the use tax to sales to the federal government. (Marshall Dimond, 587-1533)

Conveyance Tax Law

- Application of the conveyance tax. (Marshall Dimond, 587-1533)

Miscellaneous

- State business tax credits and general excise exemption for business located in enterprise zones - chapter 209E, HRS.

Second Quarter State Tax Collections

(In Millions of Dollars)

	FY 2001	FY 2000	Difference	
			Amount	Percent
Individual Income Tax	\$ 268.69	\$ 260.90	\$ 7.79	3.0%
Corporate Income Tax	3.61	0.04	3.57	8776.9%
General Excise Tax	394.65	347.70	46.95	13.5%
Transient Accommodations Tax	41.56	35.95	5.61	15.6%
All Others	156.52	160.04	-3.52	-2.2%
Total Tax Collections	\$ 865.03	\$ 804.63	\$ 60.40	7.5%
General Fund Revenues	\$ 739.95	\$ 682.93	\$ 57.02	8.3%

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

Continued growth of the economy resulted in a considerable growth in general fund tax collections. For the second quarter of fiscal year 2001, total tax collections jumped by \$60.4 million or 7.5% over the second quarter of fiscal year 2000. Second quarter collections from general excise taxes increased 13.5% over the previous year, reflecting an increase in sales. Second quarter transient accommodations tax collections, an indicator of the visitor industry, rose 15.6% over the last fiscal year. Tax collections deposited into the state general fund for the second quarter of fiscal year 2001 was \$57.02 million or 8.3% more than the amount deposited the previous fiscal year.

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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For Tax Information:
808-587-6515 (January - April 20)
808-587-4242
1-800-222-3229 (Toll-Free)
808-587-1418 (TDD - For the hearing impaired)
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