



Hawaii Tax News

Volume 2, Number 3

State of Hawaii • Department of Taxation

FALL 1998

Department Issuing Federal Employer's Identification Number

Hawaii businesses are now able to obtain their federal employer's identification number (FEIN) "over the counter" at the State Tax Office. New businesses may bring their completed federal application form to the State Tax Office, at the same time they bring in their Basic Business Application (Form BB-1) for Hawaii, and immediately obtain a temporary FEIN. The temporary FEIN is later confirmed as the permanent number by the Internal Revenue Service, usually within three weeks.

In the past, new businesses often submitted State applications without the FEIN. The Department followed up with a letter requesting the number and businesses had to respond after they received their FEIN. Now, businesses can get their federal and State identification numbers at the same time with no follow-up needed.

According to Director Ray Kamikawa, "our on-going collaboration with the Internal Revenue Service has been a real plus for taxpayers. In this instance, the Internal Revenue Service established new procedures and trained our staff in issuing the federal number; the result is a more streamlined registration process for Hawaii businesses."

Federal identification numbers currently are being issued at the Oahu District Tax Office only. However, the Department hopes to extend this service to the neighbor islands sometime in the future. ■

Sublease Deduction

Effective October 1, 1998, Act 353, Session Laws of Hawaii 1997 (Act 353), reduces the pyramiding of the general excise tax on subleased real property. Starting with returns filed for October, 1998, sublessors may take a deduction from their gross rental receipts reported on their general excise tax returns. Once the deduction is fully phased in (over a seven-year period), a sublessor would be allowed to reduce the amount of gross proceeds or gross income under a written lease of real property by seven-eighths of the amount the sublessor pays to its lessor for the same

real property in determining the gross proceeds or gross income subject to the general excise tax. The fraction of seven-eighths was determined by comparing the retail rate of tax, four percent, with the rate of tax normally applicable to intermediate stage transactions (0.5 percent or one-eighth of the 4.0 percent).

The Department held a public hearing on August 17, 1998, to adopt administrative rules that establish the requirements for the sublease deduction and provide guidance on issues such as allocating rent paid by the lessee when the lessee subleases less than one hundred percent of the real property which was leased from the lessor, allocating the rent paid by the lessee to various real property which has different rental values, and allocating the rent paid by the lessee based on the fair rental value of the property. The administrative rules will become effective on October 1, 1998.

New forms relating to the sublease deduction include Form G-71, General Excise Sublease Deduction Certificate; and Form G-72, Sublease Deduction Worksheet. Form G-71 must be submitted by the lessor to the lessee certifying that the lessor is licensed and taxable under the general excise tax law. Form G-72 may be used to calculate the amount of the sublease deduction to claim on the monthly, quarterly, semi-annual, or annual general excise tax return.

Forms G-71 and G-72 may be obtained at any district tax office, by mail through the Department's 24-hour Forms Request Line, or via the Internet (see the last page for telephone numbers and addresses). ■

IN THIS ISSUE

Department Issuing Federal Employer's Identification Number	1
Sublease Deduction	1
The Direct Line	2
August Workshop Report	2
Kauai Problem Solving Day	2
Taxpayer Satisfaction Survey	2
Questions and Answers	3
Recently Issued Tax Publications	3
Pending Tax Publications	4
Criminal Section — Concluded Investigations Resulting in Prosecution/Convictions	6

The Direct Line ☎

By Director Ray K. Kamikawa

In this issue, we advise you of more initiatives designed to ease the pain in dealing with us—issuance of FEINs, workshops, problem-solving day, etc. We will shortly announce the scheduling of our second practitioners' forum this year to address in more detail your concerns and suggestions in an effort to further refine and improve our operations.

Practitioner and taxpayer responses to two prior surveys helped us reveal many areas of improvement. We thank those of you who responded with suggestions. As described in this issue of the News, we are also asking for input on how our field auditors have performed on specific cases. All of these surveys are returned directly to Taxpayer Advocate Jan Fujii who answers directly to me.

So far, it looks like the IRS reorganization will result in even more cooperative efforts between IRS and the states. Better coordination between the two agencies can only be good news to our taxpayers.

Because people have asked, we have recapped our criminal tax cases. Since our prosecutions are no longer given detailed coverage by the media, people have wondered about our enforcement efforts in this area. ■

August Workshop Report

The Department hosted its August Workshop on August 26 at McCoy Pavilion. Over 175 practitioners and others attended the workshop which featured Director Kamikawa speaking on several topics including recent legislation and the general excise taxation of services. The new sublease deduction was described in a presentation made by Grant Tanimoto and Marshall Dimond of the Rules Office. Lynne Kaneta of the Oahu Collection Branch offered information on offers in compromise. A special guest speaker was Floyd L. Williams, National Director for Legislative Affairs for the Internal Revenue Service who described some of the recent federal legislation affecting the IRS. The Department's new field audit customer satisfaction survey was introduced by Ronald Randall. Overall, the workshop was well received by those in attendance.

Stay tuned for our Year-End Workshop coming in December! ■

Kauai Problem Solving Day

Persons with ongoing problems with their taxes had the opportunity to receive assistance at the Problem Solving Day held on Kauai on September 11. State and IRS officials were on hand to meet and work with taxpayers in resolving their tax problems such as recurring bills, missing refunds, and non-filed returns.

The Kauai Problem Solving Day was the fourth joint problem solving day in Hawaii this year. Others were held in Wailuku, Honolulu, and Kailua-Kona. Persons attending the problem solving days said they were pleased with the service they received and that working face-to-face with State and IRS officials was very effective. ■

Taxpayer Satisfaction Survey

The Department of Taxation is conducting a customer satisfaction survey of taxpayers who recently have had contact with our Field Audit Branch. A sampling of taxpayers whose audits have recently closed are being asked to take a few minutes to complete the survey questionnaire. We hope that those taxpayers will help us determine what we are doing right as well as what we can improve on. ■



The Hawaii Tax News is a publication of the State of Hawaii, Department of Taxation.

Director: Ray K. Kamikawa
 Editors: Lynne Kuroda & Cathleen Tokishi
 Address: Princess Ruth Keelikolani Building
 830 Punchbowl Street, Room 220
 Honolulu, HI 96813-5094
 Telephone: 808-587-1577
 Fax: 808-587-1488
 Website: <http://www.state.hi.us/tax/tax.html>
 Forms by Fax: On Oahu: 808-587-7572
 All Others: 808-678-0522 from your
 fax machine
 Consumer Dial: 808-587-1234 (message 7700)

Questions and Answers

There were a couple of questions raised at the Department's August workshop. Here are the answers to those questions.

Question: *When a taxpayer makes a payment of taxes to the Department of Taxation, why is the amount paid applied first to interest, then to penalties, and then to principal?*

Answer: Section 231-27, Hawaii Revised Statutes, states that, "Whenever a taxpayer makes a partial payment of a particular assessment of taxes, the amount received by the department of taxation shall first be credited to interest, then to penalties, and then to principal." For Hawaii tax purposes, interest is not compounded, that is, interest is not computed on or added to interest. The application of a partial payment of tax, penalty, and interest is treated differently by the Internal Revenue Service. For federal tax purposes, interest is compounded.

Question: *If an architect subcontracts with an engineer to provide engineering services, can the architect claim the subcontract deduction for payments made to the engineer?*

Answer: For purposes of the general excise tax, a person engaged in the practice of architecture and professional engineering is classified as a contractor. Therefore, payments made to the engineer may be deducted from the gross income of the architect provided the engineer's name, general excise tax number, and amount of the deduction are listed on the architect's general excise tax return. ■

Recently Issued Tax Publications

The following is a list of the publications issued by the Department of Taxation from July 1997 through September 1998. Copies of these publications may be obtained from any district tax office, by calling the Forms Request Line on Oahu, or via the Internet. Addresses and telephone numbers are provided on the last page of this newsletter.

Section 18-235-7-03(c), HAR - Relating to the taxation of pensions under the Hawaii Income Tax Law.

Section 18-235-98, HAR - Relating to the requirements for extensions of time for filing income tax returns.

Chapter 18-237 and Sections 18-238-1 and 18-238-2, HAR - Relating to the application of the general excise tax and use tax to the sale of tangible

personal property by an out-of-state seller, including drop shipments.

Section 18-235-38-06, HAR - Relating to the modification of the sales, property, and payroll factors in the apportionment formula of taxpayers engaged in multi-state radio or television broadcasting or publishing.

Section 18-235-1, HAR - Relating to residency determinations, disabilities, and resident estates and resident trusts.

Section 18-235-38-03, HAR - Relating to the inclusion in the sales factor of the apportionment formula, the net gain from the short term investment, reinvestment, or trading of intangible assets.

TIR No. 97-2 - Reiterates the requirement that a corporate taxpayer engaged in a unitary business as part of a unitary group must file a combined Hawaii income tax return and clarifies that if any corporation in the unitary group has sufficient nexus with Hawaii, the combined income tax return must include the income and apportionment factors of all corporations of the unitary group.

TIR No. 97-3 - Provides information on the expansion of the "timely mailing treated as timely filing/paying rule" to documents and payments delivered by a designated private delivery service.

TIR No. 97-4 - Provides guidance regarding the application of the business entity classification rules under the "check-the-box" regulations to the Hawaii income tax and other taxes.

TIR No. 97-5 - Explains the proper interpretation of the law regarding business development corporations and associated tax benefits.

TIR No. 98-1 - Provides information on the income tax exemption and credits available for persons engaged in the motion picture and television film production business.

TIR No. 98-2 - Explains the application of the general excise tax to income received from leasing personal property.

TIR No. 98-3 - Provides information regarding the 1998 Legislation on business development corporations.

TIR No. 98-4 - Provides guidance regarding the application of the transient accommodations tax and general excise tax to an operator of transient accommodations.

TIR No. 98-5 - Provides guidance regarding the general excise tax exemption for tangible personal property, including souvenirs and gift items, shipped out of the State.

TIR No. 98-6 - Provides guidance regarding the application of Hawaii's income tax and franchise tax laws to real estate investment trusts and their owners.

TIR No. 98-7 - Provides guidance to public service companies which change their accounting period from a
(See Recent Publications, Page 4)

Recent Publications

(From Page 3)

calendar year to a fiscal year.

Announcement No. 97-7 - Informs taxpayers of the increase in the cigarette tax rates.

Announcement No. 97-8 - Informs taxpayers of the penalties for electronic funds transfer payments that are dishonored and the penalties for failure to remit by an EFT method approved by the Department of Taxation.

Announcement No. 98-1 - Provides a list of candidates for political office who have registered with the campaign spending commission.

Announcement No. 98-2 - Announces the adoption of Hawaii Administrative Rules, relating to the taxation of pensions under the Hawaii Income Tax Law.

Announcement No. 98-3 - Announces the adoption of Hawaii Administrative Rules, relating to the requirements for extensions of time for filing income tax returns.

Announcement No. 98-4 - A listing of the Tax Information Releases in effect and obsolete as of January 23, 1998, and a listing of Hawaii Administrative Rules.

Announcement No. 98-5 - Informs taxpayers of the Department's administration of the dividends received deduction under section 235-7(c), HRS.

Announcement No. 98-6 - A Listing of New and Obsolete/Retired Tax Forms, Instructions, and Schedules; Errors Found on Hawaii Tax Forms as of March 1, 1998.

Announcement No. 98-7 - Informs taxpayers of the increase in the liquor tax rates.

Announcement No. 98-8 - Requesting suggestions for improving the tax forms.

Announcement No. 98-9 - Informs taxpayers of the Hawaii Income Tax Law conformity to the Internal Revenue Code.

Announcement No. 98-10 - Announces the adoption of Hawaii Administrative Rules, relating to the application of the general excise tax and use tax to the sale of tangible personal property by an out-of-state seller, including drop shipments.

Announcement No. 98-11 - Informs taxpayers of the increase in the cigarette tax from 4 cents per cigarette to five cents per cigarette beginning July 1, 1998.

Announcement No. 98-12 - Requesting comments relating to the taxation of the telecommunications industry.

Announcement No. 98-13 - Informs taxpayers that beginning September 1, 1998, the cigarette and tobacco tax will be imposed on the sale, use, or possession of cigarettes and the sale of tobacco products by wholesalers and dealers to the United States.

Announcement No. 98-14 - Provides information on Act 143, SLH 1998, which allows a company engaged

in a network or multi-level marketing arrangement to obtain a single general excise tax license for all of its direct sellers doing business in the State.

Announcement No. 98-15 - Informs taxpayers that the Department of Taxation is postponing the September 1, 1998 effective date for the imposition of the cigarette and tobacco taxes on sales and gross proceeds of sales of cigarettes and tobacco products to the United States.

Announcement No. 98-16 - Provides information on Act 169, SLH 1998, which relieves the general contractor of liability for the general excise taxes on the contract amounts paid by the general contractor to a subcontractor.

Announcement No. 98-17 - Announces the adoption of Hawaii Administrative Rules, relating to the apportionment of income for multi-state radio and television broadcasters and publishers.

Announcement No. 98-18 - Provides information on Act 125, SLH 1998, which amends certain public service company tax provisions.

Announcement No. 98-19 - Announces the adoption of Hawaii Administrative Rules, relating to definitions involving residency determinations and persons with disabilities.

Announcement No. 98-20 - Announces the adoption of Hawaii Administrative Rules relating to the sales factor of the apportionment formula.

Tax Facts No. 97-3 - Provides information on the general requirements for individuals starting a business.

Tax Facts No. 97-4 - Provides information on the 1997 Form N-15 which was revised as a nonresident and part-year resident income tax return.

Tax Facts No. 98-1 - Provides information regarding the general excise tax on medical and dental charges.

Tax Information, dated April 9, 1998 - Provides information on Act 281, SLH 1997, with respect to nonresident active duty military personnel and their spouses. ■

Pending Tax Publications

The following is a list of tax projects in progress, and the name and telephone number of the staff member assigned to the project. We will coordinate with the Director's Advisory Group in opening new tax projects.

Administration of Taxes

- Clarify the application of cost recovery fees to selected goods and services, including installment agreements - sections 231-3.4 and 231-25.5, HRS. (Jayna Uyehara, 587-1553)

(See Pending Publications, Page 5)

Pending Publications

(From Page 4)

- Clarify the application of penalties and interest and the waiver of penalties and interest - sections 231-3 and 231-39, HRS. (Jayna Uyehara, 587-1553)

Income Tax Law

- Clarify the application of the income tax to amounts from a pension plan that are "rolled over" into an Individual Retirement Account - section 235-7, HRS. (Iris Kitamura, 587-1570)
- Clarify the application of the business entity classification rules under the check the box regulations to the Hawaii income tax. (Johnson Lau, 587-1562)
- Clarify the withholding exemption for nonresidents. (Dana Oshiro-Viola, 587-1564)
- Clarify the filing of composite returns. (Dana Oshiro-Viola, 587-1564)

General Excise Tax Law

- Clarify the application of the general excise tax to interest income - section 237-3, HRS.
- Clarify the application of the general excise tax to intermediary services - section 237-13, HRS. (Grant Tanimoto, 587-1569)
- Clarify the application of the general excise tax to prepaid telephone calling cards - section 237-13, HRS. (Jayna Uyehara, 587-1553)
- Clarify the application of the general excise tax to satellite broadcasters - section 237-13, HRS. (Jayna Uyehara, 587-1553)
- Clarify the application of the general excise tax to Internet service providers - section 237-13, HRS. (Jayna Uyehara, 587-1553)
- Clarify the use of resale certificates - section 237-13, HRS. (Dana Oshiro-Viola, 587-1564)
- Clarify the application of the general excise tax to the sale of gift certificates - section 237-13, HRS. (Iris Kitamura 587-1570)
- Clarify the application of the general excise tax to employee leasing companies - section 237-13, HRS. (Johnson Lau, 587-1562)
- Clarify the application of the sublease deduction - section 237-16.5, HRS. (Marshall Dimond, 587-1533)
- Clarify the income-splitting exemption for tour companies and tour packagers - section 237-18, HRS. (Grant Tanimoto, 587-1569)
- Clarify the application of the general excise tax to reimbursements - section 237-20, HRS. (Grant Tanimoto, 587-1569)
- Clarify the taxation of services for purposes of the general excise tax - sections 237-13 and 237-21, HRS. (Johnson Lau, 587-1562)

- Clarify the application of the general excise tax to scientific contracts - section 237-26, HRS. (Johnson Lau, 587-1562)
- Clarify the application of the business entity classification rules under the check the box regulations to the Hawaii general excise tax. (Johnson Lau, 587-1562)
- Clarify the application of the general excise tax to sales of computer software. (Marshall Dimond, 587-1533)
- Clarify the application of the motion picture credit and exemption. (Marshall Dimond, 587-1533)
- Clarify the application of the general excise tax - new exemption for wholesale sales passed during the 1998 Legislative session. (Iris Kitamura, 587-1570)
- Clarify the general excise tax licensing and tax clearance requirements of S corporations. (Johnson Lau, 587-1562)
- Clarify the application of the general excise tax to the sale of condiments. (Iris Kitamura, 587-1570)

Use Tax Law

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

Franchise Tax Law

- Clarify the application of the franchise tax to mortgage brokers, including sole proprietors and flow-through entities - section 241-3, HRS. (Marshall Dimond, 587-1533)

Conveyance Tax Law

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

Miscellaneous

- Clarify the state business tax credits and general excise exemption for business located in enterprise zones - chapter 209E, HRS. (Grant Tanimoto, 587-1569, Dana Oshiro-Viola, 587-1564)
- Clarify the exemption for certified or approved housing projects - section 237-29, HRS. (Marshall Dimond, 587-1533) ■



Criminal Section — Concluded Investigations Resulting in Prosecution/Convictions

The following is a recap of criminal cases:

VIOLATIONS					
Name	Business Activity	Violation	Result	Conviction Date	Taxes
Snorkel Bob's etal	Tourism-Retail	Failure to File GE	Pled Guilty	11/24/95	\$950,000 (GE)
ERA Maui Real Estate	Real Estate	Failure to File GE	Pled Guilty	03/22/96 *	\$99,000 (GE)
Douglas Halsted	Attorney	Failure to File GE	Pled Nolo	04/30/96	\$48,000 (GE)
Stephen Yamada	Attorney	Failure to File GE	Pled Guilty	06/09/96	\$102,000 (GE)
Bruss Keppeler	Attorney	Failure to File GE	Pled Guilty	06/28/96	\$5,900 (GE)
Janell Israel & Associates	Tax Preparation	Failure to File GE	Pled Guilty	08/31/96 *	\$339,361 (GE) and \$18,210 (Income)
Janell Israel	Tax Preparer	Failure to File GE	Pled Guilty	08/31/96 *	\$65,387 (GE) and \$141,609 (Income)
William Abell	CPA	Failure to File GE	Pled Nolo	10/07/96	\$49,844 (GE)
Nicanor Joaquin MD, Inc.	Physician	Failure to File GE	Pled Guilty	12/27/96	\$62,587 (GE)
Business Doctor, Inc.	Tax Preparation	Failure to File GE	Pled Nolo	04/09/97	\$24,034 (GE)
Venus Pagharion	Welfare	Theft Class C	Pled Nolo	05/27/97	\$9,770 (Income)
Mark Schmalz	Physician	Failure to File GE	Pled Nolo	06/24/97	\$19,093 (GE)
Barbara Price	Publisher	Evasion of GE	Trial- Guilty	08/07/97	\$33,844 (GE)
Marc Mendoza	Writer	Aiding & Abetting	Pled Guilty	08/01/97	Jail - 30 days
Kathea Suzuki Latham	Publisher	Theft Class B	Pled Guilty	10/20/97	\$20,000+ (WH)
Hamlet Bennett	Architect	Failure to File GE	Pled Nolo	02/04/98	\$153,709 (GE)
Pacific Petroleum Service	Oil Jobber	Failure to File GE	Pled Guilty	01/09/98	\$87,154 (GE) \$13,500 (Fuel)
Helen Patlingrao	Tax Preparer	Aiding & Abetting	Pled Nolo	06/08/98	None
Michael Latham	Publisher	Theft Class B	Pled Nolo	07/14/98	\$20,000+ (WH)
Sieghard Kramer	Graphic Designer	Failure to File GE	Pending Trial Trial 10/05/98		Undisclosed
Sieghard Kramer	Graphic Designer	Theft- WH	Pending Trial Trial 10/05/98		\$20,000+ (WH)
Clarence Rengulbai	State Government	Failure to File GE	Pending Trial Trial 10/06/98		Undisclosed

* Convicted and dismissed with prejudice

(See Criminal Section, Page 7)

Criminal Section

(From Page 6)

VIOLATIONS					
Name	Business Activity	Violation	Result	Conviction Date	Taxes
Claude Hebaru	Ewa Village Contractor	Failure to Report Income	Pending Trial	Trial 03/15/99	Undisclosed
R. J. Williams	Ewa Village Contractor	Failure to Report Income	Pending Trial	Trial 03/15/99	Undisclosed
Donna Abelaye	Ewa Village Contractor	Failure to Report Income	Pending Trial	Trial 03/15/99	Undisclosed
Michael Kahapea	City Government	Evasion of Tax	Pending Trial	Trial 03/15/99	Undisclosed
Herbert Ishibashi	Contractor	Theft-Withholding	Pending Trial	Trial 10/19/98	Undisclosed
Richard A. MacMillan	Attorney	Failure to File GE	Pending Trial	Trial 02/15/99	Undisclosed
Donald A. Lewis	Realtor	Failure to File GE	Pending Trial	Trial 01/11/99	Undisclosed
Perfect Title Company	Title	Failure to File GE	Pending Trial	Trial 01/11/99	Undisclosed
David Huggett	Realtor	Failure to File GE	Pending Arraignment (Complaint 05/15/98)		Undisclosed

Note: Pending investigations cannot be disclosed.

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

<http://www.state.hi.us/tax/tax.html>

OAHU DISTRICT OFFICE

Princess Ruth Keelikolani Building

830 Punchbowl Street

Honolulu, HI 96813-5094

FAX: 808-587-1488

TELEPHONE:

For Tax Information:

808-587-6515 (January - April 20)

808-587-4242

1-800-222-3229 (Toll-Free)

808-587-1418 (TDD)

1-800-887-8974 (TDD Toll-Free)

Tax Forms and CD-ROM (Nominal Cost) by Mail:

808-587-7572

1-800-222-7572 (Toll-Free)

Tax Forms by Fax:

On Oahu: 808-587-7572

All Others: 808-678-0522 from your fax machine

MAUI DISTRICT OFFICE

State Office Building

54 S. High Street, #208

Wailuku, HI 96793-2198

FAX: 808-984-8522

TELEPHONE: 808-984-8500

HAWAII DISTRICT OFFICE

State Office Building

75 Aupuni Street, #101

Hilo, HI 96720-4245

FAX: 808-974-6300

TELEPHONE: 808-974-6321

KAUAI DISTRICT OFFICE

State Office Building

3060 Eiwa Street, #105

Lihue, HI 96766-1889

FAX: 808-274-3461

TELEPHONE: 808-274-3456