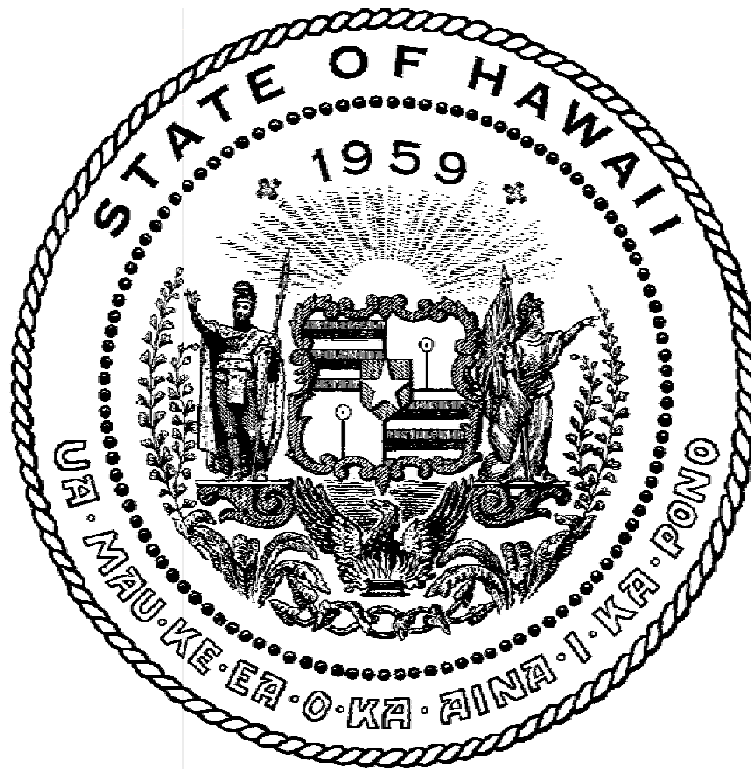


DEPARTMENT OF TAXATION STATE OF HAWAII



ANNUAL REPORT 2009–2010

November 4, 2011

NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION

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DEPUTY DIRECTOR

November 4, 2011

The Honorable Neil Abercrombie
Governor, State of Hawaii
Executive Chambers, State Capitol
Honolulu, HI 96813

Dear Governor Abercrombie:

I am pleased to present you with the attached Annual Report of the major accomplishments of the Department of Taxation for the fiscal year ending June 30, 2010. During the fiscal year covered by this report, Stanley Shiraki succeeded Sandra Yahiro as the Deputy Director on July 9, 2009. He subsequently succeeded Kurt Kawafuchi and became Acting Director of Taxation on June 15, 2010; Ronald Randall was appointed as the Acting Deputy Director.

The Department of Taxation is responsible for collecting the majority of the revenues for funding the services and programs provided by the State of Hawaii. While customer demand for tax assistance continued to increase, the Department could not provide the staffing to meet the demand because of the reductions in personnel and budget. The lack of adequate staffing resulted in delays in responding to taxpayers' waiting in lines as well as replying to telephone inquiries and correspondence. The public's discontent with the lack of prompt service was escalated when it was announced that there would be a delay in paying tax refunds, a budgetary measure that was taken to move payments into the next fiscal year. Throughout this difficult time, every employee had a role in implementing revenue generating programs, and they did so while also maintaining a high level of customer service. Their collective success is a reflection of the dedication and commitment to public service of both our line and supervisory staff.

Additional phases of the Non-Filer Project, a component of the Delinquent Tax Project, continued through fiscal year 2010. The Non-Filer Project resulted in additional collections of more than \$43 million in fiscal year 2010. The Department also published temporary administrative rules, held meetings with various stakeholders, developed forms, and took other steps to implement the new cash economy enforcement provisions of Act 134, Session Laws of Hawaii 2009. The intent of this Act is to level the playing field between compliant businesses and those that hide taxable income by engaging in unrecorded cash transactions.

Work to enhance the electronic filing of various tax returns and other documents and to integrate fuel, liquor, tobacco, and other miscellaneous taxes into the Department's Integrated Tax Information Management System (ITIMS) is ongoing. Significant progress has been made on the

development of the Audit Model Data Warehouse, which will allow the Department to better target its limited audit resources.

A net total of \$5.1 billion was collected in fiscal year 2010, an increase of 3.9% over the \$4.9 billion that was collected in fiscal year 2009. The increase, however, is largely attributable to the delay in paying most income tax refunds, a budgetary measure that was taken by the last Administration to move payments into the next fiscal year in order to balance the budget for fiscal year 2010.

If the \$186.1 million in delayed individual income tax refunds and \$1.3 million in delayed corporate income tax refunds had been timely released in fiscal year 2010, then actual revenues for the fiscal year would have been \$4.9 billion, which is unchanged from total fiscal year 2009 tax collections. Of the total tax collected, \$4.4 billion (85.0%) was deposited into the State's General Fund.

The 2011 fiscal year brought with it a new day for Hawaii. As your administration moves the State towards a brighter future, you can be assured that the dedicated employees of the Department of Taxation will continue to do their part to provide the highest possible level of public service.

Sincerely,

A handwritten signature in black ink, appearing to read "Frederick D. Pablo". The signature is fluid and cursive, with the first name "Frederick" being more prominent.

FREDERICK D. PABLO
Director of Taxation

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THE YEAR IN REVIEW

TAX SERVICES AND PROCESSING DIVISION

The Tax Services and Processing (TSP) Division consists of three branches: (1) Document Processing, (2) Taxpayer Services, and (3) Revenue Accounting. Each branch's objectives are unique to its specific functions, with an overall division objective to perform all functions relating to the centralized processing, editing, and controlling of tax information through paper documents or electronic data; receiving, securing, depositing, and accounting for tax payments; and functions relating to account management, licensing, and providing taxpayer services to the public.

In these challenging economic times, the mission and focus of the TSP Division remain, as always, the timely and efficient processing of tax returns and payments as well as providing efficient customer assistance. The dedication and commitment of all TSP employees who, on a daily basis, work together to ensure that our services are provided in a consistent, fair, and timely manner is a testament to the phrase "*doing more with less*." The dedicated employees and managers serving on the front lines of this division helped see us through a very challenging fiscal year.

During fiscal year (FY) 2010, the TSP Division continued to implement cost-cutting measures to mitigate the impact of budget cutting over the past two fiscal years, as did the rest of the Department. These measures, many of which were begun in FY 2009, included the statewide hiring freeze and furlough Fridays, a two-thirds reduction of the temporary tax season workforce, the elimination of all overtime, and the overall reduction of operating expenses to a bare minimum. In addition, the TSP Division put forth an extraordinary effort to enhance Department revenue collections by diversifying and expanding the Delinquent Tax Project initiatives.¹

Using process change, technology, and our strategic vision, the TSP Division continues to improve upon its operations and to further enhance the Department of Taxation's Integrated Tax Information Management System (ITIMS) technology platform, especially in terms of electronic processing and the ITIMS Imaging System (IIS), which is an integrated scan, recognition, and storage platform for tax returns and other documents. In FY 2010, the Department expanded its electronic filing and processing (ELF) capabilities to include amended transient accommodation tax returns and amended general excise tax returns. Work to migrate the Department's Federal-State Joint Electronic Filing (JELF) program to the new federal Modernized e-Filing (MeF) application is also underway.

Selected paper tax returns and payment vouchers continue to be scanned into the IIS and the digital images stored in a repository during processing. In FY 2010, over 1.7 million paper returns and payments were processed through the IIS. The IIS allows staff to retrieve the digital images of tax returns and payments directly from the taxpayers' ITIMS tax account with the click

¹ Information about the Delinquent Tax Project initiatives is provided on page 13.

of a button, greatly enhancing the staff's ability to quickly resolve taxpayer issues at any district tax office.

The state-of-the-art IIS scanning and character recognition technology has enabled the Department to greatly reduce the time required for data entry. Of the total volume of 3.34 million documents processed in FY 2010, 53% were returns and payments processed through the IIS. Electronic processing accounted for 33% of the total volume, and 2D Barcodes accounted for another 10%. The time needed to post paper returns and process refunds should continue to decline as additional forms are migrated from the key-from-paper technology.

Document Processing Branch

The main function of the Document Processing (DP) Branch is to orderly process and control all tax returns and documents; receive, secure, deposit, and account for tax payments; and store, file, and retrieve such documents.

During FY 2010, the DP Branch processed 3.3 million returns and payments, 1.1 million (33%) of which were electronically transmitted. The 1.73 million payments processed totaled more than \$4.74 billion for the year.

Filing tax returns and other documents electronically through JELF or ELF allows tax return data to flow into internal systems with a minimal amount of manual intervention, which enhances operational efficiency. The use of both JELF and ELF to file returns increased in FY 2010.

Certain Hawaii Form N-11 and Form N-15 individual income tax returns can be electronically filed via the Department's JELF Program with the Internal Revenue Service (IRS). After 10 years, JELF is being phased out by the IRS and replaced with their new MeF application. In FY 2010, the number of Hawaii returns filed through JELF increased by 5% from 302,934 returns in FY 2009 to 317,984 returns in FY 2010.

The ELF program allows taxpayers to electronically file some general excise tax, transient accommodations tax, withholding, and income tax returns as well as certain extensions, payment vouchers and other documents via the Internet from the Department's website. In FY 2010, taxpayers used ELF to electronically file 475,613 returns and other documents, a 52% increase over the number filed in FY 2009.

In total, the DP Branch processed 45% of all returns and payments within seven calendar days in FY 2010, and 79% of all returns and payments, within 30 calendar days.

Taxpayer Services Branch

The three main functions of the Taxpayer Services (TPS) Branch are: (1) to provide efficient customer assistance and information on all taxes administered by the Department (Customer Inquiry); (2) to perform computer-based error correction activities to facilitate the expedient processing, posting, and updating of tax returns, payments, and other documents (Account

Management); and (3) to process, issue, and update all licenses and permits issued by the Department in a timely and efficient manner (Licensing).

Customer Inquiry: 2010 Statistics:

For FY 2010, a total of 380,142 calls were received, of which 232,471 were handled either by the automated Interactive Voice Response (IVR) system or by a tax representative, for an overall call answer rate of 61%.

<u>Fiscal Year</u>	<u>Incoming Calls</u>	<u>Calls Answered</u>	<u>Call Answer Rate</u>
2010	380,142	232,471	61%
2009	364,804	291,228	80%
2008	284,217	228,875	81%

Much of the decline in the call answer rate for FY 2010 is attributable to the January through June 2010 income tax filing season, during which a total of 251,036 calls were received. Of those 251,036 calls, 34,170 (14%) were handled by the IVR system and 97,563 (39%) were handled by tax representatives. This resulted in an overall call answer rate for the 2010 tax season of 53%, which is significantly lower than the 88% overall call answer rate for the same period in 2009 when a total of 210,818 calls were received of which 185,329 were answered.

The significant increase in the call volume and the concomitant decrease in the call answer rate during this six-month period was directly attributable to: (1) the delay in issuing income tax refunds due to the State's fiscal situation and (2) the volume of the Delinquent Tax Project Non-Filer letters mailed to sole proprietors and other small businesses required to file semiannual general excise tax periodic returns as well as a general excise tax annual return and reconciliation for each tax year.

Due to the State's financial situation, the decision was made to delay the payment of state income tax refunds to the following fiscal year. Although some refunds were eventually released in late May 2010, taxpayers were unable to obtain automated refund status information through either the IVR or the Department's website during this time. The result was a flood of telephone calls from taxpayers asking when they should expect their refunds and other refund-related questions.

The Delinquent Tax Project initiative generated thousands of notices that were mailed to sole proprietors and other small businesses that failed to file all semiannual general excise tax returns or annual general excise tax returns as required. Notice recipients were largely unaware of the general excise tax filing requirements, and many had merely failed to file annual general excise tax returns on which no additional tax was due or to cancel their licenses when they stopped doing business. As a result, tax representatives spent a considerable amount of time with each caller to both educate them about the statutory filing requirements and to help bring them into compliance. Although there was a significant decrease in the call answer rate, the notices succeeded in generating additional tax revenue, educating taxpayers, and clearing Department records of noncompliant accounts and unneeded general excise tax licenses.

Account Management: Error Correction Statistics

During FY 2010, the Account Management Section corrected and posted to the Integrated Tax Processing System (ITPS) a total of 168,219 tax returns, payments, and other tax forms that were "worklisted" (i.e., removed from the processing cycle due to critical errors), which was comparable to the FY 2009 total of 168,826. The number of worklisted returns appears to have stabilized as the number of electronically filed returns has increased. Filing electronically minimizes the number of taxpayer errors, and the Department expects the number of returns requiring manual review and correction by Account Management to continue to decline as electronic filing increases.

Licensing: Statistics on Processing Business License Applications and Cancellations

The Licensing Section processed 32,497 Business License applications in FY 2010, of which 8,301 (26%) were submitted on-line through the Hawaii Business Express. It also processed 62,058 license cancellations, an increase of more than 100% over the 30,012 cancellations processed in FY 2009, which was itself an increase of 100% over the 15,000 cancellations processed in FY 2008. The tremendous increase in cancellations over the last three fiscal years was a direct result of the Delinquent Tax Project's Non-Filer initiative, which began in June 2008. The Non-Filer initiative prompted a surge in cancellation filings in response to 312,256 non-filer notices mailed since June 2008. During FY 2010, the Licensing Section also processed 2,133 renewals, statewide, of liquor, fuel, tobacco, and retail tobacco permits.

Revenue Accounting Branch

The main function of the Revenue Accounting (RA) Branch is to maintain revenue control and subsidiary ledgers. As such, the RA Branch controls, and is responsible for, all adjustment, error resolution, accounting, and reconciliation functions for all State tax revenues. Specific tasks include the preparation of the Preliminary Report, Statement of Tax Operations (STO), and related reports.

The Preliminary Report is a monthly, statewide summary of all revenues received by the Department, less the amount of tax refunds, which must be prepared by the fifth working day of each month. The STO is a formal, detailed report of State revenues that is based on the Preliminary Report and that must be prepared by the tenth working day of each month. The RA Branch met these urgent deadlines each month during FY 2010.

Secondary functions of this branch include statewide processing and manual accounting activities for all miscellaneous taxes except the estate and transfer tax; controlling and accounting for all State tax refunds resulting from either overpayments or adjustments; maintaining the statewide accounting records and preparing journal entries associated with the Delinquent Tax Project's administratively established trust account as well as the Special Enforcement Section's administratively established trust account; maintaining the manual accounting system for all protested payments and tax appeals; and handling all State refund exception activities (e.g., returned checks, tracers, forgeries, etc.).

COMPLIANCE DIVISION

The objective of the Compliance Division is to maximize taxpayer compliance with Hawaii's tax laws in a consistent, uniform, and fair manner. The Compliance Division is composed of the Oahu Office Audit Branch, Oahu Field Audit Branch, Oahu Collections Branch, and the Maui, Hawaii, and Kauai District Tax Offices. Three programs are established in the Division to meet the objectives of the voluntary compliance, self-assessment system: (1) auditing/examination, (2) collection, and (3) taxpayer services (information dissemination).

Auditing/Examination

To support the voluntary compliance, self-assessment system of taxation, the Office Audit and the Field Audit units performed the following examinations and audits during the fiscal year.

	<u>Office Audit</u>		<u>Field Audit</u>	
	Number of Audits	Dollars	Number of Audits	Dollars
	<u>Completed</u>	<u>Assessed</u>	<u>Completed</u>	<u>Assessed</u>
Oahu	6,702	\$23,154,669	194	\$104,225,855
Maui	2,083	12,247,520	24	5,069,022
Hawaii	1,853	4,844,791	55	3,519,701
Kauai	<u>982</u>	<u>1,855,983</u>	<u>59</u>	<u>6,093,924</u>
Total FY 2010	11620	\$42,102,963	332	\$118,908,502
Total FY 2009	<u>22,521</u>	<u>87,936,431</u>	<u>373</u>	<u>158,060,626</u>
Difference	(10,901)	(\$45,833,468)	(41)	(\$ 39,152,124)

The Office Audit units decreased by 48.4% the number of audit cases closed in FY 2010 over FY 2009, and the total dollars assessed decreased by 52.1%. The Field Audit units decreased by 11.0% the number of audit cases closed in FY 2010 over FY 2009, and the total dollars assessed decreased by 24.8%. The dollar amount collected at the time the audits were closed and prior to the mailing of any billing notices increased from \$33.5 million in FY 2009 to \$48.0 million in FY 2010.

The decline in productivity was attributable to budget restrictions and cuts, employee furloughs, and the assignment of staff to special computer system development projects.

Criminal Tax Unit

Criminal Tax Unit investigations resulted in a number of referrals to the Criminal Justice Section of the Department of the Attorney General, which in FY 2010 filed indictments and complaints against 32 taxpayers. A total of \$42,500 in judicial fines and \$880,809 in tax assessments were imposed. In addition, the collector assigned to criminal cases collected \$1.8 million in taxes, penalty and interest charges, and fines. Additional information about criminal tax cases prosecuted is provided on page 34.

Special Projects

The Oahu Field Audit Branch conducted the following special projects during the fiscal year:

- Federal Contractors Project: This project, which targets unlicensed contractors working on federal installations, was started in 1983 and is an ongoing activity. This fiscal year, 18 audits were completed and resulted in \$5.6 million in assessments.
- Referral Cases from Criminal Investigation Unit: During this fiscal year, 20 cases that were either originally considered for possible criminal prosecution or arose pursuant to a criminal investigation were completed, resulting in \$3.5 million in assessments.

Special Enforcement Section

Act 134, SLH 2009, provided resources for the creation of a unique initiative to increase compliance by businesses conducting a significant number of difficult-to-trace cash transactions in what has been called the "cash economy." This newly created unit was formed and began conducting these high-risk and complex civil tax investigations in FY 2010 with the following initial results:

	<u>FY 2010</u>
Complaints Filed	140
Site Visitations (Statewide)	>500
Verbal Warnings Issued	11
Citations Issued	102
Fines Levied	\$36,032
Fines Paid	\$11,982
Total Dollars Assessed	\$7.5 million
Total Dollars Assessed Collected	\$1.2 million

Delinquent Tax Collections

The operations of Compliance Division's Tax Enforcement Program consist of the Oahu Collection Branch and the Collections Sections in the Maui, Hawaii, and Kauai District Tax Offices.

Combined tax collections for FY 2010 increased by \$40.2 million, from \$178.4 million in FY 2009 to \$218.6 million in FY 2010, a 22.5% increase.

A table of major performance measures for FY 2010 is presented below:

<u>Measure</u>	<u>FY 2010</u>	<u>FY 2009</u>	<u>Difference</u>	
			<u>Amount</u>	<u>%</u>
Total Delinquent Tax Balance (\$ Millions)	\$ 382.4	\$ 398.3	\$ (15.9)	(4.0)
Total New Delinquent Referrals (\$ Millions)	\$ 213.1	\$ 210.0	\$ 3.1	1.5
Total Cash Collected (\$ Millions)	\$ 218.6	\$ 178.4	\$ 40.2	22.5
Uncollectible Tax Write-Offs (\$ Millions)	\$ 10.4	\$ 8.3	\$ 2.1	25.3
Payment Plans Initiated	31,171	24,997	6,174	24.7
Tax Liens Filed	8,088	6,048	2,040	33.7
Levies Served	12,679	13,257	(578)	(4.4)

Taxpayer Assistance Provided

During FY 2010, the neighbor island district tax office personnel helped taxpayers properly file numerous tax returns and other documents over the telephone, at the service counter, and via correspondence. The Oahu Office Audit, Field Audit, and Collection units also provided support services to the neighbor island district tax offices and to the Oahu TPS Branch when requested.

The following summarizes the taxpayer assistance activities of the Maui, Hawaii, and Kauai District Tax Offices:

	<u>FY 2010</u>	<u>FY 2009</u>	<u>Difference</u>	
			<u>Amount</u>	<u>%</u>
Counter	78,586	76,488	2,098	2.7
Phone Services	48,260	49,700	(1,440)	(2.9)
Tax Clearances	4,696	6,454	(1,758)	(27.2)
Correspondence	16,939	17,736	(797)	(4.5)

The reduction in telephone services is due to the centralization of customer services within the Oahu TSP Division and continued increases in efficiencies in processing resulting from the scanning of returns and improvements to electronic filing, forms design, and mail processes.

Decreases in correspondence were due to Department cost cutting in response to the decline in the State's economy, employee furloughs, unfilled vacant positions, changes in the tax law, etc.

The assistance provided to taxpayers is part of the Compliance Division's continuing emphasis on taxpayer education and problem resolution in all its contacts with taxpayers. The Compliance Division continues to believe in the importance of maintaining taxpayers' willingness to accurately and voluntarily comply with the State tax laws. This "taxpayer enabling and empowering activity" will continue to be emphasized.

STAFF OFFICES

Administrative Services Office

Fiscal Office

The Administrative Services Office submitted to the 2010 Legislature the supplemental budget for FY 2011. The Legislature appropriated \$20.8 million for FY 2011. This represents a \$2.6 million decrease in the appropriation from the General Fund, which was partially offset by a \$0.6 million increase in special fund ceilings.

The increase in special fund ceilings primarily funds the Special Enforcement Section (SES) whose mission is to carry out civil enforcement efforts targeting high-risk, cash-based transactions. The SES activities should generate the revenue needed to fund their operations; SES revenues in excess of \$500,000 will be transferred to the General Fund.

In discharging its duties and responsibilities, the Department of Taxation incurred operating expenses of \$19.7 million for FY 2010.

Personnel Management

The Department had 391.5 authorized permanent positions for FY 2010, which is the same number authorized for the previous fiscal year. Employees were geographically distributed as follows: Oahu, 326.5; Hawaii, 27; Maui/Molokai, 22; and Kauai, 16. For FY 2011, the Department has 364.0 authorized permanent positions distributed as follows: Oahu, 300; Hawaii, 27; Maui/Molokai, 21; and Kauai, 16.

Personnel actions included 1 new exempt hire, 6 retirements, 83 temporary hires, 2 promotions, and 13 resignations. Other personnel actions included temporary assignments of employees to higher levels.

STAFFING PATTERN (Number of Authorized Permanent Positions)

<u>By Organization/Operating Program</u>	<u>2011</u>	<u>2010</u>	<u>2009</u>	<u>2008</u>	<u>2007</u>
Headquarters Administration	62.0	66.0	66.0	74.0	67.0
Tax Services and Processing Division	123.0	138.0	138.0	138.0	110.0
Compliance Division	<u>179.0</u>	<u>187.5</u>	<u>187.5</u>	<u>195.5</u>	<u>195.5</u>
TOTAL	364.0	391.5	391.5	407.5	372.5

Rules Office

The Rules Office is currently comprised of the Rules staff and the Technical Section. The function of the Rules Office is to serve as a resource for complex policy recommendations and complex taxpayer support.

Rules Staff

The Rules staff serves as the Department's advisory arm to the Director of Taxation on tax policy and counsels the Director's Office and Department on legal and tax issues. The Rules staff also assists, counsels, and represents the Department's compliance personnel with tax disputes and other administrative tax controversies. For example, the Rules staff provided assistance and counsel to the Department's compliance function in settlement negotiations and closings, and appeared on behalf of the Department before the Boards of Taxation Review. Assistance was also provided to the Tax Division Deputy Attorneys General in support of the Department's tax cases being litigated.

For the 2010 legislative session, the Rules staff drafted and submitted seven administration-sponsored bills, which were submitted to both the House of Representatives and the Senate. Prior to the start of the legislative session, the Rules staff also reviewed and commented on proposed tax legislation submitted by other executive departments.

After reviewing 2,113 bills introduced to the 2010 Legislature, 1,151 House Bills and 962 Senate bills, the Rules staff determined that almost 200 measures proposed tax law changes and analyzed them in depth. These measures were also tracked throughout the legislative session. The Rules staff prepared approximately 196 written testimonies for measures scheduled for public hearings by legislative committees, 118 for the House and 78 for the Senate. Letters to legislative committee chairs were also drafted after the public hearings to respond to specific questions or to address certain concerns of committee members. In addition, the Rules staff was asked to submit comments and recommendations to the Governor on 19 bills passed by the Legislature with possible impact on the Department. Provisions of four of the Department's administration-sponsored bills became law in some form.

During the fiscal year, the Rules staff prepared letters for the Governor and the Director, announcements, tax information releases, letter rulings, directives, and other publications. During the fiscal year, the Rules Office issued six official Department of Taxation Tax Information Releases and 36 Department of Taxation Announcements. In 2009, the Department issued a policy of publicly releasing taxpayer letter rulings in redacted form. Letter rulings provide a legal analysis of the tax law as applied to a taxpayer's particular set of facts. Since 2009, the Rules Office has released 27 redacted letter rulings. The Rules Office issued two temporary administrative rules and two Tax Audit Guidelines for use by the Department's compliance personnel. The Rules Office also assisted in the Department's implementation of new legislation.

The Rules and Technical Section staff reviewed and certified 1,694 requests for the high technology business investment tax credit and 1,260 requests for the credit for research activities in accordance with Act 215, Session Laws of Hawaii (SLH) 2004. The Rules staff also responded to 17 requests for ruling on qualified high technology business activities.

The Rules staff also testified at legislative committee hearings on behalf of the Director, provided training for Department employees, and spoke at several workshops for practitioners.

Technical Section

The Technical Section answers questions received by telephone, e-mail, and correspondence, and reviews applications for certain tax exemptions. In FY 2010, 337 applications for an exemption from the general excise tax were filed by nonprofit organizations. Staff members approved 183 applications, returned 54, and have 148 pending further action. The staff also reviewed 3,931 requests for conveyance tax exemption.

A major responsibility of this section is the development and revision of tax forms and instructions to make improvements and to incorporate changes needed to conform to changes in Hawaii and federal tax law. During FY 2010, the Technical Section reviewed 380 tax forms and 54 instructions, and terminated 14 forms and two instructions that were determined to be obsolete.

The Technical Section staff also reviews, researches, analyzes, and provides comments and recommendations on the technical and procedural aspects of the drafts of legislative bills, administrative rules, and tax information releases. Staff also provided training for Department employees and spoke at several workshops for practitioners and new entrepreneurs.

Information Technology Services Office

The Information Technology Services (ITS) Office is responsible for the technical support of the Department's computerized tax systems, network, and related components.

During FY 2010 the ITS Office focused on the implementation of revenue related projects. Key projects included: (1) advancing the filing date of monthly, quarterly, and semiannual general excise tax returns from the last day of the month following the close of the period to the twentieth day pursuant to Act 196, Session Laws of Hawaii (SLH) 2009; (2) increasing the transient accommodations tax pursuant to Act 61, SLH 2009; (3) supporting the special enforcement section's actions targeting the cash economy pursuant to Act 134, SLH 2009; (4) accelerating the due dates of miscellaneous tax type returns to the twentieth day of the month pursuant to Act 22, SLH 2010; (5) temporarily delaying the release of tax refunds; and (6) continuing support for the Delinquent Tax Project Non-Filer initiative.

Other initiatives completed during FY 2010 include the annual system updates needed to conform to changes in income tax law, significant upgrades to the ITIMS hardware and software, consolidating to a new, single, mainframe printer, allocating staff to vendor-developed projects for the integration of miscellaneous taxes into ITIMS, and establishing the Audit Model Data Warehouse. The ITS Office also made significant upgrades to the Oahu, Maui, Hawaii (Hilo and Kona), and Kauai telecommunication hardware and software infrastructure to improve network service. New software to detect computer network performance problems was also implemented to better support Department services.

A number of projects that the ITS Office is actively involved with will continue into FY 2011. They include the joint federal-State electronic filing program migration from JELF to the new MeF electronic filing program, the Audit Model Data Warehouse project, the Delinquent Tax Project Non-Filer initiative, the IRS Safeguard Compliance project, and the miscellaneous taxes ITIMS integration project.

Tax Research and Planning Office

The following are the main functions of the Tax Research and Planning (TRP) Office: (1) prepare analytical and statistical reports on Department activities, including statewide tax collections, the income patterns of individual and business taxpayers, and tax credits claimed by Hawaii taxpayers; (2) help the Council on Revenues prepare forecasts of General Fund tax revenues and total personal income for State budget planning purposes; (3) develop tax plans to meet administrative policies and programs; (4) prepare reports on the revenue effects of proposed tax legislation for the governor, legislature, and other agencies; and (5) provide administrative and technical support for the Council on Revenues and, when they are in session, the Tax Review Commission.

In FY 2010, the TRP Office completed the Department of Taxation's *Annual Report 2008–2009*, which was published in July of 2010. In addition, the TRP Office worked on drafts of the following annual statistical reports: *Tax Credits Claimed by Hawaii Taxpayers 2006*; *Hawaii Income Patterns—Individuals 2006*; and *Hawaii Income Patterns—Businesses 2005*.

In addition to the statistical reports, the TRP Office compiled data on the high technology business investment tax credit and the tax credit for research activities claimed by individuals, corporations, financial corporations, fiduciaries and exempt organizations. Those data were published in *Descriptive Statistics on the Operations of Qualified High Technology Businesses From 2002 Through 2008, Addendum to the Report of September 2008* (September 2009), and *Impact of High Technology Business Investment Tax Credit on Hawaii's Economy for Calendar Year 2008* (December 2009).

The TRP Office also prepared the following reports on a monthly, fiscal year, and calendar year basis: (1) *State Tax Collections and Distributions*; (2) *Revenue Trends*; (3) *General Excise and Use Tax Collections*; (3) *Liquid Fuel Tax Base and Collections*; (4) *Liquid Fuel Tax Allocation by Fund*; (5) *Liquor Tax Collections and Permits*; and (6) *Tobacco Tax Collections and Licenses*.

For the 2010 Legislative session, TRP staff reviewed and tracked tax-related legislative bills and resolutions, and prepared estimates of the tax revenue impacts of proposed and final drafts of more than 240 bills. Tax revenue impact estimates were also prepared for proposals as requested by the Administration, legislators and others.

Because Hawaii's economy remains fragile, administrative and technical support provided to the Council on Revenues (COR) in producing long-range and short-range forecasts of General Fund tax revenues assumed even greater importance this fiscal year.

The seven members of the COR are responsible for forecasting State revenues and the State's total personal income. The COR's forecasts of State revenue for the current and six subsequent fiscal years are required on September 10, January 10, March 15, and June 1 of each year. The forecasts are used by the Governor and Legislature to develop and administer the State's budget. The COR's forecasts of total personal income for the current and immediately following calendar years are required on August 5 and November 5 of each year; the State's growth rate (the average annual percentage change in Hawaii total personal income for the preceding three calendar years) is used to set the State General Fund expenditure ceiling.

TRP staff used advanced econometric modeling techniques, State tax data, and other economic data to prepare materials to assist the COR in making its forecasts. Taking into account the State's decision to delay the payment of most State income tax refunds until the following year, the COR forecast 4.0% increase in State General Fund tax revenues for FY 2010; actual revenues were \$4,364.6 million, a 3.9% increase over FY 2009. The COR also forecast no increase (0.0%) in the State's total personal income for calendar year 2009; in June 2010, the U.S. Bureau of Economic Analysis reported that the State's total personal income for calendar year 2009 was \$54.3 billion, a 0.24% increase over calendar year 2008.

In order to improve the State General Fund tax revenue forecasts, an effort was begun in FY 2008 to obtain a new econometric model for forecasting General Fund tax revenues. Using funding provided by Section 120 of Act 213, SLH 2007, a new econometric model was developed in FY 2009 through a contract with UCLA Anderson Forecast. TRP economists were trained on the use of the new model in August 2009, and used the new model alongside the previously existing model for all COR meetings to forecast State General Fund tax revenues this fiscal year. Due to budgetary constraints, additional work on the model was not funded.

Taxpayer Advocacy Program

The Taxpayer Advocacy Program is administered by the Department's Taxpayer Advocate under the direction of the Director of Taxation to assist taxpayers who are unable to resolve their problems through the normal channels. The Taxpayer Advocate also identifies and addresses systemic and procedural problems and recommends corrective changes. This program is a one-person operation focusing on the unique needs of each taxpayer requiring assistance while simultaneously identifying issues that impact multiple taxpayers.

During FY 2010, the Taxpayer Advocacy Program helped 305 taxpayers resolve tax matters that included erroneous billings, non-receipt of refunds, waivers of penalty and interest charges, verifications of tax liabilities, non-filer letters and non-filed returns, collection issues, difficulty accessing the Call Center, e-filing issues, tax clearance issues, and delays in responses to inquiries. Additional cases did not require intervention, but were instead resolved by providing the taxpayers with general tax information, explanations of letters and assessments, or a referral to appropriate management personnel.

The Taxpayer Advocate identified systemic issues with several manually-generated and computer-generated notices in FY 2010, and recommended a thorough review of these notices.

The Taxpayer Advocacy Program also coordinates a joint outreach project with various partners to provide tax services to communities that do not normally have access to these services. A variety of tax services are provided, including the acceptance of general excise tax license applications, assessment notice explanations, payment plan arrangements, voluntary compliance, penalty and interest waivers, individual income tax and general excise tax return preparation, and assistance with general tax questions.

During the 2010 tax season, the Department partnered with the AARP's Tax Aide Program to bring tax assistance to the Waianae community on Oahu. Volunteer Tax Aide Program counselors are trained and certified by the IRS to assist the elderly, low-income, limited-English speaking, or disabled taxpayers in the preparation of their federal and State income tax returns. Approximately 75 taxpayers were assisted at this joint outreach event. At each outreach event, the Taxpayer Advocate was on hand to assist taxpayers with their questions and with the resolution of their tax concerns. In past years, the Department also partnered with the AARP to provide tax assistance to the Molokai community; due to budget constraints, however, the Department was unable to participate this fiscal year.

In general, the majority of the taxpayers were satisfied with the outcome of their cases regardless of whether a decision was made in their favor. The Taxpayer Advocacy Program focuses on taxpayers' needs while maintaining taxpayer confidence that Hawaii's tax laws are administered in a consistent, uniform and fair manner.

SPECIAL REVENUE-GENERATING INITIATIVES

As the challenging state of the State's tax revenues has continued, the Department has strived to find new and innovative methods to provide needed revenues for the State coffers. In fiscal year 2010, the Department continued its Delinquent Tax Project initiatives, and also instituted a program to allow voluntary disclosure of offshore bank accounts. Although both initiatives required the participation of various areas of the Department, the bulk of the additional workload was mostly borne by the TSP Division and the Compliance Division.

Delinquent Tax Project

The Delinquent Tax Project has three main objectives: (1) to encourage taxpayers to timely file their tax returns and pay the tax owed as required (i.e., to encourage voluntary compliance through education and other means); (2) to enhance the Department's ability to collect taxes legally owed to the State; and (3) to clear the business account registration rolls of accounts that are no longer active by encouraging taxpayers to cancel unneeded accounts. Although ambitious, the project was begun in June 2008, with required ITIMS enhancements financed through the delinquent taxes collected. The first phase was the Registered Business Non-Filer Project, which was implemented in June of 2008.

In FY 2010, the Department continued on with the second phase of the Non-Filer Project, collecting additional revenues from non-filers through an ambitious letter campaign. From August 2009 through mid-2010, over 200,000 letters were mailed to a broad population of general excise tax licensees who failed to file an annual general excise tax return for one or more years during the period from tax year 2001 through tax year 2008. In November 2009, for the first time, the focus shifted to registered employers who had not filed withholding tax returns, and over 40,000 letters were mailed to these employers. These initiatives resulted in additional collections in excess of \$43 million in general excise and employers' withholding taxes for the fiscal year ended June 30, 2010. Cumulatively, total revenues generated by the highly successful Non-Filer Project through the end of fiscal year 2010 exceeded \$87 million in additional taxes for the State.

Voluntary Disclosure of Undeclared Offshore Bank Accounts

The project was a concurrent voluntary disclosure program for taxpayers participating in the Internal Revenue Service (IRS) voluntary disclosure program for undeclared offshore bank account income. In March 2009, the IRS announced guidelines for taxpayers to disclose unreported income generated through undeclared offshore bank accounts located in countries outside the United States.

On August 6, 2009, Tax Information Release (TIR) No. 2009-03 was issued with the Department's guidelines for taxpayers to also make voluntary disclosures with Hawaii. The taxpayer was required to initiate contact with the Offshore Voluntary Disclosure Coordinator who determined the taxpayer's eligibility for the Hawaii program. Taxpayers submitting a voluntary disclosure pursuant to the TIR were generally not referred to the Department for criminal prosecution and were not assessed any civil penalties on any timely and complete submissions.

The original deadline for the program was September 23, 2009. On September 21, 2009, the Department issued Department of Taxation Announcement No. 2009-28 extending the deadline to October 15, 2009.

The program generated responses from a total of 24 taxpayers who came forward by the expiration date. There were 16 taxpayers who submitted a total of 54 amended returns totaling \$288,069, of which \$225,947 was for tax and \$62,122 was for the payment of interest.

Beginning October 1, 2009, any taxpayer audited by the Department that had adjustments to Hawaii taxable income due to unreported foreign bank account income would be subject to all civil penalties, including 50% civil fraud, 25% negligence and 20% substantial understatement penalties and possible referral to the Department's Criminal Investigation Unit.

MANAGEMENT PERSONNEL

(FY 2009–2010)

OFFICE OF THE DIRECTOR

Director of Taxation..... Stanley Shiraki
Acting Deputy Director of Taxation Ronald Randall

STAFF OFFICES

Rules Officer Johnnel Nakamura
 Technical Section Supervisor Denise Inouye
Tax Research & Planning Officer Vacant
 Senior Economist Yvonne Chow
Information Technology Services Officer Robert Su
Administrative Services Officer Suzanne Eghan
 Personnel Officer Sharon Iwamura
Taxpayer Advocate Fern Elizares

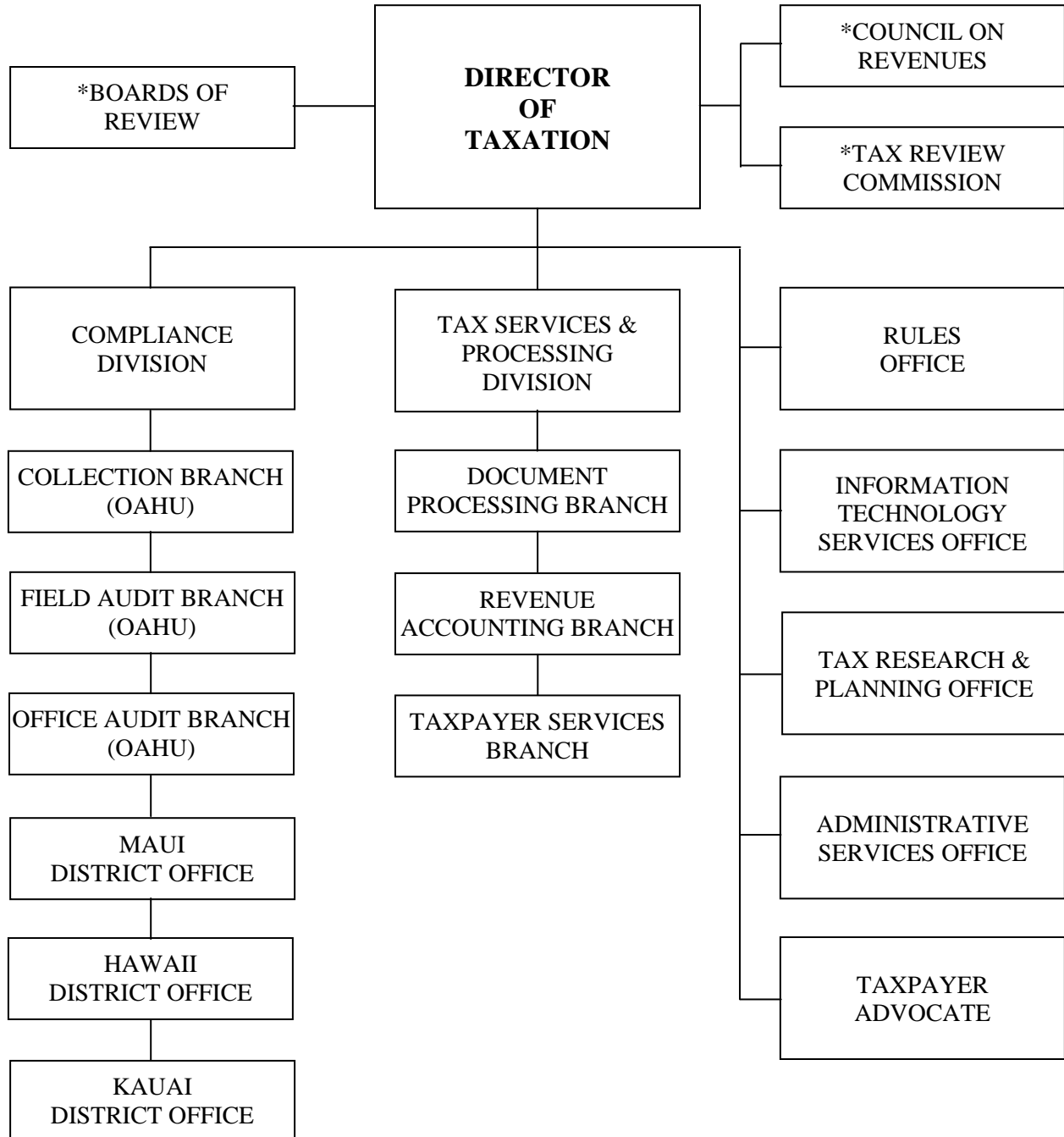
OPERATIONS STAFF

Compliance Division Chief..... Ronald Randall
 Tax Audit Technical Coordinator..... Vacant
 Tax Collection Technical Coordinator Vacant
 Oahu Field Audit Branch Chief..... Gayle Nakagawa
 Oahu Office Audit Branch Chief..... Vacant
 Oahu Collection Branch Chief Lynne Kaneta
 Maui District Tax Manager Wayne Fujita
 Hawaii District Tax Manager Roy Hamakawa
 Kauai District Tax Manager Dulcie Yano

Tax Services and Processing Division Chief Joan Bolte
 Taxpayer Services Branch Chief Annette Yamanuha
 Acting Document Processing Branch Chief..... Sharon Sawamoto
 Revenue Accounting Branch Chief Deanne Obatake

ORGANIZATION CHART

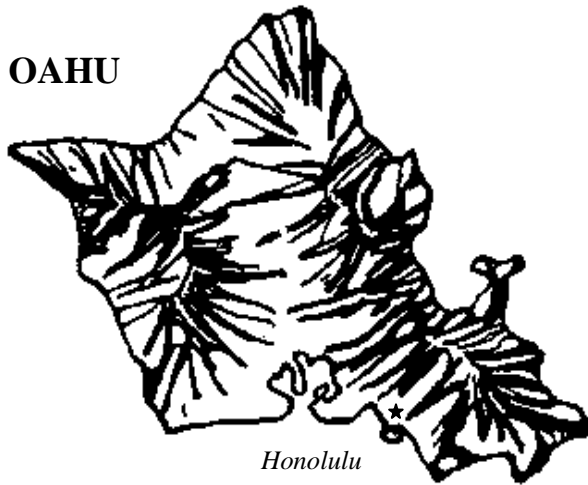
Department of Taxation
State of Hawaii



*For Administrative Purposes

FIRST TAXATION DISTRICT

City & County of Honolulu

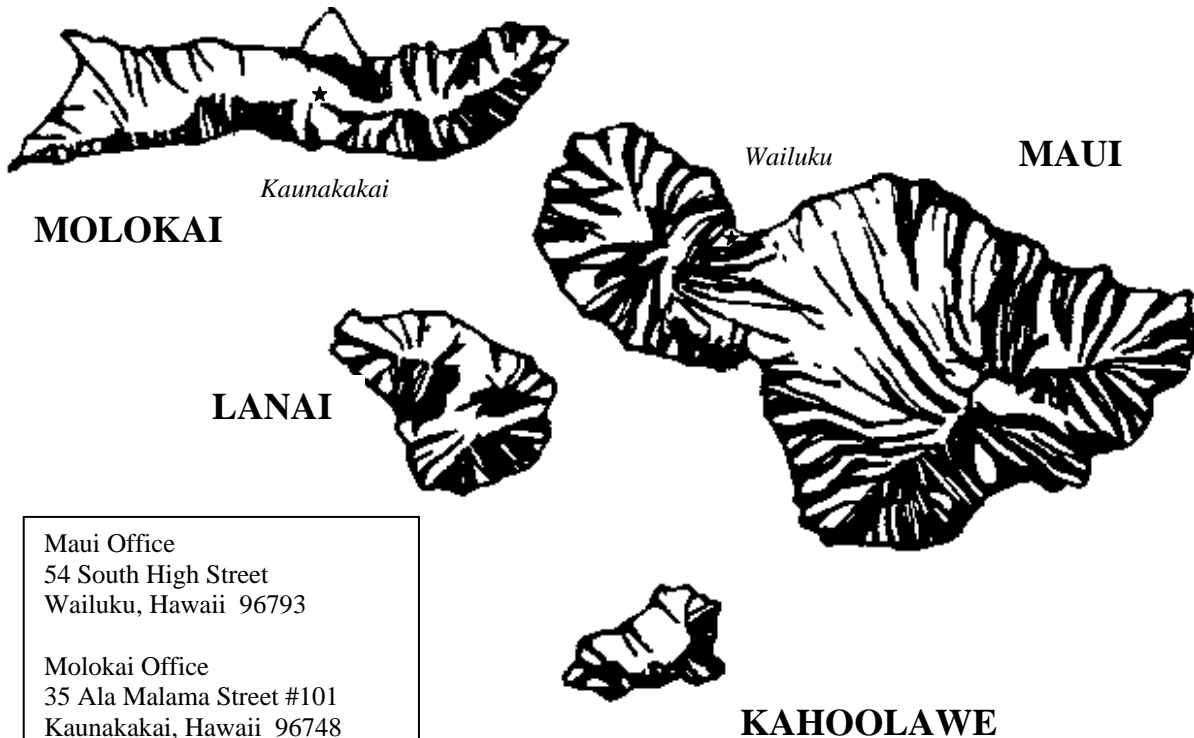


OAHU

Oahu Office
830 Punchbowl Street
Honolulu, Hawaii 96813

SECOND TAXATION DISTRICT

Counties of Maui and Kalawao



Maui Office
54 South High Street
Wailuku, Hawaii 96793

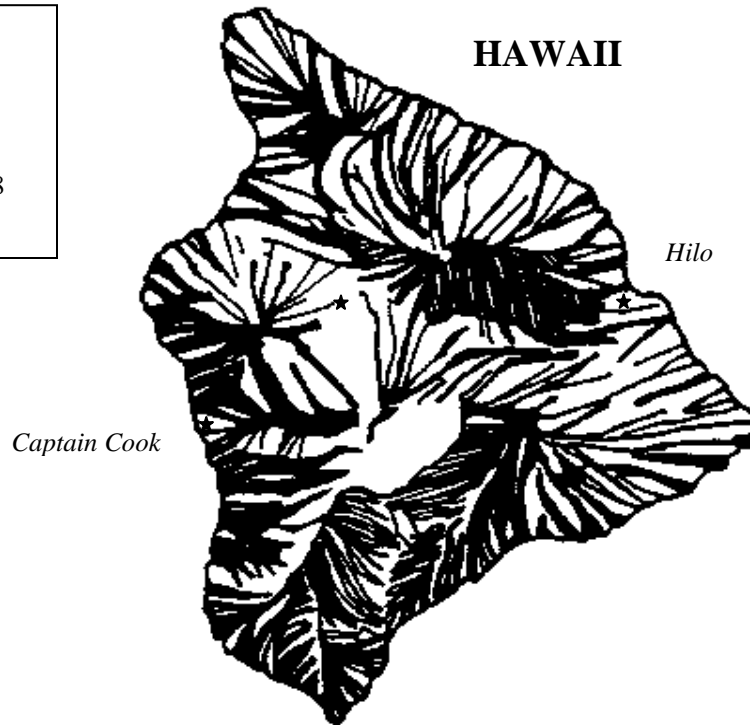
Molokai Office
35 Ala Malama Street #101
Kaunakakai, Hawaii 96748

THIRD TAXATION DISTRICT

County of Hawaii

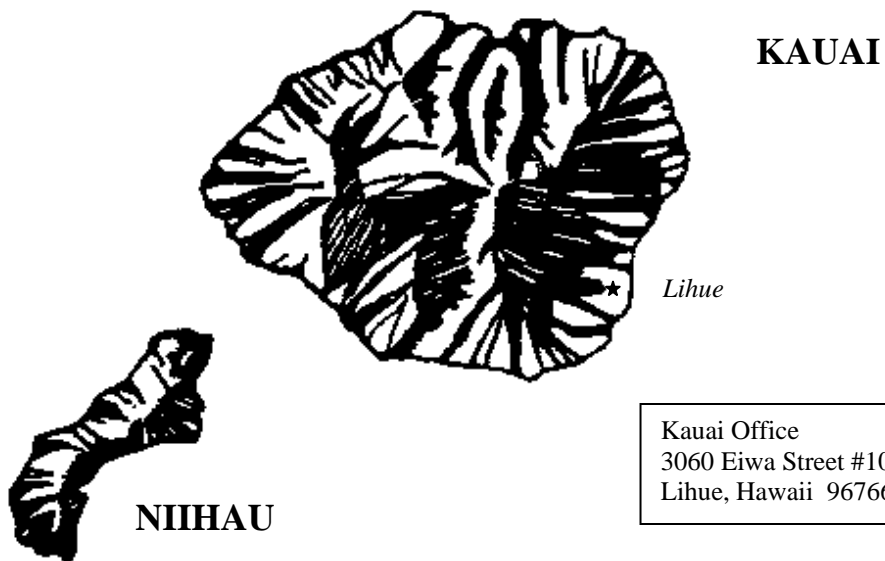
Hilo Office
75 Aupuni Street
Hilo, Hawaii 96720

Kona Office
82-6130 Mamalahoa Highway #8
Captain Cook, Hawaii 96704



FOURTH TAXATION DISTRICT

County of Kauai



Kauai Office
3060 Eiwa Street #105
Lihue, Hawaii 96766

TAX APPEALS AND LITIGATION

BOARDS OF TAXATION REVIEW

Each taxation district has an administrative (i.e., non-judicial) Board of Taxation Review consisting of five members. Tax disputes that are not resolved at the district tax office level may be appealed to a Board of Taxation Review unless the dispute involves the Constitution or laws of the United States. Statewide, the boards began the fiscal year with 122 pending tax appeals. During FY 2010, 74 new appeals were filed, 55 appeals withdrawn, and 14 appeals settled; a total of 127 appeals to the Boards of Taxation Review were pending at the end of the fiscal year.

The following table details appeals to the Boards of Taxation Review by taxation district:

<u>Taxation District</u>	<u>First (Field Audit)</u>	<u>First (Office Audit)</u>	<u>Second</u>	<u>Third</u>	<u>Fourth</u>	<u>Total</u>
Appeals Pending (Beginning)	90	5	2	13	12	122
New Appeals	25	20	13	10	6	74
Appeals Withdrawn	24	11	7	3	10	55
Appeals Settled	9	2	0	0	3	14
Appeals Pending (Ending)	82	12	8	20	5	127

CIVIL DECISIONS, SETTLEMENTS, AND OTHER LEGAL MATTERS

During FY 2010, the Tax Division of the Department of the Attorney General closed 882 legal matters related to the Department of Taxation, excluding legislative matters that have not yet been closed in the case management system by the Department of the Attorney General's Legislative Division. Also not included are all the charitable oversight, charity registration, and charitable solicitation matters the Tax Division routinely handles.

<u>MATTERS CLOSED</u>	<u>AMOUNTS COLLECTED²</u>
Appeals	Tax Appeals \$ 16,176,671
Bankruptcies	Foreclosures 42,911
Contracts	Bankruptcies 511,125
Foreclosures	Trusts 0
Legislation.....	Miscellaneous 312,204
Opinions	TOTAL <u>\$17,042,910</u>
Quiet Title	
Subpoenas	
Miscellaneous	

² The Tax Division of the Department of the Attorney General also secured the dismissal of several tax appeals that would have potentially resulted in refunds to taxpayers from the General Fund and won cases on appeal that will have fiscal impact on similarly situated taxpayers and result in future tax collections that are impossible to forecast.

Settled Cases

Tax Appeal Court

Make-up Arts Cosmetics, Inc. v. Director of Taxation, State of Hawaii, T.A. No. 03-0259, Tax Appeal Court, State of Hawaii.

The Department assessed Taxpayer the general excise tax as follows: 0.5% for the wholesale of make-up products sold, 4% on services provided at its counters in the stores, and 4.5% on the import and sale of furniture and fixtures. The Court granted partial summary judgment for the Taxpayer. The parties reached a settlement on the remaining issues, and the tax appeal will be dismissed.

In the Matter of the Tax Appeals of First Hawaiian Insurance, T.A. Nos. 07-0101 and 07-0103, Tax Appeal Court, State of Hawaii.

Taxpayer was denied the tax credit for research activities provided under § 235-110.91, HRS. The Department argued that, among other things, Taxpayer's work did not qualify for the research credit because it did not meet the requirements imposed by § 41, Internal Revenue Service (IRC), which is made operative for State tax purposes by § 235-110.91, HRS. The case was settled.

In the Matter of the Tax Appeal of Charles Schwab, Inc., T.A. No. 08-0013, Tax Appeal Court, State of Hawaii.

Taxpayer was assessed additional general excise taxes on commissions it earned on sales of financial products. Taxpayer claimed that the bulk of the commissions were passed on to the Hawaii brokers and should not be included in its gross receipts. The amount in controversy was \$1,811,867.07. The case was settled.

In the Matter of the Tax Appeal of Medical Underwriters, T.A. No. 08-0014, Tax Appeal Court, State of Hawaii.

The Department assessed Taxpayer the 4% general excise tax on income from providing management services to certain insurance companies. Taxpayer filed an appeal challenging the calculations of the assessment, arguing that only the income from services that are performed in Hawaii is subject to the 4% tax. The Department's position is that all services that are attributable to Hawaii, whether rendered inside or outside Hawaii, are subject to tax. The parties reached a settlement on the remaining issues, and the tax appeal will be dismissed.

Marriott Cases, T.A. Nos. 08-0032, 08-0033, 08-0034, 08-0045, 08-0047, 08-0048, 08-0049, 08-0050, 08-0051, 08-0053, 08-0054, 08-0055, 08-0056, 08-0057, 08-0058, 08-0059, 08-0060, 08-0061, 08-0062, 08-0063, 08-0064, 08-0066, 08-0067, 08-0068, 08-0069, 08-0071, 08-0076, 08-0078, 08-0079, 08-0080, 08-0116, 09-0061, 09-0065, 09-0066, 09-0077, and 09-0081, Tax Appeal Court, State of Hawaii.

Various Marriott entities filed tax appeals challenging the Department's assessments of general excise and transient accommodation taxes on the Marriott Rewards Program and

preview packages program, as well as the imposition of the general excise tax on certain management fees, retail sales, royalty income, maintenance fees, and tidy room fees. One entity challenged the assessment related to its income tax return with respect to the dividends received deduction, captive insurance income, the disposition of assets, refund adjustments, the hotel construction and remodeling credit, and the capital goods excise tax credit. Various entities challenged the imposition of penalties and interest, the imposition of tax on reimbursements, and that certain credits and liabilities should be offset with other entities. All parties reached a global settlement on all issues, and the respective tax appeals were dismissed.

In the Matter of the Tax Appeals of Worldmark, The Club, T.A. Nos. 08-0072 and 08-0073, Tax Appeal Court, State of Hawaii.

Taxpayer was assessed additional general excise and transient accommodations taxes for income received from its operations of timeshare properties in the State. The Department's assessments were estimates based on income apportioned to Hawaii on Taxpayer's income tax returns. The case was settled.

In the Matter of the Tax Appeal of Moffatt & Nichols, Engineers, T.A. No. 08-0096, Tax Appeal Court, State of Hawaii.

Taxpayer appealed the Department's assessments on gross business income, claiming that out-of-state services should be apportioned, that it deserves the intermediary rate for services, and that it paid Washington State excise taxes for which it is entitled to a deduction. The case was settled and a stipulation to dismiss filed.

In the Matter of the Tax Appeals of Old Republic, T.A. Nos. 09-0016 and 09-0068, Tax Appeal Court, State of Hawaii.

Taxpayers were assessed penalties and interest for the late filing of HARPTA withholding returns per § 235-68, HRS. Under Hawaii law, buyers of real property from out-of-state sellers are required to withhold a portion of the sales price to ensure that the State collects the proper amount of taxes from the out-of-state seller. Old Republic was the company that handled escrow for the property sales at issue and was representing the buyers in these appeals. The case was settled.

In the Matter of Watabe Wedding Corporation, T.A. No. 09-0036, Tax Appeal Court, State of Hawaii.

Taxpayer appealed the denial of a tax refund on the grounds that it was exporting tangible personal property and/or not conducting services in the State. The case was settled and a stipulation to dismiss filed.

In the Matter of the Tax Appeal of Jack L. Phillips, T.A. No. 09-0040, Tax Appeal Court, State of Hawaii.

Taxpayer was assessed additional general excise and transient accommodations taxes for amounts he received from properties located within the State. Taxpayer claimed that the disputed income was not taxable because it was from the furnishing of long-term rentals that are not subject to the transient accommodations tax. Taxpayer also claimed that the

income was exempt from § 237-29, HRS, because the properties at issue were low-income housing units. The case was settled.

In the Matter of the Tax Appeal of Eric and Amanda Horst, T.A. No. 09-0055, Tax Appeal Court, State of Hawaii.

Taxpayers were assessed additional income tax, penalties, and interest for taxable years 2005 through 2007. Taxpayers claimed that the Department's assessments were erroneous because: (a) the disputed income was earned outside the State; and (b) if the income was taxable, the Department improperly disallowed Taxpayer's claims for certain deductions. The case was settled.

Completed Cases

Intermediate Court of Appeals

In the Matter of the Tax Appeal of CompUSA, S. Ct. No. 29597, Intermediate Court of Appeals, State of Hawaii.

The Department assessed use tax on Taxpayer's importation of products for resale to the general public for the period July 1, 1999, through December 31, 2002. Taxpayer claimed that the assessments were incorrect pursuant to In Re Tax Appeal of Baker and Taylor, 103 Haw. 359, 82 P.3d 804 (2004). The Tax Appeal Court ruled that Taxpayer was subject to the use tax on the value of goods it purchased outside Hawaii, imported into Hawaii, and resold to the public. The Intermediate Court of Appeals issued a memorandum opinion on May 28, 2010, ruling in favor of Taxpayer, reversing the Tax Appeal Court's decision, and remanding the case back to the Tax Appeal Court. The Court determined that Taxpayer was not subject to the use tax on the value of goods it imported into Hawaii because the factual circumstances were similar to that of the taxpayer in In Re Tax Appeal of Baker and Taylor, 103 Haw. 359, 82 P.3d 804 (2004).

Reel Hooker Sport Fishing, Inc. vs. Department of Taxation, State of Hawaii; Exact Game Fishing, Inc. vs. Department of Taxation, State of Hawaii; Finest Kind, Inc. vs. Department of Taxation, State of Hawaii, S. Ct. No. 29598, Intermediate Court of Appeals, State of Hawaii.

Taxpayers filed a complaint for a refund of a tax payment made under protest for taxable year 2004, claiming that it was exempt from the general excise tax pursuant to the Supremacy and Tonnage Clauses of the U.S. Constitution. The Tax Appeal Court determined and ruled that Taxpayers' gross income from their sport fishing charter businesses was subject to the general excise tax. The Intermediate Court of Appeals issued a published opinion on May 28, 2010, ruling in favor of the Department and affirming the Tax Appeal Court's decision. The Court determined that Taxpayers were subject to the general excise tax on gross income from their sport fishing charter businesses, and that the Supremacy and Tonnage Clauses of the U.S. Constitution did not apply to this case.

Tax Appeal Court

In the Matter of the Tax Appeal of Bobby R. Narmore, T.A. No. 02-0066, Tax Appeal Court, State of Hawaii.

After the Hawaii Supreme Court (S. Ct. No. 27023) held that the Tax Appeal Court had jurisdiction over this case and remanded it back to the Tax Appeal Court, the Tax Appeal Court ruled in favor of the Department. Taxpayer had argued that the Department had failed to assess the general excise tax for 1989 within the three-year period after he presented his federal income tax return and return information to the Department. The Tax Appeal Court determined that the statute of limitations for making an assessment is inapplicable because the Department never issued an assessment and that the alleged assessment is Taxpayer's general excise tax return that he signed and dated.

In the Matter of the Appeal of ICH Group, LLC, T.A. No. 05-0070, Tax Appeal Court, State of Hawaii.

Taxpayer filed its Notice of Appeal challenging general excise, use, and income tax assessments for taxable years 2001 through 2003, claiming that: (a) the assessments erroneously treat all amounts deposited into Taxpayer's bank accounts as gross income although substantial amounts were simply transfers from one bank account held by Taxpayer to another and thus not includible in gross income; (b) additional amounts were advances from related entities or repayments of advances to related entities, and were similarly not part of gross income; (c) the assessments wrongly deny tax benefits to which Taxpayer is entitled as an Enterprise Zone business; and (d) the assessments include use tax for which Taxpayer is not actually liable. The Director moved for summary judgment, which was granted.

In the Matter of the Tax Appeal of June H. Kawasaki, T.A. No. 07-0112, Tax Appeal Court, State of Hawaii.

Taxpayer appealed an income tax assessment for the taxable year ending December 31, 2003. At issue was whether Taxpayer timely claimed the residential construction and remodeling tax credit. The Court granted the Director's motion for Summary Judgment and Judgment.

In the Matter of the Tax Appeal of Hardy Spoehr and Joyce Spoehr, T.A. No. 08-0114, Tax Appeal Court, State of Hawaii.

Taxpayer appealed from assessments of income tax, which disallowed insufficiently substantiated deductions. The Court granted the Director's motion to dismiss.

In the Matter of the Tax Appeal of Yibo Hsu and Helen Yao, T.A. No. 08-0123, Tax Appeal Court, State of Hawaii.

Taxpayers appealed an assessment of income tax for tax year 2002 that disallowed the residential construction and remodeling tax credit because the documents Taxpayers provided indicated that the expenses were paid in 2001. The Court granted the Director's motion to dismiss, or in the alternative, for summary judgment.

In the Matter of the Tax Appeal of Antonio and Carol Tagal, T.A. No. 09-0063, Tax Appeal Court, State of Hawaii.

Taxpayers appealed an assessment of income taxes. The Department moved to dismiss this appeal for lack of subject matter jurisdiction because the notice of appeal was untimely and was not properly served on the Director of Taxation. The Court granted the Director's motion to dismiss.

In the Matter of the Tax Appeal of Conrado C. Valdriz, T.A. No. 09-0067, Tax Appeal Court, State of Hawaii.

Taxpayer, a non-filer, appealed from assessments of general excise and income taxes because he claimed that the Department did not take into account applicable deductions and credits. The Department served Taxpayer with discovery to ascertain what those deductions and credits were and how Taxpayer documented them. Taxpayer dismissed the appeal.

In the Matter of the Tax Appeal of Lowell Rego, T.A. No. 09-0096, Tax Appeal Court, State of Hawaii.

Taxpayer appealed income tax assessments for taxable years 2001 through 2004. The Director moved to dismiss the appeal for lack of subject matter jurisdiction on the basis that the appeal was not timely filed. The Court granted the Director's motion.

In the Matter of the Tax Appeal of Triple B HI, Inc., T.A. No. 10-0005, Tax Appeal Court, State of Hawaii.

Taxpayer appealed general excise and income tax assessments because the assessments were inadvertently mailed. Taxpayer filed a notice of dismissal.

In the Matter of the Tax Appeal of Angela Correale, T.A. No. 10-0026, Tax Appeal Court, State of Hawaii.

Taxpayer appealed general excise tax assessments for taxable years 2003 through 2006. Taxpayer argued that the penalty and interest charges were excessively punitive and that she did not understand the general excise tax law. The Court granted the Director's motion to dismiss.

Pending Appeals

Intermediate Court of Appeals

In the Matter of the Tax Appeal of Daniel Aregger and Susan Rogers Aregger, S. Ct. No. 30078, Intermediate Court of Appeals, State of Hawaii.

Taxpayers appealed from the Board of Review regarding the denial of part of Taxpayers' remodeling expenses for failing to qualify under the terms of the 2003 residential construction and remodeling tax credit. The tax appeal was dismissed for failing to serve the Director pursuant to § 232-17, HRS (Supp. 2007), such that the Tax Appeal Court lacked subject matter jurisdiction. Taxpayers appealed the Tax Appeal Court's ruling.

Tax Appeal Court

In the Matter of the Tax Appeal of Bobby R. Narmore, T.A. No. 02-0065, Tax Appeal Court, State of Hawaii.

After the remand of his other case from the Hawaii Supreme Court (S. Ct. No. 27023) holding that the Tax Appeal Court had jurisdiction to review Taxpayer's case, Taxpayer filed a motion to reopen this case. The Tax Appeal Court granted Taxpayer's motion and exercised jurisdiction to review the case. Taxpayer argued that the Department failed to assess the general excise tax within the three-year period because he had filed a general excise tax return on April 1, 1993, and that the assessments were issued in September 1996. The Department filed a motion for summary judgment that the Tax Appeal Court denied. The only factual issues are whether Taxpayer filed a general excise tax return on April 1, 1993, and if the Department received this return. Trial is set for August 8, 2011.

In the Matter of the Tax Appeal of Nordstrom, Inc., T.A. No. 06-0079, Tax Appeal Court, State of Hawaii.

The Department denied Taxpayer's refund request on use taxes paid on products imported for resale to the general public for the tax period February 1, 2001, through January 31, 2004. Taxpayer claims that the assessments are incorrect pursuant to In Re Tax Appeal of Baker and Taylor, 103 Haw. 359, 82 P.3d 804 (2004). Trial is scheduled for January 16, 2012.

In the Matter of the Tax Appeal of Zale Delaware, Inc., T.A. No. 06-0080, Tax Appeal Court, State of Hawaii.

The Department denied Taxpayer's refund request for use taxes paid on products imported for resale to the general public for the tax period August 1, 2001, through July 31, 2004. Taxpayer claims that the assessments are incorrect pursuant to In Re Tax Appeal of Baker and Taylor, 103 Haw. 359, 82 P.3d 804 (2004). Trial is scheduled for January 16, 2012.

In the Matter of the Tax Appeal of Territorial Mutual Holding Company and Subsidiaries, T.A. Nos. 06-0096 and 07-0079, Tax Appeal Court, State of Hawaii.

Taxpayer appealed from assessments of franchise taxes resulting from the disallowance of a deduction for dividends it received from a wholly owned real estate investment trust (REIT). Taxpayer claimed that, because § 857(c), IRC (which is operative in Hawaii and denies the deduction for dividends paid by a REIT), refers to § 243, IRC (which is inoperative), it was entitled to take a deduction for dividends it received from a REIT. Trial is scheduled for December 20, 2010.

In the Matter of the Tax Appeal of Ohana Foundation for Technical Development, T.A. No. 07-0009, Tax Appeal Court, State of Hawaii.

Taxpayer filed a refund claim for the tax credit for research activities provided under § 235-110.91, HRS, which the Department denied. The Department lost a partial motion for summary judgment regarding whether a nonprofit may claim a refundable income tax credit. Trial is scheduled for November 21, 2011.

In the Matter of the Tax Appeal of Safeway, Inc., T.A. No. 07-0042, Tax Appeal Court, State of Hawaii.

The Department denied Taxpayer's refund request on use taxes paid on products imported for resale to the general public for the tax period 2002 through 2004. Taxpayer claims that the assessments are incorrect pursuant to In Re Tax Appeal of Baker and Taylor, 103 Haw. 359, 82 P.3d 804 (2004). Trial is scheduled for January 16, 2012.

In the Matter of the Tax Appeal of American Technologies, Inc., T.A. No. 08-0011, Tax Appeal Court, State of Hawaii.

Taxpayer appealed from an assessment of additional general excise taxes for taxable years 2002 through 2005. The Department disallowed the subcontractor deductions for amounts paid to other companies in conjunction with work Taxpayer performed for the federal government. Trial is scheduled for February 21, 2011.

In the Matter of the Tax Appeal of UXB International, Inc., T.A. Nos. 08-0020, 08-0021, 08-0022, 08-0023, 08-0024, 08-0025, 08-0026, 08-0027, and 08-0028, Tax Appeal Court, State of Hawaii.

Taxpayer was assessed general excise taxes on amounts it received for services provided to a joint venture where Taxpayer was one of the partners. Taxpayer claimed that the amounts it received were partnership distributions and that the services were performed outside the State. Trial is scheduled for July 18, 2011.

In the Matter of the Tax Appeal of Agnes P. Etscheid, T.A. No. 08-0046, Tax Appeal Court, State of Hawaii.

Taxpayer appealed from an assessment of income tax on the sale of real property by a nonresident person. Taxpayer claims the denial of her refund was erroneous because she is a resident of Micronesia and is exempt from United States income taxes. The Department maintains that the taxpayer is subject to the State tax. In addition, the Department maintains that the tax appeal is improper due to the failure to serve the Director. Trial is scheduled for April 4, 2011. This case is on hold until a decision is reached by the Intermediate Court of Appeals in the tax appeal of Daniel Aregger and Susan Rogers Aregger (S. Ct. No. 30078), which is discussed above.

In re Tax Appeals of Waiohai Beach Club Vacation Owners Association, T.A. Nos. 08-0074 and 08-0082; In re Tax Appeal of Maui Ocean Club Vacation Owners Association, T.A. No. 08-0075; and In re Tax Appeal of Marriott's Kauai Beach Club Owners Association, T.A. No. 08-0077; Tax Appeal Court, State of Hawaii.

Taxpayers were assessed additional general excise taxes for amounts they received for condominium maintenance fees that they collected on behalf of their members and paid to the respective associations of apartment owners (AOAO). Taxpayers argue that: (a) these fees are not business income for purposes of chapter 237, HRS; (b) the amounts are exempt as either reimbursements under § 237-20, HRS, or common area expenses collected by an association under § 237-24.3(3), HRS; and (c) these fees are collected as an agent of the AOAO. Trial is scheduled for May 16, 2011.

In the Matter of the Tax Appeal of Pacific Communications, LLC, T.A. No. 08-0085, Tax Appeal Court, State of Hawaii.

Taxpayer appealed from final assessment of \$262,514 in general excise, use, and withholding taxes. The general excise tax assessment was based on Taxpayer's income tax returns and on 1099-MISC forms issued to Taxpayer. A settlement agreement has been reached and pending signatures of the closing agreement. Taxpayer agreed to pay \$227,363.48. Trial is scheduled for December 27, 2010.

In the Matter of the Tax Appeal of Kaanapali Beach Owners Association, T.A. No. 08-0089, Tax Appeal Court, State of Hawaii.

Taxpayer, an interval owners association, appealed from a final assessment of general excise taxes. Included in its annual assessment to its members are amounts owed by the owners to the AOA. Taxpayer is asserting that the amounts are exempt under the reimbursement exemption and because it acted as a true agent for the AOA. Trial is scheduled for May 23, 2011.

In the Matter of the Tax Appeal of Exclusive Resorts, T.A. No. 08-0101, Tax Appeal Court, State of Hawaii.

Taxpayer was assessed additional transient accommodations tax under § 237D-2(c), HRS. Taxpayer asserts, among other things, that it is not a timeshare and is not subject to tax under chapter 237D, HRS. Trial is scheduled for April 18, 2011.

In the Matter of the Tax Appeals of TEAM TV, T.A. Nos. 08-0107 and 09-0046, Tax Appeal Court, State of Hawaii.

Taxpayer was denied the high technology business investment tax credit provided under § 235-110.9, HRS. The Department argues that Taxpayer has, among other things, not made an "investment" as required by § 235-110.9, HRS, to claim this credit. Trial is scheduled for January 9, 2012.

In the Matter of Kahana Falls Interval Owners Association, T.A. No. 09-0014, Tax Appeal Court, State of Hawaii.

Taxpayer appealed general excise tax assessments on the bases that maintenance fees are not taxable to a taxpayer acting as an agent and conduit, and that Taxpayer relied on the advice of others who did not inform Taxpayer that there were taxes due. Trial is scheduled for May 23, 2011.

In the Matter of the Tax Appeal of The Centech Group, Inc., T.A. No. 09-0017, Tax Appeal Court, State of Hawaii.

Taxpayer appealed from assessments of general excise tax and the county surcharge. In the Notice of Appeal, Taxpayer claims: (a) its income is exempt under § 237-26, HRS; (b) its income is for out-of-state activities; (c) its income is exempt under the federal immunity doctrine; (d) the assessments are unconstitutional; (e) the assessments are excessive; (f) its income is exempt under § 237-25, HRS; and (g) Taxpayer should not be subject to penalties and interest. Trial is scheduled for March 28, 2011.

In re Tax Appeals of Kahana Villa Vacation Club, T.A. Nos. 09-0019 and 09-0020; In re Tax Appeals of Kona Islander Vacation Club, T.A. Nos. 09-0021 and 09-0022; In re Tax Appeals of Maui Beach Vacation Club, T.A. Nos. 09-0023 and 09-0024; In re Tax Appeals of Sands of Kahana Vacation Club, T.A. Nos. 09-0025 and 09-0026; In re Tax Appeals of Kahana Beach Vacation Club, T.A. Nos. 09-0027 and 09-0028; In re Tax Appeals of Gardens at West Maui Vacation Club, T.A. Nos. 09-0029 and 09-0030; In re Tax Appeals of Maui Banyan Vacation Club, T.A. Nos. 09-0031 and 09-0032; In re Tax Appeals of Hono Koa Vacation Club, T.A. Nos. 09-0202 and 09-0223; Tax Appeal Court, State of Hawaii.

Taxpayers were assessed additional general excise and transient accommodations taxes for income received from their operations of timeshare properties in the State. Specifically, Taxpayers were assessed additional general excise taxes for amounts it received as maintenance fees that it collected on behalf of its members. Taxpayers argue that: (a) these fees are not business income for purposes of chapter 237, HRS; (b) the amounts are exempt as either reimbursements under § 237-20, HRS, or common area expenses collected by an association under § 237-24.3(3), HRS; and (c) that the Taxpayers are agents of the respective timeshare members and that the fees collected from them are used to pay the expenses of the respective members.

In re Tax Appeals of Paradise Cruise, Ltd., T.A. Nos. 09-0033, 09-0037, and 09-0054; In re Tax Appeals of Seabird Charters, Inc., T.A. Nos. 09-0047 and 09-0053; and In re Tax Appeals of Royal Princess Cruises, Inc., T.A. Nos. 09-0048, 09-0052, and 09-0058; Tax Appeal Court, State of Hawaii.

Taxpayers filed Notices of Appeal to the Tax Appeal Court challenging the Department's denial of their refund claims. Taxpayers are claiming that a portion of their income is exempt from the general excise tax pursuant to the Supremacy and Tonnage Clauses of the U.S. Constitution. Trial is scheduled for April 11, 2011.

In the Matter of the Tax Appeal of John M. Dimitrion, T.A. No. 09-0038, Tax Appeal Court, State of Hawaii.

Taxpayer was assessed general excise taxes on income related to the business activity of Total Advantagedge, LLC. The Department made jeopardy assessments against Taxpayer based on the best available information. Taxpayer denies the income should be attributable to him and that any income should be subject to the franchise tax, not the general excise tax. Trial is scheduled for November 7, 2011.

In the Matter of the Tax Appeal of Total Advantagedge, LLC, T.A. No. 09-0039, Tax Appeal Court, State of Hawaii.

Taxpayer was assessed additional general excise taxes on its business activities. The Department made jeopardy assessments against Taxpayer based on the best available information. Taxpayer argues that any income should be subject to the franchise tax, not the general excise tax, and that Taxpayer was not allowed to take certain deductions allowed under chapter 241, HRS. Trial is scheduled for November 7, 2011.

In the Matter of the Tax Appeal of Four Seasons, Ltd., T.A. No. 09-0051, Tax Appeal Court, State of Hawaii.

Taxpayer was assessed additional general excise taxes for amounts it received for performing hotel management services in Hawaii. Taxpayer claims the amounts are not subject to tax because most of the services were performed outside the State. Trial is scheduled for September 12, 2011.

In re Tax Appeal of Radio Shack Corp., T.A. No. 09-0064, Tax Appeal Court, State of Hawaii.

The Department denied Taxpayer's refund request on use taxes paid on products imported for resale to the general public for taxable years 1998 through 2004. Taxpayer argues that the denial is incorrect pursuant to In Re Tax Appeal of Baker and Taylor, 103 Haw. 359, 82 P.3d 804 (2004). Trial is scheduled for January 16, 2012.

In the Matter of the Tax Appeal of One Napili Way Interval Owners Association, T.A. No. 09-0069, Tax Appeal Court, State of Hawaii.

Taxpayer was assessed additional general excise taxes for amounts it received for condominium maintenance fees that it collected on behalf of its members and paid to the One Napili Way AOA. Taxpayer asserts the fees it collected are not income for purposes of chapter 237, HRS, and alternatively, that the amounts are exempt reimbursements under § 237-20, HRS. Trial is scheduled for July 11, 2011.

In the Matter of the Tax Appeal of Maria Q. Galicia, Inc., T.A. No. 09-0070, Tax Appeal Court, State of Hawaii.

Taxpayer appealed from general excise and income tax assessments. The Director has taken discovery and the court has approved a motion by Taxpayer's attorney to withdraw as counsel. Trial is scheduled for January 31, 2011.

In the Matter of the Tax Appeals of TMI Management, Inc., T.A. Nos. 09-0071 and 09-0072, Tax Appeal Court, State of Hawaii.

Taxpayer was assessed additional general excise taxes on amounts received for performing work for the federal government. Taxpayer argues, among other things, that the disputed income is exempt because Taxpayer is an employee leasing company and the disputed income was for salaries and expenses of leased employees. Trial is scheduled for August 15, 2011.

In the Matter of the Tax Appeal of Willem Vanderlee, T.A. No. 09-0073; and In the Matter of Van Der Lee Concrete Products, Inc., T.A. No. 09-0074, Tax Appeal Court, State of Hawaii.

Taxpayers, nonfilers, appealed from assessments of general excise taxes, claiming that they are wholesalers, not retailers or contractors, who are entitled to the 0.5% rate, rather than the 4% rate. Trial has been taken off the ready calendar pending resolution of Taxpayers' liabilities.

In re Tax Appeal of CCHH Maui LLC, T.A. No. 09-0084, Tax Appeal Court, State of Hawaii.

Taxpayer is appealing general excise tax assessments that disallowed the sublease deduction claimed by Taxpayer pursuant to § 237-16.5, HRS, and the imposition and adjustment of use and general excise taxes. Trial is scheduled for January 16, 2012.

In the Matter of the Tax Appeals of South Pacific Builders, Ltd., T.A. Nos. 09-0087, and 09-0088; and In the Matter of the Tax Appeal of Bernard and Ellen Fuller, T.A. No. 09-0089, Tax Appeal Court, State of Hawaii.

Taxpayers were assessed additional general excise and income taxes on amounts received for performing work within the State. Taxpayers argue, among other things, that the disputed income is exempt because Taxpayers paid certain amounts to other contractors. Trial is scheduled for August 22, 2011.

In the Matter of the Tax Appeal of CBIP, Inc., T.A. No. 09-0203, Tax Appeal Court, State of Hawaii.

Taxpayer is appealing general excise tax assessments. Taxpayer argues that: (a) the assessments erroneously include general excise tax on amounts that are not gross income but, rather, are rebates of expenses; (b) penalties are erroneous because nonfiling and/or underpayment was not due to negligence or the intentional disregard of rules; and (c) the assessments violate the due process, commerce, and/or equal protection clauses of the U.S. Constitution. Trial is scheduled for May 9, 2011.

In the Matter of the Tax Appeal of Maria Q. Galicia, T.A. No. 09-0205, Tax Appeal Court, State of Hawaii.

Taxpayer appealed from general excise and income tax assessments for taxable years 2005 through 2008. The Director has taken discovery and the Court has granted a motion by Taxpayer's counsel to withdraw as counsel. Trial is set for May 16, 2011.

In the Matter of the Tax Appeals of Global Horizons, Inc., T.A. Nos. 10-0032 and 10-0033, Tax Appeal Court, State of Hawaii.

Taxpayer was assessed additional general excise and income taxes for taxable years 2003 through 2007. Trial is set for April 25, 2011.

In the Matter of the Tax Appeal of Darryl M. and Linda M. Kan, T.A. No. 10-0038, Tax Appeal Court, State of Hawaii.

Taxpayers dispute the penalties and allege generally that the assessments are erroneous. Trial is not set.

In re Tax Appeal of Peter K. and Sharwayne Kim, T.A. No. 10-0039, Tax Appeal Court, State of Hawaii.

Taxpayers are appealing an income tax assessment, arguing that the calculations are incorrect, specifically the applicability of the 3% limitation and the one-half self employment tax adjustment. Taxpayer is also challenging the applicability of the negligence penalty that was assessed. Trial is set for June 20, 2011.

In re Tax Appeal of Maui Schooner Resort Owners Association, T.A. No. 10-0158, Tax Appeal Court, State of Hawaii.

Taxpayer is challenging the Department's assessment for additional general excise taxes on amounts Taxpayer received for condominium maintenance fees that it collected on behalf of its members and paid to the AOA. Taxpayer argues that: (a) these fees are not

business income for purposes of chapter 237, HRS; and (b) the amounts are exempt as either reimbursements under § 237-20, HRS, or common area expenses collected by an association under § 237-24.3(3), HRS. Taxpayer is also challenging the calculation of the general excise tax on consignment sales, the use tax on imports for resale, and transient accommodations tax. Trial is not set.

In the Matter of the Tax Appeal of Gregory R. Patch and Claire L. Patch, T.A. No. 10-0159, Tax Appeal Court, State of Hawaii.

Taxpayers are appealing an income tax assessment for taxable year 2006. Taxpayers claim that they are appealing to suspend collection actions until they can determine their tax liability themselves. Trial is not set. The Director has filed a motion to dismiss to be heard on August 30, 2010.

In the Matter of the Tax Appeal of Patrick T. Brent, T.A. No. 10-0717, Tax Appeal Court, State of Hawaii.

Taxpayer appealed general excise and transient accommodations tax assessments for taxable years 2003 through 2008. Taxpayer's main argument is that he does not owe the taxes because he employed a property management company that paid the taxes. Trial is set for September 3, 2012.

In the Matter of the Tax Appeal of Robert's Hawaii Cruises, Inc., T.A. No. 10-1235, Tax Appeal Court, State of Hawaii.

Taxpayer appealed general excise tax assessments for taxable years 2006 and 2007. Taxpayer argues, in part, that: (a) it qualifies for the general excise tax exemption as a tour packager under § 237-18(f), HRS; (b) the assessments conflict with and are preempted by the Maritime Transportation Security Act of 2002; (c) the U.S. Constitution prohibits Hawaii from laying a "duty of tonnage" without the consent of Congress; (d) the assessments improperly apportion and source Taxpayer's income; (e) the assessments violate the U.S. and State Constitutions and are otherwise illegal; and (f) Taxpayer timely filed a refund claim. Trial is not set.

In the Matter of the Tax Appeal of WEBE Corporation, Ltd., T.A. No. 10-1236, Tax Appeal Court, State of Hawaii.

Taxpayer appealed general excise tax (and county surcharge, when applicable) assessments for taxable years 2006 through 2008. Taxpayer argues, in part, that: (a) it qualifies for the general excise tax exemption as a tour packager under § 237-18(f), HRS; (b) the assessments conflict with and are preempted by the Maritime Transportation Security Act of 2002; (c) the U.S. Constitution prohibits Hawaii from laying a "duty of tonnage" without the consent of Congress; (d) the assessments improperly apportion and source Taxpayer's income; (e) the assessments violate the U.S. States and State Constitutions and are otherwise illegal; and (f) Taxpayer timely filed a refund claim. Trial is not set.

In the Matter of the Tax Appeal of Augustine Salbosa, T.A. No. 10-1245, Tax Appeal Court, State of Hawaii.

Taxpayer, a nonfiler, appealed general excise and income tax assessments. He claims that the Department did not take into account applicable deductions and credits. Trial is set for July 11, 2011.

CRIMINAL CASES

During FY 2010, the Criminal Justice Section of the Department of the Attorney General filed complaints or indictments pursuant to §§ 231-34, 231-35, and 231-36, HRS, against 32 taxpayers³ for violating Hawaii tax laws, a decline of 24% from the 42 filed in FY 2009. These Oahu, Maui, and Hawaii taxpayers accounted for almost \$18 million in unreported income, \$880,809 in unpaid taxes (excluding civil assessments, penalties, and interest), and to date, \$42,500 in court-imposed criminal fines.⁴ The Department of Taxation collector assigned to criminal cases collected \$1.8 million in unpaid taxes, penalties, and interest during the fiscal year.

Criminal cases covered a wide range of taxpayers and business activities this fiscal year, including attorneys, realtors, couriers, care home operators, architects, landscapers, unlicensed contractors, return preparers, rental and time share operators, and publishers and advertisers. The largest case involved a multi-media company that failed to report over \$3.9 million during a five-year period. Five other cases involved taxpayers with more than \$1 million in gross income for the years prosecuted.

Currently pending are a number of criminal complaints and indictments stemming from cases referred to the Department of the Attorney General by the Department of Taxation's Criminal Investigation Unit in FY 2010. These pending criminal filings are the result of 24 Criminal Investigation Unit investigations involving 35 taxpayers.

Cases of Note

The largest case, as mentioned above, involved a multi-media company. This company and its owner were charged for failing to file annual general excise tax returns for five consecutive years and report gross income in excess of \$3.9 million. A guilty plea was entered, and sentencing scheduled for August 2010. This same taxpayer pled guilty in December 1998 for failing to file annual general excise tax returns and report over \$7.3 million in gross income for an identical company. In that earlier case, the taxpayer was fined \$50,000, but both the fine and the more than \$393,000 in general excise tax due was not paid because the company went bankrupt.

³ Of these 32 cases, 16 taxpayers pled guilty or no contest, a jury found one taxpayer guilty, and 15 taxpayers are awaiting arraignment and/or trial.

⁴ Criminal fines are imposed at sentencing; of the 16 taxpayers who have pled guilty or no contest, all have been sentenced, one to an 11-month period of incarceration.

A Honolulu realtor was charged for failing to file his general excise and individual income tax returns for six consecutive years. The realtor claimed that the court did not have jurisdiction, and that the Kingdom of Hawaii and his Hawaiian sovereignty did not require him to pay the taxes. At trial, the jury found him guilty after deliberating for less than 90 minutes, and the court ordered the realtor to pay the tax and to serve 11 months in prison.

A prominent trial attorney was charged for failing to file his annual general excise and individual income tax returns for four consecutive years. The attorney started his law practice as a sole proprietor and later formed a law corporation. He entered a no-contest plea and was ordered to pay restitution totaling \$24,781 and a \$6,500 fine.

An individual taxpayer noticed that tax returns prepared and e-filed by a paid preparer reflected claims for education credits although the taxpayer had not incurred any education expenses. The taxpayer properly prepared and filed corrected returns, and after receiving a bill for the tax owed as a result of the discrepancy, came to the Department of Taxation to complain. Following a review, the case against the preparer was referred to the Criminal Investigation Unit, which reviewed information provided by the IRS on returns filed by the preparer for approximately 600 clients in 2006 and 700 clients in 2007. Following an investigation that revealed false entries and overstated deductions on client returns, the tax preparer was charged with multiple charges of preparing false tax returns. The preparer entered a not guilty plea, and trial scheduled for the week of November 15, 2010.

Given the current economic climate, it is even more important that taxpayers be aware of the criminal consequences of noncompliance. The Criminal Justice Section of the Department of the Attorney General works closely with the Department of Taxation's Criminal Investigations Unit, which is a small, but important component of the Department's compliance efforts. Their combined efforts to successfully prosecute tax offenders, including tax preparers, serve to deter other potential offenders.

LEGISLATION

The Twenty-Fifth Legislature passed the following major tax related measures during the 2010 Regular Session that were subsequently enacted:

REGULAR SESSION 2010

<u>Act</u>	<u>Brief Description</u>
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|------------|--|
| 021 | Relating to Tax Credits. Provides that refundable credits shall be used first to offset tax liabilities, after which nonrefundable credits that may be carried forward until exhausted may be used. <i>Effective April 14, 2010; applies to taxable years beginning on or after January 1, 2010.</i> |
| 022 | Relating to Tax Administration. Moves up the filing and payment deadlines from the last day to the twentieth day of the month following the tax period for the following: (1) transient accommodations tax periodic returns; (2) use tax returns; (3) fuel tax monthly returns; (4) liquor tax monthly returns; (5) cigarette and tobacco tax monthly returns and other monthly payments and reports; and (6) rental motor vehicle and tour vehicle surcharge tax periodic returns. Act 22 also amends the insurance premiums tax law to require monthly instead of quarterly periodic returns, and moves up the filing deadline for those returns from the last day to the twentieth day of the month following the month in which the taxes accrue. <i>Effective July 1, 2010.</i> |
| 023 | Relating to Taxation. Reverses the amendment made by Act 165, SLH 2009, and restores the income tax deduction for wagering losses, up to the amount of wagering gains, to retroactively conform Hawaii law regarding wagering losses to the IRC. <i>Effective April 15, 2010; applies to taxable years beginning after December 31, 2008.</i> |
| 059 | Relating to Taxation. Part I repeals the income tax deduction for contributions to a political party and contributions to candidates for office who abide by the Hawaii campaign spending limits. Part II increases the tax on each cigarette or little cigar sold on or after July 1, 2010, by one cent to 15 cents, and by an addition one cent to 16 cents for each cigarette or little cigar sold on or after July 1, 2011. Part III and Part IV add and increase insurance-related fees imposed by the Department of Commerce and Consumer Affairs. <i>Effective July 1, 2010; provided that: (1) Part I is effective January 1, 2011, and applies to taxable years beginning after December 31, 2010; provided that the amendments made to §235-7, HRS, under section 1 of this Act will not be repealed when that section is reenacted on January 1, 2013, pursuant to Act 166, SLH 2007; (2) Part III is effective upon the repeal and reenactment of §431:7-101, HRS, pursuant to Act 177, SLH 2008, as amended by Act 11, SLH 2009; and (3) Part IV will be repealed on July 1, 2014, and §§431:7-101(a), (b), and (e), HRS, reenacted as they read on June 30, 2010.</i> |

- 073 Relating to Government.** Contains various provisions to further Hawaii's energy and food self sufficiency. With respect to taxation, this Act temporarily amends §243-3.5, HRS, to increase the environmental response tax from \$0.5 per barrel of petroleum product sold to \$1.05 per barrel and change the name of the tax to the "environmental response, energy, and food security tax." It also deletes the provision in §128D-2, HRS, that requires the Department of Health to notify the Department of Taxation when the fund balance exceeds \$20 million, at which time the fuel distributors would cease collecting the tax until the balance declined to less than \$3 million. *Effective July 1, 2010; provided that sections 2, 3, 4, and 7 of this Act are repealed on June 30, 2005, and §§128D-2, 201-12.8, and 243-3.5, HRS, reenacted in the form in which they read on June 30, 2010.*
- 074 Relating to Taxation.** Amends chapter 236D, HRS, to subject the estates of decedents to the Hawaii estate and transfer tax on taxable income determined under the Internal Revenue Code as of December 31, 2009, in the amount of the credit for state death taxes allowed pursuant to the IRC as of December 31, 2000. It also amends the law to subject nonresidents who also are not citizens of the United States to the tax on assets with situs in Hawaii, except that the exclusion is only \$60,000. *Effective April 29, 2010; applies to decedents dying after April 30, 2010.*
- 084 Relating to the Secure and Fair Enforcement of Mortgage Licensing Act.** Makes amendments to the application, licensing, and regulatory requirements of the Secure and Fair Mortgage Licensing Act. Establishes the mortgage recovery fund to protect consumers injured by violations of chapter 454F, HRS. Includes mortgage loan originator companies in the regulatory system established by chapter 454F, HRS. Authorizes the commissioner of financial institutions to hire temporary and permanent staff to effectuate the purposes of chapter 454F, HRS. In part, it amends §237-24.8(b), HRS, and §241-1, HRS, to make nonsubstantive conforming changes. *Effective July 1, 2010; provided that sections 6, 7, 25, and 29 are effective January 1, 2011; and provided further that sections 30 and 31 are effective May 7, 2010.*
- 089 Relating to the Transfer of Homeless Programs Within the Department of Human Services.** Transfers homeless programs and services within the Department of Human Services by relocating the state homeless programs from the Hawaii Public Housing Authority to the benefit, employment, and support services division. In part, it amends §237-23(a)(4), HRS, to change the chapter reference from 356D to 346. *Effective July 1, 2010.*
- 090 Relating to Taxation.** Amends the definition of "little cigar" and "tobacco products," and adds a new definition for "large cigars." Clarifies that the 50% tax on the wholesale price of cigars applies specifically to large cigars. *Effective July 1, 2010.*

- 091 Relating to General Excise Tax.** Extends the general excise tax exemption for amounts received by hotel operators from hotel owners for employee expenses to amounts received by hotel operators from timeshare associations and by hotel suboperators from hotel owners, hotel operators, and timeshare associations. The definition of "hotel" was amended to include timeshare plans. However, the exemption is capped at \$400,000 in tax per calendar year. *Effective July 1, 2010.*
- 109 Relating to Appellate Jurisdiction.** Permanently establishes the jurisdictional responsibilities of the appellate courts, including amendments made to chapters 232 and 235, HRS. *Effective June 29, 2010.*
- 112 Relating to Conformity of the Hawaii Income Tax Law to the Internal Revenue Code.** Amends Hawaii's income tax law to conform with changes to the IRC, with exceptions. *Effective May 17, 2010; provided that section 6 (amending the title and subsection (a) of §235-2.4, HRS) is effective January 1, 2011.*
- 121 Relating to Construction Sites.** Requires the Director of the Department of Commerce and Consumer Affairs to convene a construction site inspection task force that would, in part, examine ways to deter tax evasion at construction sites. The task force will include at least two representatives from the Department of Taxation. *Effective July 1, 2010.*
- 155 Relating to General Excise Tax.** Denies general excise tax preferences to taxpayers who fail to file their general excise tax annual return and reconciliation later than the twelfth month following the prescribed due date of the return. Also creates a trust responsibility for the general excise tax due on each business transaction regardless of whether an amount represented as the general excise taxes is visibly passed on to customers or not. Holds an officer, member, manager, or other responsible person personally liable for the general excise tax due, including any penalty and/or interest. *Effective July 1, 2010; applies to gross income or gross proceeds received on or after July 1, 2010.*
- 171 Relating to Taxation.** Requires that refunds be paid within 90 days of the due date of the return or the date the return is filed, whichever is later, and changes the method for adding interest on these amounts. Also requires that any increase in general excise and use tax collections attributable to an increase in tax rate be used first to pay any unpaid tax refunds delayed from FY 2010 to FY 2011. *Effective July 1, 2010, and applies to taxable years beginning after December 31, 2009.*
- 182 Relating to the Permitted Transfers in Trust Act.** Adds a new Permitted Transfers in Trust chapter to the HRS, which allows the transfer of assets into a trust to protect those assets from creditors. Imposes a one-time excise tax of 1.0% on the fair market value of all permitted transfers. *Effective July 1, 2010; provided that section 2 shall apply to permitted transfers made after July 1, 2010.*

- 192 Relating to Non-General Funds.** In part, this Act specifies that the refundable income tax credit for commercial fishers is to be paid from the State Highway Fund and amends §245-15, HRS, regarding the deposit of cigarette taxes into various special funds. *Effective July 1, 2010.*

COLLECTION AND DISTRIBUTION OF TAXES

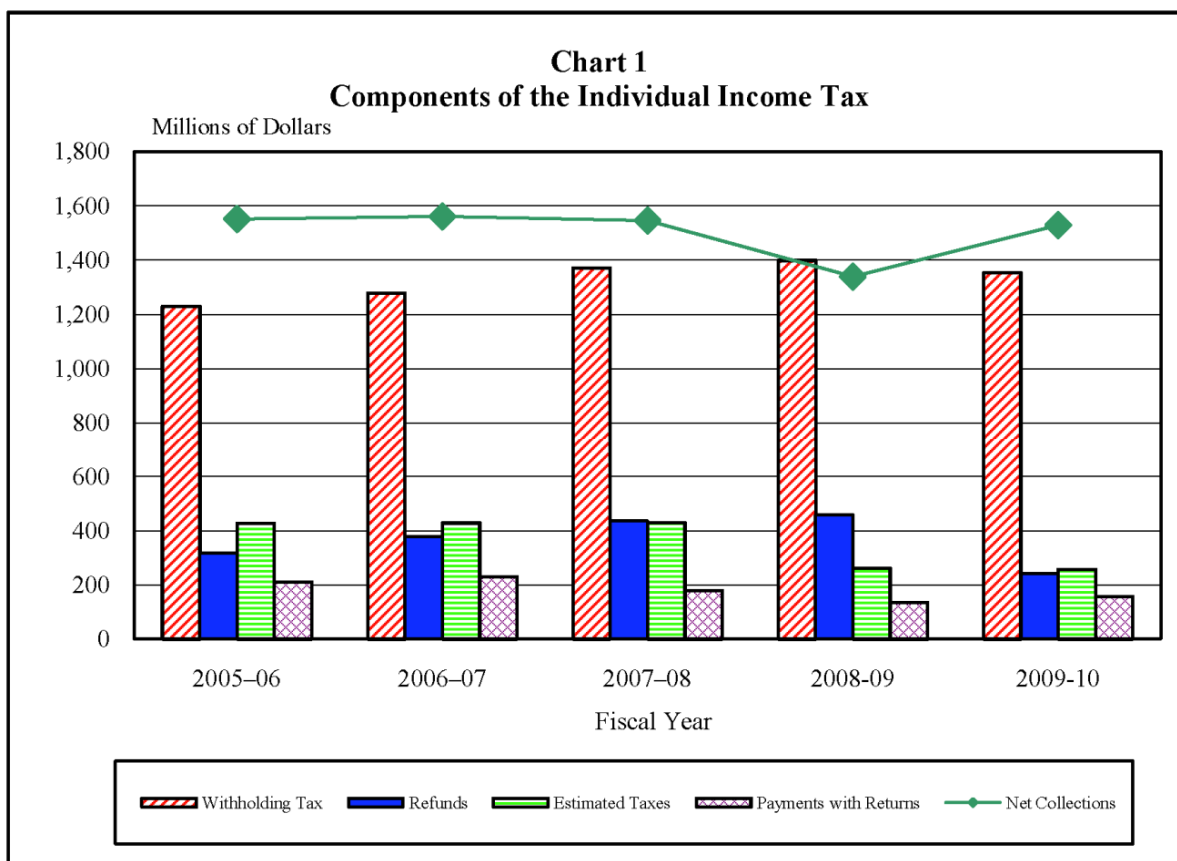
INDIVIDUAL INCOME TAX

Net individual income taxes paid in FY 2010 increased by 14.1% over FY 2009. Were it not for the delayed release of \$186.1 million of tax refunds until after FY 2010 had closed, the net tax paid in FY 2010 would have been only \$3.9 million more than FY 2009.

TABLE 1—TAXES PAID BY INDIVIDUALS
(In thousands of dollars)

	FY 2010	FY 2009	Difference	
			Amount	%
Declaration of Estimated Taxes	\$ 257,329	\$ 262,540	\$ (5,211)	(2.0)
Payment with Return	157,827	135,354	22,473	16.6
Withholding Tax on Wages	1,355,036	1,398,639	(43,602)	(3.1)
Subtotal	\$ 1,770,192	\$ 1,796,533	\$ (26,340)	(1.5)
Refunds	242,083	457,477	(215,394)	(47.1)
NET	\$ 1,528,110	\$ 1,339,056	\$ 189,054	14.1

NOTE: Due to rounding, details may not add to totals.



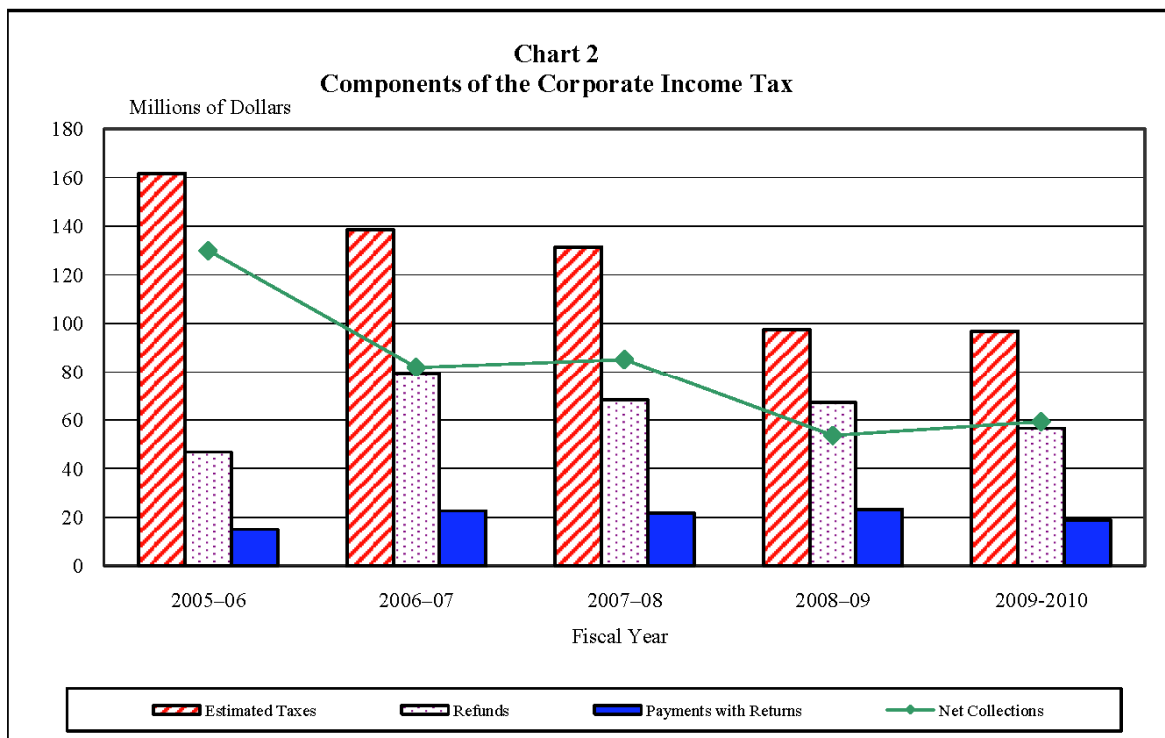
CORPORATE INCOME TAX

Net corporate income tax collections totaled \$59.2 million in FY 2010, an increase of 10.6% over the previous year's total of \$53.5 million. Were it not for the delayed release of some tax refunds until after FY 2010 had closed, the net tax paid would have been \$57.9 million, an increase of only \$4.4 million over FY 2009.

TABLE 2—TAXES PAID BY CORPORATIONS
(In thousands of dollars)

	FY 2010	FY 2009	Difference	
			Amount	%
Declaration of Estimated Taxes	\$ 96,855	\$ 97,456	\$ (602)	(0.6)
Payment with Return	18,911	23,307	(4,397)	(18.9)
Subtotal	\$ 115,765	\$ 120,763	\$ (4,998)	(4.1)
Refunds	56,580	67,241	(10,661)	(15.9)
NET	\$ 59,186	\$ 53,522	\$ 5,663	10.6

NOTE: Due to rounding, details may not add to totals.



GENERAL EXCISE AND USE TAXES

General excise and use taxes, which made up 45.1% of total tax collections in FY 2010, decreased by 4.2% from FY 2009 to a total of \$2.3 billion in FY 2010. All components, except

services, were lower in FY 2010 than in FY 2009. Contracting revenues were lower by \$70.7 million or 23.2% from FY 2009. Tax revenues from services were down by \$16.0 million or 1.6% from last year. Rental revenue from all rentals other than from the furnishing of transient accommodations was down by \$12.6 million or 5.2%. Another general excise tax component with a large decrease was transient accommodation rentals, which decreased by \$8.2 million or 7.3% from FY 2009.

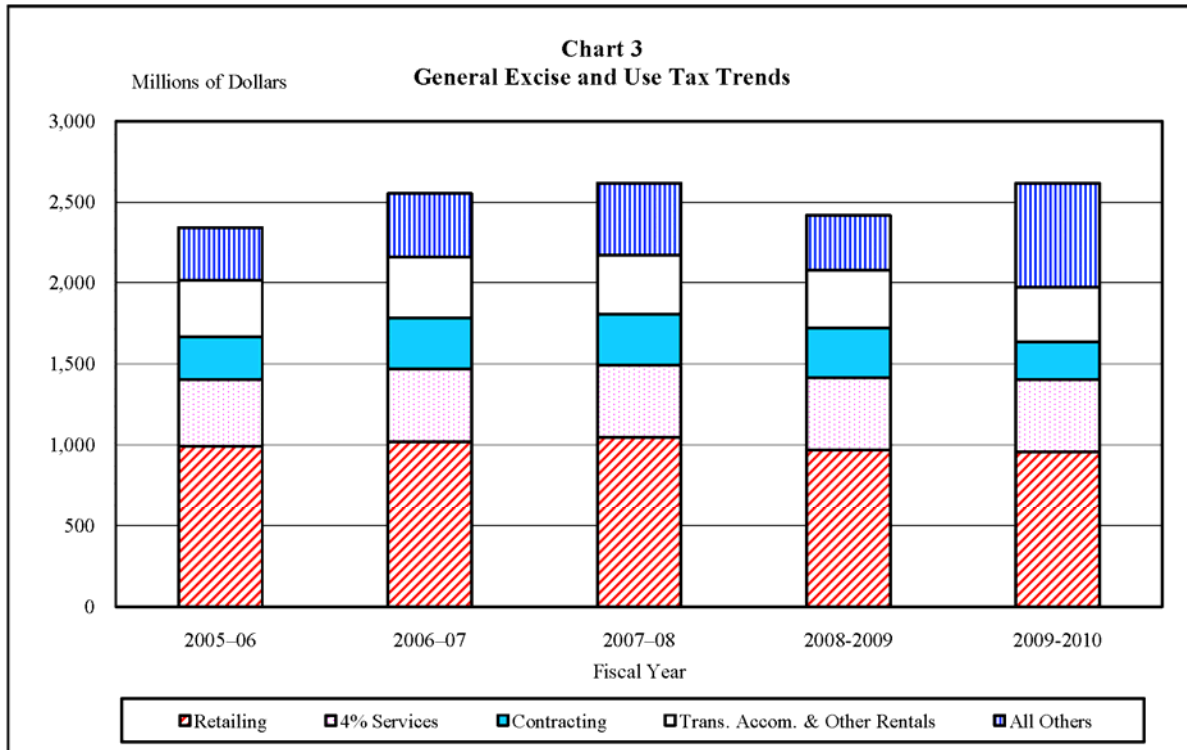


TABLE 3—GENERAL EXCISE AND USE TAX BASE AND TAXES
FOR FISCAL YEARS ENDING JUNE 30, 2010, AND JUNE 30, 2009
(In thousands of dollars)

SOURCE OF REVENUE	Rate	FY 2010	FY 2009	Difference	
				Amount	% Change
TAX BASE					
Retailing		\$ 23,919,023	\$ 24,318,203	\$ (399,180)	(1.6)
Services		11,153,522	11,058,912	94,640	0.9
Contracting		5,864,048	7,631,024	(1,766,976)	(23.2)
Trans. Accom. Rentals		2,606,510	2,812,103	(205,593)	(7.3)
All Other Rentals		5,778,068	6,094,050	(315,982)	(5.2)
All Others (4%)		4,360,092	4,374,367	(14,275)	(0.3)
Subtotal		\$ 53,681,293	\$ 56,288,658	\$ (2,607,365)	(4.6)
Wholesaling		\$ 12,207,146	\$ 12,501,827	\$ (294,681)	(2.4)
Manufacturing		703,483	809,111	(105,629)	(13.1)
Producing		339,417	404,545	(65,128)	(16.1)
Wholesale Services		572,402	610,899	(38,497)	(6.3)
Use (1/2%)		6,430,375	6,883,063	(452,687)	(6.6)
Insurance Commissions		502,071	535,417	(33,346)	(6.2)
Subtotal		\$ 20,754,894	\$ 21,744,863	\$ (989,969)	(4.6)
TOTAL—ALL ACTIVITIES		<u>\$ 74,436,188</u>	<u>\$ 78,033,522</u>	<u>\$ (3,597,334)</u>	<u>(4.6)</u>
TAX					
Retailing	4.00%	\$ 956,761	\$ 972,728	\$ (15,967)	(1.6)
Services	4.00%	446,142	442,356	3,786	0.9
Contracting	4.00%	234,562	305,241	(70,679)	(23.2)
Trans. Accom. Rentals	4.00%	104,260	112,484	(8,224)	(7.3)
All Other Rentals	4.00%	231,123	243,762	(12,639)	(5.2)
All Others	4.00%	174,404	174,975	(571)	(0.3)
Subtotal		\$ 2,147,252	\$ 2,251,546	\$ (104,295)	(4.6)
Wholesaling	0.50%	\$ 61,036	\$ 62,509	\$ (1,473)	(2.4)
Manufacturing	0.50%	3,517	4,046	(528)	(13.1)
Producing	0.50%	1,697	2,023	(326)	(16.1)
Wholesale Services	0.50%	2,862	3,054	(192)	(6.3)
Use	0.50%	32,152	34,415	(2,263)	(6.6)
Insurance Commissions	0.15%	753	803	(50)	(6.2)
Subtotal		\$ 102,017	\$ 106,850	\$ (4,833)	(4.5)
Unallocated*		\$ 67,165	\$ 59,183	\$ 7,982	13.5
TOTAL—ALL ACTIVITIES		<u>\$ 2,316,434</u>	<u>\$ 2,417,580</u>	<u>\$ (101,146)</u>	<u>(4.2)</u>

*Included are collections from penalty and interest, assessments and corrections, delinquent collections, refunds, protested payments, settlements, business activities of disabled persons, etc.

NOTE: Due to rounding, details may not add to totals.

TRANSIENT ACCOMMODATIONS TAX

Transient accommodations tax collections totaled \$214.2 million for FY 2010, an increase of \$14.6 million or 7.3% from last fiscal year. Transient accommodations tax funds were distributed as follows: (1) 44.8% to the counties; (2) 17.3% to the Convention Center Enterprise Special Fund, provided that the revenues in excess of \$33.0 million in any calendar year are deposited into the General Fund; (3) 34.2% to the Tourism Special Fund, provided that, of the first \$1.0 million, 90.0% is transferred to the State Parks Special Fund, and 10.0% into the Special Land and Development Fund, and further provided that 0.5% of the 34.2% is transferred to a sub-account in the Tourism Special Fund to fund a safety and security budget, and additional amounts are transferred into the Tourism Emergency Trust Fund, as needed, to maintain a fund balance of \$5.0 million; and (4) 3.7% to the General Fund. In FY 2010, an additional 1 percent TAT was levied and all proceeds from the increase were allocated to the General Fund. In FY 2010, \$31.7 million was deposited into the General Fund; an increase of \$18.1 million over FY 2009.

TABLE 4—TRANSIENT ACCOMMODATIONS TAX
(In thousands of dollars)

	FY 2010	FY 2009	Difference	
			Amount	%
Transient Accommodations Tax	\$214,219	\$199,594	\$14,625	7.3
Time Share Occupancy Tax	10,023	11,020	(997)	(9.0)
Trans. Accom./Time Share Occ. Fees	9	8	1	12.5
TOTAL	\$224,251	\$210,622	\$13,629	6.5
Counties' Share	\$90,568	\$94,355	(3,787)	(4.0)
Convention Center Fund	32,838	30,663	2,175	7.1
Tourism Special Fund	69,139	72,030	(2,891)	(4.0)
General Fund	31,705	13,574	18,131	133.6
TOTAL	\$224,251	\$210,622	13,629	6.5

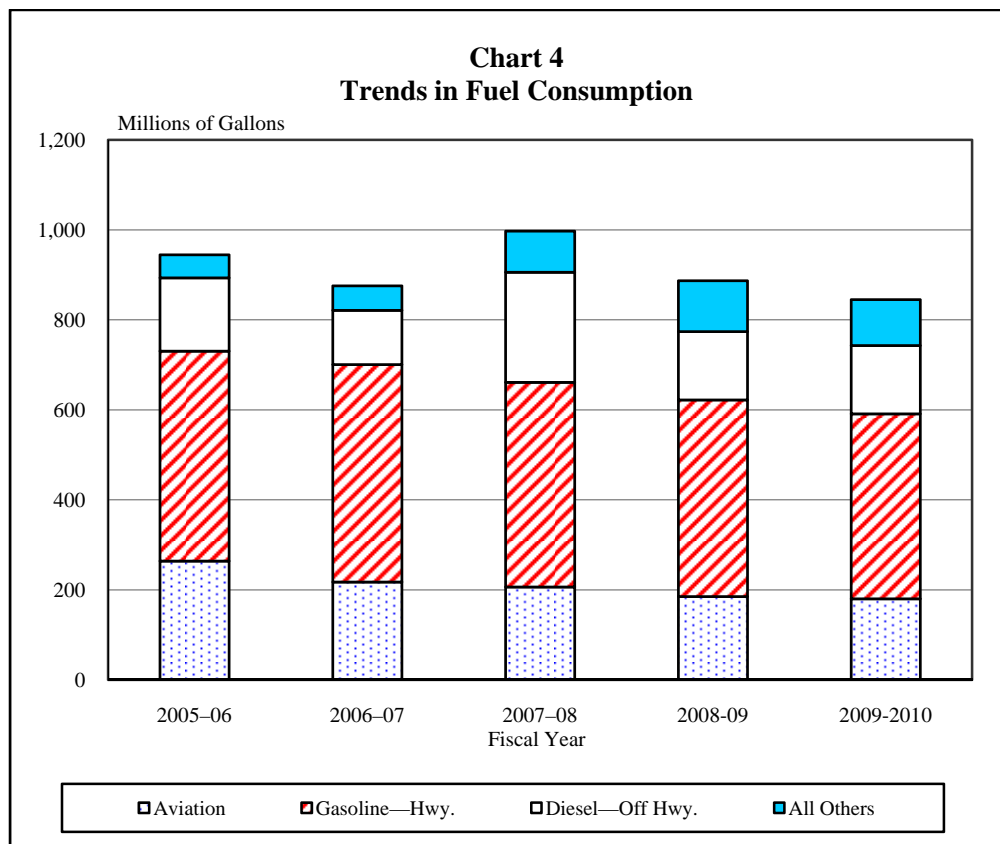
NOTE: Due to rounding, details may not add to totals.

FUEL AND MOTOR VEHICLE TAXES

Total taxable fuel consumption decreased by 4.7% to 844.6 million gallons in FY 2010. An environmental response tax of five cents was imposed on each barrel of petroleum product sold by a distributor to any retail dealer or end user. A total of 28.4 million barrels of petroleum was subjected to the environmental response tax in FY 2010, a decline of 10.6% from the previous year.

TABLE 5—GALLONS OF FUEL CONSUMED
(In thousands of gallons)

	FY 2010	FY 2009	Difference	
			Amount	%
Gasoline	411,419	436,475	(25,056)	(5.7)
Diesel Oil—Off Highway	152,118	152,359	(241)	(0.2)
Diesel Oil—Highway	47,606	64,923	(17,317)	(26.7)
Liq. Pet. Gas—Highway	65	84	(19)	(22.6)
Small Boats—Gasoline	1,390	413	977	236.6
Small Boats—Diesel Oil	1,001	5,288	(4,287)	(81.1)
Aviation Fuel	179,609	185,309	(5,700)	(3.1)
Other Fuel*	51,353	41,778	9,575	22.9
TOTAL GALLONS	844,560	886,629	(42,069)	(4.7)
Environmental Tax (Barrel)	28,427	31,792	(3,365)	(10.6)



The revenues from fuel taxes are distributed to several special funds. One percent of the fuel taxes paid on liquid fuel are deposited into the Boating Special Fund. Fuel taxes paid on sales of

aviation fuel are deposited into the Airport Revenue Fund. Environmental response tax collections are deposited into the Environmental Response Revolving Fund, which is administered by the Department of Health for oil spill prevention and remediation programs. The remaining State fuel tax revenues are deposited into the State Highway Fund, while the remaining county fuel tax revenues are deposited into the respective county's highway fund. The State Highway Fund also receives monies from the motor vehicle weight taxes and registration fees, which are administered and collected by the counties, and the rental motor vehicle and tour vehicle surcharge taxes.

TABLE 6—ALLOCATION OF FUEL TAXES
(In thousands of dollars)

	FY 2010	FY 2009	Difference	
			Amount	%
STATE HIGHWAY FUND:				
Fuel	\$81,271	\$86,401	\$(5,130)	(5.9)
Motor Vehicle Tax & Fees	<u>102,319</u>	<u>101,991</u>	<u>328</u>	<u>0.3</u>
TOTAL	\$183,590	\$188,393	\$(4,802)	(2.5)
COUNTY HIGHWAY FUND:				
City & County of Honolulu	\$47,639	\$50,316	\$(2,677)	(5.3)
County of Maui	9,679	10,499	(820)	(7.8)
County of Hawaii	6,997	7,661	(664)	(8.7)
County of Kauai	<u>3,596</u>	<u>3,941</u>	<u>(345)</u>	<u>(8.8)</u>
TOTAL	\$67,911	\$72,416	\$(4,505)	(6.2)
BOATING SPECIAL FUND:	\$1,507	\$1,604	\$(97)	(6.0)
STATE AIRPORT FUND:				
Aviation Fuel	\$3,592	\$3,706	\$(114)	(3.1)
ENVIRONMENTAL TAX FUND:	\$1,421	\$1,590	\$(169)	(10.6)

NOTE: Due to rounding, details may not add to totals.

The State Legislature sets the State fuel tax rates, while the county councils set the county rates. The effective rates for FY 2010 are shown below:

FUEL TAX RATES PER GALLON*

TYPE OF FUEL	State	County	Total
Gasoline & Diesel Oil (Highway Use)			
City & County of Honolulu	17.0¢	16.5¢	33.5¢
County of Maui	17.0¢	16.0¢	33.0¢
County of Hawaii	17.0¢	8.8¢	25.8¢
County of Kauai	17.0¢	13.0¢	30.0¢
Liquid Petroleum Gas (Highway Use)			
City & County of Honolulu	5.2¢	5.4¢	10.6¢
County of Maui	5.2¢	4.3¢	9.5¢
County of Hawaii	5.2¢	2.9¢	8.1¢
County of Kauai	5.2¢	4.3¢	9.5¢
Ethanol			
City & County of Honolulu	2.4¢	2.4¢	4.8¢
County of Maui	2.4¢	3.8¢	6.2¢
County of Hawaii	2.4¢	1.3¢	3.7¢
County of Kauai	2.4¢	1.9¢	4.3¢
Methanol			
City & County of Honolulu	1.9¢	1.8¢	3.7¢
County of Maui	1.9¢	2.9¢	4.8¢
County of Hawaii	1.9¢	1.0¢	2.9¢
County of Kauai	1.9¢	1.4¢	3.3¢
Biodiesel			
City & County of Honolulu	4.0¢	8.3¢	12.3¢
County of Maui	4.0¢	0.0¢	4.0¢
County of Hawaii	4.0¢	0.0¢	4.0¢
County of Kauai	4.0¢	0.0¢	4.0¢
Compressed Natural Gas			
City & County of Honolulu	0.8¢	1.3¢	2.1¢
County of Maui	0.8¢	1.2¢	2.0¢
County of Hawaii	0.8¢	0.7¢	1.5¢
County of Kauai	0.8¢	1.0¢	1.8¢
Liquefied Natural Gas			
City & County of Honolulu	2.4¢	4.7¢	7.1¢
County of Maui	2.4¢	4.5¢	6.9¢
County of Hawaii	2.4¢	2.5¢	4.9¢
County of Kauai	2.4¢	3.7¢	6.1¢
Environmental Response Tax (Per Barrel)			
All Counties	5.0¢	0.0¢	5.0¢

* Diesel oil (off highways), aviation fuel, and naphtha sold for use in a power generating facility are taxed by the State at the rate of 2¢ per gallon.

PUBLIC SERVICE COMPANY TAXES

Public utilities paid \$157.7 million in public service company tax, penalty, and interest in FY 2010, compared to \$126.1 million in FY 2009.

ESTATE AND TRANSFER TAXES

During FY 2010, estate tax collections totaled less than \$1,000, compared to \$274,164 in FY 2009.

The federal Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) gradually phases out the estate and transfer taxes and replaces the federal credit for state death taxes with a deduction. Hawaii's tax was effectively eliminated for decedents dying after December 31, 2004, when the federal credit was replaced with a deduction.

OTHER TAXES

Total revenues from other miscellaneous taxes amounted to \$591.1 million in FY 2010, \$61.9 million more than the previous fiscal year. Employment security contributions increased by \$32.9 million in FY 2010. Insurance premium tax collections were higher by \$11.0 million in FY 2010, while tobacco tax collections rose by \$15.3 million.

Contributing to the increase in tobacco tax collections was Act 316, SLH 2006, and Act 56, SLH 2009. Act 316 increased the excise tax per cigarette by one cent per year over a six year period that began on September 30, 2006. Act 56 increased the tax on cigarettes to thirteen cents each effective July 1, 2009. Act 316 also provided for the allocation of a portion of the tobacco tax collections to the following special funds: the Hawaii Cancer Research Special Fund, the Trauma System Special Fund, the Emergency Medical Services Special Fund, and the Community Health Centers Special Fund. Allocations to the Hawaii Cancer Research Special Fund began on October 1, 2006. Allocations to the Trauma System Special Fund and the Emergency Medical Services Special Fund began a year later, and allocations to the Community Health Centers Special Fund began on October 1, 2008.

The Bureau of Conveyances under the Department of Land and Natural Resources collected \$40.6 million in conveyance taxes in FY 2010, up from only \$23.8 million collected in FY 2009. Of the total, \$18.2 million was allocated to the General Fund, the remainder going to the Rental Housing Fund, Natural Area Reserve Fund, and Land Conservation Fund.

Liquor tax collections declined to \$44.1 million in FY 2010, down from \$47.2 million in the previous fiscal year. Franchise taxes collected from banks and other financial corporations fell to \$20.7 million from \$28.1 million in the previous fiscal year.

Act 247, SLH 2005, granted counties the authority to pass an ordinance imposing a county surcharge of no more than 0.5% on gross income subjected to the State's 4% general excise tax

to fund county public transportation systems. The Act specified that the county surcharge tax be levied no earlier than January 1, 2007, and that the ordinance be automatic repealed on December 31, 2022. The Department of Taxation is required to levy, assess, collect, and administer the county surcharge tax for the counties. The City and County of Honolulu was the only county to adopt an ordinance levying a 0.5% county surcharge tax. The Honolulu county surcharge tax took effect on January 1, 2007. In FY 2010, \$175.1 million in county surcharge tax was collected on behalf of the City and County of Honolulu, a slight drop from the \$178.7 million collected in FY 2009.

TABLE 7—MISCELLANEOUS TAXES*
(In thousands of dollars)

	FY 2010	FY 2009	Difference	
			Amount	%
Banks & Other Financial Corporations	\$20,666	\$28,075	\$(7,409)	(26.4)
Conveyance	40,634	23,772	16,862	70.9
Employment Security Contributions	82,017	49,071	32,946	67.1
Insurance Premiums & Fees	104,721	93,720	11,001	11.7
Liquor & Permits	44,074	47,242	(3,168)	(6.7)
Tobacco & Licenses	123,489	108,164	15,325	14.2
General Excise Licenses & Fees	449	457	(8)	(1.8)
Honolulu County Surcharge	<u>175,061</u>	<u>178,729</u>	<u>(3,668)</u>	<u>(2.1)</u>
TOTAL	\$591,111	\$529,230	\$61,888	11.7

* Before allocation to special or other funds.

NOTE: Due to rounding, details may not add to totals.

TOTAL TAX COLLECTIONS

Total tax collections in FY 2010 amounted to \$5.1 billion, or about 3.9% more than the \$4.9 billion collected in the previous fiscal year. While the Department of Taxation collected the majority of the total taxes, the counties collected \$61.9 million in State motor vehicle weight taxes and registration fees, the Department of Commerce and Consumer Affairs collected \$104.7 million in insurance premium taxes, the Department of Land and Natural Resources collected \$40.6 million in conveyance taxes, and the Department of Labor and Industrial Relations collected \$82.0 million in employment security contributions.

TABLE 8—TAX COLLECTIONS
(In thousands of dollars)

SOURCE OF REVENUE	FY 2010		FY 2009	
	Amount Collected	% of Total	Amount Collected	% of Total
Banks – Financial Corporations	\$20,666	0.40	\$28,075	0.57
Conveyance	40,634	0.79	23,772	0.48
Employment Security Contributions	82,017	1.60	49,071	0.99
Fuel	155,703	3.03	165,717	3.35
General Excise & Use Tax	2,316,434	45.11	2,417,580	48.9
Honolulu County Surcharge	175,061	3.41	178,729	3.61
Income – Corporations	59,186	1.15	53,522	1.08
Income – Individuals	1,528,110	29.76	1,339,056	27.08
Inheritance and Estate	0	0.00	274	0.01
Insurance Premiums	104,721	2.04	93,720	1.9
Liquor & Permits	44,074	0.86	47,242	0.96
Motor Vehicle Tax*	102,319	1.99	101,991	2.06
Public Service Companies	157,661	3.07	126,069	2.55
Tobacco & Licenses	123,489	2.40	108,164	2.19
Transient Accommodations Fees	9	0.00	8	0
Transient Accommodations Tax	224,243	4.37	210,614	4.26
All Others**	775	0.02	528	0.01
TOTAL	\$5,134,810	100.00	\$4,944,133	100.00

* Includes motor vehicle weight tax, registration fees, commercial driver's license, periodic motor vehicle inspection fees, rental motor vehicle and tour vehicle registration fees, and rental motor vehicle and tour vehicle surcharge tax.

** Includes fuel retail dealer permits, fuel penalty and interest, general excise fees, and insurance fees.

NOTE: Due to rounding, details may not add to totals.

DISTRIBUTION OF TAXES

Of the total \$5.1 billion in tax revenues collected in FY 2010, \$4.4 billion or 85.0% was deposited into the State's General Fund. The four counties received \$158.5 million or 3.1% of the tax collections, which came from county fuel taxes and the transient accommodations tax. In addition, \$175.1 million was collected and credited to the City and County of Honolulu county surcharge tax.

The remaining \$436.7 million of tax revenue not deposited into the General Fund or transferred to the counties was distributed among several State special funds. The State Highway Fund

received the largest portion, \$183.6 million. All \$82.0 million of the employment security contributions went into the Unemployment Trust Fund for unemployment benefits. Portions of the transient accommodations tax went to the next two largest special funds: \$69.1 million to the Tourism Special Fund and \$32.8 million to the Convention Center Fund.

For FY 2010, 10% of the conveyance tax was allocated to the Land Conservation Fund, 25% was allocated to the Rental Housing Trust Fund and 25% was allocated to the Natural Area Reserve Fund. The balance of the conveyance tax collections (40%) were allocated to the General Fund.

Effective July 1, 2009, 2.0 cents of the 13 cents tax per cigarette was allocated to the Hawaii Cancer Research Special Fund (which received a total of \$18.0 million), 0.75 cents of the cigarette tax was allocated to the Trauma Systems Special Fund (which received a total of \$6.8 million). 0.75 cents of the cigarette tax was allocated to the Community Health Centers Special Fund (which received a total of \$6.8 million), and 0.50 cents of the cigarette tax was allocated to the Emergency Medical Services Special Fund (which received a total of \$4.5 million)

Distributions of State tax revenue into the General Fund are shown in Table 9. Distributions of all tax collections are shown in Table 10.

TABLE 9—STATE GENERAL FUND*
(In thousands of dollars)

SOURCE OF REVENUE	FY 2010		FY 2009	
	Amount Collected	% of Total	Amount Collected	% of Total
Banks – Financial Corporations	\$18,666	0.43	\$26,075	0.62
Conveyance	18,216	0.42	8,311	0.20
General Excise & Use Tax	2,316,434	53.07	2,417,580	57.53
Income – Corporations	59,186	1.36	53,522	1.27
Income – Individuals	1,527,619	35.00	1,338,451	31.85
Inheritance and Estate	0	0.00	274	0.01
Insurance Premiums	104,721	2.40	93,720	2.23
Liquor & Permits	44,074	1.01	47,242	1.12
Public Service Companies	157,661	3.61	126,069	3.00
Tobacco & Licenses	85,503	1.96	76,955	1.83
Transient Accommodations Tax	31,696	0.73	13,566	0.32
All Others**	783	0.02	535	0.01
TOTAL	\$4,364,559	100.00	\$4,202,301	100.00

* Net of transfers to special funds.

** Includes fuel retail dealer permits, fuel penalty and interest, general excise fees, transient accommodations fees and insurance fees.

NOTE: Due to rounding, details may not add to totals.

TABLE 10 - DISTRIBUTION OF COLLECTIONS
(In thousands of dollars)

	<u>FY 2010</u>		<u>FY 2009</u>	
	Amount Distributed	% of Total	Amount Distributed	% of Total
STATE FUNDS:				
State General Fund	\$4,364,559	84.99	\$4,202,301	85.00
State Highway Fund	183,590	3.58	188,393	3.81
State Airport Fund	3,592	0.07	3,706	0.07
Boating Special Fund	1,507	0.03	1,604	0.03
Environmental Fund	1,421	0.03	1,590	0.03
Cigarette Stamp Admin/Enf. Fund	1,988	0.04	1,782	0.04
Compliance Resolution Fund	2,000	0.04	2,000	0.04
Unemployment Trust Fund	82,017	1.60	49,071	0.99
Election Campaign Fund	217	0.00	205	0.00
Tourism Special Fund	69,139	1.35	72,030	1.46
Rental Housing Fund	10,190	0.20	7,136	0.14
Land Conservation Fund	4,076	0.08	2,379	0.05
Natural Area Reserve Fund	8,152	0.16	5,947	0.12
Convention Center Fund	32,838	0.64	30,663	0.62
Public Libraries Fund	68	0.00	96	0.00
Domestic Violence/Child Abuse	134	0.00	191	0.00
School Repair & Maintenance Fund	72	0.00	111	0.00
Cancer Research Fund	17,966	0.35	20,018	0.40
Trauma System Fund	6,754	0.13	4,674	0.09
Emergency Medical Service Fund	4,525	0.09	2,714	0.05
Community Health Centers Fund	6,754	0.13	2,021	0.04
Subtotal - State	\$4,801,559	93.50	\$4,598,633	93.01
HONOLULU COUNTY				
SURCHARGE	175,061	3.41	\$178,729	3.61
REVENUES TRANSFERRED TO COUNTIES:				
Fuel tax	67,911	1.32	72,416	1.46
Transient Accommodations Tax	90,568	1.76	94,355	1.91
Subtotal - Counties	\$158,480	3.09	\$166,771	3.37
TOTAL	\$5,135,100	100.00	\$4,944,133	100.00

NOTE: Due to rounding detail may not add to totals.

BRIEF SUMMARY OF HAWAII'S TAX SYSTEM

Hawaii has 17 separate tax laws, of which 14 are administered by the State. The counties administer the remaining three—the real property tax, motor vehicle weight tax, and public utility franchise tax—although the revenue from the motor vehicle weight taxes accrues to both the State and county highway funds. The number of taxes administered by the State is indicative of the highly centralized nature of the State's governmental structure.

The State's primary revenue source is the general excise tax. Unlike the more common sales tax in some other states and localities, the general excise tax is levied on the business receiving the income, rather than the customer, for the privilege of doing business in the State. Despite the relatively low tax rates, substantial revenue is generated in large part due to the broad tax base on which this tax and its complementary use tax is levied. Gross income from most business activities, including most sales, services, contracting, and rental activities, are subject to the general excise tax. In general, the general excise tax law levies the tax on all business activities at a 4% retail rate, while allowing a lower rate on some transactions, including many business-to-business transactions, and exempting some other transactions either because those transactions are subject to other taxes or because the legislature wished to grant a preference to that economic activity.

Although not a State tax realization, the Department of Taxation is required to administer the county surcharge on the State's general excise tax for the counties. Act 247, SLH 2005, authorized the counties to establish by ordinance a surcharge of up to 0.5% to fund public transportation systems; only the City and County of Honolulu adopted a surcharge. Beginning January 1, 2007, the county surcharge tax adopted pursuant to City and County of Honolulu Ordinance No. 05-027 has been levied at the rate of 0.5% on transactions that are subjected to the State general excise or use taxes at the 4% rate and that are attributable to business conducted in the City and County of Honolulu. Act 247, SLH 2005, and Ordinance No. 05-027 will both be automatically repealed on December 31, 2022.

Second in revenue generation is the State's income tax, the majority of which is from the income tax levied on individual taxpayers. A number of tax credits are available to mitigate the income tax burden. Two refundable non-business income tax credits, the food/excise tax credit and the credit for low-income household renters, specifically provide tax relief to lower-income taxpayers.

The refundable food/excise tax credit is allowed resident individuals, including those with no gross income, in amounts ranging from \$85 to \$25 per qualified exemption for resident individuals who have less than \$50,000 of federal adjusted gross income; those with the lowest incomes are eligible for the highest credit amounts. The credit for low-income household renters is \$50 per qualified exemption, including the extra exemption for taxpayers who are age 65 or older, for resident individuals with less than \$30,000 of Hawaii adjusted gross income.

A one-time, refundable, general income tax credit of \$1 for each qualified exemption, except additional exemptions for age and disability, was available to resident individuals for tax year

2009. This credit was enacted (Act 84, SLH 2009) to satisfy the requirements of Article VII, section 6, of the Constitution of Hawaii.

Revenues from 11 of the State-administered taxes go into the General Fund and are used to provide government services. Although the fuel tax is administered by the State, it is a source of revenue for both the State and county highway funds. Employment security tax collections are deposited into the Unemployment Trust Fund and used exclusively to provide benefits to unemployed workers. Rental motor vehicle and tour vehicle surcharge taxes are deposited into the State Highway Fund.

OUTLINE OF THE HAWAII TAX SYSTEM AS OF JULY 1, 2010

Issued by the Department of Taxation

KIND OF TAX & LEGAL REFERENCES (HAWAII REVISED STATUTES)	MEASURE AND RATE OF TAX	REPORTS	TAX PAYABLE
(1) Net Income Chapter 235 — Section 235-1 to 235-130	For taxable years beginning after December 31, 2008, the tax rates for individuals range from 1.4% to 11% of taxable income. The standard deduction amounts are as follows: married filing joint return or surviving spouse with dependent child is \$4,000; single or married filing separately is \$2,000; and head of household is \$2,920. For taxable years beginning after December 31, 2010, Act 60, SLH 2009, increases the standard deduction amounts as follows: married filing joint return or surviving spouse with dependent child is \$4,400; single or married filing separately is \$2,200; and head of household is \$3,212. The tax rates for estates and trusts range from 1.4% to 8.25%. The tax rates for corporations are 4.4% up to \$25,000, 5.4% over \$25,000 but not over \$100,000, and 6.4% over \$100,000 of taxable income.	Returns due 20th day of 4th month following the close of taxable year. Withholding returns due monthly on or before the 15th day of the following calendar month. When the total tax liability is less than \$5,000 for the calendar year, returns may be filed quarterly on or before the 15th day of the month after the close of each quarter. An annual employer's return and reconciliation of Hawaii income tax withheld, Form HW-3, must be filed together with a duplicate copy of each employee's tax statement, Form HW-2, on or before the last day of February following the close of the calendar year. Estimates of income of individuals not subject to withholding, estates, trusts, and corporations, April 20th.	In general, at time of filing returns. Estimates of individuals, estates, trusts, and corporations, one-quarter, April 20th; June 20th, September 20th; and January 20th. See Booklet A, Employer's Tax Guide, for the withholding requirements for employers who are required to pay the taxes withheld by electronic funds transfer (EFT).
(2) Estate and Transfer (for decedents dying after 4/30/10) Chapter 236D — Section 236D-1 to 236D-18	Act 74, SLH 2010, reenacts Hawaii's Estate and Transfer Tax for decedents dying after April 30, 2010. Act 74 adds a new definition of "Internal Revenue Code," which makes the IRC operative for purposes of the estate and transfer tax as of December 31, 2009. However, IRC section 2011 (federal estate tax credit for state death taxes paid) and IRC section 2604 (federal credit for state generation-skipping transfer taxes paid), which comprise the Hawaii estate tax base, are made operative as of December 31, 2000. Act 74 expressly provides an applicable exclusion amount of up to \$3,500,000 per decedent. Also, IRC section 2058 (deduction for state death taxes paid) is not made operative. Act 74 also provides for the assessment of the estate tax on transfers made by nonresidents who are not United States citizens.	Returns due 9 months from the decedent's date of death. An automatic 6-month extension of time to file may be requested.	At time of filing returns.
(3) General Excise (Gross Income) Chapter 237 — Section 237-1 to 237-49	This is a business privilege tax measured by gross proceeds of sales or gross income. The tax rate is 0.5% on wholesaling and wholesale services, producing, sugar processing and pineapple canning; all other activities (retailing business and professional services, contracting, theatre, amusement, radio, interest, commissions, rentals) are taxed at 4%, except insurance commissions received by general agents, subagents and solicitors who are taxed at 0.15%. The licensing fee for general excise tax licensees and nonprofit organizations is a one-time fee of \$20. Effective January 1, 2007, a county surcharge of 0.5% will be added to the State's 4% general excise tax for business conducted in the City and County of Honolulu.	Monthly returns are due on or before the 20th day of the following month. When the total tax liability does not exceed \$4,000 for the calendar or fiscal year, returns may be filed quarterly on or before the 20th day of the month after the close of each quarter. When the total tax liability does not exceed \$2,000 for the calendar or fiscal year, returns may be filed semiannually on or before the 20th day of the month after the close of each semiannual period. An annual summary and reconciliation return must be filed on or before the 20th day of the 4th month following the close of the taxable year.	At time of filing returns.

KIND OF TAX & LEGAL REFERENCES (HAWAII REVISED STATUTES)	MEASURE AND RATE OF TAX	REPORTS	TAX PAYABLE
(4) Transient Accommodations Tax Chapter 237D — Section 237D-1 to 237D-16	This is a tax levied on the furnishing of a room, apartment, suite, or the like which is customarily occupied by the transient for less than 180 consecutive days for each letting by a hotel, apartment, motel, horizontal property regime or cooperative apartment, rooming house, or other place in which lodgings are regularly furnished to transients for consideration. Act 61, SLH 2009, increases the transient accommodations tax from 8.25% to 9.25% on July 1, 2010. The registration fee for transient accommodations operators is a one-time fee of \$5 for each registration consisting of 1 to 5 units and \$15 for 6 or more units. Plan managers are liable for and pay to the State the transient accommodations tax of 7.25% that is imposed on the fair market rental value of time share vacation units.	Effective July 1, 2010, Act 22, SLH 2010, amends the due date for filing and payment of the tax as follows: Monthly returns are due on or before the 20th day of the following month. When the total tax liability does not exceed \$4,000 for the calendar or fiscal year, returns may be filed quarterly on or before the 20th day of the month after the close of each quarter. When the total tax liability does not exceed \$2,000 for the calendar or fiscal year, returns may be filed semiannually on or before the 20th day of the month after the close of each semiannual period. An annual summary and reconciliation return must be filed on or before the 20th day of the 4th month following the close of the taxable year.	At time of filing returns.
(5) Use Chapter 238 — Section 238-1 to 238-16	This is an excise tax levied on tangible personal property which is imported or purchased from an unlicensed seller for use in the State. The tax is based upon the purchase price or value of the tangible personal property purchased or imported, whichever is applicable. Rates: 0.5%, if for resale at retail; 4%, if for use or consumption. For exceptions, see sections 238-3 and 238-4. The use tax is imposed on the value of services or contracting that are performed by an unlicensed seller at a point outside the State and imported or purchased for use in the State. Effective January 1, 2007, a county surcharge of 0.5% will be added to the State's 4% use tax for the importation or purchase of tangible personal property or services for use in the City and County of Honolulu.	Effective July 1, 2010, Act 22, SLH 2010, amends the due date for filing and payment of the tax as follows: Monthly returns are due on or before the 20th day of the following month. When the total tax liability does not exceed \$4,000 for the calendar or fiscal year, returns may be filed quarterly on or before the 20th day of the month after the close of each quarter. When the total tax liability does not exceed \$2,000 for the calendar or fiscal year, returns may be filed semiannually on or before the 20th day of the month after the close of each semiannual period. An annual summary and reconciliation return must be filed on or before the 20th day of the 4th month following the close of the taxable year. These returns have been consolidated with the general excise (gross income) tax returns and are filed simultaneously.	At time of filing returns.
(6) Public Service Company Chapter 239 — Section 239-1 to 239-25	Nature of Tax—Public utility business in lieu of general excise tax. (a) Measurement of assessment—general rule: Gross income from public utility business of public utilities for preceding calendar year. For exception, see section 239-9. (b) Rates: (i) Gross income from passenger fares for transportation between points on a scheduled route by a carrier of passengers, 5.35%. (ii) Sale of its products or services to another public utility which resells such products or services, 0.5%. (iii) Sale of telecommunications services by a public utility to an interstate or foreign telecommunications services provider that is subject to the general excise tax and that resells the services to retail customers, 0.5%. (iv) All other revenues: 4% of gross income.	Returns filed on or before the 20th day of the 4th month following the close of the taxable year, based upon operations of the preceding taxable year.	First installment at the time of filing return, or, on or before the 20th day of the 4th month. Other installments due on the 20th day of the 2nd, 5th, and 8th month thereafter. If the total tax liability for the taxable year exceeds \$100,000, 1st installment on or before the 10th day of the 1st month. Remaining installments due on or before the 10th day of each calendar month thereafter.
(7) Banks, Building and Loan, Financial Services Companies and Certain Other Financial Corporations Chapter 241 — Section 241-1 to 241-7	(1)(a) Assessment Date: January 1. (b) Nature of Tax: a franchise tax (in lieu of net income and general excise taxes) on banks, building and loan associations, development companies, financial corporations, financial services loan companies, trust companies, mortgage loan companies, financial holding companies, small business investment companies, or subsidiaries not subject to the tax imposed by chapter 235. (2) Measure of Assessment: Net income for the preceding year from all sources as defined by chapter 235 (Income Tax Law) with modifications. (3) Rate: 7.92% of taxable income.	Returns filed on or before the 20th day of the 4th month following the close of the taxable year, based upon operations of the preceding taxable year.	First installment at the time of filing return, or, on or before the 20th day of the 4th month. Other installments due on the 20th day of the 2nd, 5th and 8th month thereafter. If the total tax liability for the taxable year exceeds \$100,000, 1st installment on or before the 10th day of the 1st month. Remaining installments due on or before the 10th day of each calendar month thereafter.

KIND OF TAX & LEGAL REFERENCES (HAWAII REVISED STATUTES)	MEASURE AND RATE OF TAX	REPORTS	TAX PAYABLE
(8) Fuel Chapter 243 — Section 243-1 to 243-16	Distributors, as defined, are required to pay: 2¢ per gallon on aviation fuel, an initial 2¢ per gallon on diesel oil, 2¢ per gallon on naphtha fuel sold for use in a power-generating facility, as defined, .25¢ per gallon on alternative fuels for operation of an internal combustion engine and at the rates specified below per gallon on alternative fuels, and from 25.8¢ to 33.5¢ per gallon on liquid fuels other than the foregoing; also, pay additional taxes from 23.8¢ to 31.5¢ per gallon on diesel oil used to operate motor vehicles upon the public highways, however, they are not required to pay the additional tax on diesel oil and the tax on alternative fuels if purchasers furnish Exemption Certificates, Form M-38. Refunds of liquid fuel used for agricultural equipment not operated upon the public highways, diesel oil used for motor vehicles not operated upon the public highways, and alternative fuels used for motor vehicles and internal combustion engines not operated upon the public highways may be claimed on Form M-36. Distributors are required to register and be licensed. Licenses are valid until revoked. Effective July 1, 2010, Act 73, SLH 2010, (1) renames the Environmental Response Tax as the Environmental Response, Energy, and Food Security Tax, and (2) increases the tax to \$1.05 per barrel or a fractional part of a barrel of petroleum product that is not aviation fuel sold by a distributor to a retail dealer or end user. The fuel tax is adjusted to reflect the energy content of alternative fuels as follows: ethanol- 0.145 times the rate for diesel; methanol- 0.11 times the rate for diesel; biodiesel- 0.25 times the rate for diesel; liquefied petroleum gas- 0.33 times the rate for diesel; and for other alternative fuels, the rate is based on the energy content of the fuels as compared to diesel fuel, using a lower heating value of 130,000 BTUs per gallon as a standard for diesel, so that the tax rate, on an energy content basis, is equal to one-quarter the rate for diesel fuel.	Effective July 1, 2010, Act 22, SLH 2010, amends the due date for filing and payment of the tax as follows: Returns are due monthly on or before the 20th day of the following month.	At time of filing returns.
(9) Liquor Chapter 244D — Section 244D-1 to 244D-17	This is a gallonage tax imposed upon "dealers" as defined in the law and certain others who sell or use liquor. A \$2.50 liquor tax permit is required and must be renewed before July 1st of each year. See section 244D-4 for exemption from tax. The tax rates per wine gallon are \$5.98 on distilled spirits, \$2.12 on sparkling wine, \$1.38 on still wine, \$.85 on cooler beverages, \$.93 on beer other than draft beer, and \$.54 on draft beer.	Effective July 1, 2010, Act 22, SLH 2010, amends the due date for filing and payment of the tax as follows: Returns are due monthly on or before the 20th day of the following month.	At time of filing returns.
(10) Cigarette and Tobacco Chapter 245 — Section 245-1 to 245-63	"Wholesalers" and "dealers" as defined in the law must pay an excise tax on the sale or use of tobacco products and on each cigarette sold, used, or possessed. Act 59, SLH 2010, increases the tax on cigarettes and little cigars to 15¢ per cigarette or little cigar sold on and after July 1, 2010. The tobacco tax is imposed as follows: (1) Tobacco products (other than large cigars), 70% of the wholesale price. (2) Large cigars, 50% of the wholesale price. (3) Little cigars, 15¢ for each little cigar. A \$2.50 tobacco tax license is required and must be renewed before July 1st of each year. Cigarette and tobacco wholesalers and dealers are required to affix stamps to individual cigarette packages as proof of payment of cigarette taxes. Every retailer engaged in the retail sale of cigarettes and other tobacco products is required to obtain a \$20.00 retail tobacco permit that must be renewed before December 1st of each year.	Effective July 1, 2010, Act 22, SLH 2010, amends the due date for filing and payment of the tax as follows: Returns are due monthly on or before the 20th day of the following month.	At time of filing returns. Cigarette tax paid through the purchase of cigarette tax stamps by licensees.

KIND OF TAX & LEGAL REFERENCES (HAWAII REVISED STATUTES)	MEASURE AND RATE OF TAX	REPORTS	TAX PAYABLE
(11) Conveyance Chapter 247 — Section 247-1 to 247-13	This tax is imposed on all documents transferring ownership or interest in real property and is based on the actual and full consideration paid or to be paid. Minimum \$1 tax for each taxable transaction. The conveyance tax rate ranges from 10¢ per \$100 for properties with a value of less than \$600,000 to \$1 per \$100 for properties with a value of \$10,000,000, or greater. For the sale of a condominium or single family residence for which the purchaser is ineligible for a county homeowner's exemption on property tax, the conveyance tax rate ranges from 15¢ per \$100 for properties with a value of less than \$600,000 to \$1.25 per \$100 for properties with a value of \$10,000,000, or greater. (Documents of certain conveyances are exempted.)	A certificate of conveyance must be filed with the documents at the Bureau of Conveyances within 90 days after a taxable transaction; a claim for exemption from the conveyance tax must be filed for certain exempt conveyances.	At time of filing the certificate, but no later than 90 days after the taxable transaction.
(12) Rental Motor Vehicle and Tour Vehicle Surcharge Tax Chapter 251 — Section 251-1 to 251-15	There is a rental motor vehicle surcharge tax of \$3 a day or any portion of a day that a rental motor vehicle is rented or leased. The tax is levied on the lessor. There is also a tour vehicle surcharge tax of \$65 per month for each tour vehicle in the 25 passenger seat and over category and \$15 per month for each tour vehicle in the 8 to 25 passenger seat category. The tax is levied on the tour vehicle operator. There is a one-time \$20 registration fee. Effective September 1, 2011, Act 226, SLH 2008, decreases the rental motor vehicle surcharge tax to \$2 a day or any portion of a day that a rental motor vehicle is rented or leased.	Effective July 1, 2010, Act 22, SLH 2010, amends the due date for filing and payment of the tax as follows: Monthly returns are due on or before the 20th day of the following month. When the total tax liability does not exceed \$4,000 for the calendar or fiscal year, returns may be filed quarterly on or before the 20th day of the month after the close of each quarter. When the total tax liability does not exceed \$2,000 for the calendar or fiscal year, returns may be filed semiannually on or before the 20th day of the month after the close of each semiannual period. An annual summary and reconciliation return must be filed on or before the 20th day of the 4th month following the close of the taxable year.	At time of filing returns.
(13) Unemployment Insurance Chapter 383 — Section 383-1 to 383-176	This is a tax on wages paid by employing units with 1 or more employees with certain exemptions. The unemployment tax rate is determined according to a multi-contribution schedule system. Each year, 1 of 8 contribution schedules is applicable depending on the condition of the UI Trust Fund. An employer's contribution rate is not less than 0.00% or greater than 5.4%. There is also an additional employment and training (E & T) fund assessment on taxable wages paid to an employee. The percentage rate for this additional tax is .01%. The E & T assessment is applicable to all employing units with unemployment insurance contribution rates greater than 0.00% and less than 5.4%. There is a limitation of the tax on wages paid to an employee called the "tax base". The tax base represents 100% of the state's average annual wages reported by employers contributing to the unemployment trust fund. Note: The tax base for calendar year 2010 has been set at \$34,900.	On a quarterly basis, employers submit Form UC-B6, "Quarterly Wage, Contribution and Employment and Training Assessment Report." The report must be filed on or before the last day of the month following the report quarter.	At time of filing returns.
(14) Insurance Premiums Chapter 431 — Section 431:7-201 to 431:7-209	Tax on insurance companies (Underwriters) based on premiums written in Hawaii. In lieu of all taxes except property tax and taxes on the purchase, use or ownership of tangible personal property, tax rates: Life Insurance, 2.75%; Surplus Lines, 4.68%; Ocean Marine, .8775% on gross underwriting profit; and Other Insurance, 4.265%. To insurers who qualify, there is a 1% tax credit to facilitate regulatory oversight. This law is administered and the tax collected by the Insurance Commissioner, who is required to report to the Director of Taxation all amounts of taxes collected under this chapter.	Effective July 1, 2010, all authorized insurers must file and pay their premium taxes on a monthly basis rather than quarterly. The due tax for the monthly premium tax is on the 20th day of the calendar month following the month in which the taxes accrue. Annual Tax Statement is due on or before March 1 with the Insurance Commissioner.	At time of filing statements.

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