

**INFORMATION ON HAWAII STATE TAXES
ADMINISTERED BY THE DEPARTMENT OF TAXATION**

(NOTE: References to “married”, “unmarried”, and “spouse” also means “in a civil union”, “not in a civil union”, and “civil union partner”, respectively.)

This publication provides a general overview of the most common Hawaii State taxes paid by businesses that are located in Hawaii and by businesses that are not located in Hawaii but which conduct business in Hawaii. Tax forms, other publications, and specific information applicable to your particular business situation may be obtained from a Department’s customer service representative which may be reached by telephone at (808) 587-4242 or toll free at 1-800-222-3229, by e-mail at Taxpayer.Services@hawaii.gov, or at the Hawaii Department of Taxation, P.O. Box 259, Honolulu, HI 96809-0259. Forms and information on Hawaii’s taxes are also available at the Department’s website at: www.hawaii.gov/tax.

GENERAL EXCISE TAX

The General Excise Tax Law taxes persons (individuals, corporations, partnerships, or other entities) on the gross receipts or gross income they derive from their business activities in the State. The tax is often called a gross income tax because deductions for business expenses such as materials, labor, travel, office supplies, etc., generally are not allowed.

This tax is also often referred to as a “sales tax.” The general excise tax, however, is not a sales tax and differs from a sales tax in a number of ways. First, the general excise tax is levied on the person conducting the business; a sales tax is levied on the customer. Second, a common practice in Hawaii is to separately state and visibly pass on to the customer an amount representing the cost of the business’ general excise tax liability (in a manner similar to a sales tax which is separately charged and collected from purchasers). If a business adopts this practice, the amount visibly passed on as tax must be included in the business’ gross income subject to the tax. Unlike a sales tax, the amount visibly passed on as tax cannot be excluded from the gross income subject to the tax. A business is not required to separately state an amount of the sales price representing a general excise tax pass-on. Third, the general excise tax is levied on gross income at all levels of business activity unless specifically exempted by law. Sales taxes, on the other hand, usually are levied on sales of tangible personal property only at the retail level. Examples of income subject to the general excise tax include gross income derived from: sales of tangible personal property at both wholesale and retail; contracting; the rendering of services; commissions; and the rental of personal or real property.

Because the general excise tax is levied on the business rather than the customer, the gross income a business receives from transactions with tax exempt customers, such as nonprofit organizations and government agencies, is subject to the general excise tax. The customer’s general excise tax status does not affect the business’ general excise tax liability on the business income. For example, a business must pay general excise taxes on the gross amount it derives from contracts with a State or county government agency. There are, however, a few activities specifically exempt by law when dealing with the federal government, its agencies and instrumentalities. Some of these exemptions have been suspended through June 30, 2013.

Out-of-state businesses as well as businesses located in Hawaii are subject to the general excise tax on activities in the State.

Gross income derived from the sale or leasing of tangible personal property, the rental of real property, or the provision of services is subject to the general excise tax if the seller has sufficient presence in the State. Presence in the State is established if your business has an office, inventory, property, employees, or other representation in the State, or if services in conjunction with the sales of property, such as training, installation, or repairs, are provided in the State. The furnishing of personal or other services in the State and the leasing of tangible personal property located in Hawaii are other examples of transactions which are taxable. You must thoroughly analyze the facts and circumstances surrounding your transaction when determining whether there is sufficient presence. Out-of-state businesses are encouraged to contact the Department of Taxation regarding their specific circumstances.

The general excise tax rate is .5% on gross income derived from wholesaling and certain services rendered to or for an intermediary or manufacturer. Gross income from all other business activities is taxed at the rate of 4% except for a special .15% rate for insurance commissions. The City and County of Honolulu’s .5% county surcharge is applied to all gross receipts in that county that are subject to the general excise tax at the 4% tax rate. Taxpayers are encouraged to contact the Department regarding their specific circumstances because certain business activities, such as wholesaling and contracting, are narrowly defined in the law and some exemptions or credits are available.

An application for a general excise tax license, Form BB-1, must be completed and submitted to the Department with a \$20 license fee prior to doing business in the State. A “one-time” license may be requested if you do not anticipate doing any additional business in the State. Licenses may be obtained by mail or in person from any district tax office, or via the Internet at www.hbe.hawaii.gov.

A tax exempt organization is not subject to the general excise tax on certain types of income it receives. An organization may apply for exempt status by completing Form G-6, Application for Exemption From General Excise Taxes, or Form G-6S, Application for Exemption From General Excise Taxes (Short Form). The organization should submit the application to the Department with a \$20 registration fee. The fee is not necessary if the organization already has a general excise tax license.

Periodic general excise tax returns must be filed on a monthly, quarterly, or semiannual basis and are due on or before the 20th day of the month after the close of each period. An annual return, which summarizes the payments made on the periodic returns, reports the actual income earned for the taxable year, and reconciles the differences by paying any additional amount due or claiming a refund for any over-reporting, also must be filed by the twentieth day of the fourth month following the close of the tax year.

USE TAX

A use tax is levied on the landed value of tangible personal property and on the value of services and contracting imported into Hawaii for use in the State. The “landed value” is the value of the property at the time it arrives in Hawaii and includes the invoiced or manufactured cost of the property, freight, insurance, and any other

costs incurred prior to the arrival of the property in Hawaii. "Value" means fair and reasonable cash value at the time of accrual of the tax.

The use tax complements the general excise tax and is levied at comparable rates. The landed value of tangible personal property or the value of services or contracting imported for consumption and not for sale is taxed at the rate of 4%. The landed value of imported tangible personal property or the value of imported services or contracting which will be sold at the retail level or the landed value of imported tangible personal property which will be leased or rented to another person or business is subject to the use tax at the rate of .5%. The use tax is not imposed on tangible personal property, services, or contracting imported for sale at wholesale. The City and County of Honolulu's .5% county surcharge is applied to all imports into that county that are subject to the use tax at the 4% tax rate."

It is not necessary for a taxpayer with a general excise tax license to separately register for the use tax. The general excise tax return forms are used to report both the general excise tax and the use tax. There also is a registration and reporting procedure for a taxpayer that is not subject to the general excise tax but sells tangible personal property or services to purchasers in Hawaii (Seller's Collection of Use Tax).

WITHHOLDING TAXES

Employers are required to withhold State income taxes on compensation paid to employees for services performed in Hawaii. Employers must register with the Department by completing Form BB-1. A business may register for withholding tax purposes at the same time it applies for a general excise tax license or may later amend the original application to add the withholding tax by completing Form BB-1X.

Periodic withholding tax returns must be filed on a monthly or quarterly basis and are due no later than the fifteenth day of the month following the close of the reporting period. An annual return, which summarizes the monthly or quarterly returns, reconciles the actual total wages paid and the actual taxes withheld during the year with what was reported during the year, and transmits the State copy of Form HW-2 (or federal Form W-2), also must be filed by the last day of February following the close of the calendar year.

NOTE: The unemployment tax is not administered by the Department of Taxation. Anyone with employees in the State should contact the State Department of Labor and Industrial Relations for information. Employers are required to register with the Unemployment Insurance Division by completing Form BB-1.

INCOME TAXES

Net taxable income is subject to State income tax. Income tax returns must be filed by all taxpayers (e.g. individuals, corporations, trusts, and other entities) doing business in Hawaii, whether or not a net profit or loss is realized. Although there are differences, Hawaii Income Tax Law generally follows the federal Internal Revenue Code in computing the net taxable income. Hawaii resident individuals are taxed on all income from all sources. Hawaii corporations are taxed on all income, except income apportionable and taxable under the law of another state.

Generally, all other taxpayers are taxed on income from their activities in Hawaii. Income tax returns are due by the twentieth day of the fourth month following the close of the tax year.

PENALTIES AND INTEREST

In general, penalty and interest are assessed at the same rates for all State taxes. Two types of penalties may be imposed. A penalty for failing to file a return by the due date is assessed at the rate of 5% of the unpaid tax due for each month or part of a month the return is late up to a maximum of 25%. A penalty also is assessed when a return is filed on time but the tax due is not paid in full. This failure to pay penalty is 20% of the tax not paid within 60 days of the due date of the return. A penalty of up to 25% may be imposed if any part of any underpayment is due to negligence or intentional disregard of rules. Interest is charged on any unpaid tax and penalty at the rate of 2/3 of 1% for each month or part of a month the amounts remain unpaid. Funds from a payment are first applied to interest and then to penalty. The remaining balance of a payment is then applied to the tax due.

Taxpayers that are required to make payments by electronic funds transfer (EFT) and fail to do so without reasonable cause are subject to a penalty of 2% of the amount of the tax due. This penalty is in addition to the failure to file and failure to pay penalties. Tax payments are required to be made by EFT if the taxpayer's annual liability for all taxes other than withholding is more than \$100,000.

Taxpayers may be subject to the penalty for underpayment of estimated taxes if not enough tax is paid through withholding or estimated tax payments. The penalty is 8% per annum for the period of underpayment.

TAX CLEARANCES

Tax clearance certificates issued by the Department and/or the Internal Revenue Service (IRS) may be required for various purposes. For example, a tax clearance must be obtained before acquiring or renewing a State contractor's license or a county liquor license, or submitting a bid for or receiving final payment on a State or county government contract.

Under current Hawaii law, any business entity intending to enter into (or to bid on) a contract with an agency of the State or with any of the four counties is required to obtain a tax clearance certificate from both the Department and the IRS prior to entering into a State or county contract, as well as upon completion of the contract before final payment is made. A tax clearance must be obtained through Hawaii Compliance Express for all contracts and procurements of \$2,500 or more.

A completed Tax Clearance Application, Form A-6, may be submitted either to the Department or to the IRS by mail, fax, or in-person. A tax clearance may also be applied for via the Internet at www.ehawaii.gov/efile. A tax clearance certificate is issued if all returns due are filed and all tax liabilities are paid. There is no fee for obtaining tax clearance certificates.

Hawaii tax forms and other information are available at the Department's website at: www.hawaii.gov/tax