



MAJOR TAX RELATED MEASURES

Passed by the Twentieth Legislature
Regular Session of 2000

June 29, 2000

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Overview

- Selected measures affecting Hawaii's tax laws
- All bills subject to Governor's approval:
 - June 22, 2000 was the deadline for the Governor to veto bills
 - July 7, 2000 is the last day for the Governor to sign bills; bills otherwise become law
- Copies of House and Senate bills - get from House and Senate Printshops or download from the capitol website: www.capitol.hawaii.gov
- Visit the TAX website: www.state.hi.us/tax for more information and links to on-line acts

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Administrative Tax Measures

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ACT 199 (SB 2946, SD1, HD1, CD1)

Pay to Play

- Eliminates requirement of paying assessed tax prior to appealing the assessment to the district boards of review
- Requires the assessed tax be paid plus interest when the Board's decision is:
 - appealed by the taxpayer, or
 - in favor of the Department and not appealed
- Taxpayer does not have to "pay-to-play" as long as taxpayer prevails at the Board level
- Effective for appeals filed on or after June 8, 2000

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General Excise / Use Tax Measures

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ACT 27 (SB 2289, SD2)

Prepaid Phone Cards

- Clarifies that the GET is imposed on the sale of prepaid telephone calling services at the point of sale
 - in lieu of taxation under the PSC tax
 - applies to gross income and gross proceeds of sales received after August 31, 2000
- Includes prepaid telephone calling services under the definition of property in the USE tax law
 - applies to all taxes accruing after August 31, 2000

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ACT 34 (SB 2947)

Disclosure

- Allows disclosure of GET/USE tax return and return information to persons contractually obligated to pay these taxes assessed against another
- Applies to discussions after April 20, 2000 regarding the assessment of additional taxes

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ACT 198 (SB 2945, SD1, HD3)

Pyramiding Relief (changes to ACT 71)

- Pyramiding relief from the GET for the sale of amusements
- PSC tax rate relief for:
 - telecommunications services resold to long distance telecommunications providers
 - motor carrier transportation services which are sold to contractors
- GET provisions apply to gross income or gross proceeds received beginning January 1, 2000
- PSC provisions take effect for January 1, 2001 filings

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ACT 198 (SB 2945, SD1, HD3)

Changes to ACT 70

- Imposes the use tax on contracting imported for resale or use in Hawaii
 - exception: contracting imported by a licensed construction industry contractor
- Authorizes Director of Taxation to exempt, exclude, or apportion use tax

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ACT 198 (SB 2945, SD1, HD3)

Changes to ACT 70 (cont.)

Example #1 (Casual Sale)

Hawaii contractor buys a used backhoe from a mainland contractor for use in Hawaii. The Hawaii contractor is exempt from the use tax because the purchase of a backhoe from a Hawaii contractor would qualify as a casual sale that is exempt from the GET.

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ACT 198 (SB 2945, SD1, HD3)

Changes to ACT 70 (cont.)

Example #2 (In-house)

*Administrative services, including bookkeeping and personnel, performed by the mainland headquarters of a financial institution for their Hawaii branch are **NOT** subject to the use tax.*

If the administrative services instead were performed by the Hawaii branch, the GET would not be imposed on the services. Thus, the use tax exclusion avoids discrimination against imports. But compare outsourcing...

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ACT 198 (SB 2945, SD1, HD3)

Changes to ACT 70 (cont.)

Example #3 (Outsourcing)

Hawaii financial institution outsourcing its credit card administration and collection services to a mainland company is subject to use tax at 4%.

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ACT 198 (SB 2945, SD1, HD3)

Changes to ACT 70 (cont.)

Example #4 (Multistate Accounting Firm)

This firm is engaged by a Hawaii client to obtain tax ruling from IRS in D.C. Part of work is done by D.C. office and Hawaii office. Literal application of use tax would impose 0.5% rate on D.C. office work. However, Director authorized to exclude this tax because no tax would have been imposed if Hawaii office performed 100% of the work.

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ACT 262 (SB 2160, SD1, HD1)

Cash Basis Contractors

- Allows contractors to report their GET on a cash basis provided the contractors notify DOTAX of the basis upon which the GET is to be reported
 - may use Form GEW-TA-RV-5 for notification
- Applies to gross proceeds or gross income arising after January 1, 2001

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ACT 271 (SB 2716, SD1, HD1, CD1)

Publishers

- 0.5% GET rate on sales by a printer to a publisher; and 0.5% USE tax rate on imports by a publisher, if:
 - 1) magazines or printed materials containing advertisements are distributed without charge, and
 - 2) the publisher is under contract with advertisers to distribute a minimum number of magazines or printed materials to the public or a defined segment of the public
- Applies to gross income or gross proceeds received, or gross value accruing, after June 30, 2000



High-Tech Tax Measures



ACT 118 (SB 2779, SD1, HD2, CD1)

Enterprise Zones

- Expands the enterprise zones law to include:
 - businesses engaged in:
 - research, development, sale, or production of all types of genetically-engineered medical, agricultural, or maritime biotechnology products
 - call centers
 - businesses that repair assisted technology equipment
- Effective May 22, 2000

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ACT 195 (SB 2781, SD2, HD2, CD1)

Hotel Remodeling/Call Centers

- Provides a refundable 4% income tax credit for hotel construction and remodeling for TY's beginning after December 31, 1998 and before January 1, 2003
 - includes time share projects
 - includes upgrading infrastructure with wiring to provide guests with Internet access
- Exempts from the GET and PSC tax amounts received by a telecommunications common carrier from a call center
 - exempts from the GET gross income received by a call center for customer services and support
 - GET provisions apply to gross income or gross proceeds received beginning July 1, 2000 and before July 1, 2010
 - PSC provisions for FY taxpayers apply to FYs beginning July 1, 2001 through July 1, 2010 filings (gross income FYE 6/30/2001 through FYE 6/30/2010) For CY, 2002 through 2011 filings (gross income CY 2001 through 2010)

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HB 2901, HD3, SD2, CD1

Omnibus High-Tech

- Allows qualified high technology businesses to sell their unused net operating loss carryover to any taxpayer subject to limits
- Expands the income tax exclusion for royalties and other income from high technology businesses
- Allows partnership investors the flexibility of allocating the high technology business investment tax credit among partners without regard to their proportionate interests in their partnership investment vehicle

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HB 2901, HD2, SD2, CD1 (cont.)

- Amends the state income tax credit for increasing research activities ("R&D" credit) by:
 - making the state R&D credit refundable to the taxpayer
 - increasing the state R&D credit to 20% to match the federal credit
 - specifying that the state R&D credit is available for tax years 2000-2005 even if the federal credit is repealed prior to January 1, 2006
- Retroactive to taxable years as under ACT 178 (1999)

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Income Tax Measures

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ACT 174 (SB 2938, SD1, HD1)

IRC Conformity

- Among other things:
 - conforms to federal confidentiality privilege relating to taxpayer communications with practitioners
 - ensures that if Congress terminates or repeals the tax credit for increasing research activities (IRC § 41), state law will continue to allow the credit to be claimed for TY's beginning before January 1, 2006
- Applies to TY's beginning after December 31, 1999

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Miscellaneous Tax Measures

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ACT 38 (HB 1691, HD1)

Foreign Diplomats

- Exempts from the GET and TAT amounts received from foreign diplomats and consular officials
- Exempts from the USE tax the use of property, services, or contracting imported by foreign diplomats and consular officials
- GET/TAT provisions apply to gross income or gross proceeds received beginning July 1, 2000
- USE tax exemptions apply to property, services, or contracting imported on or after July 1, 2000

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ACT 148 (HB 2432, HD1, SD1)

Low Income Housing

- Allows partnership investors the flexibility of allocating the state low-income housing tax credit among partners without regard to their proportionate interests in their partnership investment vehicle
- Applies to TY's beginning after December 31, 1999

