



STATE OF HAWAII
DEPARTMENT OF TAXATION

January 13, 2000

TAX ADVISORY ON ACT 71, SESSION LAWS OF HAWAII 1999
GENERAL EXCISE TAX PYRAMIDING RELIEF
FOR WHOLESALE SALES OF GOODS AND SERVICES

Effective January 1, 2000, Act 71, Session Laws of Hawaii 1999 (Act 71), expands the application of the general excise tax wholesale treatment to mixed goods and services transactions. The lower rate for these transactions will be phased in over a seven-year period (the 4% rate decreases by 1/2% each year) until the 1/2% rate is reached in 2006. For calendar year 2000, transactions that qualify for the lower tax rate will be taxed at 3.5%.

The purpose of Act 71 is to put the resale of mixed goods and services on par with the wholesale rate treatment accorded to the sale of goods.

Goods-to-services transactions qualify for the lower wholesale rate under Act 71 if the following are satisfied:

1. Goods are sold upon the order or request of a licensed seller for the purpose of:
 - a. Rendering services, or
 - b. Furnishing transient accommodations;
2. The goods become an identifiable element of the services rendered; and
3. The cost of the goods does not constitute overhead. Overhead is defined as continuous or general costs occurring in the normal course of a business.

- Examples:
- The sale of paper to a copy center for use in making copies for a customer qualifies for the lower rate. (The sale of paper to a lawyer's office does not qualify for the lower rate since the cost of the paper is overhead; there is no resale of the paper.)
 - The sale of toiletries to a hotel for in-room guest use qualifies for the lower rate.

Mixed services transactions qualify for the lower wholesale rate under Act 71 if the following are satisfied:

1. A service is rendered upon the order or request of:
 - a. A licensed seller for the purpose of rendering another service (service-to-service transactions),
 - b. A licensed seller for the purpose of manufacturing, producing, preparing, or acquiring goods (service-to-goods transactions),
 - c. A licensed contractor for the purpose of assisting with a contracting project (service-to-contracting transactions), or
 - d. A person subject to the transient accommodations tax for the purpose of furnishing transient accommodations (service-to-transient accommodations transactions);
2. The benefit of the service passes to the customer of the licensed seller, contractor, or person furnishing transient accommodations as an identifiable element of the service, goods, contracting, or transient accommodations being sold to the customer; and

3. The cost of the service does not constitute overhead. Overhead is defined as continuous or general costs occurring in the normal course of a business.

- Examples:
- A CPA that prepares an audit report used by an attorney to render a legal opinion for a client qualifies for the lower rate.
 - A graphic artist who designs the cover of a CD-ROM jewel case qualifies for the lower rate.
 - An independent drawing service that draws blueprints for a contractor qualifies for the lower rate.

Act 71 also provides for corresponding use tax treatment. The 1/2% use tax applies to the import of goods if the sale of the goods would have qualified for pyramiding relief under Act 71 had the seller of the goods been subject to the general excise tax.

Transactions that qualify under the old law for the 1/2% general excise tax rate are not affected:

- Wholesales of goods to a service provider under section 237-4(8), Hawaii Revised Statutes (HRS),
- Intermediary services under section 237-13(6), HRS, and
- Services used in the manufacture of goods under section 237-18(c), HRS.

New forms relating to Act 71 include Form G-81, Phased-In Wholesale Deduction Worksheet; and Form G-82, Certificate For Sales of Goods and Services Which Qualify For The Phased-In Wholesale Deduction. Form G-81 has been developed to help calculate the amount of the deduction to claim on the general excise tax return since the Department of Taxation is implementing the tax rate change through a deduction from gross income. Form G-82 is used to certify that goods and/or services purchased will be resold as required by Act 71. Forms G-81 and G-82 may be obtained at any district tax office or downloaded from the Department's website at <http://www.state.hi.us/tax/tax.html>. On Oahu, the forms may be obtained by calling the Department's Forms Request Line at 587-7572. Persons who are not calling from Oahu may call 1-800-222-7572 to receive the forms by mail or (808) 678-0522 from a fax machine to receive the forms by fax.

If you have any questions regarding Act 71, please contact any of the district offices of the Department of Taxation. Taxpayers are encouraged to contact the most convenient district office for assistance or information. The addresses and telephone numbers of the district offices are listed below. Detailed information on Act 71, in the form of an outline, examples, and a quick reference chart, is also available at the Department's website under "Legislative Initiatives."

DISTRICT TAX OFFICE LOCATIONS AND TELEPHONE NUMBERS

Oahu District Office
830 Punchbowl Street
P. O. Box 1425
Honolulu, HI 96806-1425
Telephone:
(808) 587-4242
Toll-Free 1-800-222-3229
Fax: (808) 587-1488

Maui District Office
54 South High Street, #208
P. O. Box 1427
Wailuku, HI 96793-6427
Telephone: (808) 984-8500
Fax: (808) 984-8522

Hawaii District Office
75 Aupuni Street, #101
P. O. Box 937
Hilo, HI 96721-0937
Telephone: (808) 974-6321
Fax: (808) 974-6300

Kauai District Office
3060 Eiwa Street, #105
P. O. Box 1687
Lihue, HI 96766-5687
Telephone: (808) 274-3456
Fax: (808) 274-3461

This tax advisory is not intended to be a complete statement of the law. Subsequent developments in the law (legislation, rules, cases, etc.) should be consulted.