



Hawaii Tax News

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State of Hawaii • Department of Taxation

Summer 1997

Tax Season Statistics

Statistics for the recently completed tax season show that taxpayers are taking advantage of the new resources which the Department has provided as part of its continuing efforts to improve services to the public.

The Department's website had 16,417 hits in January; 20,118 in February; 29,446 in March; and 35,027 hits from April 1 through April 20. The most popular were individual income tax returns, Forms N-11, N-12, N-15, and the instructions for those forms, as well as the individual extension request, Form N-101A. Our new Forms by Fax Service also proved a success with 3,638 requests for 4,575 forms in just March and April.

Other statewide statistics show that, between January 2 and April 21, the Department answered approximately 93,000 telephone calls, assisted 13,400 taxpayers who came in-person, prepared 5,500 basic, individual income tax returns, and mailed 59,000 forms.

As of May 16, the Department had received 528,136 income tax returns from individual and business taxpayers, of which 4,320 were from the many last-minute taxpayers on Oahu who took advantage of our curbside drop-off service on April 21 between 5:00 P.M. and midnight. Currently, the Department has processed about 45,000 more returns reporting a refund than it did during the same period last year, although the average refund of \$496 is about the same as last year's average. ■

Public Access to Internal Tax Department Manuals

The Department will be making its internal manuals available to the general public. This is in accordance with the Uniform Information Practices Act (Modified) (UIPA), chapter 92F, Hawaii Revised Statutes, which states that all government records are public. UIPA, however, does provide for certain exceptions to this rule, such as, when disclosure would

constitute a clearly unwarranted invasion of privacy, as is the case with tax returns, or when disclosure would lead to the frustration of a legitimate government function.

Requests for copies of an internal Department manual will be handled by the affected Division or Staff Office and can be made either by phone, by facsimile, through the mail, or in person. The manuals will cost \$0.25 per page and payment for the manual will have to be made by the requester prior to the manual being released.

Requesting copies of internal manuals, however, currently is on hold until the Department completes its review of all the manuals to make sure that the privacy of any specific taxpayer information contained in the manuals is preserved, that Department duties and functions described in the manuals are not compromised, and that the information contained in the manuals cannot be used in any way to circumvent the tax system. Once the review is completed, a list of the internal manuals, including their cost, will be compiled and published for public reference in a future newsletter. ■

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The Direct Line

By Director Ray K. Kamikawa

Judging by your comments, our first newsletter issued last March was a hit. We have therefore decided to continue the quarterly publication.

To get the most out of the newsletter, I encourage you to scrutinize the column on pending tax publications. This will give you an idea of where we are headed and offer you an opportunity for early comment--you don't have to wait to be asked. Also, if there is an issue that is not listed but that you would like addressed, you can contact Rules Officer Grant Tanimoto at telephone 587-1569.

No questions were received for inclusion in this issue, which explains why there is no column for questions and answers. Questions of general interest will be considered for publication in future issues; just write to the editors. ■

Tax Workshop Offered

A tax workshop on State tax legislation enacted during the 1997 legislative session and on nonprofit organizations will be offered by the Department sometime in late July or early August. Workshops will be held on Oahu as well as on Maui, the Big Island, and Kauai. CPE credit for CPAs will be available.

To have a registration form sent to you when they become available, call your nearest district tax office, or call the Department's Forms Request Line on Oahu at 587-7572, or toll-free from the neighbor islands and mainland U.S. at 1-800-222-7572, and leave a message on the Forms By Mail voice mail system. ■

Contractors and Church Activities Workshop Report

A total of almost 300 construction contractors, CPAs and other persons attended the free workshops on the application of general excise and use taxes to construction industry contractors which were held by the Department on May 13 and May 15. Presentations were made by Linn Garcia and Denise Inouye of the Technical Section of the Taxpayer Services Branch, Madelaina Lai of the Field Audit Branch, Gary Fukumura of the Oahu Collections Branch, Linda

Cacpal of the Licensing and Clearance Section of the Taxpayer Services Branch, and Marcel Audant of the Housing, Finance, and Development Corporation.

Over 200 persons, about two-thirds of whom were ministers and lay persons affiliated with various churches in Hawaii, attended the May 22 workshop on the taxability of various church activities, including tourist weddings. The presenters for this workshop were Ray Kamikawa, Director of Taxation, Lynne Kuroda of the Technical Section of the Taxpayer Services Branch, and Linda Cacpal of the Licensing and Clearance Section of the Taxpayer Services Branch. As may be expected given the recent spate of news articles and stories about these activities, the discussion during the question and answer session was both lively and informative. ■

State Practitioners' Forum

The first quarterly State Practitioners' Forum (similar to the liaison meetings conducted by the Internal Revenue Service) was held on June 17 in the Princess Ruth Keelikolani Building. Topics which were discussed included installment agreements and compromises, NOL and amended return processing procedures, cost recovery fee procedures, power of attorney form, extensions and the 90% payment rule, and tax forms. The next meeting will be held in September.

About 70 practitioners currently have signed up to participate in these meetings. If you are interested in participating in these meetings, send your name, address, (See Practitioners' Forum, Page 3)



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Practitioners' Forum

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telephone number, and fax number to the Office of the Director, Department of Taxation, 830 Punchbowl Street, Room 221, Honolulu, Hawaii 96813; or fax this information to the Department at (808) 587-1560. Participants will be notified of the meeting details by the Taxpayer Services Branch. ■

Cost Recovery Fees

Beginning July 1, the Department will begin implementation of the cost recovery fee rules (§ 18-231-25.5-01 to -05, Hawaii Administrative Rules (HAR)). The rules authorize the Department to charge fees for educational seminars and materials, research and reference materials, and reissuances of refund checks (\$14 per reissuance). The Compliance Division is also preparing to charge fees for collection actions such as processing of delinquent accounts (\$50); recordation and release of tax liens (\$25 plus any other costs incurred); and garnishment, levies, or other seizures (\$15 per action). These and other fees for collection actions were established under a previous rule (§18-231-25.6-02, which was renumbered as §18-231-25.5-02).

In addition, Act 250, SLH 1996, requires the Department to charge fees for tax reports on Hawaii income patterns for individuals, corporations, and proprietorships, and our report on tax credits. Section 18-231-3.4-01, HAR, (which also became effective on March 3, 1997) is the accompanying rule for those charges. Watch for a departmental announcement for further details. ■

Third Quarter State Tax Collections

State tax collections for the third quarter of fiscal year 1997 totaled \$803.3 million, down 4.4% over the \$840.7 million collected in the third quarter of last fiscal year. The cumulative total of \$2,456.7 million from July through March represents a 0.2% increase over the cumulative total from last fiscal year.

First quarter collections of \$872.1 million rose 4.8% over the previous year. Second quarter collections of \$781.3 million increased a slight 0.4% over the previous

year. These collections, together with the third quarter collections result in an average quarterly collection of \$818.9 million for the first three quarters.

Monthly collections totaled \$333.2 million, \$280.6 million and \$189.6 million, respectively for January to March 1997, averaging \$267.8 million per month. Monthly collections for January to March 1996 amounted to \$346.4 million, \$269.5 million and \$224.9 million, respectively.

A total of \$688.7 million was deposited into the state general fund for the third quarter, 5.0% below the amount deposited in the third quarter of last fiscal year. ■

Collections by Private Agencies

The Department's contracts with two private collection agencies hired to provide collection services for one year for delinquent net income tax liabilities have terminated. Credit Associates of Maui, Ltd. closed approximately 14% of the 2,000 accounts referred to them and netted the State \$314,104.58. Pacific Collections closed approximately 13.5% of the 2,000 accounts referred to them and netted the State \$165,752.40. The Department also referred 200 accounts to the Department of the Attorney General. Collections under this program totaled \$49,702.14. ■

Hawaii District's Non-Filer Program

As part of the Department's continuing effort to identify non-filers, the Department's Hawaii District Office is investigating condominium owners with rental income. One luxury condominium apartment building located along the South Kohala Coast was selected for investigation. The individual condominium owners were identified from the real property tax records and matched with the Department's general excise tax records. Fifty-seven potential non-filers were notified by mail of their possible tax obligations. To date, general excise and transient accommodations tax returns totaling \$319,500 have been filed, of which \$242,000 has been collected. The investigation prompted the building's property manager to inform all of the owners of the condominium

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Non-Filer Program

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apartment building of the applicable tax obligations if they engage in a rental activity. The Department believes that the property manager informed not only those owners of the units the Department was investigating but also all unit owners under their management. This should help promote the Department's voluntary-compliance program. The Department will continue to pursue those owners who have not yet responded and will also investigate other condominium apartment buildings in the future. ■

Field Audit Trips

The Oahu Field Audit Branch has been sending audit teams of senior auditors to various parts of the mainland annually since 1989. This year, trips to San Diego, California and Dallas and Houston, Texas are scheduled for the month of June.

Prior audits were conducted in the states of Washington, New York, New Jersey, Illinois, Ohio, Minnesota, Massachusetts, and Pennsylvania. The cost of sending an auditor on one of these trips has averaged about \$5,841, but has proven cost effective as the State has procured additional assessments of approximately \$758,149 per auditor.

Although much of Audit's work is accomplished through correspondence, these trips allow the Department to promote voluntary compliance by mainland companies through the visible exposure of our audit function and, most importantly, through the one-on-one educational efforts by the auditors of our unique tax laws. ■

Legislative Update

The following is a preliminary digest of bills passed by the 1997 Legislature. It includes only those measures which affect Hawaii's tax laws and is provided for your information. It is issued solely as a guide and is not intended to be either authoritative or complete.

All bills are subject to the Governor's approval. The Governor has until **Tuesday, July 8, 1997**, to consider all measures. Any bill not signed becomes law unless the Governor vetoes the bill by **Monday, June 23, 1997**. Copies of the Senate and House bills passed by the Legislature may be obtained from the Senate and House

printshops, as applicable.

S.B. NO. 37, SD1, HD2, CD1 (CCR 127) RELATING TO ENTERPRISE ZONES.

Amends the state enterprise zones law. Makes Waialua district on Oahu an enterprise zone under the state enterprise zone law on 7/1/97 until 6/30/2002. Exempts qualified businesses from the use tax in addition to existing GET exemption. Exempts contractors from GET on gross receipts of construction in an enterprise zone for a qualified business. Exempts agricultural producers located in counties with population of less than 100,000 from certain requirements.

Effective: Retroactive to December 31, 1996.

S.B. NO. 147, SD1, HD1 (HSCR 1665) RELATING TO TAXATION.

This bill alleviates the pyramiding of the GET on lease transactions by providing for a deduction for subleasing real property with a seven year phase-in. When fully phased in, the deduction will amount to the equivalent of ½% GET on sublease income to the extent it pyramids. The Department to implement by rules.

Effective: October 1, 1998.

ACT 20 - S.B. NO. 207, SD1 (SSCR 0810) RELATING TO LIQUOR TAX.

This bill exempts the sale of liquor shipped out of State from the liquor tax.

Effective: July 1, 1997.

S.B. NO. 208, SD1, HD2, CD1 (CCR 99) RELATING TO TAXATION.

This bill establishes a refundable income tax credit for remodeling hotels. The amount of the credit is equal to 4% of renovation costs during the taxable year for each qualified hotel facility located in Hawaii, not to exceed 10% of the TAT paid by the taxpayer in the preceding taxable year. Available for taxable years 1997-1998.

Effective: Upon approval, and shall be repealed December 31, 1999.

S.B. NO. 843, SD1, HD2 (HSCR 1639) RELATING TO SMALL BUSINESS TAXATION.

Establishes an income tax credit for small businesses as defined by the Code of Federal Regulations, in an amount equal to the guaranty fee paid pursuant to obtaining a SBA loan. \$4,000 per year cap. Credit may be carried-forward until exhausted.

Effective: Same date as Federal Legislation providing for a similar credit becomes effective; and sunsets 3 years

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Legislative Update

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after becoming effective.

S.B. NO. 927, SD1, HD2, CD1 (CCR 100) RELATING TO TAXATION.

This bill increases the cigarette tax from 3 cents to 4 cents per cigarette after 8/31/97; and 5 cents per cigarette after 6/30/98.

Effective: September 1, 1997.

S.B. NO. 938, SD1, HD1 (HSCR 1330) RELATING TO NONRESIDENT INCOME TAX.

This bill limits deductions and personal exemptions for nonresidents. Nonresidents are required to calculate as if the nonresident were a Hawaii resident. That amount is multiplied by a ratio of adjusted gross income from Hawaii sources over the total adjusted gross income from all sources. Language cites to sections 235-51 and 235-53 for income computation.

Effective: Upon approval, applies to taxable years beginning after December 31, 1996.

S.B. NO. 1018, SD1, HD2 (HSCR 1563) RELATING TO TAX.

This bill extends the duration of the energy conservation income tax credits for an additional ten years for energy conservation systems installed before January 1, 2009.

Effective: Upon approval.

S.B. NO. 1316, SD2, HD1 (HSCR 1666) RELATING TO CONFORMITY TO THE INTERNAL REVENUE CODE.

This is the annual IRC conformity bill. The following references specific items of interest with which the legislature chose to conform:

- Timely mailing treated as timely filing and paying--private delivery.
- Makes operative section 584 (with respect to common trust funds).
- Makes operative section 220, as it applies to medical savings accounts.
- Makes operative filing of joint return after the individual has filed a separate return without full payment of the amount shown as tax on the joint return.
- Expands spousal IRA contributions from \$250 to \$2,000.
- Increases allowable deduction for health insurance for self-employed.

The bill departs from the IRC and makes inoperative certain parts of section 213 as it applies to long-term care

insurance contract premiums, long-term care services, and long-term care premiums.

Effective upon approval; applies to taxable years beginning after December 31, 1996.

S.B. NO. 1951, HD2, CD1 (CCR 130) RELATING TO TAXATION.

This bill:

- Provides for motion picture income tax credit of up to 4%, and a credit of up to 6% of TAT paid.

Effective: July 1, 1997, applies to taxable years beginning after 12/31/96.

- Provides for Airline maintenance facility GET and Use tax exemption.

Effective: July 1, 1997.

- Repeals the sunset date for the stock exchange GET exemption.

Effective: Upon approval.

H.B. NO. 728, HD1, SD1 (SSCR 1577) RELATING TO THE CONVEYANCE TAX.

This bill exempts from the application of the conveyance tax certain transfers from an individual to a partnership, corporation, or LLC that is wholly owned by the individual transferor, the individual transferor and the transferor's spouse, or the individual transferor and the transferor's spouse and children. Also exempts transfers from a LLC to an individual transferee who is the sole member of the LLC.

Effective: Upon approval.

H.B. NO. 1640, HD1, SD1, CD1 (CCR 133) RELATING TO GENERAL EXCISE TAX.

This bill allows businesses with less than \$1 M. in annual gross proceeds and located within a county with a population of less than 100,000 to defer payment of GET for an 18-month period. Provides for a rolling deferral with liability for the first 18-month period being paid during the second 18-month period, and liability for the second 18-month period being paid back in the third 18-month period. The third 18-month period also requires current payments of GET. This bill does not require interest to be paid.

Effective: July 1, 1997.

H.B. NO. 1641, SD1 (SSCR 1611) RELATING TO THE COLLECTION OF TAXES.

This bill expands the type of delinquent taxpayer that may be pursued out-of-state and authorizes the use of contingent and other fee arrangements. Provides for

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Legislative Update

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retention of private auditing firms to examine and investigate taxpayers for the determination of their tax liabilities arising from Hawaii source income.

Effective: Upon approval.

H.B. NO. 1642

RELATING TO ELECTRONIC FILING OF TAX RETURNS.

This bill authorizes the Department to allow taxpayers to file tax returns, applications, reports, or other tax documents through electronic, telephonic, or optical means.

Effective: Upon approval.

H.B. NO. 1643, HD1 (HSCR 0304)

RELATING TO PAYMENTS TO THE STATE BY ELECTRONIC FUNDS TRANSFER.

This bill enables the Department to enforce Act 121, SLH 1995. It establishes a \$15 service charge for electronic funds transfer payments that are dishonored. A penalty of 2% of the amount of tax due is imposed on those who refuse to pay taxes using an EFT method approved by the Department, unless it is shown that the failure is due to reasonable cause and not neglect. Requires report to Legislature.

Effective: Upon approval.

H.B. NO. 1645, HD1, SD2 (SSCR 1459)

RELATING TO CONFORMING TAX PROVISIONS TO THE UNIFORM LIMITED LIABILITY COMPANY ACT.

This bill amends certain chapters under title 14 administered by the department to reflect the passage of Act 92, the Uniform Limited Liability Company Act. Makes necessary technical amendments to the tax provisions to adequately allow for reference to this new entity and its members in various contexts.

Effective: Upon approval.

ACT 97 - H.B. NO. 1646, SD1, CD1 (CCR 134)

RELATING TO AN EMERGENCY APPROPRIATION FOR AN AUTOMATED TAX SYSTEMS ACQUISITION BY THE DEPARTMENT OF TAXATION.

This bill requests an emergency appropriation of \$1.4 million for funds not carried over to FY96-97 due to technical error.

Effective: Upon approval.

H.B. NO. 1648, SD1 (SSCR 1581)

RELATING TO REMITTANCES TO THE DEPARTMENT OF TAXATION.

This bill allows the Department to accept remittances by credit or debit cards. Allows the Department to charge a service fee in accepting remittances using credit cards, but not debit cards.

Effective: July 1, 1997.

H.B. NO. 1686, HD1, SD2, CD1 (CCR 040)

RELATING TO PROCUREMENT.

This bill makes the state procurement system more efficient. Amends chapter 103D (Public Procurement Code) and section 103-53 (prerequisite of final settlement of public contracts) to allow Tax Director to waive the IRS tax clearance requirement in certain cases to expedite the procurement process.

Section 103-53, HRS, is amended to provide for exemptions from the tax clearance requirements which include:

1. Any procurement of less than \$25,000. (Section 103D-305 is also amended to exempt contracts less than \$25,000).
2. Contracts entered pursuant to chapter 102.
3. Grants and subsidies made under chapter 42D.
4. Payments for recurring payments for utility services.
5. Payments for entitlement programs established by state or federal law.

These exemptions are taken from those currently operative (with modifications) under chapter 103D.

Effective: July 1, 1997. ■

Recently Issued Tax Publications

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

TIR No. 97-2 - Reiterates the requirement that a corporate taxpayer engaged in a unitary business as part of a unitary group must file a combined Hawaii income tax return.

Announcement No. 97-4 - A listing of the Tax (See Recent Publications, Page 7)

Recent Publications

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Information Releases in effect and obsolete and a listing of Hawaii Administrative Rules. (In the Spring issue of the Hawaii Tax News, Announcement No. 97-4 was incorrectly identified as announcing the adoption of Hawaii Administrative Rules relating to cost recovery fees.)

Tax Facts No. 97-2 - Provides income tax information for nonresident members of the U.S. armed services.

Tax Advisory, dated April 21, 1997 - Provides information regarding the application of the general excise tax to tourist wedding activities of churches. ■

Pending Tax Publications

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

Hawaii Administrative Rules - Relating to penalty and interest imposition and waiver standards. (Jayna Uyehara, 587-1553)

Hawaii Administrative Rules - Relating to tax clearances. (Jayna Uyehara, 587-1553)

Hawaii Administrative Rules - Relating to bulk sales. (Jayna Uyehara, 587-1553)

Hawaii Administrative Rules - Relating to cost recovery. Authorizing the imposition of additional fees such as installment agreements. (Jayna Uyehara, 587-1553)

Hawaii Administrative Rules - Amending section 18-235-7-03, HAR, relating to pensions. (Fay Morinaga-Pang, 587-1564)

Hawaii Administrative Rules - Relating to the enterprise zones. (Grant Tanimoto, 587-1569)

Hawaii Administrative Rules - Relating to intermediary services. (Grant Tanimoto, 587-1569)

Hawaii Administrative Rules - Relating to the reimbursement exemption. (Grant Tanimoto, 587-1569)

Hawaii Administrative Rules - Amending the 90% payment requirement for state extensions to conform with the federal rule. (Grant Tanimoto, 587-1569)

Hawaii Administrative Rules - Amending the rules relating to the subcontract deduction. (Grant Tanimoto, 587-1569)

Hawaii Administrative Rules - Clarifying the application of the delivery rule for purposes of the general excise tax. (Fay Morinaga-Pang, 587-1564)

Hawaii Administrative Rules - Clarifying the definitions of "residence" and "disability" in section 18-235-1, HAR. (Guy Matsunaga, 587-1540)

Hawaii Administrative Rules - Clarifying the use of a resale certificate in section 18-237-13(b)(4), HAR. (Guy Matsunaga, 587-1540)

Hawaii Administrative Rules - Clarifying the application of the general excise tax to prepaid telephone calling cards. (Jayna Uyehara, 587-1553, Fay Morinaga-Pang, 587-1564)

Hawaii Administrative Rules - Clarifying the application of the general excise tax to exempt organizations. (Jim Watts, 587-1786)

Hawaii Administrative Rules - Clarifying the application of section 237-18(f), HRS, relating to tourism related services furnished to tour agents, tour packagers, or destination management companies. (Grant Tanimoto, 587-1569)

Hawaii Administrative Rules - Clarifying section 1 of S.B. No. 1951, relating to the motion picture income tax credit. (Grant Tanimoto, 587-1569)

TIR - Application of the general excise and use tax to companies leasing personal property. (Johnson Lau, 587-1562)

TIR - Nontaxability of earnings on IRA rollover from a pension plan. (Fay Morinaga-Pang, 587-1564)

TIR - Application of the general excise tax to satellite broadcasters. (Jayna Uyehara, 587-1553)

TIR - Application of the general excise tax to Internet service providers. (Jayna Uyehara, 587-1553)

TIR - Announcing the intent to conform to the IRS's final regulations on entity classification for income tax purposes, with caveat on the general excise tax, public service company tax, and transient accommodations tax. (Jim Watts, 587-1786)

TIR - Application of the general excise tax exemption for property shipped out-of-State. (Marshall Dimond, 587-1533)

TIR - Application of chapter 241, HRS, to mortgage brokers. (Marshall Dimond, 587-1533)

TIR - Application of the general excise tax to gift certificates. (Guy Matsunaga, 587-1540)

TIR - Application of the general excise tax to employee leasing companies. (Johnson Lau, 587-1562)

TIR - Application of the general excise tax to services; clarification of the place of performance test. (Johnson Lau, 587-1562)

■

DISTRICT TAX OFFICES

Forms and Information may be obtained from any district tax office, Mondays through Fridays, except State holidays, from 7:45 A.M. to 4:30 P.M.

INTERNET ADDRESS

<http://www.hawaii.gov/tax/tax.html>

OAHU DISTRICT OFFICE

Princess Ruth Keelikolani Building
830 Punchbowl Street
Honolulu, HI 96813-5045

TELEPHONE:

For Tax Information

808-587-6515 (January - April 20)

808-587-4242

1-800-222-3229 (Toll-Free From Neighbor
Islands and Mainland U.S.)

To Request Tax Forms:

808-587-7572

1-800-222-7572 (Toll-Free From Neighbor
Islands and Mainland U.S.)

FAX: 808-587-1488

MAUI DISTRICT OFFICE

State Office Building
54 High Street
Wailuku, HI 96793-2126

TELEPHONE: 808-984-8500

FAX: 808-984-8522

HAWAII DISTRICT OFFICE

State Office Building
75 Aupuni Street
Hilo, HI 96720-4253

TELEPHONE: 808-974-6321

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KAUAI DISTRICT OFFICE

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3060 Eiwa Street, #105
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