



Hawaii Tax News

Volume 2, Number 1

State of Hawaii • Department of Taxation

SPRING 1998

Pay Your Taxes With Discover Card!

In response to increased taxpayer interest in credit card payments, the Oahu District Office of the Department of Taxation is accepting the Discover Card for payment of taxes and fees.

The Oahu District Office is accepting valid and unexpired Discover Cards for payment of all tax types including net income and general excise taxes, and a variety of fees. The Discover Card is the only credit card service that will allow the State to pass on the transaction fee to the cardholder, thereby avoiding the need for appropriations to cover the fee. Many taxpayers expressed a desire to pay by credit card even with a passed on fee.

A transaction fee is being passed on to the cardholder as follows:

| <u>Amount of Transaction</u> | <u>Transaction Fee</u> |
|------------------------------|------------------------|
| \$ 0.00 - 50.00 | \$ 1.00 |
| \$ 50.01 - 100.00 | \$ 2.00 |
| \$ 100.01 - 500.00 | \$ 6.00 |
| \$ 500.01 - 1,000.00 | \$ 9.00 |
| \$ 1,000.01 and up | \$ 15.00 |

Taxpayers may present their Discover Card to the cashiers at the Oahu District Office to make payment. Once the Discover Card is presented, the cashier will inform the taxpayer of the transaction fee that will be added to the payment according to the above schedule. The credit card charge slip will separately show the transaction fee and the amount of tax to be paid. The transaction would then proceed as any other credit card transaction.

At this time, the Department is not equipped to accept the Discover Card at its neighbor island District Offices, over the telephone, or through the mail. The Department, however, expects to expand its services in the future. Discussions are ongoing to add Visa and Mastercard as participating credit card companies. ■

Filing Deadline

Everyone is reminded that the deadline for filing individual income tax returns is Monday, April 20, 1998. Persons who cannot file their tax returns on time may apply for an automatic 4-month extension by filing Form N-101A. Form

N-101A must be completed and filed with the Department by April 20. The signature is not required on Form N-101A. Federal Form 4868 will be accepted in lieu of Form N-101A if completed using amounts for Hawaii income tax purposes. Also, the Hawaii Administrative Rules relating to the requirements for extensions of time for filing income tax returns were amended to conform with the Internal Revenue Service's regulations that authorize an extension of the time to file an income tax return if an individual shows the full amount "properly estimated" as the tax due for the year. The rules are effective for extensions filed in 1998.

Tax returns and extensions must be received by the Department on or before April 20. If mailed through the U.S. Postal Service, however, they only must be postmarked by April 20. Hawaii also adopted the Internal Revenue Code provision to allow documents and payments delivered by a designated private delivery service to qualify for the "timely mailing treated as timely filing/paying rule." The Department will conform to the Internal Revenue Service (IRS) listing of designated private delivery service companies, the type of delivery services, and the effective date published in the IRS Notice 97-26 for the "timely mailing treated as timely filing/paying rule."

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The Direct Line ☎

By Director Ray K. Kamikawa

Of interest to you during the filing season is the status of our Tax-1 (IRC conformity bill). By law, we submit to the Legislature every year a "conformity" bill which adopts income, exclusion, and deduction items passed by Congress in the previous year. Since Hawaii has its own rates, credits, and procedures, changes affecting these items are not appropriate for conformity.

Of particular concern are the changes by the feds to Schedule D items. We have proposed to conform to the new section 121 exclusion for gain on the sale of a principal residence, including adoption of the May, 1997 retroactive date. As with the federal provision, old sections 121 exclusion and 1034 rollover provisions are repealed except for the preservation of the section 1034 provision for certain transition sales.

Since Hawaii has its own brackets and rates, including the 7.25% cap on capital gains, changes made by Congress to the federal capital gains rates are not applicable. After further discussions with practitioners, we now propose to stick with the 12-month period (not change to the 18-month holding period as stated in the Winter '97 issue). Bracket and rate relief are contained in other legislative vehicles, including the proposal set forth by the Economic Revitalization Task Force, but those would likely be effective for the 1999 taxable year. ■

Filing Deadline

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Although the U.S. Postal Service will not have extended hours on April 20, the Department will once again provide curbside service for last minute filers on Oahu. Between the hours of 5:00 P.M. and midnight, taxpayers may drive up to either the Punchbowl or Halekauwila Street sides of the Princess Ruth Keelikolani Building at 830 Punchbowl Street, and simply hand their tax return to a waiting department staff member. ■

Dividends Received Deduction

The Department of Taxation recognizes that the dividends received deduction provided for by section 235-7(c), HRS, is likely to be found unconstitutional in limiting the 70% dividends deduction to dividends received from payor corporations having a

threshold presence in Hawaii, a minimum percentage of ownership by Hawaii corporations, or from banks or insurance companies doing business in Hawaii. As such, the Department is administering section 235-7(c), HRS, without regard to the threshold requirement of Hawaii activity, ownership, or presence, for claiming the 70% dividends received deduction. Therefore, corporations that do not qualify for the 100% dividends received deduction allowed under section 235-7(c), HRS, may claim a 70% deduction for dividends received from foreign or domestic corporations. The Department is seeking legislation this year to remove these conditions to the allowance of the 70% dividends received deduction. In the interim, Department of Taxation Announcement No. 98-5 explains the Department's position on this issue.

Corporations that qualify for the 70% dividends received deduction, as administered by the Department, may claim the deduction as "Other deductions or adjustments," on the 1997 Form N-30, Schedule J, line 10. ■

New Website Address

Several months ago, the OIP OpenLine newsletter, published by the Office of Information Practices, contained an article that stated that there is a new Internet address (URL) for the Hawaii State Government Home Page. In order to comply with new domain-naming standards, the state government is now also accessible via the URL <http://www.state.hi.us>. Due to changes in the domain-naming standards, the "gov" domain, once used for any government entity, is now restricted to federal government organizations only for any new

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Website Address

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domain-name registrations. The "state.XX.us" domain is now the standard for any state government URL. Although these new domain-naming standards are in place, it is not foreseen that <http://www.hawaii.gov> will be disabled anytime soon. However, it is recommended that everyone become familiar with and begin using the proper URL for the State's home page.

This means that we should all be using the following for the Department's new website address:

<http://www.state.hi.us/tax/tax.html>

New Application Form

A new business registration form - the product of a joint project of the State Departments of Taxation and Labor and Industrial Relations - made its debut on February 2, 1998. The State of Hawaii Basic Business Application, Form BB-1, takes the place of a dozen different tax forms, licenses, and permits applications totaling 20 pages. With this one form, a business completes its application for licenses and identification numbers for general excise, use, employer's withholding, transient accommodations, rental motor vehicle and tour vehicle, liquor, cigarette and tobacco, and liquid fuel taxes and unemployment insurance.

Form BB-1 may be obtained at any district tax office, by mail or fax through the Department's 24-hour Forms Request Line, or via the Internet (see the last page for telephone numbers and addresses). Form BB-1, and Form BB-1X (State of Hawaii Basic Business Amended Application) may be accessed through the Forms By Fax system by entering their document number as 259 and 260, respectively. ■

Bulk Forms Distribution a Success

It was in January 1987, eleven years ago, that the Department's Tax Services & Processing Division began helping all tax practitioners and libraries obtain the tax forms they requested for in bulk amounts by the middle of January. Before that time, tax practitioners would literally run down as soon as they received their requisition form so they would be among the first in line to turn in their order blank. An early submission meant that they would not have to wait until late February or early March to receive their order of tax forms.

The Tax Services & Processing Division has come a long way since then. Instead of working from Friday night to Sunday afternoon, sometimes finishing up on Monday, most of the staff worked only a half-day on Saturday, January 17, 1998, filling 225 orders for tax practitioners who would be coming in the afternoon to pick up the completed orders.

Several factors have made it so much more efficient and successful. Because of new technology (Forms by Fax, the Internet, and the CD-ROM), more taxpayers are using alternative ways to obtain tax forms. Eighty tax practitioners opted to take only the CD-ROM, and forego the hard copy forms. That was great! The small orders were filled early and mailed to taxpayers, saving them a trip into town. All of the libraries' orders (really large orders) were filled on Friday night and stored until the orders were picked up the following week.

The night shift was very helpful in completing many of the jobs. They completed the Forms N-20, N-30, N-35, and N-40 mailouts to over 32,000 taxpayers. Approximately 2,000 out-of-state tax practitioners were mailed special designated packets. For the first time, all out-of-state military bases that requested tax forms in bulk were given a complimentary CD-ROM instead. Thus, they were fortunate enough to get tax forms, as well as tax laws, rules, attorney general opinions, etc. Since the cost of mailing forms and the cost of the CD-ROM offset each other, this meant that both the military bases and the Department came out winners. ■

Problem Solving Day

The Department of Taxation and the Internal Revenue Service held a joint "problem solving day" for taxpayers on Maui and Oahu. This was the first time that the Department participated in the problem solving day. State and IRS representatives were on hand to help resolve tax problems such as non-receipt of refunds, unresolved bills, misapplied payments, and non-filed returns. Taxpayers interested in attending the problem solving day could make an appointment to ensure that the appropriate representative would be available to provide the type of assistance needed and also enabled preliminary research to be done ahead of time. Taxpayers without an appointment were also assisted.

Maui's problem solving day was held on January 27 in the Internal Revenue Service office located in One Main Plaza Building. A total of eight appointments were made with problems ranging from non-filing of tax returns to tax appeal cases. Two State tax appeal cases were jointly resolved by IRS and State officials based on the federal adjustments to their assessments.

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Problem Solving

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On Oahu, the problem solving day was held on January 29 in the Prince Kuhio Federal Building. The Department assisted 21 taxpayers of which ten were walk-ins with various problems ranging from tax information to filing general excise tax and net income tax returns. An assessment case was jointly resolved based on the federal adjustments made.

As a result of the two problem solving days, taxpayers were satisfied with the outcome of their problems and others were relieved they were able to take care of their tax obligations. ■

Rules Amended for Pension Plans

Effective January 1, 1998, section 18-235-7-03(c), Hawaii Administrative Rules, were amended to clarify that pension plan distributions in 1998 and subsequent years are exempt from the Hawaii income tax when the distributions are attributable to certain employer contributions. The purpose of the amended rules is to exempt distributions attributable to employer contributions, notwithstanding the employer's choice of entity for doing business (i.e., sole proprietorship, S corporations, partnerships, and limited liability companies). Elective contributions where the individual has the choice of receiving compensation as current income or funding a retirement account (e.g., personal contributions to a 401(k) plan), however, will continue to be taxable. ■

Neighbor Island Workshops Report

Year-end workshops were conducted by the Neighbor Island District Offices. Approximately sixty people attended the workshop held on Maui on December 12, 1997. Judging by the comments made at the workshop, attendees found the workshop to be very rewarding.

Despite the inclement weather, more than twenty tax practitioners attended the workshop presented by staff of the Kauai District Office on December 16, 1997. Attendees were happy with the workshop.

The Hawaii District Office conducted its year-end workshop on December 18, 1997. The workshop was well attended by approximately sixty people. The

participation from the audience was spirited at times, especially with the changes in the law for nonresidents and part-year residents, and also regarding some of the proposals from the Hawaii Economic Revitalization Task Force. The practitioners who attended the workshop were very pleased with the presentations. ■

Tax Workshop Offered

A tax workshop will be offered by the Department sometime in June. The topics which will be covered at the workshop have not yet been determined, but will probably feature recent legislative changes and new rules. CPE credit for CPAs attending the workshop 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. ■

Fuel Corporation Pleads Guilty

Pacific Petroleum Services, Inc., a Honolulu fuel corporation, pled guilty to two criminal tax counts for failing to file its annual general excise tax return and for failing to file its monthly fuel tax return. The corporation's president is Mr. Michael A. Rossman.

Mr. Stephen Pingree, the attorney representing the corporation, entered a plea of guilty to failing to file the corporation's 1996 annual general excise tax return and failing to file the monthly fuel tax return for the month of December 1996. Both counts are misdemeanors.

In a plea agreement, District Court Judge Hong also fined the corporation \$60,000 on each count for a total fine of \$120,000. In addition, the corporation and Mr. Rossman will fully cooperate with the Department of Taxation to promptly file all required returns and begin making arrangements for the payment of any assessments. The tentative taxes, including penalties and interest, will total in excess of \$600,000.

As a result of the corporation's guilty plea, no charges will be brought forth against Mr. Rossman.

As part of the plea agreement, the corporation has agreed to pay the Department of Taxation \$87,154 for general excise tax for the corporation's 1996 tax year. In calendar year 1996, the corporation grossed more than \$3.2 million dollars. In addition, the corporation has paid

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Corporation Guilty

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more than \$13,500 for the unpaid fuel tax for the month of December 1996.

The Department continues to encourage taxpayers to voluntarily file their tax returns. The Department will generally not initiate a criminal investigation when taxpayers voluntarily come forward to report their failure to file or other omissions. ■

Second Quarter State Tax Collections

During the second quarter of fiscal year 1998, state tax collections totaled \$799.1 million, representing a 2.3% increase from the \$781.3 million collected during the same period of fiscal year 1997. Collections of \$1,631.5 million for the first six months of fiscal year 1998 are 1.3% lower than the \$1,653.4 million collected for the first six months of last fiscal year. Monthly collections totaled \$262.4 million, \$243.5 million, and \$293.2 million, respectively for October to December 1997, averaging \$266.4 million per month.

Second quarter general excise tax collections fell 0.5% from the second quarter of last fiscal year. Net individual income tax collections for the second quarter grew 6.2%, while transient accommodation tax collections for the second quarter rose 7.1%.

Of the \$799.1 million collected in the second quarter of this fiscal year, \$687.0 million was deposited into the state general fund, a 2.8% increase over the \$668.0 million deposited in the second quarter of last fiscal year. ■

Contractor Selected For Systems Project

A contractor has been selected to develop the Department's new computer system which will fully integrate all of the various tax types, and which will provide a more efficient filing system with less paper and better access to taxpayer information. The Department is currently involved in extended contract negotiations with the contractor due to the nature of the performance-based contract. In the performance-based contract, the Department sets the performance goals to be achieved, and works with the contractor to develop and implement the best system for accomplishing those goals. The contractor will be paid the contracted amount out of the tax revenues generated by the new system which exceed

current levels; therefore, nothing will be paid if the performance goals are not met. ■

Credit for Overpayments

Have you ever wondered why the Department cannot adjust an overpayment credit when an error is discovered on a return requesting to have the overpayment applied to the next year's tax return? When a taxpayer requests that the overpayment (refund) on their current year's return be credited to the next year's estimated taxes, the overpayment is automatically picked up by the Department's computer system and applied to the following year. This automatic pickup and application of the credit is done prior to any system edits that would have discovered the error on the taxpayer's return. The Department will address this problem during our systems replacement project, recommending that the application of the overpayment to the subsequent year's return be made after the current year's return has passed through the system edits. Presently, when there is a correction to the taxpayer's return that affects the overpayment amount carried to the following year, the Department assesses the taxpayer in the current year and notifies the taxpayer of the option of reducing the overpayment credit to cover the assessment. To document this adjustment, the taxpayer is required to notify the Department in writing. The overpayment credit is then adjusted by the amount applied to the assessment. If the adjustment results in a greater overpayment, the difference is refunded to the taxpayer. Remember to ask your clients if the amount applied from the prior year's return to the current year's return was adjusted if other adjustments were made to the prior year's return. ■

Recently Issued Tax Publications

The following is a list of the publications issued by the Department of Taxation from January 1997 through March 1998. 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.

Sections 18-231-3.4-01 and 18-231-25.5-01 through 18-231-25.5-05, HAR - Relating to cost recovery fees for selected goods and services provided by the Department of Taxation.

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Recent Publications

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Section 18-235-7-03(c), HAR - Relating to the taxation of pensions under the Hawaii Income Tax Law.

Section 18-235-98, HAR - Relating to the requirements for extensions of time for filing income tax returns.

TIR No. 97-1 - Provides taxpayers with further guidance in determining their residency status.

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 and clarifies that if any corporation in the unitary group has sufficient nexus with Hawaii, the combined income tax return must include the income and apportionment factors of all corporations of the unitary group.

TIR No. 97-3 - Provides information on the expansion of the "timely mailing treated as timely filing/paying rule" to documents and payments delivered by a designated private delivery service.

TIR No. 97-4 - Provides guidance regarding the application of the business entity classification rules under the "check-the-box" regulations to the Hawaii income tax and other taxes.

TIR No. 97-5 - Explains the proper interpretation of the law regarding business development corporations and associated tax benefits.

TIR No. 98-1 - Provides information on the income tax exemption and credits available for persons engaged in the motion picture and television film production business.

TIR No. 98-2 - Explains the application of the general excise tax to income received from leasing personal property.

Announcement No. 97-1 - Provides a list of candidates for political office who have registered with the campaign spending commission.

Announcement No. 97-2 - Adopts the Internal Revenue Service optional standard mileage rates.

Announcement No. 97-3 - Provides a listing of new tax forms, instructions, and schedules; and errors found on Hawaii tax forms as of February 26, 1997.

Announcement No. 97-4 - A listing of the Tax Information Releases in effect and obsolete and a listing of Hawaii Administrative Rules.

Announcement No. 97-5 - Adopts the Internal Revenue Service optional standard mileage rates.

Announcement No. 97-6 - Announces the adoption of Hawaii Administrative Rules, relating to cost recovery fees for selected goods and services provided by the Department of Taxation.

Announcement No. 97-7 - Informs taxpayers of the increase in the cigarette tax rates.

Announcement No. 97-8 - Informs taxpayers of the penalties for electronic funds transfer payments that are dishonored and the penalties for failure to remit by an EFT method approved by the Department of Taxation.

Announcement No. 98-1 - Provides a list of candidates for political office who have registered with the campaign spending commission.

Announcement No. 98-2 - Announces the adoption of Hawaii Administrative Rules, relating to the taxation of pensions under the Hawaii Income Tax Law.

Announcement No. 98-3 - Announces the adoption of Hawaii Administrative Rules, relating to the requirements for extensions of time for filing income tax returns.

Announcement No. 98-4 - A listing of the Tax Information Releases in effect and obsolete as of January 23, 1998, and a listing of Hawaii Administrative Rules.

Announcement No. 98-5 - Informs taxpayers of the Department's administration of the dividends received deduction under section 235-7(c), HRS.

Tax Facts No. 97-1 - Provides general information on the application of the general excise and use taxes for contractors.

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

Tax Facts No. 97-3 - Provides information on the general requirements for individuals starting a business.

Tax Facts No. 97-4 - Provides information on the 1997 Form N-15 which was revised as a nonresident and part-year resident income tax return.

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 projects in progress, and the name and telephone number of the staff member assigned to the project. We will coordinate with the Director's Advisory Group in opening new tax projects.

Administration of Taxes

- Clarify the application of cost recovery fees to selected goods and services, including installment agreements - sections 231-3.4 and 231-25.5, HRS. (Jayna Uyehara, 587-1553)
- Clarify the application of penalties and interest and the waiver of penalties and interest - sections 231-3 and 231-39, HRS. (Jayna Uyehara, 587-1553)

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Pending Publications

(From Page 6)

Income Tax Law

- Clarify the definitions of “residence” and “disability” - section 235-1, HRS. (Iris Kitamura, 587-1570)
- Clarify the application of the income tax to amounts from a pension plan that are “rolled over” into an Individual Retirement Account - section 235-7, HRS. (Iris Kitamura, 587-1570)
- Clarify that net gains from the sales of certain intangibles are included in the sales factor of the apportionment formula - section 235-21 to 235-39, HRS. (Grant Tanimoto, 587-1569)
- Clarify the apportionment formula for television and radio broadcasters and publishers - sections 235-21 to 235-39, HRS. (Johnson Lau, 587-1562)
- Clarify the application of the business entity classification rules under the check the box regulations to the Hawaii income tax. (Johnson Lau, 587-1562)

General Excise Tax Law

- Clarify the application of the general excise tax to interest income - section 237-3, HRS.
- Clarify the application of the general excise tax to property delivered in the State - section 237-13, HRS. (Iris Kitamura, 587-1570)
- Clarify the application of the general excise tax to intermediary services - section 237-13, HRS. (Grant Tanimoto, 587-1569)
- Clarify the application of the general excise tax to prepaid telephone calling cards - section 237-13, HRS. (Jayna Uyehara, 587-1553)
- Clarify the application of the general excise tax to satellite broadcasters - section 237-13, HRS. (Jayna Uyehara, 587-1553)
- Clarify the application of the general excise tax to Internet service providers - section 237-13, HRS. (Jayna Uyehara, 587-1553)
- Clarify the use of resale certificates - section 237-13, HRS. (Iris Kitamura, 587-1570)
- Clarify the application of the general excise tax to the sale of gift certificates - section 237-13, HRS. (Grant Tanimoto, 587-1569, Iris Kitamura 587-1570)
- Clarify the application of the general excise tax to employee leasing companies - section 237-13, HRS. (Johnson Lau, 587-1562)
- Clarify the application of the general excise tax to sales of omiyage by tour companies - section 237-13, HRS.
- Clarify the application of the sublease deduction - section 237-16.5, HRS. (Marshall Dimond, 587-1533)
- Clarify the income-splitting exemption for tour

companies and tour packagers - section 237-18, HRS. (Grant Tanimoto, 587-1569)

- Clarify the application of the general excise tax to reimbursements - section 237-20, HRS. (Grant Tanimoto, 587-1569)
- Clarify where a service is performed for purposes of the general excise tax - sections 237-13 and 237-21, HRS. (Johnson Lau, 587-1562)
- Clarify the application of the general excise tax to scientific contracts - section 237-26, HRS. (Johnson Lau, 587-1562)
- Clarify the exemption for property shipped out of the State - section 237-29.5, HRS. (Marshall Dimond, 587-1533)
- Clarify the application of the business entity classification rules under the check the box regulations to the Hawaii general excise tax. (Johnson Lau, 587-1562)

Use Tax Law

- Clarify the temporary use exemption for property - section 238-1, HRS. (Marshall Dimond, 587-1533)
- Clarify the application of the use tax to property delivered in the State - section 238-2, HRS. (Iris Kitamura, 587-1570)
- Clarify the application of the use tax to sales to the federal government.

Franchise Tax Law

- Clarify the application of the franchise tax to mortgage brokers, including sole proprietors and flow-through entities - section 241-3, HRS. (Marshall Dimond, 587-1533)

Conveyance Tax Law

- Clarify the application of the conveyance tax, including the application to percentage leases.

Miscellaneous

- Clarify the grounds on which the Department may waive an IRS tax clearance - section 103-53, HRS. (Iris Kitamura, 587-1570)
- Clarify the state business tax credits and general excise exemption for business located in enterprise zones - chapter 209E, HRS. (Grant Tanimoto, 587-1569, Dana Oshiro-Viola, 587-1564)
- Clarify the exemption for certified or approved housing projects - section 237-29, HRS. (Marshall Dimond, 587-1533) ■

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.

WEB INFORMATION AND FORMS

<http://www.state.hi.us/tax/tax.html>

OAHU DISTRICT OFFICE

Princess Ruth Keelikolani Building
830 Punchbowl Street
Honolulu, HI 96813-5094
FAX: 808-587-1488

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 by Mail or by Fax:

808-587-7572

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

MAUI DISTRICT OFFICE

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54 S. High Street, #208
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