

HAWAII TAX UPDATE

***Hawaii Association of Public Accountants (HAPA)
60th ANNUAL STATE CONVENTION
June 11-13, 2015***

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HAWAII TAX UPDATE

- Act 52 (SB 1133 HD1): Relating to Conformity of Hawaii Tax Law to Internal Revenue Code:
 - Adopted ABLE 10 IRC Section 529A (with respect to qualified ABLE 10 programs) shall be operative for the purposes of this chapter
 - Did not adopt IRC Section 529A(c) (3) which provides for an additional tax for distributions not used for disability expenses.
 - Otherwise conformed to Internal Revenue Code

HAWAII TAX UPDATE

- Act 23 (SB 1134 SD1): Relating to the Estate and Generation-Skipping Transfer Taxes:
 - Updates references to IRC to retroactively and prospectively incorporate federal Public Laws (P.L.) that amend IRC provisions that are operative under Hawaii estate and generation-skipping law (HRS Chapter 236E).
 - Changes effective date of conformity from January 2nd to December 31st of prior year under Hawaii estate and generation-skipping law (HRS Chapter 236E).

HAWAII TAX UPDATE

- Act 18 (HB 966 HD1): Relating to Section 237-23, Hawaii Revised Statutes:
 - Retroactively reinstates “as such” language to GET exemption for “fraternal, religious, charitable, scientific, educational, communal, or social welfare activities of such persons, or to the activities of hospitals, infirmaries, sanitararia, and potable water companies, **as such**, and not to any activity the primary purpose of which is to produce income even though the income is to be used for or in furtherance of the exempt activities of such persons”---effectively seeks to strictly limit GET exemption to exempt activity and no more.

HAWAII TAX UPDATE

- Act 53 (SB 1136 HD1): Relating to Section 23555.91, Hawaii Revised Statutes:
 - For purposes of the credit for employment of vocational rehabilitation referrals, modifies the following definitions:
 - Dependent
 - Corporation
 - Estate or Trust

HAWAII TAX UPDATE

- SB 1096 CD1: Relating to On-Bill Programs:
 - Authorizes PUC to create On-Bill programs
 - Designed to encourage and make available renewable energy, energy efficient, and energy conservation systems to be paid for through an on-bill program (rather than upfront capital cost or loans).
 - Creates an tax exemption for amounts collected by electric utility company, i.e., exemption from GET, PSC, public utility fees, & public utility franchise tax
 - Provides that electric company is not a financial institution, escrow company or collection agency.

HAWAII TAX UPDATE

- SB 92 CD1: Relating to Taxation:
 - Requires to DOTAX to issue reports on the following:
 - Individuals
 - Businesses
 - Tax credits; and
 - General excise tax exemptions:
 - Wholesale tax rate
 - Retail tax rate
 - Foregone opportunities to export tax
 - Effective 20 days prior to 2017 session.
 - Prior to 2016 session, provide status of upgrading its forms and reporting capabilities per DOTAX tax system modernization.

HAWAII TAX UPDATE

- SB 349 CD1: Relating to Taxation:
 - Repeals ethanol facility tax credit under HRS Section 235-110.3
 - Replaces with a renewable fuels production tax credit
 - \$0.20 per 76K BTU of Qualifying Renewable Fuels (QRF)
 - Minimum production 15B of BTUs of QRFs
 - Credit claimed over 5 years
 - Total credits capped at \$3 million per year
 - DBEDT to certify and issue reports
 - Defines QRFs as fuel produced from renewable feedstocks in Hawaii including a variety of items, e.g., alcohol, biofuel, renewable jet fuel or gas

HAWAII TAX UPDATE

- SB 555 CD1: Relating to Tax Credits:
 - HRS Section 235-55.85
 - Increases the refundable food/excise tax credit.
 - Maximum credit increases from \$85 to \$110;
 - Increases lowest credit for single from \$45 to \$55
 - Reduces Single AGI credit levels
 - No longer eligible above \$30k (removes \$30k-\$50k)
 - For HH, MFJ, MFS, keeps \$35 credit and \$50k level.
 - Removes “resident”
 - Modifies definition of qualified exemption from a person “residing” 9 months to “present” 9 months in Hawaii.

HAWAII TAX UPDATE

- HB 1140 CD1: Relating to Cesspools:
 - Creates a nonrefundable tax credit for upgrade, conversion or connection of a cesspool to a septic system or sewer system.
 - Estimate 90,000 cesspools statewide and 55M of untreated sewerage in ground each day.
 - Credit is up to \$10,000 of qualified expenses
 - For residential large capacity cesspool is \$10K per residential dwelling
 - Limited to \$5,000,000 statewide
 - Department of Health to certify

HAWAII TAX UPDATE

- SB 971 CD1: Relating to Taxation:
 - Ensures affordable housing projects remain affordable for minimum number of years to maintain GET exemption
 - Moderate rehabilitation projects, 5 years
 - Substantial rehabilitation projects—10 years
 - New constructions—30 years from certificate of occupancy

HAWAII TAX UPDATE

- SB 1212 SD1: Relating to Amending or Repealing Various Provisions of Hawaii Tax Laws For Purpose of Deleting Obsolete or Unnecessary Provisions:
 - Technical nonsubstantive revisions to GET wholesale tax rate
 - Removed phase-in language from Acts 70 and 71 in 1999

HAWAII TAX UPDATE

- HB 169 CD1: Relating to Taxation:
 - Increases the Transient Occupancy Tax (TOT) on time shares by 1.0% each year until the tax rate reaches 9.25% of fair market value (8.25%-2016)
 - Fair market rental value means an amount equal to ½ of the gross daily maintenance fees that are paid by the owner and are attributable to the time share unit located in Hawaii.
 - Gross daily maintenance fees include maintenance costs, operational costs, insurance, repair costs, administrative costs, taxes, other than transient accommodations taxes, resort fees, and other costs including payments required for reserves or sinking funds.

HAWAII TAX UPDATE

- SB 369 CD1: RELATING TO THE ENVIRONMENTAL RESPONSE, ENERGY, AND FOOD SECURITY TAX
 - Provides that the environmental response, energy, and food security tax shall be imposed on fossil fuels other than petroleum products based upon each 1M BTUs and excludes certain coal to fulfill power purchase agreement.
 - Clarifies purposes of fund.
 - Transfers funds >\$1.25M to general fund each year

HAWAII TAX UPDATE

- HB 134 CD1: Relating to Taxation:
 - Extends the county surcharge tax (0.5% on 4.0%) for five years through December 31, 2027
 - Requires county to pass ordinance---no sooner than July 1, 2015 and prior to July 1, 2016.
 - Allows other counties to pass county surcharge tax
 - Limits Honolulu county surcharge to “capital costs”
 - Defines “public lands” to include air rights over any portion of state land where county mass rail transit project is developed.

HAWAII TAX UPDATE

- Online Travel Companies: Travelocity et al. v. Director
 - State sought to impose 7.25/9.25% TAT and 4/4.5% GET on entire hotel costs & also sought penalties
 - Tax Appeal denied TAT but imposed GET and penalties
 - Hawaii Supreme Court affirmed denial of TAT but limited GET to profit or mark-up on hotel lodging
 - Hawaii Supreme Court upheld penalties: 25% failure to file + 25% failure to pay based on negligence (50%)
 - Hawaii now has harsher/stricter law on 25% failure to pay than federal law where reasonable cause

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The End!

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