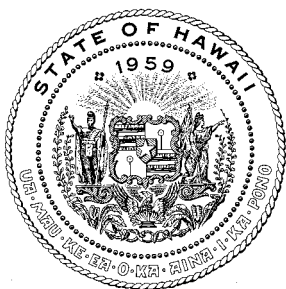


AN INTRODUCTION TO THE TRANSIENT ACCOMMODATIONS TAX



STATE OF HAWAII
DEPARTMENT OF TAXATION

Benjamin J. Cayetano
Governor

Ray K. Kamikawa
Director of Taxation

A MESSAGE FROM THE DIRECTOR

This brochure provides you with general information regarding the transient accommodations tax in an easy to follow question and answer format. Should you have any further questions, please telephone or write to one of our district tax offices. The telephone numbers and mailing addresses are provided to you at the back of this brochure.

Act 156, Session Laws of Hawaii, 1998, increases the transient accommodations tax from 6% to 7.25% effective January 1, 1999. The act also subjects time share vacation unit occupants to the transient accommodations tax which the plan manager is responsible for paying. For more information regarding registration and filing requirements of time share vacation units, contact any district tax office.

1. What is the transient accommodations tax?

The transient accommodations tax, commonly called the "TAT," is a tax imposed on certain rental activity in the State of Hawaii. Like the general excise tax, it is a tax levied on gross income. However, it is imposed only on gross rental income derived from the furnishing (i.e., providing or renting) of transient accommodations in Hawaii.

2. What is a transient accommodation?

A transient accommodation is an apartment, house, condominium, beach house, hotel room or suite, or similar living accommodation furnished to a transient person for less than 180 consecutive days in exchange for payment in cash, goods, or services.

3. What is gross rental income?

Gross rental income includes amounts paid to you in the form of cash, goods, or services as compensation for furnishing a transient accommodation without any deductions for costs incurred in the operation of the transient accommodation. For example, you may not deduct costs such as interest paid on a mortgage loan used to acquire the transient accommodation, labor costs, the cost of supplies, costs incurred to provide services to guests or tenants, and all other costs incurred.

Gross rental income does not include any cost which is visibly passed on to the guest or tenant and represented to be the general excise tax and the transient accommodations tax.

Gross rental income also does not include separate charges for guest amenities such as meals, telephone calls, laundry, or other service charges.

4. If the transient accommodations tax is levied on gross rental income, does that mean that nothing is deductible?

Very few costs or expenses may be deducted. Most business expenses allowed as deductions on your income tax return are NOT deductible on your transient accommodations tax return.

For example, utility bills, maintenance and cleaning fees, management fees and costs, and commissions to travel agents are not deductible and are included as gross rental income.

However, you may deduct worthless accounts charged off if you reported your income on an accrual basis.

5. Are there any transient accommodations which are exempt from this tax?

A few transient accommodations tax exemptions are specifically provided for in the law (e.g. temporary lodging allowances for military personnel, school dormitories, low-income renters receiving rental subsidies from the state or federal government, etc.). You may check the list of what is exempt on the inside of the back cover of your transient accommodations tax forms booklet.

6. If I rent a transient accommodation to a government agency which is exempt from taxation, must I still pay the transient accommodations tax on my gross rental income?

Yes, you must pay the transient accommodations tax on gross rental income received from the government agency.

The tax exemption granted the government agency applies to certain taxes which the agency may otherwise be subject to. Because the transient accommodations tax is imposed on you rather than on the government agency itself, its tax exemption does not apply.

7. What is the tax rate that I must pay on my gross rental income?

The tax rate is 7.25% of your gross rental income. For the period beginning July 1, 1994, to December 31, 1998, the tax rate is 6% of your gross rental income. Prior to July 1, 1994, the tax rate was 5% of your gross rental income.

8. I'm already paying the 4% general excise tax. Do I have to pay both the general excise tax AND the transient accommodations tax, OR do I pay the transient accommodations tax INSTEAD OF the general excise tax?

You are required to be registered for and to pay both the general excise tax and the transient accommodations tax.

However, the amounts VISIBLY passed on to the tenant and represented to be the general excise tax and the transient accommodations tax are excluded from gross rental income subject to the transient accommodations tax.

NOTE: An amount visibly passed on to the tenant and represented to be the transient accommodations tax is excluded from gross income subject to the general excise tax.

9. You mentioned visibly passing on the general excise tax and the transient accommodations tax several times. Why does it make a difference if I show the tax amounts on the bill for my guest or tenant?

The law makes this necessary so that you are able to exclude either tax from the base amount which either the general excise or transient accommodations tax is calculated upon.

If, however, you do not visibly pass on the taxes, but instead charge your tenant or guest a flat fee without separately itemizing the amounts represented as these taxes, the law requires that you pay the general excise and transient accommodations taxes on the entire flat fee charged.

10. If I want to visibly pass on the general excise tax and the transient accommodations tax, what do I do?

If you choose to visibly pass on the general excise tax (GET) and the transient accommodations tax (TAT), you should notify your guests or tenants of your intent to do so whenever the price is quoted. Additionally, when the bill or receipt is prepared, each tax must be separately stated on the bill or receipt.

VISIBLE PASS ON EXAMPLE: A bill visibly passing on the transient accommodations and general excise taxes for a one-night stay at \$100 might be written as follows:

Room Charge	\$100.00
TAT	7.25 (eff. 1/1/1999)
GET	4.00
TOTAL CHARGE	<u>111.25</u>

Because you visibly passed on the taxes, you may exclude the \$7.25 represented as transient accommodations tax and the \$4.00 represented as general excise tax from gross rental income subject to the transient accommodations tax. You also may exclude the \$7.25 represented as transient accommodations tax from gross income subject to the general excise tax.

Consequently, the gross rental income subject to the transient accommodations tax is \$100.00, and the transient accommodations tax due is \$7.25 (\$100.00 x .0725).

The gross income subject to the general excise tax is \$104.00, and the general excise tax due is \$4.16 ($\$104.00 \times .04$).

NO VISIBLE PASS ON: If you charge your guest or tenant a flat fee of \$111.25 and do not visibly pass on amounts represented to be the transient accommodations and general excise taxes, you may NOT exclude amounts attributable to these taxes.

Consequently, the entire \$111.25 charged is gross rental income subject to the transient accommodations tax and the transient accommodations tax due is \$8.07 ($\$111.25 \times .0725$). The entire \$111.25 charged also is gross income subject to the general excise tax, and the general excise tax due is \$4.45 ($\$111.25 \times .04$).

11. I thought that this was a hotel room tax. I rent out a beach house to tourists. Do I have to pay this tax?

Yes. Although often mistakenly called the hotel room tax, the transient accommodations tax is not just a tax on hotels. It is a tax on gross income which you receive from the rental to transients of any transient accommodation whether it is a hotel room, beach house, rooming house, condominium, etc.

12. I rent to both Hawaii residents and nonresidents. Do I have to pay the transient accommodations tax on the gross rental income received from Hawaii residents?

Yes. If a Hawaii resident has a permanent home elsewhere or does not intend to make the accommodation being rented from you a permanent place of residence, then the resident is a transient with respect to that lodging.

13. I own an apartment which is being rented out to tourists. However, I have a managing agent handling everything for me. Do I have to pay the transient accommodations tax or does the managing agent?

You are responsible for paying the transient accommodations tax.

The transient accommodations tax is levied on the operator of a transient accommodation. Since the managing agent is merely acting on your behalf, it is you, and not the managing agent, who is the operator of the transient accommodation and, therefore, subject to the transient accommodations tax. Of course, you may make arrange-

ments to have a managing agent or someone else file the return and pay the tax on your behalf if you wish.

14. My management agreement states that the managing agent will pay the general excise tax and the transient accommodations tax for me. If the managing agent doesn't do all the paperwork and pay these taxes for me, will I still be liable?

Yes. Because the general excise tax and the transient accommodations tax are imposed on you as the operator of the transient accommodation, you are responsible for the payment of both taxes including any interest and penalty which may be assessed if a payment is not made or is late.

15. What do I need to do in order to register for this tax?

If you are not currently registered for the general excise tax, complete Form BB-1, State of Hawaii Basic Business Application, to register for both the general excise and transient accommodations taxes. If submitting the application and license fees through the mail, submit the original copy and retain a copy for your records. The Department will assign one identification number to you for both the general excise tax and the transient accommodations tax.

If you already have a general excise tax license number, complete Form BB-1X, State of Hawaii Basic Business Amended Application, to add the transient accommodations tax to your existing registration. Do NOT send in a new application for another identification number. Your general excise license number will serve as your transient accommodations identification number.

Applications may be obtained from any district office. On Oahu, you may also obtain an application from the Business Action Center on Nimitz Highway or at the Business Action Service Center at the Department of Commerce and Consumer Affairs.

16. Is there a fee for this certificate?

Yes. There is a one-time fee that must be paid at the time the application is filed. The fee is \$5.00 for operators having 1 to 5 transient accommodation units and \$15.00 for operators having 6 or more transient accommodation units. There is no charge if you later add more transient accommodation units to your registration.

17. After sending in my application form and fee, what will I receive from the Department of Taxation?

Approximately 3 to 4 weeks after sending in your application, you will receive your certificate of registration. This certificate must be displayed in each room, apartment, or other transient accommodation unit being rented out. As an alternative, you may post a notice (instead of the certificate) informing the person using the accommodation where the certificate may be inspected.

You will receive your transient accommodations tax forms booklet after you receive your transient accommodations tax certificate of registration.

18. Is there a way I can get my certificate of registration sooner?

Yes. If 2 copies of the application and your fee are brought in person to the Department of Taxation, a registration number will be assigned, and blank transient accommodations tax forms and a temporary certificate (a copy of the application validated by the cashier) will be issued to you immediately. Your certificate of registration will be mailed to you in approximately 3 to 4 weeks. You will receive your booklet of forms after you receive your certificate.

IMPORTANT: Applications which are merely dropped off will be treated as if they had been mailed.

19. My parents had a transient accommodation which they gave to me. Do I need to apply for my own transient accommodations certificate of registration, or can their certificate be transferred to me?

You must apply for your own certificate, transient accommodations tax certificates of registration are not transferable. Whenever there is a change of ownership or a change in the type of ownership, a new registration number is required.

20. How do I determine how often I need to file transient accommodations tax returns?

Transient accommodations tax returns must be filed throughout the year either monthly, quarterly, or semiannually. How often you file depends on the amount of transient accommodations tax you have to pay during the year.

You may file semiannually (every 6 months) if you will pay \$1,000 or less in transient accommodations tax per year. That is, if you have \$13,793 or less in total gross rental income, you may file semiannually.

You may file quarterly (every 3 months) if you will pay \$2,000 or less in transient accommodations tax per year. That is, if you have \$27,586 or less in total gross rental income, you may file quarterly.

You must file monthly if you will pay more than \$2,000 in transient accommodations tax per year.

Taxpayers whose total annual transient accommodations tax liability exceeds \$100,000 are required to make payments by electronic funds transfer (EFT). For more information on EFT refer to Tax Information Release No. 95-6.

21. What form do I use to report my gross rental income and my transient accommodations tax?

Form TA-1, the periodic tax return, is used to report your gross rental income and to pay your transient accommodations tax. The transient accommodations tax forms booklet contains two forms TA-1 for each filing period during the tax year. One copy is filed with the Department of Taxation, and the other is kept for your records.

As a cost savings measure, the Department issues transient accommodations tax forms booklets according to your filing period. Thus, if you are a monthly filer, only monthly tax returns are included in your booklet. If you are a quarterly filer, only quarterly tax returns are included in your booklet. If you are a semiannual filer, only semiannual tax returns are included in your booklet.

NOTE: Due to the increase in the transient accommodations tax, effective January 1, 1999, quarterly and semi-annual **fiscal year** taxpayers must file monthly returns (Form TA-1) for the transition period to report the transient accommodations tax under the 6% rate and the 7.25% rate. For example, a taxpayer with a fiscal year ending July 31, 1999, who files quarterly returns (August to October, November to January, February to April, and May to July) must file monthly returns for the fiscal quarter of November to January (transition period). The taxpayer may file either November and December monthly returns or a December monthly return combining the gross rental proceeds for November and December to report the transient accommodations tax at the 6% rate, and a January monthly return at the 7.25% rate. The taxpayer, thereafter, can resume

filing quarterly returns for February to April and May to July. The same fiscal year taxpayer who files semiannual returns (August to January and February to July) must file monthly returns for the fiscal semiannual period of August to January (transition period). The taxpayer may file either August, September, October, November, and December monthly returns or a December monthly return combining the gross rental proceeds for August through December at the 6% rate, and a January monthly return at the 7.25% rate. The taxpayer, thereafter, can resume filing a semiannual return for the fiscal semiannual period of February to July.

22. Must I file a periodic tax return if I had no gross rental income during the filing period?

A periodic tax return must be filed even if you do not have any gross rental income to report for the filing period. If there is no gross rental income to report, just write a zero (0) in each column for each district you have rental property and enter zero (0) on the "Total Taxes Due" line and the "Grand Total Exemptions/Deductions" line.

23. When are the periodic tax returns due?

Periodic tax returns are due by the end of the month following the close of the filing period; that is, you have one month to file them. For example, the tax return for the semiannual period January through June must be filed on or before the last day of July.

A return is filed on time if it is dropped off at the Department of Taxation or postmarked on or before the due date of the return. If the due date falls on a weekend or State holiday, the tax return is considered timely filed if filed on the first work day immediately following that weekend or holiday.

24. What should I do if I have income from transient accommodations on more than one island? Will I need separate registration numbers?

No, you are not required to have separate registration numbers. However, your gross rental income from transient accommodations on more than one island **MUST** be separated by taxation district on your transient accommodations tax returns.

Each taxation district is listed at the left side of the tax return form (Forms TA-1 or TA-2). Enter the gross rental

income from your transient accommodations in column A (gross rental proceeds or gross rental) on the appropriate line for each taxation district.

For example, if you have transient accommodations on both the islands of Oahu and Maui, gross rental income derived from transient accommodations located on the island of Oahu must be entered on line 1, and gross rental income received from transient accommodations located on Maui must be separately entered on line 2.

25. What is the annual tax return?

The annual transient accommodations tax return (Form TA-2) is a summary of your activity for the entire year. There will be no additional tax due if the gross rental income, exemptions and deductions, taxable proceeds, and taxes due were accurately reported on the periodic tax returns.

The annual tax return also may be used to make corrections to the amounts previously reported. For example, if you forgot to claim an allowable deduction such as a partial refund on rent paid or a bad debt write-off, you may include the deduction on the annual return. Doing so will lower your tax due for the year and result in a refund.

You must also reconcile your gross rental income for transient accommodations tax with your gross income received from transient accommodations for general excise tax on this annual return.

NOTE: For fiscal year taxpayers that are affected by the increase in the transient accommodations tax effective January 1, 1999, you must file Form Dual Rate TA-2 that reflect the 6% and 7.25% rates.

26. Can I skip the periodic tax returns and just file the annual tax return?

No. You must file both the periodic tax returns and the annual tax return.

27. When is the annual tax return due?

The annual tax return is due on the twentieth day of the fourth month following the close of the tax year. For example, the annual tax return for a calendar year taxpayer must be filed on or before April 20. If you are not sure what your tax year is, you may check your copy of the application, Form BB-1 or Form BB-1X.

A return is filed on time if it is dropped off at the Department of Taxation or postmarked on or before the due date of the return. If the due date falls on a weekend or State holiday, the tax return is considered timely filed if filed on the first work day immediately following that weekend or holiday.

Extensions of time to file your transient accommodations annual tax return may be requested by filing Form TA-8. Extensions may be granted for periods of no more than 3 months at a time and no more than 6 months in total. This is not an automatic extension and may only be granted for a good reason. An extension of time to file is NOT an extension of time to pay the tax and a check for any estimated additional tax due must be attached to the Form TA-8.

Reminder: Do NOT attach your annual transient accommodations tax return to your income tax or general excise tax forms.

28. What should I check before I file my tax returns?

Check your math calculations. Be sure that you have correctly reported your gross rental income and the tax due by taxation district. The tax return must be signed by an authorized person, and that person's title and the date the return is signed should be written on the lines provided. Unless your tax liability exceeds \$100,000 per year and you must file by EFT, your check, made payable to the "HAWAII STATE TAX COLLECTOR" in U. S. dollars, should be attached to the tax return. Write "TAT," the filing period, and your identification number on the check so that your payment will be properly credited if it is accidentally separated from the tax return.

29. Where do I file my tax returns?

Your completed periodic and annual tax returns must be signed, dated, and submitted with any payments to the Department of Taxation. Mailing addresses are printed on the cover of your transient accommodations tax forms booklet.

30. What are the other forms in my transient accommodations tax forms booklet used for?

In addition to the periodic and annual tax returns, there are three other forms in your booklet:

Notification of Cancellation (Form GEW-TA-RV-1) This form must be filed if you no longer operate transient accommodations and therefore no longer need a transient accommodations tax certificate of registration. The Department of Taxation will NOT automatically cancel your certificate at the end of the year. If you simply stop filing your tax returns, you will be subject to a compliance inquiry.

If operating a transient accommodation is your only business activity, you should also cancel your general excise tax license at the same time.

You may file a written request with the Department asking that your certificate be placed on an inactive status for a period of 2 years if you do not plan to continue your rentals in the following year, but do not want to cancel your registration at this time.

Change of Address or Business Name/"DBA" Form (Form GEW-TA-RV-2) This form is only used to change your mailing address and business address. It may not be used for any other purpose.

NOTE: Any changes made to your mailing address and business address will affect both your general excise tax and transient accommodations tax records.

General Excise/Use, Employer's Withholding, Transient Accommodations and Rental Motor Vehicle & Tour Vehicle Surcharge Application Changes Form (Form GEW-TA-RV-5) This form is used to make other changes to the information on your transient accommodations tax registration. Examples of common changes include: changing your filing period (e.g. from semiannual to quarterly); adding or deleting any transient accommodations; adding, deleting, or changing the partners or corporate officers of your business; and changing your last name upon marriage.

Be sure that the form includes your name as it appears on your certificate, your registration number, and all of the information the Department will need to make the change. In addition, the Department may ask you to provide copies of supporting documents.

31. How can I have my transient accommodations tax returns booklet mailed to an address other than my main mailing address?

Complete the bottom half of Form GEW-TA-RV-2. Check the "Separate TAT Mailing Address" box and enter the address you want the transient accommodations tax returns booklet to be mailed to.

32. What happens if I don't pay my transient accommodations tax on time?

Penalties and interest are assessed on tax not paid by the due date of the tax return. Any payment you make will first offset the interest owed, then the penalty, and finally, the tax itself.

If the tax return is filed after the due date, a penalty is assessed at the rate of 5% per month, or part of a month, up to a maximum rate of 25%. If the tax return is filed on time but no payment or insufficient payment is received, a penalty of 20% of the unpaid balance will be assessed if it is not paid within 60 days of the due date of the tax return.

Interest is assessed at the rate of 2/3 of 1% per month on the entire unpaid tax and penalty.

For EFT filers, a penalty of 2% of the amount of tax due is assessed if a taxpayer who is required to make payments by EFT or who is voluntarily registered to make payments by EFT, fails to do so without reasonable cause.

33. How do I get a branch license?

There are no branch licenses for the transient accommodations tax. If you have more than one unit, or if you have units on more than one island, you should post a notice in each unit in place of the certificate of registration and report your gross rental income from all the units under the same registration number. (See questions 17 and 24 above).

34. What should I do if I find I have made a mistake on my tax return?

If you discover that an error has been made on a periodic tax return already filed with the Department of Taxation, an amended periodic tax return (Form TA-11) must be filed. The amended periodic tax return may be used only if the annual tax return for that tax year has not yet been filed.

If correcting the error results in a tax credit, the credit will be refunded to you. You may not claim the credit on subsequent periodic returns you file for the same year. Any additional tax due should be paid with a check attached to your amended periodic tax return.

If you discover that an error has been made on an annual tax return already filed with the Department of Taxation, an amended annual tax return (Form TA-12 or if applicable Form Dual Rate TA-12) must be filed. Any tax credit claimed will be refunded to you; you may not carry the

credit forward to a subsequent tax year. Any additional tax due should be paid with a check attached to your amended annual tax return.

Amended periodic and annual tax returns may be requested from any district tax office.

35. How does paying my transient accommodations tax affect my state income tax?

Transient accommodations taxes paid may NOT be taken as a credit against your income tax liability. However, the transient accommodations tax may be taken as a business expense deduction.

NOTE: You may be required to pay estimated income tax using Form N-1 if you are an individual taxpayer, Form N-3 if a corporation, or Form N-5 if an estate or trust. For additional information, read the instructions on these forms which may be obtained at any district tax office.

36. Where can I get more information regarding the transient accommodations tax?

Detailed information is found in the administrative rules for the transient accommodations tax. Copies of the rules may be obtained at any district tax office.

Instructions for completing transient accommodations tax returns may be found in your transient accommodations tax forms booklet.

Finally, you may contact the district tax office nearest you for information and forms. The mailing addresses and telephone numbers are listed on the last two pages of this brochure.

NEED TO CONTACT A DISTRICT TAX OFFICE?

The mailing addresses, locations, and telephone numbers are listed below:

OAHU DISTRICT OFFICE

First Taxation District
P. O. Box 259
Honolulu, HI 96809-0259

Princess Ruth Keelikolani Bldg.
830 Punchbowl St.
Honolulu, HI 96813-5094

Telephone Numbers

TAXPAYER SERVICES

COMPLIANCE DIVISION

Information: (808) 587-4242
1-800-222-3229

TDD/TTY: (808) 587-1419
1-800-961-5369

Fax No.: (808) 587-1488

Office Audit Branch

(808) 587-1660

TDD/TTY: (808) 587-1418
1-800-887-8974

Fax No.: (808) 587-1633

Collection Branch

(808) 587-1600

Fax No.: (808) 587-1720

FORMS BY FAX

On Oahu: (808) 587-7572
Outside Oahu: (808) 678-0522
from your fax machine

CD-ROM (nominal fee) and

FORMS BY MAIL

(808) 587-7572

1-800-222-7572

MAUI DISTRICT OFFICE

Second Taxation District
P. O. Box 1169
Wailuku, HI 96793-6169

State Office Building
54 S. High St., #208
Wailuku, HI 96793-2198

Telephone No.: (808) 984-8500

Fax No.: (808) 984-8522

HAWAII DISTRICT OFFICE

Third Taxation District
P. O. Box 833
Hilo, HI 96721-0833

State Office Building
75 Aupuni St., #101
Hilo, HI 96720-4245

Telephone No.: (808) 974-6321

Fax No.: (808) 974-6300

KAUAI DISTRICT OFFICE

Fourth Taxation District
3060 Eiwa St., #105
Lihue, HI 96766-1889

State Office Building
3060 Eiwa St., #105
Lihue, HI 96766-1889

Telephone No.: (808) 274-3456

Fax No.: (808) 274-3461

NEED MORE INFO?

The Department of Taxation wants to cut some of the red tape and reduce the bureaucracy faced by Hawaii taxpayers. That's why we have a toll-free tax information hotline for your convenience.

If you have a state tax problem, have a question, or need assistance, dial toll-free:

1-800-222-3229

JUST NEED A TAX FORM?

Ask for your form and CD-ROM order form by mail by dialing toll-free:

1-800-222-7572

Ask for your form by fax by dialing:

On Oahu
(808) 587-7572

Outside Oahu
(808) 678-0522
from your fax machine

INTERNET ADDRESS?

Tax information and tax forms also are available on the Internet at:

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

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By Taxpayer Services Branch