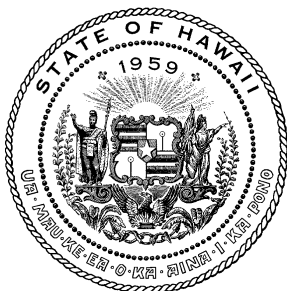


AN INTRODUCTION TO THE TAX CLEARANCE PROCEDURE



STATE OF HAWAII
DEPARTMENT OF TAXATION

Benjamin J. Cayetano
Governor

Ray K. Kamikawa
Director of Taxation

Published September, 1998

A MESSAGE FROM THE DIRECTOR

If you are asked to obtain a tax clearance certificate, you may find that you are unfamiliar with some of Hawaii's tax requirements. This brochure is intended to provide you with information regarding the tax clearance procedures in an easy to follow question and answer format.

If you have any questions, please telephone or write to one of our district tax offices. The telephone numbers and mailing addresses are provided at the end of this brochure.

1. What is a tax clearance certificate?

A tax clearance certificate, Form A-6, is used by the Department of Taxation to certify that the Department has, after checking its records, found that the taxpayer named on the certificate has filed all required tax returns and has paid all taxes, penalty, and interest due as of the date the tax clearance certificate is issued.

2. Why would I need a tax clearance certificate?

A tax clearance certificate may be required for various purposes, e.g., to acquire or renew a state contractor's license or a county liquor license, to submit a bid or receive the final payment on a contract with a state or county government agency, or to provide information as to whether a taxpayer has filed resident or nonresident tax returns.

3. I would like to submit a bid on a state public works project and I was told I need a tax clearance certificate. Do I need to get a tax clearance certificate whenever I bid on other State or County government projects?

Yes. The law requires State government agencies to ask for a tax clearance certificate before awarding a contract for a public works project. In addition, by submitting a tax clearance certificate, bidders on state public works projects may be considered for in-state contractor preference. If you will be submitting bids for several State or County government projects, you may request for multiple copies of the tax clearance certificate. See questions 29 and 30 for more information on requesting additional copies of the tax clearance certificate.

4. I am planning to enter into a contract with a State agency. I was told I need a tax clearance certificate from the Department of Taxation and the Internal Revenue Service up front as a condition to entering into any contract as well as to receive final payment under the contract. Why?

A State law (Section 103-53, Hawaii Revised Statutes) requires a state or county agency to ask for a tax clearance certificate from the Department of Taxation and the Internal Revenue Service as a prerequisite to entering into the contract, and also before final payment on the contract is made. This law applies to all contracts, whether with Ha-

waii vendors, out-of-state vendors, or nonprofit organizations.

5. If I need to obtain a tax clearance certificate from both the Department of Taxation and the Internal Revenue Service, do I need to submit a separate application to each tax agency?

No. Form A-6 may be used to obtain both a State tax clearance and a federal tax clearance. Mailed-in applications which require an Internal Revenue Service tax clearance will be forwarded to the Internal Revenue Service after processing is completed by the Department of Taxation.

6. My company is not located in Hawaii, but we have a contract with the State to "furnish and deliver" some equipment. No installation, training, or any services will be provided, and delivery will be by common carrier. Our company does not have any offices, employees, property, inventory, or any other contact with Hawaii. Before we can receive final payment from the State, we must submit a tax clearance certificate. My company feels that we don't owe any taxes based on the conditions of the contract. If we don't owe any taxes, why do we need a tax clearance certificate?

Under the described conditions, your company is not subject to the taxing jurisdiction of Hawaii for any taxes, including the general excise, use, or income taxes because it does not have sufficient presence in Hawaii. If, however, your company has property in Hawaii, provides services, or acquires a presence in Hawaii for any period of time, then your company is likely to be subject to Hawaii's taxing jurisdiction. Whether your company is or is not subject to Hawaii taxation, the Hawaii Revised Statutes requires your company to submit a tax clearance certificate to the state agency before you receive your final payment. At the time you submit your certificate, the Department will verify whether you were subject to the State's taxing jurisdiction.

7. I am a responsible managing employee (RME) of a construction company. Every two years, the State Contractors License Board requires contractors to renew their contractor's licenses. One of the requirements to renew the license is to submit a tax clearance

certificate. Am I required to apply for a tax clearance certificate?

No. A RME is not required to obtain a tax clearance but the construction company is required to do so. For more information, contact the State Contractors License Board.

8. I need a tax clearance certificate in order to take a test to become a licensed contractor. One of the questions on the application for tax clearance asks for a general excise license number. I have never had a business, thus I do not owe any general excise tax, and I do not have a general excise tax license. I will apply for a general excise tax license only if I pass the contractor's test. Do I have to get a general excise tax license in order to get a tax clearance certificate?

No. You are required to get a general excise tax license if you expect to engage in business in Hawaii. Since you are not in business, you are not required to get a license.

9. I have liquor establishments throughout the State. How many tax clearance certificates do I need to obtain and submit to the liquor commission annually?

You will need to obtain and submit one certificate for each county (Oahu, Maui, Hawaii, and Kauai) in which you have a liquor establishment. There may be instances when you may need to furnish more than one certificate because of the different types of liquor establishments you own. For example, if you own a retail liquor store and also a standard bar on Oahu, you may need one certificate for each establishment because they are two different types of liquor establishments. For more information, contact the liquor commission in your district.

10. I am planning to attend the university. To register as a Hawaii resident, the university wants me to get a tax clearance certificate. Why do I need one?

The university has to determine whether you must pay resident or nonresident tuition rates. The tax clearance certificate will provide information to help the university make its decision.

11. Why must a foreign general partnership withdrawing from doing business in Hawaii obtain a tax clearance certificate?

The State's Department of Commerce and Consumer Affairs requires that certain types of foreign businesses obtain a tax clearance certificate as a prerequisite for withdrawing from doing business in Hawaii.

12. I am a foreign citizen and am planning to leave the United States soon. Must I get a tax clearance certificate from Hawaii before I leave?

No. Hawaii does NOT require you to obtain a tax clearance certificate or "sailing permit" as is required by the Internal Revenue Service.

13. A family member passed away this year. The bank asked for a tax clearance certificate in order to transfer the estate's assets. Do I complete the application, Form A-6, for this purpose?

No. For decedents dying after June 30, 1983, tax waivers are not required. Institutions holding assets may release them to the persons entitled to them. Form M-6A, Request for Release to Be Filed for Decedent Dying After June 30, 1983, is given to the courts to close probate; otherwise, it is issued as a matter of record only.

14. I will be selling my business in the near future. Do I need a tax clearance certificate?

You are not required to obtain a tax clearance certificate if you sell your business or a sizeable portion of the assets of your business. You as the seller must file a Bulk Sales Report, Form G8-A, with the Department within ten days of the sale. If the bulk sales requirements are met, the Department will issue a bulk sales certificate to you which should be given to the purchaser.

15. What is the importance of the bulk sales certificate and a tax clearance certificate?

The purchaser should not pay the seller until the purchaser receives a bulk sales certificate to ensure that the seller has paid all general excise taxes, penalties, and interest due, and that there is no lien recorded on the seller's property. If no bulk sales certificate is obtained, the purchaser becomes liable for any outstanding general excise

taxes, penalties, and interest. For more information on bulk sales, see Tax Information Release 91-10.

The purchaser also should require the seller to obtain a tax clearance to ensure that all tax returns have been filed and all tax payments have been paid as of the date the tax clearance certificate is issued.

16. What do I need to do to apply for a tax clearance certificate?

You must fill out Form A-6, Application for Tax Clearance, and submit the form to the Department of Taxation. Applications may be obtained from any district tax office, by mail or fax, or via the Internet. Telephone numbers and the website address are provided at the end of this brochure.

17. Where can I apply for a tax clearance certificate?

You may apply for a tax clearance certificate by mail or in person at any district tax office. Mailing addresses, locations, and telephone numbers are provided at the end of this brochure.

18. Is there a fee for obtaining a tax clearance certificate?

No. There is no charge to obtain a tax clearance certificate.

19. Can my friend bring in the tax clearance application for me?

Yes. Anyone can hand carry the application for you as long as it is signed by you.

20. If I live on the mainland, can I FAX my tax clearance application to you?

Yes. A completed tax clearance application may be faxed to the Department of Taxation or the IRS. Please ensure that faxed applications are signed, legible, and clear; otherwise, they will not be accepted for processing. Faxed applications will have the same processing time frame as applications which are mailed in (approximately 10 - 15 working days). Fax numbers for the Department and the IRS are provided at the end of this brochure.

21. Who can sign the tax clearance application?

The owner, officer, partner, or an authorized agent (with a valid power-of-attorney) can sign the application. If the application is not signed, it will be returned.

22. After sending in my tax clearance application form, what will I receive from the Department?

If your tax record is current, you will receive a tax clearance certificate (the front page of the tax clearance application) in about three weeks after mailing in your application. The tax clearance certificate will be a certified copy of the original approved application. All certified copies will bear a green certified copy stamp. If your tax record is not current, you will be notified by the Department. **IMPORTANT:** For faster service, file the application with the district in which your tax returns are filed.

23. I have several businesses. Each business has its own general excise tax identification number and they are listed under my name. Can I get a tax clearance certificate on only one of my businesses?

No. The Department checks all of the records available under the taxpayer's name before it issues a tax clearance certificate for any of the taxpayer's businesses.

24. I am planning to further my education at the University of Hawaii so I placed my general excise tax license on inactive status for 2 years with your Department. I need a tax clearance certificate to prove my residency in order to qualify for resident tuition. I understand you will check my income tax records. Will you check the general excise tax records for my inactive business, too?

Yes. Placing a business on inactive status does not inactivate your general excise tax record. This record will be checked along with your income tax record before a tax clearance certificate can be issued.

25. My business is located on Maui and my general excise tax identification number was issued from the district tax office on Maui. I need a tax clearance certificate to give to a state agency on Oahu in order to bid on a contract. Can I apply for a tax clearance

certificate and pay any outstanding taxes that I may owe at the district tax office on Oahu?

Yes. The application and tax payment can be mailed or brought in person to any district tax office.

26. Must I pay the entire amount of delinquent taxes I owe on a business which I terminated years ago in order to get my tax clearance certificate?

Yes. Even if your business is terminated, you still have an outstanding tax liability that must be paid in-full before a tax clearance certificate can be issued to you.

27. I want to file an income tax return which was due last year. I owe the State some tax, penalty, and interest. Must I pay the entire amount owed before the Department of Taxation will give me a tax clearance certificate?

Yes. All amounts owed must be paid in full. Any outstanding returns and payments should accompany your application for tax clearance. In addition, the payment must be made in cash or by cashier's check, certified check, or money order if the total owed is more than \$500.

28. What is the fastest way to get my tax clearance certificate?

If the application is brought in person to the Department and your tax record is current, the tax clearance certificate may be issued that day.

29. Can I request for more than one copy of the tax clearance certificate?

Yes. You may request additional certificates when you fill out the application.

30. Can I request for additional copies of the tax clearance certificate before the expiration of the certificate?

Yes. Additional certificates may be requested in person or by mail prior to the expiration date of the certificate with a request for the number of copies needed. The copies will be returned to you, each one bearing an original green certified copy stamp. The green stamped tax certificate must accompany the request for additional copies. Requests for additional copies of previously issued clear-

ances may not be requested by fax. When the approval date expires, a new tax clearance application must be filled out and processed. Also, if a copy of the still-valid certificate is not presented or is not available, a new tax clearance application must be filled out and processed. A new six-month period of validity will begin with the date of the approval of the new tax clearance.

31. I received my tax clearance certificate about two months ago. Can I still use it?

Tax clearance certificates are treated as having a six-month period of validity by the Department of Taxation and the Internal Revenue Service. For example, a tax clearance certificate issued and dated August 1, 1998 would be valid through February 1, 1999; a tax clearance certificate issued and dated August 14, 1998 would be valid through February 14, 1999; and a tax clearance certificate issued and dated August 31, 1998 would be valid through February 28, 1999. However, more stringent requirements may be imposed by the party requesting the tax clearance which is a matter between that party and the taxpayer.

32. Does the six-month period of validity discussed in question 31 also apply for final payment of a State executive branch contract?

No. The period of validity for a tax clearance used for final payment of a State executive branch contract is two months. For example, a tax clearance certificate issued and dated July 31, 1998 would be valid through September 30, 1998. A copy of a tax clearance certificate that bears an original green certified copy stamp may be submitted to the Department of Accounting and General Services for final payment of the State contract.

33. Where can I get additional information on tax clearance?

You may contact any district office for more information. The mailing addresses, locations, and telephone numbers are provided at the end 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:

Information: (808) 587-4242
Toll Free: 1-800-222-3229
Collection: (808) 587-1600

Fax Numbers:

Information: (808) 587-1488
Collection: (808) 587-1720

Telephone Devices for the Deaf (TDD)

Tax Service & Processing
(808) 587-1418
Toll-Free: 1-800-887-8974

Compliance Division
(808) 587-1419
Toll-Free: 1-800-961-5369

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. Rm 105
Lihue, HI 96766-1889

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

Telephone No.: (808) 274-3456

Fax No.: (808) 274-3461

INTERNAL REVENUE SERVICE

Collection Division - TC
300 Ala Moana Blvd., #50089
Honolulu, HI 96850-4922

Telephone No.: (808) 541-1160

Fax No. (808) 541-1976

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 by mail by dialing toll-free:

1-800-222-7572

Ask for your form by fax by dialing:

**On Oahu (Forms by mail or fax)
(808) 587-7572**

**Outside Oahu (Forms by fax)
(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>

We want to help, and one phone call saves time, money, and trouble for everyone.

Revised September, 1998
By Taxpayer Services Branch