Financial Management Office

Tax Treatment for Hawaii General Excise Tax

July 23, 2015
Disclaimer

- The information provided in this power point presentation is not authoritative material for your tax return preparation.
- Please consult with your tax advisor if further assistance is needed.
Three Primary Questions on General Excise Tax

• What is general excise tax? Similar to sales tax?
• How does general excise tax affect U.H.?
• Are there general excise tax exemptions?
1. What is general excise tax? Similar to sales tax?

- General excise tax is created by Hawaii Revise Statute section 237.
- This tax is on “gross income” by businesses. Every business transaction in Hawaii should be imposed by it.
- Unlike sales tax, which applies to tangible good and certain services (varies by state), general excise tax applies to all gross income.
Examples of items subject to G.E. tax or exempt from G.E. tax:

Subject to G.E. Tax:
1. Purchase of office supplies at local store.
2. Pay legal fees to local law firm.

Exempt from G. E. Tax:
1. Purchase of office supplies via internet using company with NO nexus in Hawaii.
2. Pay legal fees to mainland law firm who did all the work there.
2. How does general excise tax affect U.H.?

- Every business transaction that qualifies as a “Hawaii-based” transaction will charge a general excise tax on U.H purchases.
- Vendors of U.H. will charge
  - 4% general excise tax on purchases in neighbor islands
  - 4.5% general excise tax on purchases in Oahu. The additional .5% is surcharge to help fund the mass-transit rail project.
- There may be a time when vendors of UH charge higher rate
  - 4% could be imposed by vendor as 4.166%. (discuss details later)
  - 4.5% could be imposed as 4.712% (discuss details later)
What does “Hawaii-based” mean?

• Hawaii-based means having a nexus (a tax technical term) in Hawaii.
• Nexus literally mean “connection” or “link”.
• Business will have nexus in Hawaii if vendors have property in Hawaii (also affiliate offices), provides services in Hawaii, or acquires a presence in Hawaii (having business representatives) for any period of time.

Test #1: does the vendor have Hawaii Tax ID#? If yes, the business has nexus in Hawaii.
Test #2: does the vendor have Hawaii remittance address? If yes, the business likely have nexus in Hawaii.
  ▫ If both tests are not applicable, go to the State Hawaii Compliance Express for information
Why do vendors pass on 4.166% and 4.712%?

- State of Hawaii requires vendors to charge 4.166% or General excise tax is a “pass-on” tax (i.e. vendor is allowed by law to pass tax onto its customers)
- Passing on the higher corresponding tax rate will ensure that vendors will not pay general excise tax out of their pockets.

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
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<tbody>
<tr>
<td>Merchandise Cost</td>
<td>100.00</td>
</tr>
<tr>
<td>4% GE Tax</td>
<td>4.00</td>
</tr>
<tr>
<td>.166% GE Tax</td>
<td>0.17</td>
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<tr>
<td>Gross Income to Vendor</td>
<td>104.17</td>
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3. Are there general excise tax exemptions?

- Criteria to determine if a vendor has nexus (connection or link) in Hawaii.
  
  ✓ Does the vendor has no affiliate office in Hawaii?
  ✓ Does the vendor provide any service in Hawaii (i.e. installation)?
  ✓ Does the vendor have representatives working here?

If the answer is NO to all above questions, the vendor doesn’t have nexus and should not charge UH GE tax. In other words, UH only obligates to the cost of the merchandise.

- Exception for GE
  
  ✓ Purchase of computers
  - When contracting a local repair shop to provide repair on warranties, nexus would be established and mainland vendor has right to pass on GE tax to U.H.
  ✓ Certain scientific contracts with the U.S. government
  - For example, U.S. govt. contract to build telescope on Mauna Kea (see State Department of Taxation Tax Information Release 35-71 (July 1971)

A request for ruling will need to be submitted to Hawaii Department of Taxation to obtain approval for exemption of GE tax on scientific contracts with the U.S. government. Once approved, GE tax should NOT be charged regardless of vendor’s nexus status.
Can I verify if vendor has been paying g.e tax?

- Yes, you will need to ask vendor for Hawaii general excise tax i.d. number.
- Once you have general excise tax i.d. number, then go to the following website: https://dotax.ehawaii.gov/tls/app
- Type in i.d. number, click search and see if taxpayer name matches that of your vendor.
How do I benefit from this topic in the webinar?

• By knowing the tax rules for general excise tax, you will be a better judge in deciding whether vendor is charging your department appropriately for general excise taxes on your purchases.
Questions?