HAWAII ADMINISTRATIVE RULES

TITLE 18

DEPARTMENT OF TAXATION

CHAPTER 251

RENTAL MOTOR VEHICLE, TOUR VEHICLE, AND CAR-SHARING VEHICLE SURCHARGE TAX

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This is an unofficial compilation of the Hawaii Administrative Rules as of December 31, 2025.

Note: The rules implement the statute and may not reflect recent changes to the statute. For example, Act 223, Session Laws of Hawaii 1999, increased the rental motor vehicle surcharge tax from $2 to $3. The examples in these rules still reflect the $2 tax rate.

SUBCHAPTER 1

DEFINITIONS; GENERALLY

HRS §251-1

§18-251-1-01 Definitions, generally. As used in this chapter, unless the context otherwise requires:

"Department" means the department of taxation.

"Director" means the director of taxation.

"Peer-to-peer car-sharing marketplace" means any person who assists in the business of providing rental motor vehicles or vehicles to the public by:

(1) Providing a forum, whether physical or electronic, in which vehicle owners or authorized possessors list or advertise vehicles for rent; and

(2) Collecting payment from the lessee, either directly or indirectly through an agreement with a third party. [Eff 1/27/92; Am 4/14/22] (Auth: HRS §231-3(9)) (Imp: HRS §251-1)

"Person" has the same meaning as defined in section 237-1, HRS, specifically, every individual, partnership, society, unincorporated association, joint adventure, group, hui, joint stock company, corporation, trustee, personal representative, trust estate, decedent's estate, trust, trustee in bankruptcy, or other entity, whether

such persons are doing business for themselves or in a fiduciary capacity, and whether the corporation or other association is created or organized under the laws of the State or of another jurisdiction.

"Surcharge tax" means the rental motor vehicle and tour vehicle surcharge tax established under chapter 251, HRS, and implemented by this chapter. [Eff 1/27/92] (Auth: HRS §§231-3(9), 251-15(b)) (Imp: HRS §251-1)

SUBCHAPTER 2

DEFINITIONS; RENTAL MOTOR VEHICLE SURCHARGE TAX

HRS §251-1 **§18-251-1-02 "Lessor", defined.** (a) As used in this chapter, "lessor" means any person in the business of providing rental motor vehicles or vehicles to the public and includes any person operating a peer-to-peer car-sharing marketplace.

Example 1: ABC U-Drive (ABC) owns 100 cars and is in the business of providing cars to customers for a fee. ABC is the lessor of these cars, and the incidence of the rental motor vehicle surcharge tax is on ABC.

Example 2: Giro Transportation (Giro) is a peer-to-peer car-sharing marketplace company that provides a forum where prospective rental motor vehicle lessees may browse for cars they wish to rent. Giro enters into an agreement with car owners to provide cars to lessees for ground transportation. The lessee pays Giro the rental amount for the car and takes possession from the owner. The surcharge tax is imposed on Giro, not the owner, because Giro is the lessor, Giro provided the lessee a rental vehicle for a fee, and Giro is not a wholesaler, tour packager, nor travel agent. The owner is a wholesaler and is not subject to the tax under this chapter.

(b) For purposes of this chapter, a wholesaler, tour packager, or travel agent whose business and service may include arranging the rental vehicle transportation for a person shall not be deemed a lessor, unless the wholesaler, tour packager, or travel agent actually rents or leases (as defined in section 18-251-1-04) the vehicle.

Example 1: Vacation Services (Vacation) is a tour packager company that arranges a variety of visitor industry services, such as air transportation, hotel room accommodations, ground transportation, tours, classes, and luaus into packages, and sells these services to tourists. ABC U-Drive (ABC) enters into an agreement with Vacation to provide the cars for ground transportation. When the customer receives a rental car from ABC, the rental motor vehicle surcharge tax is triggered, and the surcharge tax is imposed on ABC, not Vacation, because Vacation is a tour packager who arranged rental vehicle transportation.

Example 2: Vacation Services (Vacation) decides that its business would become more profitable if it started to use its own cars instead of making arrangements with ABC U-Drive. Vacation acquires 5 cars and provides them to customers for a fee. Vacation is now the lessor of these cars, and the rental motor vehicle surcharge tax is imposed on Vacation. [Eff 1/27/92; am 4/14/22] (Auth: HRS §§231-3(9), 251-15(b)) (Imp: HRS §251-2)

HRS §251-1 **§18-251-1-03 "Rental motor vehicle" or "vehicle", defined.** (a) Except as otherwise provided in this section, as used in this chapter, "rental motor vehicle" or "vehicle" means every vehicle which is:

(1) Self-propelled; or propelled by electric power but which is not operated upon rails;
(2) Designed to carry seventeen passengers or fewer; and
(3) Rented or leased or offered for rent or lease in this State, whether for personal or commercial use, for a period of six months or less.

"Car", "passenger van", and similar terms may be used to designate a "rental motor vehicle" or "vehicle" in the examples set forth in this chapter.

Example: ABC Rent-A-Car (ABC) rents cars, passenger vans, and jeeps to visitors in Hawaii and residents who occasionally need an extra car. The vehicles are rarely rented for periods longer than six months; however, ABC sometimes receives a request for a longer rental period. ABC's vehicles are subject to the rental motor vehicle surcharge tax, except rentals or leases which are for longer than six months.

Example: XYZ Wheels rents motorcycles and bicycles. The motorcycles are subject to the surcharge tax. Because bicycles are not self-propelled, however, they are not subject to the rental motor vehicle surcharge tax.

(b) "Rental motor vehicle" or "vehicle" shall not include:
(1) Vehicles, which are not governed by chapter 286, HRS, and do not use the public highways; and
(2) Mopeds, as defined in section 286-2, HRS.

Example: DEF Resort (DEF) rents mopeds and golf carts to its guests for use on the resort premises, which include two golf courses. The mopeds, which are specifically excluded, and golf carts, which are not registered under chapter 286, HRS, and do not use the public highways, are not subject to the rental motor vehicle surcharge tax.

(3) Any trucks, truck-tractors, tractor-semitrailer combinations, or truck-trailer combinations, with:
(A) A manufacturer's nominal carrying capacity of one thousand pounds or more; and
(B) A barrier or separation between the operator's compartment and the cargo area.

Example: Construction Equipment Company (CEC) leases heavy equipment and vehicles used to transport construction equipment to construction companies for use on their projects. All of CEC's equipment and vehicles are trucks, truck-tractors, tractor-semitrailer combinations, or truck-trailer combinations of one thousand pounds (one-half ton) or more capacity or larger and are never leased for periods longer than six months. CEC's vehicles are exempt from the tax.

(4) Cargo vans with no more than two seats, including the driver's seat; provided that vans with recreational vehicle converter packages and vans with quick release passenger seats shall not be classified as cargo vans.

Example: DEF Rentals (DEF) rents cargo vans of all sizes to people and businesses moving to new locations; none of these cargo vans are rented for more than a few weeks at a time. The cargo vans are exempt from the tax.

Example: Do-It-Yourself Rentals (Do-It-Yourself) rents cargo vans. Most of Do-It-Yourself's vans are large cargo vans with carrying capacities of 1,500 pounds or more. Do-It-Yourself also rents six passenger vans because some of the company's customers prefer smaller vans. The six passenger vans are equipped with quick release seats. Do-It-Yourself has removed all of the passenger vans' quick release seats to allow for the transportation of cargo; only the driver and the passenger seat next to the driver's seat remain. Although Do-It-Yourself only rents these converted vans for transporting cargo, the vans are nevertheless passenger vans (whether temporarily or permanently converted), not cargo vans, and, Do-It-Yourself's six converted passenger vans, therefore, are subject to the rental motor vehicle surcharge tax.

(5) A motor vehicle or vehicle used by businesses whose services provide a driver with the motor vehicle or vehicle. A driver is a person who drives or is in actual physical control of the motor vehicle or vehicle or who is exercising control or steering a vehicle being towed or pushed by a motor vehicle or vehicle.

Example 1: ABC Cabs (ABC) provides taxi and limousine service to its customers. On occasion, a customer will hire a car (with driver) for the whole day. ABC's service includes a driver, therefore, its vehicles are not subject to the rental motor vehicle surcharge tax.

Example 2: Super Service (Super) provides limousine service, using stretch limousines with passenger capacities of under eight persons and passenger vans with passenger capacities between eight to twenty-five persons. Because Super's service includes a driver, its stretch limousines are not subject to the rental motor vehicle surcharge tax. Super's passenger vans, however, are subject to the tour vehicle surcharge tax set forth in section 18-251-2-06. [Eff 1/27/92; am 1/2/93; am 8/12/02] (Auth: HRS §§231-3(9), 251-15(b)) (Imp: HRS §251-1)

HRS §251-1 **§18-251-1-04 "Rent or lease", defined; complimentary vehicles.** (a) As used in this chapter:

"Acknowledgment" means the same as the acknowledgment required by section 437D-11, HRS.

"Collision damage waiver" means any contract or contractual provision whether separate from or a part of a rental agreement, whereby the lessor agrees, for a charge, to waive any or all claims against the lessee for damages to the rental motor vehicle during the term of the rental agreement.

"Rent or lease" means granting temporary possession and use of a motor vehicle or vehicle to a person for consideration, whether or not the lessor receives monetary income from the granting of temporary possession and use of the motor vehicle or vehicle. Consideration received from the rental or lease of a motor vehicle or vehicle includes but is not limited to any money, promise, act, acknowledgment of liability, forbearance, interest, value, gain, advantage, benefit, payment in return for a waiver of legal rights, or profit offered by one party to another in return for the other party's act or promise.

Example: ABC Cars and Hawaii Hotel combine their services and sell room and car packages to tourists. ABC Cars also agrees to give Hawaii Hotel use of several luxury cars for two days in exchange for the use of a hotel suite for several nights. Cars used for the room and car packages are subject to the surcharge tax. ABC Cars does not receive cash from Hawaii Hotel for the hotel's use of the luxury cars; nevertheless, because ABC Cars receives consideration in the form of the use of a hotel suite in exchange for the hotel's use of the luxury cars, the luxury cars are also subject to the rental motor vehicle surcharge tax.

(b) Motor vehicles or vehicles provided in conjunction with public relations and promotional activities, such as familiarization trips (commonly known as "fam trips") and get-away prize packages, shall be subject to the rental motor vehicle surcharge tax.

Example: ABC Cars participates in a visitor industry project to encourage travel agents to cultivate Hawaii as a vacation destination by providing six cars for a one-week familiarization tour of the islands. All six of the cars are subject to the rental motor vehicle surcharge tax.

Example: In conjunction with a company promotion, DEF Cars (DEF) gives away coupons to its special customers for "free rentals", no rental rate charge for one day. All customers, including those renting a car for one day or less, who use their coupons are asked to sign rental agreements and contract for a collision damage waiver or to sign an acknowledgment. Cars used by customers in this promotion are subject to the rental motor vehicle surcharge tax for each day's rental, including the day for which no rental rate is charged.

Example: GHI Rentals (GHI) has a "frequent GHI driver" program, which gives a free day's rental after a customer has rented a car from GHI five times. After the customer has rented a car from GHI on five occasions, the customer does not pay the rental fee on the next (or sixth) rental. All customers receiving a free rental are asked to sign rental agreements and contract for a collision damage waiver or to sign an acknowledgment. Cars used by customers for the sixth rental period, which are provided without charge, in the GHI frequent driver program are subject to the rental motor vehicle surcharge tax.

(c) "Rent or lease" shall not apply to a motor vehicle or vehicle if a lessor provides a motor vehicle or vehicle to any person without receiving any consideration and the liability for the motor vehicle or vehicle remains solely with the lessor and is not acknowledged, shared by or paid for by the person using the motor vehicle or vehicle. These complimentary motor vehicles or vehicles may include motor vehicles or vehicles furnished to nonprofit charitable or educational corporations, associations, or similar organizations exempt from tax under the federal Internal Revenue Code of 1986, as amended, in conjunction with a charitable or educational project.

Example: Rental Car Company is a sole proprietorship. During the summer, Rental Car Company's owner allows his visiting friends from the mainland to use the rental cars without charge. Rental Car Company does not log the use of the cars on its books, nor are the Rental Car Company's owner's friends required to sign a rental agreement, acknowledge liability, provide insurance or proof of insurance, or sign a collision damage waiver or an acknowledgment. The cars are not rented or leased because neither Rental Car Company nor its owner receive any consideration. The cars, therefore, are not subject to the rental motor vehicle surcharge tax when they are loaned to the owner's friends.

Example: ABC Charities (ABC) approaches XYZ Cars (XYZ) and asks for a contribution from XYZ to support one of its projects. Instead of giving cash, XYZ allows ABC to use one of its cars without paying the rental fee for the length the project. XYZ asks ABC to provide proof of insurance coverage in case there is an accident involving the car during the time ABC is using the car. Thus, while XYZ, as owner of the car, may be liable in the case of an accident, ABC also has acknowledged its liability for any possible damage that may occur while using the car. Accordingly, although ABC is not charged the rental fee, XYZ receives consideration, ABC's acknowledgment of its shared liability for the car while using the car, and the car is subject to the rental motor vehicle surcharge tax.

Example: Hawaii Rent-A-Car Agency allows a private nonprofit organization to use one of Hawaii Rent-A-Car Agency's station wagons for a month for a public service project. The organization does not pay any money to Hawaii Rent-A-Car Agency. Hawaii Rent-A-Car Agency also does not request the organization to acknowledge its liability for possible damage to the station wagon while using it, provide insurance coverage or proof of such coverage, or to sign a collision damage waiver. Accordingly, Hawaii Rent-A-Car Agency has received no consideration and the rental motor vehicle surcharge tax does not apply. [Eff 1/27/92; am 4/8/16] (Auth: HRS §§231-3(9), 251-15(b)) (Imp: HRS §251-1)

SUBCHAPTER 3

DEFINITIONS; TOUR VEHICLE SURCHARGE TAX

HRS §251-1 **§18-251-1-05 "Tour vehicle", defined.** (a) As used in this chapter, "tour vehicle" means any vehicle which:

(1) Falls into the:
  (A) Eight to twenty-five passenger seat category; or
  (B) Over twenty-five passenger seat category; and
(2) Is used for the purpose of:
  (A) Transporting persons for pleasure or sightseeing trips as defined in section 18-251-1-07; or
  (B) Transporting persons to pleasure or sightseeing cruises or destinations as defined in section 18-251-1-08.

Passenger vans, minibuses, buses, and similar terms may be used to designate a "tour vehicle" in the examples set forth in this chapter.

(b) "Tour vehicle" shall not include:
(1) Any vehicle used solely for the purpose of transporting individuals to and from a place of work;
(2) Any vehicle used solely for the purpose of transporting individuals to and from a public or private school; or
(3) Any vehicle used solely for the purpose of transporting individuals with disabilities. [Eff 1/27/92; am 1/2/93] (Auth: HRS §§231-3(9), 251-15(b)) (Imp: HRS §251-1)

HRS §251-1 **§18-251-1-06 "Tour vehicle operator", defined.** (a) "Tour vehicle operator" means a person who owns, manages, operates, or dispatches tour vehicles.

For purposes of the tour vehicle surcharge tax imposed by chapter 251, HRS, a tour vehicle operator shall be deemed synonymous with the person who is, or should be, licensed under chapters 239 or 237, HRS, and required to pay the public service company tax or the general excise tax imposed upon gross income derived from the business of owning, managing, operating, or dispatching tour vehicles.

Example 1: ABC Sightseeing (ABC) conducts bus tours on the islands of Oahu, Maui, Kauai, and Hawaii. ABC is licensed under chapter 239, HRS, and is required to pay the public service company tax. ABC manages and dispatches tour vehicles for sightseeing activities, therefore, ABC is a tour vehicle operator subject to the tour vehicle surcharge tax.

Example 2: Tour Company (Tour) owns a trolley that stops at the various locations on Oahu. Passengers may just ride the trolley or disembark at the destination stops. Passengers do not pay any fare; the cost is paid for by the owners of retail and restaurant businesses in the areas where the

trolley's destination stops are located. The driver doesn't follow a script, but periodically points out places and things of interest along the route. Tour is licensed under chapter 239, HRS, and is required to pay the public service company tax. Tour owns a tour vehicle engaged in transporting persons to pleasure destinations and sightseeing activities; therefore, Tour is a tour vehicle operator subject to the tour vehicle surcharge tax.

Example 3: DEF Diving (DEF) operates a snorkeling and scuba diving school. DEF shuttles its customers to an appropriate diving location for lessons and dive trips. DEF is licensed under chapter 237, HRS, and is required to pay the general excise tax. DEF is not engaged in sightseeing activities. DEF, however, dispatches a tour vehicle engaged in transporting people to a pleasure destination; therefore, DEF is a tour operator subject to the tour vehicle surcharge tax.

(b) "Tour vehicle operator" shall not include wholesalers, tour packagers, and travel agents whose business and service may include arranging the transportation of persons via tour vehicles, unless the wholesaler, tour packager, or travel agent owns, manages, operates, or dispatches tour vehicles. [Eff 1/27/92; am 1/2/93] (Auth: HRS §§231-3(9), 251-15(b)) (Imp: HRS §251-1)

HRS §251-1 **§18-251-1-07 "Pleasure or sightseeing trip", defined.** As used in this chapter, "pleasure or sightseeing trip" means the transporting of passengers over a specified route, regular route, or irregular route, from a designated place or places pointing out places of interest to these passengers along the route, and may include returning the passengers to their points of origin. [Eff 1/27/92; am 1/2/93] (Auth: HRS §§231-3(9), 251-15(b)) (Imp: HRS §251-1)

HRS §251-1 **§18-251-1-08 "Pleasure or sightseeing destination" and "pleasure or sightseeing cruise", defined.** (a) As used in this chapter, "pleasure or sightseeing destination" means a place or places of interest or amusement.

Example: XYZ Snorkeling (XYZ) operates a snorkeling and scuba diving school. XYZ transports its customers to several different diving locations for lessons. The diving locations are places of interest and amusement to the customers; therefore, XYZ is subject to the tour vehicle tax.

Example: Diamond Company (Diamond) provides transportation from resort areas to Diamond's Factory and Gift Shop. Diamond's minibuses pick up shoppers from their hotels, take them to the Factory and Gift Shop, and return the shoppers to their hotels after the tour and shopping trips are finished. The factory and gift shop are places of interest and amusement; therefore, Diamond is subject to the tour vehicle tax.

(b) As used in this chapter, "pleasure or sightseeing cruise" means a voyage on any tidelands, stream, river, ocean, or on any waterway for interest or amusement.

Example: Cruise Company (Cruise) conducts sunrise and sunset ocean cruises from Maui. Passengers may drive directly to the catamaran docks or board the courtesy vans Cruise sends to the hotels. Passengers also may choose to ride Resort Buses (Resort) which routinely stop at the docks prior to the cruise times. The Cruise's courtesy vans and Resort's buses are used to transport persons to a voyage on the ocean; therefore, Cruise and Resort are both subject to the tour vehicle tax. [Eff 1/2/93] (Auth: HRS §§231-3(9), 251-15(b)) (Imp: HRS §251-1)

SUBCHAPTER 4

IMPOSITION OF RENTAL MOTOR VEHICLE SURCHARGE TAX

HRS §251-2 **§18-251-2-01 Surcharge tax on rental motor vehicles or vehicles; imposition and rate.** There is levied on the lessor, and shall be assessed and collected each month, a rental motor vehicle surcharge tax at the rate established in section 251-2, HRS. The rental motor vehicle surcharge tax shall be levied upon the lessor; provided that the tax shall not be levied on the lessor during the period September 1, 1999, to August 31, 2007, if:

(1) The lessor is renting the vehicle to replace a vehicle of the lessee that is being repaired; and
(2) The repair order for the vehicle is retained by the lessor for four years for verification purposes.

Example: ABC Rentals rents a car to Mr. Cruise for four days, from December 30, 2000, to January 2, 2001. The surcharge tax due is $12. [Eff 1/27/92; am 8/12/02] (Auth: HRS §§231-3(9), 251-15(b)) (Imp: HRS §251-2)

HRS §251-2 **§18-251-2-02 Surcharge tax on rental motor vehicles or vehicles; computation of tax.** (a) For purposes of this chapter, "day" means a twenty-four hour period of time, which shall be computed from the time that the motor vehicle or vehicle is rented or leased.

Example: Ms. Visitor rents a car for a day. She picks up her car at 9:00 a.m. on Monday and returns it to the car rental station at 8:59 a.m. on Tuesday. There is a surcharge tax at the rate set forth in section 251-2, HRS, for the one-day rental.

(b) For purposes of this chapter, "any portion of a day" means one minute or more of a twenty-four hour period of time that the motor vehicle or vehicle is rented or leased; provided that the computation of time shall not include any incidental grace period allowed by a lessor. The grace period shall be without any additional rental charge, overtime or service fee, or any other charge or fee or waiver relating to a delayed return of a vehicle.

Example: Mr. Businessman travels from Oahu to Maui for business and rents a car from ABC Rental on Maui from 8:00 a.m. to 12:00 p.m., when Mr. Businessman returns to Oahu. At 1:00 p.m. ABC Rental rents the same car to Ms. Visitor until 8:00 p.m. Assuming ABC Rental is not a car-sharing organization, ABC Rental is subject to the rental motor vehicle surcharge tax, for the daily rate for each portion of a day's rental. In other words, rental motor vehicle surcharge tax is due for two days total rental.

Example: Mr. Tourist travels to Maui and rents a car. He picks up his car at 11:00 a.m. on Friday and returns it to the car rental station at 11:01 a.m. on Monday. The rental car company charges Mr. Tourist the rental rate for three days and one hour. Mr. Tourist has rented the car for three days and a portion of a fourth day; therefore, rental motor vehicle surcharge tax is due for four days total rental.

Example: Ms. Mover is moving to a new house and rents a truck for a day. She picks up the truck at 9:00 a.m. on Wednesday and returns it to the truck rental location at 9:10 a.m. on Thursday. The rental company has a grace period of fifteen minutes and only charges Ms. Mover for one day's rental. Ms. Mover has rented the truck for one day, and rental motor vehicle surcharge tax is due for one day total rental.

(c) The substitution of a motor vehicle or vehicle with another motor vehicle or vehicle shall not incur an additional rental motor vehicle surcharge tax amount for a day or portion of a day if:

(1) The substitution is made on the same rental contract or agreement;
(2) The rental or lease period is uninterrupted, continuous; and
(3) If the rental or lease period is longer than one day, the rental or lease period shall occur over consecutive days.

When there is a substitution of vehicle, the burden is upon the lessor to show that the substitution is proper and not a surcharge tax avoidance scheme and subject to the rental motor vehicle surcharge tax.

Example: Mr. Sales flies to Oahu for a one-day trip. He rents a car at the airport and drives off to his meeting in Kaaawa. Before he gets too far, Mr. Sales realizes that the car is not in very good condition. He decides to return to the airport station and exchange the car for another one in proper working condition. The second car is a substitute for the first car, therefore, the rental motor vehicle surcharge tax is due for one day total rental.

Example: To ease traveling to neighbor islands for its customers, ABC Rentals (ABC) has a "one-stop 7-day islandhopping" special: a customer signs one rental car contract; pays the rental fee for seven days; and may pick up a car from any of ABC's business locations on any island during that time period. Ms. Visitor decides on the special rate. She picks up a car at the airport on Oahu at 8:00 a.m. on Monday; returns the car to the Oahu station at 8:00 a.m. on Tuesday; and flies to Molokai, picking up a car there at 9:00 a.m. At 5:00 p.m., she returns the car to the Molokai station and flies to Maui, picking up a car at 6:00 p.m. Ms. Visitor spends the rest of the week on Maui, returning the car to the Maui station at 7:55 a.m. the next Monday. Ms. Visitor actually used three different cars on Tuesday. The second and third cars she used are substitutes for the first car; thus, the rental motor vehicle surcharge tax is due for seven days' total rental.

(d) The rental motor vehicle surcharge tax due on a motor vehicle or vehicle which is not returned to the lessor or is abandoned by persons renting or leasing the motor vehicle or vehicle shall be calculated on:

(1) The days or portion of days set forth in the rental contract or agreement; or
(2) The days or portion of days for which the person renting or leasing the motor vehicle or vehicle is actually charged if that number of days is greater than set forth in the rental contract or agreement.

Example: ABC Cars rents a car to Jane and John Doe. The rental contract states that the car will be rented from Monday 9:00 a.m. and must be returned by Wednesday 9:00 a.m. Because they are late for their flight back to the mainland, instead of returning the car to the car rental station, the Does leave the car at the airport terminal. The car is towed away by airport security. ABC does not locate the car until the following Monday at 11:00 a.m; thus, the car is gone from the car rental station for a total of eight days. The surcharge tax, however, is only calculated on the two days set forth in the Does' contract.

(e) The status of the person renting or leasing the vehicle shall have no bearing on the imposition of the rental motor vehicle surcharge tax. Motor vehicles or vehicles rented or leased to the following persons are nevertheless subject to the rental motor vehicle surcharge tax:

(1) Persons which are nonprofit charitable or educational corporations, associations, or similar organizations exempt from tax under the federal Internal Revenue Code of 1986, as amended; and

(2) Persons who present cards or certificates stating that the holder is exempted from state sales taxes.

Example: VIP Rentals (VIP), rents a car to a customer who is a staff member of a foreign embassy. The staff member presents a diplomatic card stating: "The bearer of this card shall not be subject to state sales taxes under treaty agreements between the United States and the staff member's country." The waiver from payment of tax stated on the card does not apply here; the incidence of tax falls on the rental agency, not the customer. The rental car agency is not prohibited from passing on the cost of the rental motor vehicle surcharge tax to the customer.

(f) The designation by the lessor of:

(1) The rental or lease period; or

(2) Consideration received from the rental or lease of a motor vehicle or vehicle to a specific time period;

is not controlling and may not necessarily determine the number of days a motor vehicle or vehicle is rented or leased.

Example: DEF Rental Cars (DEF) has a variety of rental fees, depending upon the number of days a customer rents a vehicle. There is an hourly rate, daily rate, weekly rate, and monthly rate. DEF also has a special business rate. If the business traveler rents a car for five weekdays, the business traveler may keep the car over the weekend without an additional rental charge. When DEF rents a car to a customer for a week under the special business rate and the car is kept for seven days, the car is subject to the rental motor vehicle surcharge tax for all seven days. [Eff 1/27/92; am 4/8/16] (Auth: HRS §§231-3(9), 251-15(b)) (Imp: HRS §251-2)

HRS §251-2 **§18-251-2-03 Surcharge tax on rental motor vehicles or vehicles; six-month time period.** (a) If the motor vehicle or vehicle is customarily rented or leased for six months or less, it shall be presumed that the motor vehicle or vehicle is rented or leased and subject to this chapter.

(b) No presumption applies if the motor vehicle or vehicle is rented or leased for a period longer than six months, and the burden of proof remains with the lessor. If the lessor is able to prove to the director's satisfaction that the motor vehicle or vehicle is rented or leased for more than six months, the rental motor vehicle surcharge tax shall not be imposed.

(c) If a lease of more than six months is terminated before one-hundred eighty days have expired, the motor vehicle or vehicle may not be deemed to be subject to the rental motor vehicle surcharge tax.

Example: ABC Leasing Company leases cars for periods of one year or longer. Ms. Rita Renter, who is an out-of-state consultant on a long-term project in Hawaii, leases a car for a one-year term. The project, however, hits a snag two weeks after it gets underway and is postponed to the next year. Since her services are no longer needed, Ms. Renter returns the car to ABC Leasing Company. Although the car actually was rented for less than a full six months, the rental motor vehicle surcharge tax does not apply.

(d) If the department finds that a lessor is continuously entering into leases of longer than six months and the lessees are continuously terminating these leases, the burden is upon the lessor to show that the operation is not a surcharge tax avoidance scheme and subject to the rental motor vehicle surcharge tax.

(e) When a vehicle is rented or leased under separate month-to-month contracts for a period over six months, only an intention to rent the vehicle for one month at a time arises. The rental motor vehicle surcharge tax is imposed in this situation.

If, however, the lessor is able to show that the month-to-month rental or lease contracts conform to all of the following criteria, an intent to rent or lease for more than six months may be found for the lessor and the lessor will not be subject to the rental motor vehicle surcharge tax:

(1) The monthly rental or lease contracts are continuous with less than 24 hours elapsed time between the expiration of one contract and the next monthly contract;

(2) The monthly rental or lease contracts are for consecutive days without any breaks for a continuous rental or lease period totaling more than six months; and

(3) The lessor has written documentation to substantiate the continuous rental or lease of the vehicle for more than six months as provided in paragraphs (1) and (2).

The rental motor vehicle surcharge tax will not be imposed on the lessor for the seventh month and each month thereafter on the rental or lease of the vehicle under month-to-month contracts which conform with all of the criteria set forth above. The rental motor vehicle surcharge tax, nevertheless, is applicable for the preceding six-month period. [Eff 1/27/92; am 8/12/02] (Auth: HRS §§231-3(9), 251-15(b)) (Imp: HRS §251-2)

HRS §251-2 **§18-251-2-04 Surcharge tax on rental motor vehicles or vehicles; adjustments.** The rental motor vehicle surcharge tax is imposed in accordance with sections 18-251-2-02 and 18-251-2-03; provided that the lessor shall not be required to pay the surcharge tax if the entire rental contract is voided and all fees, charges, and consideration in any form are returned to the person renting or leasing the motor vehicle or vehicle.

Example: Cheep Fleet (Cheep) rents a car to Mr. Roe. Mr. Roe takes the car out on Monday at 9:00 a.m. Dissatisfied with the car's performance, at 12:00 p.m. Mr. Roe exchanges the car for another one. At 5:00 p.m., he's back. This time he demands that Cheep return his money. Cheep voids the rental car contract and returns all money collected from Mr. Roe: the rental fee, insurance fee, extra driver fee, and the pass-on of the rental motor vehicle surcharge tax. Cheep does not charge Mr. Roe an administrative service fee for the return of the car. The rental motor vehicle surcharge tax will not be imposed on Cheep for the use of the cars by Mr. Roe. [Eff 1/27/92; am 4/8/16] (Auth: HRS §§231-3(9), 251-15(b)) (Imp: HRS §251-2)

HRS §251-2 **§18-251-2-05 Surcharge tax on rental motor vehicles or vehicles; subject to general excise tax.** (a) The rental motor vehicle surcharge tax imposed on a lessor is included as gross income subject to the general excise tax, chapter 237, HRS, except as provided in subsection (b).

(b) Rental motor vehicle surcharge taxes which are:

(1) Separately stated and visibly passed on; and

(2) Collected from persons renting or leasing vehicles by lessors holding certificates of registration under chapter 251, HRS, and this chapter shall be excluded from gross income subject to the general excise tax.

Example: ABC Rentals (ABC) rents cars to residents and visitors. Every person renting a car is given a rental car agreement which includes a breakdown of charges for the customer. The surcharge tax amount is listed separately in every contract. The surcharge taxes that ABC collects from its customers are not included as gross income for general excise tax purposes.

Example: Cheep Fleet (Cheep) targets the budget traveler and advertises a flat daily rate, "$12, no more, no less" in its flyers. Cheep's rental contracts do not break out any costs and simply lists "Total Due: $12" on the last line. Although a portion of the $12 represents the surcharge tax which must be paid under this chapter, because the surcharge tax is not visibly broken out and shown on the contract, the entire $12 is gross income subject to the general excise tax. [Eff 1/27/92; am 4/8/16] (Auth: HRS §§231-3(9), 251-15(b)) (Imp: HRS §251-2)

SUBCHAPTER 5

IMPOSITION OF TOUR VEHICLE SURCHARGE TAX

HRS §251-2 **§18-251-2-06 Surcharge tax on tour vehicles; imposition and rates.** There is levied on the tour vehicle operator, and assessed and collected each month, a tour vehicle surcharge tax for each tour vehicle used or partially used during the month at the rates set forth in section 251-2(b), HRS.

(1) $65 each month for each tour vehicle that falls into the over twenty-five passenger seat category; and

(2) $15 each month for each tour vehicle that falls into the eight to twenty-five passenger seat category.

Example: ABC Bus Tours (ABC) owns ten buses that fall in the over twenty-five seat category and sells around-the-island tours on Hawaii. ABC also provides "as needed" transportation services

to large groups. In January 1992, ABC conducts tours using five buses; uses one bus to transport one group of visitors that disembarked from a ship in Hilo to a luau and back to the ship; and does not use the remaining four buses, which are serviced that month. The tour vehicle surcharge tax for the month of January 1992 is imposed on six buses.

Example: DEF Sightseeing (DEF) owns ten vans and minibuses with passenger capacities between eight to twenty-five persons. As part of a model transportation project, DEF agrees to use all of its vehicles to transport workers from neighborhood sites to central locations downtown in the morning and to return the workers back to the neighborhood sites in the early evening. The project lasts for one month. DEF also uses four of the vehicles in the evening to regularly transport tourists to places of interest. DEF uses the same vehicles each evening. One evening, however, one of the vehicles breaks down and DEF uses an alternate minibus for an hour. Because five of the vehicles only were used for commuting purposes, these are not subject to the surcharge tax for the month of the project. The surcharge tax is imposed on the other five vehicles — the four that were usually used in the evenings and the additional one used on the night of the breakdown. The total tour vehicle surcharge tax for the month is imposed on five minibuses. [Eff 1/27/92; am 1/2/93; am 4/8/16] (Auth: HRS §§231-3(9), 251-15(b)) (Imp: HRS §251-2)

HRS §251-2 **§18-251-2-07 Surcharge tax on tour vehicles; cost not deductible from public service company tax.** The tour vehicle surcharge tax imposed on a tour vehicle operator is not deductible from gross income subject to the public service company tax, chapter 239, HRS. Eff 1/27/92; am 1/2/93; am 4/8/16] (Auth: HRS §§231-3(9), 251-15(b)) (Imp: HRS §251-2)

SUBCHAPTER 5.1

IMPOSITION OF CAR-SHARING VEHICLE SURCHARGE TAX

HRS §251-2.5 **18-251-2.5-01 Car-sharing vehicle surcharge tax.** (a) For purposes of the car-sharing vehicle surcharge tax:

"Average paid use period" means the total time a lessor's vehicles are rented or leased divided by the total number of rentals entered into. Average paid use period is calculated per taxable period.

"Organization" means any person or company as defined in section 237-1, HRS.

"Paid use period" means the total time a lessor's vehicle is rented or leased and is computed from the time the vehicle is rented or leased until the time the vehicle becomes available for rent or lease to a different customer or becomes unavailable to any customer. "Paid use period" shall not include any complimentary grace period provided by a lessor.

"Taxable period" means the organization's taxable year.

(b) For purposes of determining the total number of rentals entered into by a lessor, a single rental continues until the vehicle rented becomes available to a different customer or becomes unavailable to any customer.

(c) The determination of whether a lessor is a car-sharing organization is made on a per organization basis.

Example: Customer rents a vehicle from Lessor at 10:00 a.m. Customer parks and shops for one hour. During the time Customer is shopping, the vehicle remains available only to Customer and is not available to other customers of Lessor. Customer then returns to the vehicle, drives home to deliver her purchases, and relinquishes the vehicle at 1:00 p.m. the same day, at which time the vehicle becomes available to other customers of Lessor. Lessor has entered into one rental for which the paid use period is three hours. Even if Customer is not charged for the time she is shopping, the rental in this example may not be treated as two separate rentals because the vehicle did not become available to a different customer of Lessor during that time and remained available to Customer.

Example: Customer rents a vehicle from Lessor at 8:00 a.m. and relinquishes the vehicle at 8:00 a.m. the following day. The vehicle becomes available to other customers of Lessor at that time. Customer then decides she needs to use a car again, immediately returns to the same vehicle, rents the vehicle from Lessor at 8:02 a.m., and relinquishes the vehicle at 10:02 a.m. the same day. Because the vehicle became available to other customers between periods of rental, Lessor has entered into two rentals, one with a paid use period of one day and another with a paid use period of two hours.

Example: Customer rents a vehicle from Lessor at 8:00 a.m. The vehicle is faulty and Customer returns the vehicle to Lessor's facility at 8:10 a.m., at which time it is put into the shop for maintenance, repaired and re-enters Lessor's fleet the following day. The paid use period is ten minutes because after ten minutes of rental the vehicle became unavailable to any customer. Example: Customer rents a vehicle from Lessor at 8:00 a.m. and returns the vehicle at 10:00 a.m. the following day. Lessor has entered into one rental for which the paid use period is twenty-six hours. Note that even if Lessor is a car-sharing organization, Lessor is liable for tax for two days at the rate set forth in section 251-2, HRS, because the paid use period is six hours or more.

Example: Lessor rents a vehicle for a two-day period, beginning at 9:00 a.m. Monday and ending 9:00 a.m. Wednesday by which time the vehicle must be returned to lessor. The customer returns the vehicle at 5:00 a.m. Wednesday. The paid use period is forty-eight hours unless Lessor can prove that the vehicle became available to other customers at 5:00 a.m. or became unavailable to any customer at 5:00 a.m. Note that even if Lessor is a car-sharing organization, Lessor is liable for tax for two days at the rate set forth in section 251-2, HRS, because the paid use period is six hours or more.

Example: Customer rents a vehicle from Lessor at 1:00 p.m. Lessor offers a complimentary grace period based on traffic conditions. Customer returns the vehicle at 3:15 p.m. the same day. Per Lessor's terms, Customer's rental qualifies for a complimentary grace period of fifteen minutes. The paid use period for the rental is two hours.

Example: For a taxable period, Lessor enters into seventy-five separate rentals consisting of twenty-five thirty-minute rentals, twenty-five one-hour rentals, and twenty-five twelve-hour rentals. Lessor has rented vehicles for a total of 337.5 hours during the taxable period. The average paid use period is calculated by dividing 337.5 total rental hours by seventy-five total rentals. The average paid use period for the taxable period is 4.5. Lessor satisfies the average paid use period requirement to qualify as a car-sharing organization.

Example: For a taxable period, Lessor enters into two hundred separate rentals consisting of seventy-five thirty-minute rentals, fifty one-hour rentals, forty two-hour rentals, twenty-five twelve-hour rentals, and ten two-day (forty-eight hours each) rentals. Lessor has rented vehicles for a total of 947.5 hours during the taxable period. The average paid use period is calculated by dividing 947.5 total rental hours by two hundred total rentals. The average paid use period is 4.73. Lessor satisfies the average paid use period requirement to qualify as a carsharing organization. [Eff 4/8/16] (Auth: HRS §§231-3(9), 251-15(b)) (Imp: HRS §§251-1, 251- 2.5)

HRS §251-2.5 **§18-251-2.5-02 Car-sharing vehicle surcharge tax; imposition.** (a) The car-sharing vehicle surcharge tax is levied per half-hour or part of a half-hour that a vehicle is rented or leased by a carsharing organization. The car-sharing vehicle surcharge tax is levied at the rate and in the manner set forth in section 251-2, HRS, on all rentals of six hours or more. For purposes of calculating the tax, the time length of rentals shall not include any complimentary grace period provided by a lessor.

Example: CarShare, a car-sharing organization, rents a vehicle for two hours. CarShare is liable for the car-sharing surcharge tax for a total of four half-hours at the rate set forth in section 251- 2.5, HRS.

Example: CarShare rents Vehicle A for two hours and also rents Vehicle B for six hours. CarShare is liable for car-sharing surcharge tax for four half-hours at the rate set forth in section 251-2.5, HRS, for the rental of Vehicle A. CarShare is liable for car-sharing surcharge tax for one day at the rate set forth in section 251-2, HRS, for the rental of Vehicle B because that rental is six hours or longer.

Example: CarShare rents Vehicle C for two hours and rents Vehicle D for twenty-six hours. CarShare is liable for car-sharing surcharge tax for four half-hours at the rate set forth in section 251-2.5, HRS, for the rental of Vehicle C. CarShare is liable for car-sharing surcharge tax for two days at the rate set forth in section 251-2, HRS, for the rental of Vehicle D because that rental is six hours or longer and is for all or part of two days.

Example: Customer rents a vehicle from CarShare at 1:00 p.m. CarShare offers a complimentary grace period based on traffic conditions. Customer returns the vehicle at 7:10 p.m. the same day. Customer's rental qualifies for a complimentary grace period of fifteen minutes and customer is charged for a rental of five hours and fifty-five minutes. The car-sharing organization is liable for car-sharing surcharge tax for twelve half-hours at the rate set forth in section 251-2.5, HRS, because the rental period is not six hours or longer.

Example: Customer rents a vehicle from CarShare at 1:00 p.m. CarShare offers a complimentary grace period based on traffic conditions. Customer returns the vehicle at 7:30 p.m. the same day. Customer's rental qualifies for a complimentary grace period of fifteen minutes and customer is charged for a rental of six hours and fifteen minutes. CarShare is liable for car-sharing surcharge tax for one day at the rate set forth in section 251-2, HRS, because the rental is six hours or longer. [Eff 4/8/16] (Auth: HRS §§231- 3(9), 251-15(b)) (Imp: HRS §§251-1, 251-2.5)

SUBCHAPTER 6

REGISTRATION

HRS §251-3 **§18-251-3-01 Certificate of registration.** (a) For purposes of this chapter, "place of business" means a location in this State at which:

(1) The business of providing rental motor vehicles to the public is conducted; or

(2) The business of engaging or continuing in the tour vehicle operator business is conducted.

"Place of business" does not include tour activity desks, unless the tour activity desk actually conducts the business in paragraph (1) or (2).

(b) Each person, who is engaging or continuing in the business of providing rental motor vehicles to the public or engaging or continuing in the tour vehicle operator business within the State, shall register the name and address of each place of business within the State.

The person shall file an individual, partnership, corporation, or other (two legally unrelated parties) registration. If the business is jointly owned or furnished by a husband and wife, the husband and wife may jointly file one individual registration.

The registration shall include the name and the address of the person and the business' name and address of each place of business subject to this chapter. The person shall pay a one-time fee of $20 to any of the district tax offices where the business is located. Upon receipt of the required payment, the director shall issue a certificate of registration.

Example 1: Rent-a-Car Corporation, engaged in the business of providing rental motor vehicles, owns and operates the business on the island of Oahu. Rent-a-Car Corporation shall register its name and address and the business name (if any) and address of the business with the Oahu taxation district office. Rent-a-Car Corporation shall pay a $20 fee for the registration.

Example 2: The facts are the same as in Example 1, except that Rent-a-Car Corporation also owns and operates the business on the islands of Maui, Hawaii, and Kauai. Rent-a-Car Corporation shall register, by providing its name and address and the business name and address of each place of business, with one of the taxation district offices on Oahu, Maui, Hawaii, or Kauai. Rent-a-Car Corporation shall pay a $20 fee for the registration.

Example 3: Ms. Van is a tour vehicle operator on Kauai and is engaged in the business of transporting persons via tour vehicle. Ms. Van shall register with the Kauai taxation district office by providing her name and address, and the business name (if any) and address of the business. Ms. Van shall pay a $20 fee for the registration.

Example 4: Mr. Cary is a tour vehicle operator on Kauai, Maui, and Oahu and is engaged in the business of transporting persons via tour vehicle. Mr. Cary shall register by providing his name and address, and the names and addresses of the places of business on Kauai, Maui, and Oahu with one of the taxation district offices on Oahu, Maui, or Kauai. Mr. Cary shall pay a fee of $20 for the registration.

(c) The information provided on the registration certificate may be amended and updated as set forth by the department on a form prescribed by the department.

(d) Upon written request by a person, the department shall cancel the person's registration certificate, and the cancellation shall be without any refund of the registration fee paid.

(e) Each person subject to chapter 251, HRS, and this chapter shall register within the time period set forth in this subsection.

(1) Each person providing rental motor vehicles to the public or engaging in the tour operator business prior to January 1, 1992, and intending to continue in either business after December 31, 1991, shall register as required by this section no later than December 31, 1991.

(2) After December 31, 1991, each person subject to this chapter shall register as required by Chapter 251, HRS, and this section prior to commencing the business of providing rental motor vehicles to the public or engaging in the tour vehicle operator business.

(f) Any person who engages or continues in the business of providing rental motor vehicles to the public or in the tour operator business without registering in conformity with this chapter or any officer or director of a corporation who permits, aids, or abets such corporation to engage or continue in business without registering in conformity with this chapter shall be guilty of a misdemeanor and shall be fined not more than $1,000 or imprisoned not more than one year, or both. [Eff 1/27/92] (Auth: HRS §§231-3(9), 251-15(b)) (Imp: HRS §251-3)

HRS §251-3 **§18-251-3-02 Display of the registration certificate.** (a) Each person at all times shall conspicuously display the certificate of registration or a notice as set forth in subsection (b) at each place for which the certificate of registration is issued.

(b) Where the person providing rental motor vehicles to the public or engaging in the tour operator business has more than one place of business, the director shall issue one certificate of registration. The person may post a notice at each place of business notifying the public where the certificate may be inspected.

Example: Hawaii, Inc. provides rental motor vehicles to the public at two places of business located at the Honolulu Airport and in Waikiki. To register, Hawaii, Inc. must list both places of business and pay a $20 fee. A master certificate shall be issued. Hawaii, Inc. is not required to post a copy of the certificate at either place of business but may post a notice at each place of business stating that the business of providing rental motor vehicles to the public has been properly registered and that a true copy of the certificate may be inspected or examined at a place designated in the notice. [Eff 1/27/92; am 4/8/16] (Auth: HRS §§231-3(9), 251-15(b)) (Imp: HRS §251-3)

HRS §251-3 **§18-251-3-03 Nontransferability of certificate of registration.** The certificate of registration shall not be transferable. The certificate shall be valid only for the person in whose name the certificate has been issued and for the transaction of business only at the place or places designated therein; provided that the information underlying the certificate may be amended and updated as allowed by the department in accordance with section 18-251-3-01(c). [Eff 1/27/92] (Auth: HRS §§231-3(9), 251-15(b)) (Imp: HRS §251-3)

HRS §251-3 **§18-251-3-04 Cancellation of registration by person ceasing to do business; change of ownership.** Any person who goes out of business or otherwise ceases to provide rental motor vehicles to the public or engage in the tour operator business for which a certificate of registration is issued or who transfers ownership of its business shall notify the taxation district office in which the person is registered by canceling the registration on a form prescribed by the department not more than ten days after the transfer of ownership or the activity has ceased. [Eff 1/27/92] (Auth: HRS §§231-3(9), 251-15(b)) (Imp: HRS §251-3)

HRS §251-3 **§18-251-3-05 Registration of the acquisition, sale, transfer, assignment, or gift of a business.** (a) Any person who acquires a business providing rental motor vehicles to the public or a tour vehicle operator business or sells, transfers, assigns, or gives away such a business during the taxable year shall notify the taxation district office in which the person is registered by filing a form prescribed by the department not more than ten days after the transaction.

(b) A buyer, transferee, assignee, or recipient of a gift of such a business shall register as set forth in section 18-251-3-01. [Eff 1/27/92] (Auth: HRS §§231-3(9), 251-15(b)) (Imp: HRS §251-3)

HRS §251-3 **§18-251-3-06 Registration upon reorganization; partnership formation.** Any tour vehicle operator business or business providing rental motor vehicles to the public which reorganizes its corporate structure or forms a partnership shall notify the taxation district office in which the person is registered of the change by

canceling the registration on a form prescribed by the department not more than ten days after the reorganization or the formation of the partnership. The person shall file a new certificate of registration as set forth in section 18-251-3-01. [Eff 1/27/92] (Auth: HRS §§231-3(9), 251-15(b)) (Imp: HRS §251-3)

HRS §251-3 **§18-251-3-07 Corporate name change.** Any tour vehicle operator business or business providing rental motor vehicles to the public which changes its corporate name shall notify the taxation district office in which the business is registered of the change not more than ten days after the change of name. Upon notification, the change of name shall be noted in the records of the taxation district office. The Department may issue another certificate of registration with the change of name. [Eff 1/27/92] (Auth: HRS §§231-3(9), 251-15(b)) (Imp: HRS §251-3)

SUBCHAPTER 7

RETURNS AND PAYMENTS

HRS §251-4 **§18-251-4-01 Returns and payments.** (a) On or before the last day of each calendar month, every person taxable under this chapter during the preceding calendar month shall file a sworn tax return for the business activity of the previous month with the director in a form prescribed by the director unless the person has obtained permission to make tax returns and payments on a quarterly or semiannual basis.

(b) The person shall be required to file monthly, quarterly, or semiannual tax returns, and annual tax returns with the department in the same manner and at the same time as the tax returns are filed in accordance with chapter 237, HRS, except as otherwise provided in this chapter.

(c) All required tax returns and payments shall be filed or made with the taxation district office where the business is located and registered or with the first taxation district office, 830 Punchbowl Street, Honolulu, Hawaii 96813. All required tax returns shall indicate the taxation district or districts where the business activity upon which the tax is imposed is situated. A tax return which fails to indicate such taxation district shall be deemed an incomplete return and shall be returned to the taxpayer for proper filing.

(d) At any time, the director may revoke the permission given to file a return and make payments thereon on a quarterly or semiannual basis during the calendar year if:

(1) A person becomes delinquent in the filing of the tax return or the payment of taxes due thereon;

(2) The director determines that the person plans to depart quickly from the State or is disposing of or concealing assets or doing any other act tending to prejudice or jeopardize the proper administration of this chapter, including the assessment or collection of a deficiency. In addition to revoking the permission granted, the director may immediately assess, insofar as not previously assessed, the taxes imposed by this chapter; or

(3) The person's total tax liability for the calendar year exceeds $2,000 for quarterly returns or $1,000 for semiannual returns.

Upon revocation, the person shall file a tax return of the installment of the tax due on or before the last day of the calendar month following the month, quarter, or semiannual period, as the case may be, in which the liability arose and each month thereafter. The person shall transmit the return with a remittance for the amount of the tax, to the appropriate taxation district office in accordance with subsection (c). [Eff 1/27/92] (Auth: HRS §§231-3(9), 251-15(b)) (Imp: HRS §§237-30, 251-4)

§18-251-4-02 REPEALED. [Eff 1/27/92; R 8/12/02]

HRS §251-5 **§18-251-5-01 Remittances.** The provisions of section 237-31, HRS, shall apply. Each remittance of taxes imposed by this chapter shall be made by money, bank draft, check, cashier's check, money order, or certificate of deposit payable to the Hawaii state tax collector. The remittance, together with the tax return, shall be sent to the appropriate taxation district office where the business upon which the tax is imposed is located. If the person operates a business in more than one taxation district, the remittance and the tax return may be sent to the taxation district in which the business is registered or to the first taxation district office. [Eff 1/27/92] (Auth: HRS §§231-3(9), 251-15(b)) (Imp: HRS §§237-30, 251-5)

HRS §251-5 **§18-251-5-02 Penalties.** Penalties shall be in accordance with section 237-32, HRS. Penalties for noncompliance, such as failure to file a return or to pay tax, and interest shall be added to and become a part of the tax, when and as provided by section 231-39, HRS. [Eff 1/27/92] (Auth: HRS §§231-3(9), 251-15(b)) (Imp: HRS §§232-2, 237-30, 251-5)

HRS §251-6 **§18-251-6-01 Annual return.** (a) In addition to the monthly, quarterly, or semiannual return, every person taxable under this chapter shall file an annual tax return on or before the twentieth day of the fourth month following the close of the taxable year with the taxation district office in which the business is located and registered or with the office of the first taxation district in Honolulu. If the person operates a business located in more than one taxation district, the person may file an annual tax return with the taxation district in which the business is registered or with the first taxation district. The annual tax return shall summarize the person's liability under this chapter for the taxable year.

(b) With the approval of the department, persons who keep their books on other than a calendar year basis may file their annual tax returns and pay taxes for the year covering the person's accounting period based upon the person's method of keeping books in the same manner as returns are filed pursuant to chapter 237, HRS.

(c) The tax return shall be signed by the taxpayer, if made by an individual, or by the president, vice-president, secretary, or treasurer of a corporation, if made on behalf of a corporation. If made on behalf of a partnership, firm, society, unincorporated association, group, hui, joint adventure, joint stock company, corporation, trust estate, decedent's estate, trust, trustee in bankruptcy, or other entity, any individual delegated by the entity shall sign the tax return on behalf of the taxpayer. If made on behalf of a husband and wife who jointly own a tour operator business or provide rental motor vehicles to the public, the tax return may be signed by either the husband or the wife. If for any reason, it is not practicable for the individual taxpayer to sign the return, it may be done by any duly authorized agent. For the purposes of this section, duly authorized agent means:

(1) The individual's personal representative or other person charged with the care of the property of the decedent if the individual is deceased; or

(2) The individual's committee, guardian, fiduciary, other person charged with the care of the person or property of the individual, or person holding the individual's power of attorney in a form prescribed by the department if the individual is under a disability, or it is not practicable for the individual to sign the return.

(d) The department may extend the time for making the annual tax return on the application of any taxpayer. The department shall grant reasonable additional time within which to make the return as the department may deem advisable for good cause shown.

(1) The extension shall be granted only if all required monthly, quarterly, or semiannual tax returns have been filed.

(2) In making an application for extension, the person shall file an application for extension on a form in a manner prescribed by the department with the appropriate taxation district office where the business is located or with the office of the first taxation district in Honolulu on or before the due date of the annual tax return specifying the reason for the delay. If the person operates a business located in more than one taxation district, the person may file an application for extension with the taxation district in which the businesses are registered or with the first taxation district. On or before the due date prescribed by statute, there shall be paid through monthly, quarterly, or semiannual tax payments or a payment accompanying the application for an extension an amount equal to the estimated tax due for the taxable year but in any case not less than ninety per cent of the tax for the taxable year. If payment accompanies the application, the amount shall be shown on the application.

(3) The annual tax return with payment of any tax to the extent not already paid shall be filed during the time period specified for the extension.

(4) Each extension shall be granted for a period of not more than three months. In no event shall an extension be given which will extend filing of the return for more than six months from the original due date of the return.

(5) The provisions regarding signatories of the annual return in subsection (c) shall apply to signatories of applications for extension. [Eff 1/27/92] (Auth: HRS §§231-3(9), 251-15(b)) (Imp: HRS §251-6)

HRS §251-6 **§18-251-6-02 Short year return; change of ownership or cessation of business.** (a) The event of change of ownership, complete transfer of motor vehicle rental or tour vehicle activity, going out of business, or otherwise ceasing to engage in the conduct of a tour operator business or providing rental motor vehicles to the public shall close the taxable year.

(b) If there is a change of ownership or complete transfer of the business activity, or if a person goes out of business or otherwise ceases to engage in the activity, the person shall notify the director of the change, transfer, or cessation of business not more than ten days after the change, transfer, or cessation occurs in accordance with section 18-251-3-04.

(c) The person shall file a monthly return on or before the last day of the calendar month following the month in which the change of ownership, transfer of activity, or cessation of business took place.

(d) If the person has been granted permission to make quarterly or semiannual tax returns instead of monthly returns, the person shall file a return of the installment of the tax due for the applicable quarterly or semiannual period on or before the last day of the calendar month following the month in which the change of ownership, transfer of activity, or cessation of business took place.

(e) The person shall prepare and submit an annual tax return summarizing the months of the year engaged in the activity on or before the twentieth day of the fourth month after the change of ownership, transfer of activity, or cessation of business took place.

(f) A person required by this section to file any tax return may apply for an extension as set forth in section 18-251-6-01(d). [Eff 1/27/92] (Auth: HRS §§231-3(9), 251-15(b)) (Imp: HRS §§237-30, 251-6)

HRS §251-7 **§18-251-7-01 Filing of returns.** (a) Except as otherwise provided in section 18-251-6-02, the times for the filing of monthly, quarterly, or semiannual returns are as follows:

(1) For monthly returns, on or before the last day of the calendar month following the month in which taxes accrued. The return shall report the rental motor vehicle surcharge tax from the immediately previous month. In the case of a tour vehicle operator, the return shall report the tour vehicle surcharge tax for each tour vehicle used or partially used during the immediately previous month.

(2) For quarterly returns, on or before the last day of the month after the close of each quarter. For calendar year taxpayers, the quarterly returns shall be due on or before April 30, July 31, October 31, and January 31.

(3) For semiannual returns, on or before the last day of the month after the close of each six-month period. For calendar year taxpayers, the returns shall be due on or before July 31 and January 31.

(b) Payment of taxes shall accompany the return whether the returns are filed monthly, quarterly, or semiannually.

(c) The taxpayer shall obtain all forms for filing returns from the department. [Eff 1/27/92] (Auth: HRS §§231-3(9), 251-15(b), 251-7) (Imp: HRS §§237-30, 251-7)

SUBCHAPTER 8

ASSESSMENTS

HRS §251-8 **§18-251-8-01 Assessment upon failure to make return; limitation period; extension by agreement.** (a) If any person fails to make a return as required by this chapter, the director shall proceed to assess the tax due based upon the best information available and impose any applicable penalty and interest upon the person.

(b) The assessment shall be presumed to be correct until and unless the contrary shall be clearly proven by the person assessed upon an appeal duly taken as provided in section 251-10, HRS. The burden of proof is upon the person assessed to disprove the correctness of the assessment.

(c) Except as otherwise provided by this section, the amount of tax imposed under this chapter shall be assessed or levied within three years after the annual tax return was filed or within three years of the due date prescribed for the filing of the tax return, whichever is later. No proceeding in court without assessment for the collection of any such taxes shall be begun after the expiration of the period.

(1) For tax returns filed before the due date, the limitations period on assessment begins to run as of the last day prescribed for filing. The filing of an amended tax return shall not extend the statute.

(2) The statute of limitations shall begin to run only upon the filing of a tax return which is complete and meets all legal requirements.

(3) The assessment of tax or proceeding for collection without assessment shall not be barred by the statute of limitations and the tax may be assessed or levied at anytime if no annual tax return is filed or if a false or fraudulent tax return is filed with intent to evade tax liability. In the case of a return claimed to be false or fraudulent with intent to evade tax, the claim shall first be determined by the circuit court as provided in section 235-111(b), HRS.

(d) At any time prior to the expiration of the limitations period, the period may be extended by a written agreement in a form prescribed by the department and signed by both the person and a representative of the department.

The period agreed upon may be extended by subsequent written agreements made before the expiration of the period previously agreed upon. [Eff 1/27/92] (Auth: HRS §§231-3(9), 251-15(b)) (Imp: HRS §§235-111, 251-8)

SUBCHAPTERS 9 and 10

(RESERVED)

SUBCHAPTER 11

RECORDS

§18-251-11-01 REPEALED. [Eff 1/27/92; R 8/12/02]

SUBCHAPTERS 12 to 16

(RESERVED)

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