LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR

KURT KAWAFUCHI
DIRECTOR OF TAXATION

MARIE C. LADERTA
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809

PHONE NO: (808) 587-1510
FAX NO: (808) 587-1560

July 29, 2005

DEPARTMENT OF TAXATION ANNOUNCEMENT NO. 2005-07

RE: Act 146, Session Laws of Hawaii 2005, Relating to Public Service Company Tax

On June 22, 2005, the Governor signed S.B. No. 1453, S.D.2, H.D. 1, C.D. 1, into law as Act 146, Session Laws of Hawaii 2005 (Act 146).

Act 146 amends § 239-2, Hawaii Revised Statutes, to expressly include income from the operation of a private sewer company or private sewer facility within the definition of "gross income" that is subject to the public service company ("PSC") tax. The purpose of the Act is to supercede the recent Tax Appeal Court decision, *In the Matter of the Tax Appeal of Director of Taxation, State of Hawaii v. Laie Treatment Works, Inc.*, in the Tax Appeal Court of the State of Hawaii, Case No. 02-0067, which held that the income from a privately-owned sewage treatment plant (a public utility) was not subject to the PSC tax.

Under the amendments made by this Act, income received from the operation of a privately-owned sewer company or privately-owned sewer facility (such as income received from sewer and/or wastewater treatment services) would be subject to the PSC tax (rather than the general excise tax). Thus, the county governments would continue to receive a portion of the PSC tax revenues.[1]

The Act takes effect on July 1, 2005.

[1] Act 64, Session Laws of Hawaii 2001, codified a settlement agreement between the State and county governments. The counties were allowed to receive a portion of the PSC tax revenues as part of their assertion that they lose real property tax revenues when public utilities pay the PSC tax in lieu of real property taxes. Pursuant to Act 64, the PSC tax revenue is divided between the State and the counties, whereby the State receives revenues attributable to 4% (of the 5.885% tax rate) and the counties receive the remaining 1.885% (in excess of the 4% state portion).

Current forms and other tax information are available at the Department's website at: www.state.hi.us/tax. If you know which tax form or publication you need, please call the Department's request line at 808-587-7572, or toll-free from the neighbor islands and continental U.S. at 1-800-222-7572. This service is available 24 hours a day, 7 days a week.



KURT KAWAFUCHI
Director of Taxation

HRS Section Explained: HRS section 239-2