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DEPARTMENT OF TAXATION ANNOUNCEMENT NO. 2005-17

RE: Adoption of Amendments to Hawaii Administrative Rules Sections 18-237D-1 through 18-237D-12, Relating to the Transient Accommodations Tax

The Department of Taxation (Department) is pleased to announce the adoption of amendments to Section 18-237D-1 through 12, Hawaii Administrative Rules (HAR) which became effective on June 3, 2005.

Highlights of New Rules

- §18-237D-1-02—This new section clarifies the application of the TAT to rental of time share intervals by adding a definition of "fair market rental value" and providing examples drawn in part from Tax Facts 98-4.

- §18-237D-1-03—Renumbers the previous §18-237D-1-02 and amends this section to include an exclusion for forfeited deposits and business interruption insurance proceeds (drawn from Tax Information Release (TIR) No. 92-7), and update examples to reflect the 7.25% tax rate.

- §18-237D-1-04—This new section adds a definition of "occupant" and provides examples illustrating the definition.

- §18-237D-1-06—Renumbers the previous §18-237D-1-04 and adds examples relating to the application of the TAT to temporary dwellings resulting from natural disasters.

- §18-237D-1-07—Renumbers the previous §18-237D-1-05 and amends this section to clarify the application of the TAT on time share occupants and adds examples drawn from TIR No. 98-4 which explain the application of the TAT to income received pursuant to a long-term rental agreement by a contracting party for use by its employees.

- §18-237D-2-01—Amends the section to add references to the 7.25% tax rate and to the taxation of time share occupancy.

- §18-237D-3-01—Adds an example illustrating the TAT exemption for military personnel seeking permanent living accommodations (drawn from TIR No. 98-4), and clarifies the exemption for accommodations furnished to students during summer employment. The section is further amended to clarify the TAT exemption for diplomats and consular officials having valid tax-exempt cards issued by the Department of State and clarifies that there is no exemption from the TAT to an operator renting to non-military employees of the federal government or for state government employees.

- §18-237D-4-01, §18-237D-4-02, §18-237D-4-03, §18-237D-4-04, §18-237D-6-01. §18-237D-6-02, §18-237D-7-01, §18-237D-7-02, §18-237D-8-01, and.§18-237D-9-01 —Amendments to these sections extend the requirements of that section to time share plan managers and resort time share vacation plans.

- §18-237D-12-01—Amendments to this section require time share plan managers to keep records of fair market rental value.

The TAT rules had not been amended since July 18, 1994. These amendments update the TAT rules to reflect the subsequent statutory amendments and administrative guidelines issued by the Department and will assist the public in proper application of the TAT, easing the burden of administration and compliance.

Current forms and other tax information may be downloaded from 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.



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HAR Sections Explained: HAR Sections 18-237D-1 through 18-237D-12