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September 8, 2006

DEPARTMENT OF TAXATION ANNOUNCEMENT 2006-15

RE: General Excise Tax (GET) and County Surcharge Tax (CST) Visibly Passed on to Customers

Beginning January 1, 2007, as a result of the City & County of Honolulu's decision to enact a surcharge on the GET described in Section 237-8.6, Hawaii Revised Statutes, the total rate of tax assessed on transactions subject to the surcharge and GET is 4.5% of the transaction's gross proceeds. This Announcement supplements Tax Facts 96-1, where relevant, ONLY as a discussion of the new amount that sellers may visibly pass on to customers in transactions subject to the CST. Other announcements will be released within the coming months regarding other aspects of the CST law.

The GET is levied on the gross receipts of a business. On the customer's bill, however, the tax is expressed as a percent of the price. Because gross receipts are defined to include any tax that the business passes on to the customer, the tax rate expressed as a percent of the price is greater than the statutory tax rate on gross receipts. With the county surcharge tax, the new statutory tax rate on gross receipts for sales on Oahu is 4.5%.

The 4.5% tax on gross receipts translates into a maximum visible pass on tax rate of 4.712% when expressed as a percent of the price and limited to six decimal places. Gross Receipts consist of two parts; (1) Tax = 4.5% of Gross Receipts, and (2) Price = 95.5% of Gross Receipts. The tax as a percent of the price is 4.5% divided by 95.5% = 0.047120 or 4.712%.

A seller is prohibited, as a matter of consumer protection law, from visibly collecting more than the amount actually owed. With the addition of the CST, a seller may pass on the following amounts:

(1) **Nothing**—The seller may choose not to pass on their GET expense to customers; or

(2) **4.5%**— The seller may choose to pass on to customers 4.5% of the cost to cover their GET and CST expense; or

(3) **4.712%**—The seller may choose to pass on to customers 4.712% of the cost to cover the optimum amount of GET and CST expense.

EXAMPLE — In a transaction where the revenue is $1,000 and the GET/CST pass on rate is 4.712 % (0.04712), $47.12 is the amount passed on to the customer. $1,047.12 is then the amount of gross revenue subject to the GET and CST on Oahu. At the 4% state tax rate (0.04), $41.88 is paid to

the state on $1,047.12. At the 0.5% county surcharge tax rate (0.005), $5.24 is paid to Honolulu County on $1,047.12. The total of the taxes owed to the state and county is $47.12 and equals to the amount of tax that was passed on to the customer. Thus, 4.712% is the optimum maximum rate that may be passed on to customers.

For a more detailed discussion on the GET, including the reasons why a seller cannot pass on greater tax than owed, please see Tax Facts 96-1.

For more information on this Announcement, please contact the Rules Office at 808-587-1577.

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