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DEPARTMENT OF TAXATION ANNOUNCEMENT NO. 2011-27

RE: Division of Income and Information Reporting Under Act 105, Session Laws of Hawaii 2011

Act 105, Session Laws of Hawaii 2011, requires the Department of Taxation ("Department") to gather information from all taxpayers who have exemptions or deductions from the general excise and use tax, in order to provide comprehensive information for determining the impact of Act 105 on businesses. See Department of Taxation Announcement No. 2011-26. Act 105 temporarily suspends certain general excise tax and use tax exemptions for the period from July 1, 2011 through June 30, 2013. The suspension means that the transactions will no longer be exempt from the general excise tax or use tax. See Department of Taxation Announcement No. 2011-09. Reporting on an exemption or deduction is required even though the exemption or deduction has not been suspended by Act 105.

Sections 237-18(a), (b), (e), (f), (g) and (h) of the Hawaii Revised Statutes ("HRS") provide that certain persons engaged in:

1. the operation of coin operated devices;
2. producing an event or spectacle and/or promoting a staged event;
3. the sale of insurance or real estate;
4. the sale of tour packages; or
5. furnishing transportation of passengers or property through arrangements between motor carriers

that split commissions or gross proceeds with others, will only be subject to tax on the portion of the commissions or proceeds that are retained by that person.[1] For Form G-45, "Periodic General Excise/Use Tax Return," and Form G-49, "Annual Return & Reconciliation of General Excise/Use Tax," the instructions provide that the amount of commissions or proceeds that are not subject to tax under section 237-18(a), (b), (e), (f), (g) and (h) are not reported because these amounts are not the gross income of the taxpayer. See page 21 of General Instructions for Filing General Excise/Use Tax Return. However, some taxpayers have chosen to report these amounts as their gross income and report the amount paid to the other party as an exemption or deduction.

On the current Schedule GE-1," Survey of General Excise/Use Tax Exemptions and Deductions," HRS sections 237-18(a), (b), (e), (f), (g) and (h), are not listed as an exemption or

[1] Sections 237-18(a), (b), (e). (f), (g) and (h) were not suspended by Act 105.

deduction. Taxpayers who only report amounts not subject to tax under section 237-18(a), (b), (e), (f), (g) or (h), as an exemption or deduction on their Form G-45 and Form G-49, have inquired whether Schedule GE-1 should be filed and if so, how Schedule GE-1 should be completed. These taxpayers are not required to file Schedule GE-1 because sections 237-18(a), (b), (e), (f), (g) and (h) are divisions of income, not exemptions or deductions. If any taxpayers already filed Schedule GE-1 and reported amounts under sections 237-18(a), (b), (e), (f), (g) or (h), as an exemption or deduction, there is no need to amend Schedule GE-1.

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



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