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September 27, 2018

DEPARTMENT OF TAXATION ANNOUNCEMENT NO. 2018-14

RE: Kauai County Surcharge on General Excise Tax and Rate of Tax Visibly Passed on to Customers, Effective January 1, 2019

On December 11, 2017, Ordinance No. 1021 was enacted in Kauai County. Ordinance No. 1021 authorizes the imposition of a county surcharge (CS) on general excise tax (GET) for Kauai County beginning on January 1, 2019 and ending on December 31, 2030 at the rate of 0.5%. Since the retail GET rate is 4%, the total rate of tax imposed on transactions subject to the Kauai CS is 4.5%.

As a general rule, the CS only applies to transactions where the retail rate of 4% applies; the CS does not apply to wholesale sales or insurance commission where the GET rates are 0.5% and 0.15% respectively. For guidance regarding the sourcing of income between counties, please see Hawaii Administrative Rules sections 18-237-8.6-01 to 10.

Rate of Tax Visibly Passed on to Customers

GET is levied on the gross receipts of a business, including amounts that are passed on and collected as GET from customers. To account for this imposition, the maximum rate that may be passed on to customers is higher than the statutory rate of 4.5% (4% GET + 0.5% Kauai CS). However, a seller is prohibited by consumer protection law from visibly collecting more than the amount actually owed.

The maximum rate that may be visibly passed on in Kauai County is 4.712%. This pass on rate is limited to six decimal places and is calculated as follows. When the taxes are visibly passed on the gross receipts consist of the price and tax. The price represents 95.5% of the gross receipts and the tax represents 4.5% of the gross receipts. The tax stated as a percent of the price is 0.047120 or 4.712% (4.5% divided by 95.5%).

It is important to note that the 4.712% rate is the maximum rate of tax that may be visibly passed on. Sellers may also pass on the tax at the statutory rate of 4.5% or may elect not to visibly pass on the tax at all.

The following example illustrates why the maximum visible pass on rate is greater than the statutory rate. Assume that the purchase price is $1,000, that the pass on rate is 4.5%, and the

amount collected as tax is $45.00. The GET due is $41.80 ($1,045.00 x 4%) and the Kauai CS due is $5.22 ($1045.00 x 0.5%) for a total of $47.02 due. The amount visibly passed on as taxes was $2.02 less than was due on the transaction. If the taxes were passed on at the maximum rate of 4.712%, $47.12 would have been collected as tax on the transaction. The GET due would have been $41.89 ($1,047.12 x 4%) and the Kauai CS due would have been $5.23 ($1,047.12 x 0.5%) for a total of $47.12 due.

For general information about GET, see Tax Facts 37-1. If you have any questions regarding this Announcement, please contact the Technical Section by email at tax.technical.section@hawaii.gov or by phone at (808) 587-1577.

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