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DEPARTMENT OF TAXATION ANNOUNCEMENT NO. 2019-05

Re: Anticipated Rental Motor Vehicle Surcharge Tax rate change to $5/day, effective July 1, 2019

This Announcement provides advanced guidance on the imposition of the new rental motor vehicle surcharge tax rate proposed by Senate Bill 162, S.D. 2, H.D. 3, C.D. 1 (S.B. 162), which the Department of Taxation (Department) anticipates Governor David Y. Ige to sign into law on July 1, 2019. S.B. 162 amends section 251-12(a), Hawaii Revised Statutes, to **increase the rental motor vehicle surcharge tax (RVST) from $3 to $5 per day**. This Announcement is being issued to provide time for rental motor vehicle lessors to prepare for the imposition of the new tax rate before it becomes law.

Background

The RVST is imposed on all lessors of rental motor vehicles and is measured by a per day rate of $3. Lessors of rental motor vehicles are permitted to collect the RVST from their customers.

Act 215, Session Laws of Hawaii 2018 (Act 215), which became effective on January 1, 2019, imposed an additional $2 per day RVST on all rentals to lessees without valid Hawaii driver's licenses. After consultation with the Department of the Attorney General, the Department determined that the additional tax on rentals to lessees without valid Hawaii driver's licenses was likely unconstitutional under the Dormant Commerce Clause of the United States Constitution, which generally prohibits state discrimination against interstate commerce.

S.B. 162 corrects this constitutional issue by repealing the additional RVST on rentals to lessees without valid Hawaii driver's licenses, leaving a uniform general rate applicable to all rentals. S.B. 162 also increases the general rate applicable to all rentals from $3 per day to $5 per day. S.B. 162 is effective upon approval.

Taxpayers that filed and paid the tax at the $5 per day rate must amend their returns so that all motor vehicle rental rentals are moved from the $5 per day rate in Column D to the $3 per day rate in Column E of Form RV-2 (Rev. 2018). The Department will not issue refunds unless the returns are amended.

How to File

The RVST may be filed and paid using Hawaii Tax Online (HTO), the Department's online filing system, which may be accessed at https://hitax.hawaii.gov. Forms RV-2 and RV-3 (Rev. 2019) will be updated on HTO on July 3, 2019.

Downloadable Forms RV-2 (Rev. 2019) and RV-3 (Rev. 2019) will be made available on July 1, 2019 on the Department's website at http://tax.hawaii.gov.

For more information or questions about how to file the updated forms, please contact the Technical Section at (808) 587-1577 or by email at Tax.Technical.Section@hawaii.gov.

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