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June 22, 2023

DEPARTMENT OF TAXATION ANNOUNCEMENT NO. 2023-02 (AMENDED)

RE: Act 62, Session Laws of Hawaii 2023, Relating to Health;
Tobacco Products and Electronic Smoking Devices

On June 6, 2023, S.B. 975, S.D. 2, H.D. 3, C.D. 1, was signed into law by Governor Josh Green, M.D. and became Act 62, Session Laws of Hawaii 2023 (Act 62). Act 62 amends chapter 245, Hawaii Revised Statutes (HRS), relating to the cigarette and tobacco tax, and is effective on **July 1, 2023**.

Definition Additions and Amendments

Act 62 adds new definitions to section 245-1, HRS, for the terms "e-liquid" and "electronic smoking device" and amends the definition of "tobacco products" to include "electronic smoking device" and "e-liquid."

Imposition of Tax on Electronic Smoking Devices and E-Liquid

Act 62 also imposes an excise tax of 70 percent of the wholesale price of each electronic smoking device or e-liquid sold, used, or possessed by a wholesaler or dealer, beginning on **January 1, 2024**. This is the same rate as the excise tax imposed on non-cigarette and cigar tobacco products such as snuff, chewing tobacco, smokeless tobacco, and smoking/pipe tobacco.

Cigarette and Tobacco License Fee Change

Section 245-2, HRS, makes it unlawful for a person to engage in the business of a wholesaler or dealer of cigarettes or tobacco products in the State without having first received a license issued by the Department of Taxation. Cigarette and tobacco licenses are valid from July 1 through June 30 of the following year. Licenses must therefore be renewed annually by July 1 for the twelve months ending the succeeding June 30.

Act 62 amends the licensing fee for wholesalers and dealers of cigarettes and tobacco products from the current rate of $2.50 to a rate of $250 annually. Effective July 1, 2023, all wholesalers and dealers of cigarettes or tobacco products, including electronic smoking devices and e-liquids, must obtain a cigarette and tobacco license from the Department of Taxation. Application for new licenses and renewal of existing licenses may be completed online at https://hitax.hawaii.gov. To apply for a new license, select Register New Business License on

the homepage and complete the BB-1 Business Application.

Retail Tobacco Permit Fee and Designation Changes

Section 245-2.5, HRS, requires that every retailer engaged in the retail sale of cigarettes and other tobacco products, upon which cigarette and tobacco taxes are required to be paid, shall obtain a retail tobacco permit. Thus, with the term "tobacco products" being amended to include electronic smoking devices and e-liquids, and with the imposition of the new excise tax upon electronic smoking devices and e-liquids beginning on January 1, 2024, all retailers of electronic smoking devices and e-liquids must obtain a retail tobacco permit by January 1, 2024.

The retail tobacco permits are valid for a term of one year, from December 1 through November 30 of the following year. Retailers must obtain a permit for each place of business owned, controlled, or operated by the retailer.

Act 62 also includes a new requirement that all retailers applying for or renewing a permit must designate whether each place of business sells electronic smoking devices, e-liquids, or both. In addition to this new requirement, Act 62 increases the permit fee from the current amount of $20 annually to $50 annually.

Beginning in October, the Department will send out renewal notices to retailers with existing permits to remind them to renew their permits by December 1, 2023. Existing permit holders will renew their permit in the same manner as in prior years, with the only differences being: 1) the new designation requirement (specifying whether each place of business sells electronic smoking devices, e-liquids, or both), and 2) the newly increased annual fee charged for the permit.

Retailers that sell only electronic smoking devices or e-liquids (or both) must obtain a retail tobacco permit by January 1, 2024, when the new excise tax on these products takes effect.

Beginning October 1, 2023, applications for new retail tobacco permits and renewals of retail tobacco permits for the period dating from December 1, 2023, through November 30, 2024, may be submitted to the Department. Retailers are encouraged to apply as early as possible after October 1, 2023, and to not wait until the last minute.

Application or renewal of retail tobacco permits may be completed online at https://hitax.hawaii.gov. If you have additional questions, please contact the Department's Technical Section at Tax.Technical.Section@hawaii.gov.

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