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DEPARTMENT OF TAXATION ANNOUNCEMENT NO. 2017-10

RE: Tax Law Changes from the 2017 Special Legislative Session

This Announcement summarizes the tax provisions in Act 1 (Senate Bill 4), enacted as part of the State of Hawaii's 2017 Special Legislative Session.

Act 1, effective September 5, 2017, authorizes the extension of the City and County of Honolulu surcharge on state general excise and use taxes at the 0.5% rate, authorizes other counties to adopt ordinances establishing a county surcharge at a rate of no more than 0.5%, and increases the transient accommodations tax (TAT) by 1% from 9.25% to 10.25% from January 1, 2018 to December 31, 2030.

General Excise and Use Tax

Act 1 authorizes the City and County of Honolulu to extend the sunset of its county surcharge from January 1, 2027 to December 31, 2030 at the 0.5% rate. The extension must be established by ordinance adopted before January 1, 2018.

Act 1 also authorizes the other counties to establish a county surcharge, which may be levied from January 1, 2019 to December 31, 2030 at a rate of no more than 0.5%. A new county surcharge must be established by ordinance adopted before March 31, 2018.

Additionally, Act 1 reduces the amount deducted from the revenues generated by the county surcharges from 10% to 1% to reimburse the State for assessment, collection, disposition and oversight.

Transient Accommodations Tax

Act 1 increases the TAT rate by 1% from 9.25% to 10.25% on the: (1) furnishing of transient accommodations and (2) use of resort time share vacation units, from January 1, 2018 to December 30, 2030.

The TAT is levied upon: (1) every operator on the gross rental or gross rental proceeds derived from furnishing transient accommodations and (2) every occupant of a resort time share vacation unit on the fair market rental value of the time share unit.

Determining the proper TAT rate on gross rental or gross rental proceeds derived from furnishing transient accommodations depends on the accounting the method of the taxpayer and when the gross rental or gross rental proceeds are actually or constructively received.

Under the cash basis accounting method, gross rental or gross rental proceeds derived from transient accommodations will be subject to the 9.25% TAT rate if payments are actually or constructively received before January 1, 2018. However, gross rental or gross rental proceeds will be subject to the 10.25% TAT rate if payments are actually or constructively received on or after January 1, 2018.

Under the accrual basis accounting method, gross rental or gross rental proceeds from transient accommodations will be subject to the 9.25% TAT rate if the right to receive such income is fixed under the all events test before January 1, 2018, but will be subject to the 10.25% TAT rate if the right to receive such income is fixed under the all events test on or after January 1, 2018. All events that fix the right to receive income occur when: (1) the required performance takes place, (2) payment is due, or (3) payment is made, whichever happens first.

The taxpayer's accounting method governs when gross rental or gross rental proceeds will be taxable. Accordingly, any income taken into account under the taxpayer's method of accounting after January 1, 2018 will be subject to the 10.25% TAT rate. The same analysis applies to the fair market rental value of resort time share vacation units.

Tax form books will not be re-issued. New Forms TA-1 and TA-2 will be available January 2, 2018 at the Department's website at tax.hawaii.gov or the e-filing site at hitax.hawaii.gov. If you would like to request forms to be mailed, please call the Department's Customer Call Center at 587-4242 or toll-free at 1-800-222-3229.

For more information, please contact the Rules Office at 808-587-1530 or by email at Tax.Rules.Office@hawaii.gov.

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