



What's New In Hawaii Tax Matters -- January 2016 Edition -- More Hawaii Vacation Rental Tax Compliance Enforcement

Last year (January 2015,) I described the tightening of rules against and targeting of “illegal” vacation rentals as my #1 prediction for tax compliance efforts by Hawaii’s authorities.

Six months later, Act 204 was signed into law. Act 204 imposes significant new advertising and posting rules for vacation rental properties. For more on Act 204, see “[Hawaii Vacation Rental Update: New Advertising And Posting Requirements for Hawaii Vacation Rentals.](#)”

Tax compliance for vacation rental properties looks to be a major focus, again, for Hawaii’s tax authorities in 2016. Three reasons:

1. The Department of Taxation is drafting rules to support enforcement of Act 204.

Getting enforcement started on Act 204 could take at least several months. Once begun, assessing substantial fines and referring non-compliant owners and operators for audit should be streamlined and could produce significant revenue for the enforcement unit and, eventually, Hawaii’s general fund.

A spot check of a major internet listing site for Hawaii vacation rentals suggests that compliance with Act 204 is less than uniform.

2. The Governor of Hawaii is seeking five additional positions within the Criminal Investigation Section of the Department of Taxation. [2017 Supplemental Budget](#), p 1149.

If authorized and hired, more investigators and investigative support staff could increase the pace of criminal investigations and prosecutions.

Criminal prosecutions have been in the single digits since 2011-2013. For example, fiscal 2014-2015 appears to have six criminal matters initiated with an asserted tax loss of \$83,502. See, [Annual Report 2014-2015](#), p 70, (12/30/15.)

According to the Director of the Department of Taxation, State CIS will have an emphasis on tax offenses relating to income from “illegal activities” such as “narcotics trafficking, gambling, prostitution, and other financial fraud.” See, [Annual Report 2014-2015](#), p 71, (12/30/15.)

Act 204, which relates to advertising and posting for vacation rental properties, does not preclude referral for criminal investigation. The comments of the Director are interesting. My prediction, however, is that 2016 will see some criminal investigations initiated against operators of high revenue, multiple, and/or non-resort district units (such as single family units) who do not have tax licenses and have not filed all required returns.

3. The City & County of Honolulu is [reportedly](#) hiring five new investigators for a special unit to investigate housing and zoning code violations by “illegal” vacation rentals.

Many vacation rentals are operated outside of resort districts and are not compliant with county zoning rules. While county investigations are not necessarily quick or conclusive, county investigations can lead to referrals to the Department of Taxation for examination.

Conclusion

Operators not in compliance, or total compliance, with Hawaii’s tax laws and zoning rule may be in for a difficult year.

Operators that do not comply with Act 204 may be easily identified and find themselves facing serious civil penalties before referral for audit or, potentially, criminal investigation.

Compliance with Act 204 puts operators in partial compliance with tax and/or zoning rules into a position where they can readily be identified by tax or county investigators.

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