

INSTRUCTIONS FOR FORM M-6GS

(NOTE: References to “married” and “spouse” are also references to “in a civil union” and “civil union partner,” respectively.)

GENERAL INSTRUCTIONS

NOTE: The Hawaii Estate and Generation-Skipping Transfer Tax Law conforms to the Internal Revenue Code (IRC), with the exception of the excludable amount of \$5,490,000. The exclusion amount of \$5,490,000 is set forth for the decedent in chapter 11 of the IRC as amended as of December 21, 2017, as if the decedent died on December 31, 2017.

NOTE: For transfers before January 26, 2012, use Form M-6GS (Rev. 2010)

NOTE: References to the federal Generation Skipping Transfer Tax means the tax as determined under federal law as it read on December 31 of the year prior to the year that the transfer being reported was made.

Purpose of Form — Section 236E-17, Hawaii Revised Statutes, provides for a state GST tax. The tax is imposed on all generation-skipping transfers of property in Hawaii or property from a resident trust. The tax is due on a GST (other than a direct skip) that occurs at the same time as, or as a result of, the death of an individual. Property subject to Hawaii GST tax includes all real and personal property subject to the federal GST tax.

A credit is allowed for GST taxes paid to another state. A GST is exempt from Hawaii's GST tax if the GST is exempt from the GST tax imposed by another state. The exemption must specifically reference Hawaii, or must contain a reciprocal provision under which the transfers would otherwise be subject to the jurisdiction of that state. The amount of the tax due is credited with the lesser of (1) the amount of the tax paid to the other state; or (2) an amount computed by multiplying the Hawaii GST tax by a fraction, the numerator of which is the taxable transfer subject to the GST tax paid to the other state, and the denominator of which is the total amount of the taxable transfers subject to the federal GST tax.

Who Must File — The Form M-6GS is filed by the person(s) responsible, or who would be responsible, for filing the federal GST tax return.

When to File — Form M-6GS must be filed by April 15th of the year following the calendar year of the decedent's death. An automatic six-month extension to file the return will be granted if an extension has been granted by the Internal Revenue Service (IRS). If the date for filing Form 706-GS(D) or Form 706-GS(T) has been extended by the IRS, Form M-6GS will be due on the date that is specified by the IRS. An IRS-approved copy of federal Form 7004 must be submitted with Form M-6GS. If a request for extension has been denied by the IRS, there will be no penalty assessed if Form M-6GS is filed within the time specified by the IRS. Attach a copy of federal Form 7004 showing the date on which the return may be filed without penalty.

If you are not required to file the federal GST tax return, you must file Form M-68 for an automatic six-month extension. An automatic extension of time for filing a return shall be allowed only upon the following two conditions: (1) on or before the due date of the return prescribed by the statute, there shall have been paid, through a payment accompanying the application for the extension, an amount equal to the estimated GST tax pay-

able; and (2) within the time specified by the automatic extension, the return shall be filed, accompanied by payment of the remaining tax liability. If these conditions are not met, the delinquent penalty and interest will be charged on the tax as if no extension had been granted.

An extension of time to file is not an extension of time to pay the tax. Any request for an extension of time to file Form M-6GS must be accompanied by payment of the tax. Interest will be owed on any additional amount of tax over the amount paid with the extension to file.

Where to File — The completed return is mailed to the Hawaii Department of Taxation, P. O. Box 259, Honolulu, HI 96809-0259.

Payment of Tax — Due date of payment is the same as time for filing. However, any tax due but not paid by the due date will incur interest from the due date, regardless of any extension of time to file the return. For taxable distributions, the GST tax is paid by the transferee; in the case of a taxable termination or a direct skip from a trust, the tax is paid by the trustee. For a direct skip other than a direct skip from a trust, the transferor is liable for paying the tax.

Amount Paid with Extension — Persons who will be filing Form M-6GS after the filing deadline (April 15th after the year of the decedent's death) because they have an extension, must make a tax payment prior to filing Form M-6GS by submitting a copy of the extension filed with the IRS and payment for the taxes due. Include this amount on line 17.

Federal Form Requirement — A complete true copy of the appropriate federal Generation-Skipping Tax Return Form 706-GS(D) (Rev. June 2019) or Form 706-GS(T) (Rev. November 2013) must be filed with this return. Complete federal Form 706-GS(D) (Rev. June 2019) through line 7, or federal Form 706-GS(T) (Rev. November 2013) through line 10. The federal GST tax is to be determined under federal law as it read on December 31 of the year prior to the year that the transfer being reported was made.

Amended Return — An amended return must be filed for any changes to Form M-6GS. Check the box at the top of page 1 to indicate that it is an amended return. Complete Form M-6GS with all of the corrected information and attach Schedule AMD, Explanation of Changes on Amended Return, to the return. Also, attach all schedules, forms, and attachments required to file a complete return. Attach any federal Form 706-GS(D) (Rev. June 2019) or 706-GS(T) (Rev. November 2013) schedules affected by the corrections or changes.

An amended return must be filed anytime Form M-6GS needs an adjustment. In the case of property located in states other than Hawaii, an amended Form M-6GS must be filed when the tax paid to other states changes. Interest and/or penalties paid to other states for delinquent tax payments cannot be included on line 11.

Penalty and Interest —

(a) *Penalty* for failure to file is equal to 5% of the tax due for each month or part of a month that the report is delinquent, up to a maximum of 25% of the tax payable.

(b) *Penalty* for failure to pay after filing timely report is 20% of the tax unpaid within 60 days of the prescribed due date.

(c) *Interest* at the rate of 2/3 of 1% per month or part of a month shall be assessed on unpaid taxes and penalties after the due date (nine months after the date of the decedent's death), whether or not that first calendar day falls on a Saturday, Sunday, or legal holiday.

SPECIFIC INSTRUCTIONS

Name — Enter the name of the skip person distributee or the trust.

Social Security Number — For skip person distributees who are individuals, enter the distributee's social security number, otherwise leave blank.

Federal Employer Identification Number (FEIN) — Enter the FEIN of the trust distributee or trust.

Name and Title of Person Filing Return — If the skip person distributee is a trust, enter the trustee's name. If the skip person distributee is a minor or is under some disability that precludes the individual from filing the return, enter the name of the person who is legally responsible for conducting the affairs of the distributee, such as a parent or guardian, also, include the title or relationship to the distributee.

Address — Enter the mailing address of the person filing the return.

Type of Federal Return Filed — Check the appropriate box. Be sure to attach a complete true copy of the appropriate federal return to Form M-6GS.

Complete lines 7 through 11 ONLY if there is property located in states other than Hawaii.

Line 7 — Enter the appropriate taxable amount:

A. *Resident*, enter the taxable amount of the transferred or distributed property located outside of Hawaii subject to the GST tax imposed by another state(s) (includes intangible and tangible property with a situs outside Hawaii).

B. *Nonresident*, enter the taxable amount of the transferred or distributed property less the value of any interest in Hawaii real and tangible personal property located in Hawaii subject to the GST tax imposed by another state(s). Include the amount of intangible property with a business situs in Hawaii. (Identify Hawaii property on federal Form 706-GS(D) or 706-GS(T)).

Line 8 — Enter the total amount of taxable transfers subject to the federal GST tax.

Line 11 — Enter the total of all GST taxes actually paid to any state other than Hawaii in respect of any property subject to the GST tax.

Line 12 — Compare lines 10 and 11 and enter the lesser amount. This is the allowable credit for GST taxes paid to another state(s).

Line 17 — Attach an approved copy of federal Form 7004.

Line 19 — Pay the amount shown. Attach a check or money order payable to “Hawaii State Tax Collector”; pay in U.S. dollars drawn on any U.S. bank. Do not send cash.