

In the Matter of the Amendment
of the
RULES OF THE TAX APPEAL COURT OF THE STATE OF HAWAII

ORDER AMENDING RULES OF THE TAX APPEAL
COURT OF THE STATE OF HAWAII

(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

IT IS HEREBY ORDERED that Rules 2(a), 3(b), 31, and 34(a), are amended, effective July 1, 2006, as follows (deleted material is bracketed and stricken; new material is underscored):

Rule 2. APPEALS.

(a) Filing. An appeal shall be initiated by filing with the clerk of the Tax Appeal Court a written notice of appeal and, in the case of a taxpayer, paying the costs of court as prescribed in HRS, Section 232-22. The appellant shall file a copy of such notice with the assessor, taxpayer, and county, as the case may be, pursuant to HRS, Sections 232-16 and 232-17, not later than the date fixed by law for the taking of the appeal. The taxpayer's signature on the notice shall be deemed made under penalties of perjury. The notice shall be filed either by personally delivering or making it to the clerk of the Tax Appeal Court. The notice shall be considered filed when it is received in the Tax Appeal Court, or if mailed, properly addressed to such court and with adequate postage paid, on the postmarked date. Checks and money orders should be made payable to the "Clerk, Hawai i Tax Appeal Court." The copy of the notice to the assessor, taxpayer, and county, as the case may be, may be filed by similar mailing.

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An appeal [~~to the Supreme Court and the Intermediate Court of Appeals~~] from any decision of the Tax Appeal Court in these actions must be filed within 30 days after the filing of such decision.

Rule 3. COSTS OF APPEAL; RETURN OF COSTS.

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(b) Appeal [~~to the Supreme Court~~].

(1) FILING FEE. On appeal [~~to the supreme court~~], each taxpayer shall deposit, as costs, the filing fee required by Hawai i Revised Statutes section 607-6, as amended by Rule 45(e)(5) of the Hawai i Rules of Appellate Procedure.

(2) FILING FEE REFUNDS. Filing fee refunds shall be made in accordance with Hawai i Revised Statutes section 232-22.

Rule 31. APPEAL AND ELECTION.

Appeal under the small claims procedure is an alternative procedure. If a case falls within the limits prescribed in Rule 32, a taxpayer may elect to appeal under the small claims procedure. By such election, the taxpayer waives his right to appeal further [~~to the Supreme Court and the Intermediate Court of Appeals~~]. The election is only as to the tax year and the tax involved in the notice of appeal. The taxpayer may withdraw his case under the small claims procedure at any time by written notice to the clerk of the Tax Appeal Court, but such withdrawal does not affect the election, and the taxpayer has no further right to appeal.

Rule 34. APPEALS.

(a) **Filing.** An appeal, including an appeal from the decision of the board of review, shall be initiated by filing with the clerk of the Tax Appeal Court three copies of a notice of appeal upon the form provided by the court or upon a form substantially in conformity thereto, and paying a non-refundable filing fee of twenty-five dollars (\$25.00) per appealing taxpayer. The notice of appeal shall contain a statement of the facts of the case and the taxpayer's waiver of the right to appeal further [~~to the Supreme Court and the Intermediate Court of Appeals~~]. The notice shall also contain a statement that the general excise tax assessed has been paid, when applicable. The taxpayer's signature on the notice shall be deemed made under penalties of perjury.

DATED: Honolulu, Hawai i, May 30, 2006.