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Intermediate Court of Appeals
CAAP-25-0000002
26-AUG-2026
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NO. CAAP-25-0000002

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAIʻI

In re DEPARTMENT OF TAXATION,
ADMINISTRATIVE DIRECTIVE NO. 2021-01.

TAX FOUNDATION OF HAWAIʻI,
a Hawaiʻi nonprofit corporation, Plaintiff-Appellant, v.
DEPARTMENT OF TAXATION, STATE OF HAWAIʻI, Defendant-Appellee

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CASE NO. 1CCV-24-0000661)

SUMMARY DISPOSITION ORDER
(By: Nakasone, Chief Judge, Hiraoka and Guidry, JJ.)

Tax Foundation of Hawaiʻi appeals from the *Final Judgment* entered by the Circuit Court of the First Circuit.[1] The circuit court dismissed Tax Foundation's *Complaint for Declaratory Judgment* against the Hawaiʻi Department of Taxation (**DOTax**) for lack of subject matter jurisdiction. We vacate and remand.

Tax Foundation sued DOTax for a declaration that DOTax's Administrative Directive 2021-01 was an invalid agency rule under Hawaii Revised Statutes (**HRS**) § 91-7. Tax Foundation moved for summary judgment.

DOTax moved to dismiss. It argued the circuit court lacked subject matter jurisdiction because HRS § 632-1 (2016) prohibits declaratory relief "in any controversy with respect to taxes[.]"

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[1] The Honorable Karin L. Holma presided.

The cross-motions were heard on December 19, 2024, but there is no transcript in the record on appeal. On December 31, 2024, the circuit court entered an order granting DOTax's motion to dismiss, and denying Tax Foundation's motion for summary judgment. The court concluded "it lacks subject matter jurisdiction" and Tax Foundation's motion for summary judgment is moot. This appeal followed.

After briefing was complete, the Hawaiʻi Supreme Court decided Booking.com B.V. v. Suganuma, ___ Hawaiʻi ___, ___ P.3d ___, No. SCWC-22-0000441, 2026 WL 2279178 (Aug. 7, 2026). It held: "Based on the plain language of HRS § 91-7, HRS § 632-1's prohibition on declaratory judgments for controversies with respect to taxes does not prohibit a[n] HRS § 91-7 action for declaratory relief regarding the validity of a tax administrative rule." 2026 WL 2279178, at *9.

We vacate the December 31, 2024 Final Judgment and remand to the circuit court for further proceedings.

DATED: Honolulu, Hawaiʻi, August 26, 2026.

On the briefs:

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/s/ Karen T. Nakasone
Chief Judge

/s/ Keith K. Hiraoka
Associate Judge

/s/ Kimberly T. Guidry
Associate Judge