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# Exhibit 1

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

In re

CIVIL NO. 1CCV-24-00000661
(Other Civil Action)

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

TAX FOUNDATION OF HAWAI'I, a Hawai'i nonprofit corporation,

Plaintiff,

vs.

DEPARTMENT OF TAXATION, STATE OF HAWAI'I,

Defendant.

---

# DEPOSITION OF GARY YAMASHIROYA

Taken on behalf of the Plaintiff,

at the offices of Ralph Rosenberg Court Reporters, Inc.

American Savings Bank Tower, Suite 2460

1001 Bishop Street; Honolulu, Hawaii 96813

commencing at 9:06 a.m.,

on Wednesday, October 9, 2024,

pursuant to Notice.

BEFORE: HEDY COLEMAN, CSR NO. 116
RMR, CRR, CRC

APPEARANCES:

For Plaintiff:

THOMAS YAMACHIKA, ESQ.
Tax Foundation of Hawai'i
126 Queen Street, Suite 304
Honolulu, Hawaii 96813

For Defendant:

JANINE R. UDUI, DEP
NATHAN C. CHEE, DEP.
ATTORNEYS GENERAL
Department of the Attorney General
State of Hawaii
425 Queen Street
Honolulu, Hawaii 96813

A Okay.

Q Okay. Also, if you -- and this applies to you as well as your counsel, if you need to take a break, let me know. This is not a prison. And I'm sure you're acquainted with those, right?

A Yes.

Q Okay. So let me now show you this document.

MS. UDUI: Objection for the record. What is this?

MR. YAMACHIKA: Actually, I need one -- you guys can have one, and the court reporter gets one.

Did you have an objection?

MS. UDUI: No, objection withdrawn. I just wanted to make sure I had a look at it first.

MR. YAMACHIKA: Oh, of course, of course. I have three copies of everything, so I'll give you one, I'll keep one, and the court reporter gets one.

MS. UDUI: All right.

(Whereupon, Exhibit 1 was marked for identification.)

MR. YAMACHIKA: Okay.

Q All right. So, Mr. Witness, are you familiar with this document?

A Yes.

Q Can you tell me what it is.

A I believe it's the rescheduling of this deposition.

Q And this is the Notice of Deposition pursuant to which you're here today. Is that correct?

A Yes.

MR. YAMACHIKA: Okay. And just to clean things up for defense counsel, there is an exhibit A or a Schedule A on this particular exhibit, and this is what you were talking about earlier. Is that correct?

MS. UDUI: Correct.

MR. YAMACHIKA: Okay, great. So we've cleaned that up.

Q And, Mr. Witness, you're familiar with the matters on "Schedule A" of this "Notice of Taking Deposition." Is that correct?

A I -- yes, to some degree. It's very general, so I don't know if you're incorporating anything specific. But, generally speaking, yes.

Q Okay, great. So let's start with your background. Let me give you this document here.

MS. UDUI: May I see that first.

MR. YAMACHIKA: Sure.

(Whereupon, Exhibit 1 was marked for identification.)

# Exhibit 2

Administrative Directive.

MS. UDUI: Is that --

MR. CHEE: I'm sorry?

MR. YAMACHIKA: All right. Maybe this will clear it up.

MS. UDUI: Objection; vague. Let me take a look at this.

I'm going to object to this for lack of foundation.

MR. YAMACHIKA: And let's number this the next in order, please.

(Whereupon, Exhibit 4 was marked for identification.)

BY MR. YAMACHIKA

Q Mr. Witness, showing you what's been marked as Exhibit 4 for identification, do you recognize this document?

A I do.

Q Is this one of the -- Tom's attachments that you were talking about?

A No.

Q Okay. We'll probably go over that later then. So let's kind of put this on the side. So let's talk about Administrative Directives, which is kind of why we're here today.

So you have some familiarity with the class of documents that are called Administrative Directives?

A Yes.

Q Okay. Can you tell me what they are.

A Administrative Directives are policy pronouncements.

Q Is that all they are?

A I -- yes.

Q Okay. Are you familiar with the process of how they're drafted?

A Generally speaking, it depends on the purpose of the Administrative Directive.

Q Okay. So can you explain further what you mean by that. Can you give me an example of like one that you're -- okay. So there's more than one type of Administrative Directive?

A There's a -- there is various subject matter that would prompt an administrative director -- directive. And depending on what the purpose of the Administrative Directive, who it's directed to and what they're trying to accomplish, the process may vary.

Q Okay. Can you provide me examples of these purposes.

A Administrative Directives generally are for -- it could be a myriad of subjects, including something as simple as how to probably use a facsimile machine, or -- and/or it could be something, in terms of if the director's unavailable, who is responsible -- you know, who's the line of succession if the director's -- so whatever administrative policy or -- that wishes -- that the director wishes to provide to the department for guidance, that's what the Administrative Directive would be for.

Q So it's a policy statement that comes from the director and goes to the department?

MS. UDUI: That misstates the answer.

BY MR. YAMACHIKA

Q Well, Mr. Witness, can you clear it up. Is that what it is or...

A I'm sorry, what's the question?

MR. YAMACHIKA: Can you read it back.

(Record read.)

THE WITNESS: All I can respond is it's a directive that's issued by the director for guidance to the department on various subject matter.

BY MR. YAMACHIKA

Q Okay. Who reviews these draft Administrative Directives before they are finally executed?

# Exhibit 3

Q Yes, but would it be people in Tax & Charities division or would it be somebody else?
A My -- it would be Tax & Charities.
Q Okay. Do you know if Delegations of Authority are serially numbered by year the same way that Administrative Directives are?
A I'm sorry, which the -- which documents?
Q Delegations of Authority.
A I don't know the answer to that.
Q Okay. Do you know if Compliance division memoranda are numbered?
A I don't know that.
Q So we can come back to that. Let's turn your attention now to Exhibit 4. Let me know when you've had a chance to review it.
MS. UDUI: Again, I'm going to reiterate our objection; lack of foundation.
MR. YAMACHIKA: The reason why we're having this deposition is to get the foundation.
MS. UDUI: I note my objection for the record, lack of foundation.
BY MR. YAMACHIKA
Q Mr. Witness, do you recognize this document?
A Yes.
Q Can you tell me what it is.

A It appears to be the UIPA request -- an UIPA request that was submitted by the Tax Foundation.

Q Okay. And do you recall what the Department's response to this was?

MS. UDUI: Again, lack of foundation.

BY MR. YAMACHIKA

Q This, meaning the particular request that is represented by Exhibit 4.

A I do, yes.

Q And what do you remember?

A I remember that we did provide Administrative Directives in response to this request.

Q Okay. We may be getting ahead of ourselves a little bit, so let me also give you this.

MS. UDUI: For the record, I am going to object to this for lack of foundation.

MR. CHEE: Maybe after this document, counsel, can we take a short break, after you're done questioning him on this topic?

MR. YAMACHIKA: Sure.

MR. CHEE: I mean on this document, rather, excuse me.

MR. YAMACHIKA: On this document, okay.

(Whereupon, Exhibit 5 was marked for identification.)

# Exhibit 4

MR. YAMACHIKA: I haven't finished the question yet.

MS. UDUI: I see. But you say assuming that this is the original document; that's speculation, and it's argumentative.

MR. CHEE: But please continue.

BY MR. YAMACHIKA

Q Mr. Witness, let me go back to Exhibit 1, Schedule A, item number four.

A Exhibit 1?

Q Exhibit 1, Schedule A, item number four.

A Okay.

Q Okay. So you have "Knowledge of whether the guidance on the first page of Administrative Directive 2101-01... was distributed to, used by, or otherwise implemented in taxpayer examinations or audits." You see that?

A Yes.

Q Okay. Was the guidance on the first page of Administrative Directive 2021-01 distributed to audit staff?

A Yes.

Q Do you have knowledge as to whether this guidance was used by audit staff?

A I think that question is a little too broad,

because it depends on each audit. But, generally speaking, we do -- when we issue Administrative Directives, we -- our expectation is that our staff will -- will adhere to it, or follow it.

Q Okay. Do you have any knowledge of whether any department staff to which this Administrative Directive was distributed either disagreed with the guidance provided or failed to implement it?

MS. UDUI: Objection. Which Administrative Directive?

MR. YAMACHIKA: 2021-01.

MS. UDUI: You can answer.

THE WITNESS: Okay. Could you repeat the question one more time.

BY MR. YAMACHIKA

Q Turning your attention to Exhibit No. 1, "Schedule A," item number five, do you see that?

A Yes.

Q Do you have "Knowledge of whether any Department staff to which AD 2021-01 was distributed either disagreed with the guidance provided or failed to implement that guidance"?

MS. UDUI: Compound question.

THE WITNESS: Do I have knowledge of it? Yes.

BY MR. YAMACHIKA

Q And what is that knowledge?

A The answer is no.

Q So, to your knowledge, nobody's disagreed with the guidance provided?

A Correct.

Q And, to your knowledge, nobody's failed to implement that guidance?

A Correct.

MR. YAMACHIKA: Okay. That's all I have. Your witness.

MR. CHEE: I have no -- I have no questions for the witness.

MS. UDUI: We have --

MR. CHEE: I would just like to reiterate our request to review the transcript before it's finalized.

MS. UDUI: Yes. No further questions from the Department. Thank you so much.

MR. YAMACHIKA: Okay, we're done.

(The deposition was concluded at 10:29 a.m.)

-o0o-

# Exhibit 5

# REQUEST TO ACCESS A GOVERNMENT RECORD

This is a model form that may be used by a Requester to provide sufficient information for an agency to process a record request. Although the Requester is not required to use this form or to provide any personal information, the agency needs enough information to contact the Requester with questions about this request or to provide its response. This request may not be processed if the agency has insufficient information or is unable to contact the Requester.

**DATE:** May 18, 2023

**TO:** Department of Taxation
**Agency that Maintains the Government Record**

**Public Information Officer, Tax.PIO@hawaii.gov**
**Agency's Contact Information**

**FROM:** Thomas Yamachika, Tax Foundation of Hawaii
**Requester's Name or Alias**

126 Queen Street, Suite 305, Honolulu, HI 96813, phone (808) 536-4587, tom@tfhawaii.org
**Requester's Contact Information**

---

**AS THE REQUESTER, I WOULD LIKE THE FOLLOWING GOVERNMENT RECORD:**

Describe the government record as specifically as possible so that it can be located. Try to provide a record name, subject matter, date, location, purpose, or names of persons to whom the record refers, or other information that could help the agency identify the record. A complete and accurate description of the requested government record will prevent delays in locating the record. Attach additional pages if needed.

**All Administrative Directives issued by the Department of Taxation. These records are referred to on page 56 of the Annual Report (2021-22) of the Department of Taxation.**

**I WOULD LIKE:** (Please check one or more of the options below, as applicable)

☐ **To inspect the government record**

☒ **A copy of the government record:** (Please check only one of the options below.) See the next page for information about fees and costs that you may be required to pay for agency services to process your record request. Note: Copying and transmission charges may also apply to certain options.

- ☐ Pick up at agency (**date and time**): _____
- ☐ Mail (address): _____
- ☒ E-mail (address): tom@tfhawaii.org
- ☐ Fax (toll free and only if available; provide fax number): _____
- ☐ Other, if available (please specify): _____

☐ If the agency maintains the records in a form other than paper, please advise in which **format you would prefer to have the record.**

☐ Electronic ☐ Audio ☐ Other (please specify):_____

☒ Check this box **if you are attaching a request for waiver of fees in the public interest** (See waiver information on next page).

EXHIBIT 4
WIT:
DATE: 10/9/24
HEDY COLEMAN, CSR

STATEMENT SUPPORTING REQUESTED WAIVER OF FEES IN THE PUBLIC INTEREST

During a recent discussion with Department of Taxation personnel, Administrative Directives were identified as statements of policy internal to the agency that are followed by agency personnel. During the conversation, one was identified as containing criteria for agency personnel to grant or deny penalty waivers. The Foundation believes that these statements govern the operations of the Department. The Directives presently are not published on the Department's website.

The Tax Foundation of Hawaii has been recognized as having a "historical purpose as a governmental financial accountability watchdog." *Tax Foundation of Hawaii v. State,* 439 P.3d 127, 155 (Haw. 2019). The Foundation believes that these statements have great significance to taxpayers and tax preparers, and is fully prepared to publish them on its own website and to make them available to tax professionals through trade associations such as the Hawaii State Bar Association and the Hawaii Society of Certified Public Accountants.

# Exhibit 6

C E R T I F I C A T E

I, HEDY COLEMAN, Certified Shorthand Reporter No. 116, in and for the State of Hawaii, do hereby certify: That on Wednesday, October 9, 2024, appeared before me GARY YAMASHIROYA, the witness whose deposition is contained herein;

That prior to being examined, he was by me duly sworn; that the deposition was taken down by me in machine shorthand and reduced to typewriting; that the foregoing represents, to the best of my ability, a correct transcript of the proceedings had in the foregoing matter;

That pursuant to Rule 30(e) of the Hawaii Rules of Civil Procedure, a request for an opportunity to review and make changes to this transcript:

_X___was MADE by the deponent or a party, and/or their attorney prior to the completion of the deposition.

____was NOT MADE by the deponent or a party, and/or their attorney prior to the completion of the deposition.

____was WAIVED.

I further certify that I am not counsel for any of the parties hereto, nor in any way concerned with the cause.

DATED: October 16, 2024

Hedy Col

HEDY COLEMAN, CSR #116

# WITNESS CORRECTION SHEET

**CASE: TAX FOUNDATION OF HAWAII VS. DEPARTMENT OF TAXATION; CIVIL NO. 1CCV-24-0000661**

**DEPOSITION OF GARY YAMASHIROYA, TAKEN ON 10-9-24.**

| PAGE | LINE | CORRECTION | REASON |
|---|---|---|---|
| 12 | 3 & 4 | Summary of work experience | Clarification |
| | | | |
| | | | |
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(If additional space is needed, attach a blank sheet)

Signature of Deponent: Gary Yamashiroya Date: 11/19/2024

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## CERTIFICATE

- [X] Please be advised that the deponent signed and/or made corrections to the deposition within 30 days of notification.
- [ ] Please be advised that 30 days have expired and the deponent has failed to read and sign the deposition.
- [ ] Please be advised that signature and/or corrections were received and are **not being filed** with the transcript because:
  - [ ] the deponent failed to sign and/or make corrections within 30 days after notification that the transcript was available for review.
  - [ ] a request for an opportunity to review the transcript was **not** made by the deponent or a party before completion of the deposition.
- [ ] Please be advised that the above-named case is going to trial and/or hearing and the deponent has **not** had 30 days to read and sign the deposition before the filing of this transcript with the Court.

DATED: 11-21-24, HONOLULU, HAWAII.

Ralph Rosenberg

CSR NO. 179

*Ralph Rosenberg* by J.L.

**Ralph Rosenberg Court Reporters, Inc.**
***1001 Bishop Street, Suite 2460, Honolulu, HI 96813***
***Phone: (808) 524-2090 Fax: (808) 524-2596***

REC'D NOV 20 2024

OCT 21

C E R T I F I C A T E

I, GARY YAMASHIROYA, do hereby certify that I have read the foregoing pages 1 through 52, inclusive, and corrections, if any, were noted by me; and that same is now a true and correct transcript of my testimony.

Dated November 19, 2024

GARY YAMASHIROYA

Number of correction sheets submitted: 1

or

Corrections were not necessary (Please initial): —

Signed before me this 19th

day of November, 2024.

Case: Department of Taxation vs. Department of Taxation

Civil No.: 1CCV-24-0000661

Date: 10-9-24, Hedy Coleman.



OCT 21 '24

REC'D NOV 20 2024

# Exhibit 7

DAVID Y. IGE
GOVERNOR

JOSH GREEN M.D.
LT. GOVERNOR

STATE OF HAWAI'I
DEPARTMENT OF TAXATION

LINDA CHU TAKAYAMA
DIRECTOR OF TAXATION

DAMIEN A. ELEFANTE
DEPUTY DIRECTOR

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ENERGYMAN LTD.
59-032 HOLAWA ST
HALEIWA HI 96712-9706

Date: June 10, 2019
Letter ID: L1519166976
Hawaii Tax ID: GE-085-075-5584-01R

# NOTICE OF FINAL ASSESSMENT OF GENERAL EXCISE AND/OR USE TAX

Important Notice: RESPONSE REQUIRED IMMEDIATELY

The adjustments shown on this Notice of Final Assessment has been made in accordance with the provisions of Hawaii Revised Statutes (HRS). Please review this Notice of Final Assessment carefully as it provides detailed information about the assessment and payment due. The total amount is now due and payable.

If you have a Power of Attorney (POA) representative for General Excise and/or Use Tax and the filing periods audited, a copy of this letter containing the information related to the impacted filing periods has also been mailed to the representative.

**What do you need to do?**
You must take action immediately:

- If you **agree** with this Notice of Final Assessment, please mail your payment with the Payment Voucher (bottom of page 3 of this letter) to the address printed on the voucher or use Hawaii Tax Online (hitax.hawaii.gov, "Make Payment" under Quick Links).
- If you **disagree** with this assessment, you may appeal in accordance with the Hawaii Taxpayer Bill of Rights (page 2 of this letter).

**What happens if you do not take action?**
If you do not take action immediately, additional interest will be assessed and the total amount due may be referred for further collection actions.

Thank you for your prompt attention to this matter.

DIRECTOR OF TAXATION
By:

Donald Kuriki
Tax Assessor I

**PREPARER:**
A. Velasco
OAHU Office Audit Branch
PO Box 259
Honolulu HI 96809-0259
Telephone: (808) 587-1770

I hereby certify that the foregoing is a full, true and correct copy of the official court record of the Courts of the State of Hawai`i.
Dated at: Honolulu, Hawai`i 11-DEC-2024, /s/ Lori Ann Okita, Clerk of the 1st Judicial Circuit, State of Hawai`i
Exhibit 1

NOTICE OF FINAL ASSESSMENT OF GENERAL EXCISE AND/OR USE TAX

# ASSESSMENT SUMMARY

**Tax Account No:** GE-085-075-5584-01R
**Letter ID:** L1519166976

**Taxpayer Name:** ENERGYMAN LTD.
**Address:** 59-032 HOLAWA ST
HALEIWA HI 96712-9706

**Proposed Assessment Mail Date:** May 9, 2019

**Final Assessment Mail Date:** June 10, 2019
**Preparer:** A. Velasco

This Notice of Final Assessment addresses the following tax filing period(s):

| Filing Period | Total Amount Due on Filing Period |
|---|---|
| Dec 31, 2014 | $ 6,570.57 |
| Dec 31, 2015 | $ 982.44 |
| Dec 31, 2016 | $ 38,329.51 |
| Dec 31, 2017 | $ 6,767.36 |
| **Total Amount Due** | **$ 52,649.88** |

Additional details regarding the filing period(s) above are provided in the pages following.

---

To pay the Total Amount Due:

- Mail a payment using the Payment Voucher below.
- Pay online at hitax.hawaii.gov (Under Quick Links, choose "Make Payment" and select Voucher Media #).

Cut carefully along this line to detach.

STATE OF HAWAII, DEPARTMENT OF TAXATION

## PAYMENT VOUCHER

Do not photocopy this voucher. Do not send multiple checks with this voucher.

**Audit Payment**
**Name:** ENERGYMAN LTD.
**ID Type:** Media Number (01)
**ID:** 11925537921
**Voucher Date:** Jun-10-2019
**Letter ID:** L1519166976

**Make check payable to:** Hawaii State Tax Collector
**Mail to:** PO Box 259 Honolulu, HI 96809-0259

**Amount Due:** 52,649.88

**Pay Online** at hitax.hawaii.gov

12319999 0005264988 01 00011925537921 00 12319999 020

NOTICE OF FINAL ASSESSMENT OF GENERAL EXCISE AND/OR USE TAX

# DETAILS FOR TAX FILING PERIOD

**Filing Period Beginning:** January 1, 2014
**Filing Period Ending:** December 31, 2014

**Tax Account No:** GE-085-075-5584-01R
**Letter ID:** L1519166976

**Proposed Assessment Mail Date:** May 9, 2019

**Final Assessment Mail Date:** June 10, 2019
**Preparer:** A. Velasco

**Taxpayer Name:** ENERGYMAN LTD.
**Address:** 59-032 HOLAWA ST
HALEIWA HI 96712-9706

Provided below is detailed information regarding this period's assessment. Following the reasons for the assessment, is the Audit Adjustment Summary which details the adjustments that were made and the resulting penalty, interest, and balance or credit due.

## Audit Assessment Reason(s):

The assessments/adjustments shown are made in accordance with the provisions of Chapter 237, Hawaii Revised Statutes (HRS). The information for this assessment was obtained from your Federal Tax Information and from your Hawaii S Corporation Income Tax Return.

Commissions Underreported Under Section 237-13(9), HRS.

County Surcharge Underreported Under section 237-8.6, HRS.

Form 1120S - Gross Receipts or Sales: $165,188.

As filed - $103,098.

Additional tax/difference - $62,090.

A 25% penalty is assessed under section 231-39(b)(1), HRS, for the failure to timely file the required return by the original or extended due date.

A 25% penalty is assessed under section 231-39(b)(2)(A), HRS, for the failure to pay the tax due to negligence or intentional disregard of the rules.

A 10% penalty is assessed under section 237-8.6(g), HRS, for the failure to file the schedule or the failure to correctly report the assignment of the general excise tax by taxation district on the schedule.

## Audit Adjustment(s) Summary:

| Description | As Filed | As Adjusted | Additional Taxable | Rate | Additional Tax |
|---|---|---|---|---|---|
| Commissions | $ 103,098.00 | $ 165,188.00 | $ 62,090.00 | 0.0400 | $ 2,483.60 |
| Oahu Surcharge | $ 103,098.00 | $ 165,188.00 | $ 62,090.00 | 0.0050 | $ 310.45 |

## Computation of Total Amount Due on this Period:

| | |
|---|---|
| Total Additional Tax | $ 2,794.05 |
| Failure to Timely File Penalty @ 25% | $ 698.50 |
| County Surcharge Penalty @ 10% | $ 743.35 |
| Other Penalty @ 25% | $ 698.51 |
| Non-Interest Bearing Penalty | $ 0.00 |
| Interest @ 8% to 6/20/2019 | $ 1,636.16 |
| Fees | $ 0.00 |
| **Assessment Amount Due** | **$ 6,570.57** |
| Refund(s), Payment(s) or Credit(s) on this Tax Filing Period | $ 0.00 |
| Pre-Assessment Liability | $ 0.00 |
| Interest on Pre-Assessment Liability | $ 0.00 |
| **Total Amount Due on this Tax Filing Period** | **$ 6,570.57** |

NOTICE OF FINAL ASSESSMENT OF GENERAL EXCISE AND/OR USE TAX

# DETAILS FOR TAX FILING PERIOD

**Filing Period Beginning:** January 1, 2015
**Filing Period Ending:** December 31, 2015

**Tax Account No:** GE-085-075-5584-01R
**Letter ID:** L1519166976

**Proposed Assessment Mail Date:** May 9, 2019

**Final Assessment Mail Date:** June 10, 2019
**Preparer:** A. Velasco

**Taxpayer Name:** ENERGYMAN LTD.
**Address:** 59-032 HOLAWA ST
HALEIWA HI 96712-9706

Provided below is detailed information regarding this period's assessment. Following the reasons for the assessment, is the Audit Adjustment Summary which details the adjustments that were made and the resulting penalty, interest, and balance or credit due.

## Audit Assessment Reason(s):

The assessments/adjustments shown are made in accordance with the provisions of Chapter 237, Hawaii Revised Statutes (HRS). The information for this assessment was obtained from your Federal Tax Information and from your Hawaii S Corporation Income Tax Return.

Commissions Underreported Under Section 237-13(9), HRS.

County Surcharge Underreported Under section 237-8.6, HRS.

Form 1120S - Gross Receipts or Sales: $94,975.

As filed - $90,721.

Additional tax/difference - $4,254.

A 25% penalty is assessed under section 231-39(b)(1), HRS, for the failure to timely file the required return by the original or extended due date.

A 25% penalty is assessed under section 231-39(b)(2)(A), HRS, for the failure to pay the tax due to negligence or intentional disregard of the rules.

A 10% penalty is assessed under section 237-8.6(g), HRS, for the failure to file the schedule or the failure to correctly report the assignment of the general excise tax by taxation district on the schedule.

## Audit Adjustment(s) Summary:

| Description | As Filed | As Adjusted | Additional Taxable | Rate | Additional Tax |
|---|---|---|---|---|---|
| Commissions | $ 90,721.00 | $ 94,975.00 | $ 4,254.00 | 0.0400 | $ 170.16 |
| Oahu Surcharge | $ 81,396.00 | $ 94,975.00 | $ 13,579.00 | 0.0050 | $ 67.90 |

## Computation of Total Amount Due on this Period:

| | |
|---|---|
| Total Additional Tax | $ 238.06 |
| Failure to Timely File Penalty @ 25% | $ 59.55 |
| County Surcharge Penalty @ 10% | $ 427.39 |
| Other Penalty @ 25% | $ 59.52 |
| Non-Interest Bearing Penalty | $ 0.00 |
| Interest @ 8% to 6/20/2019 | $ 197.92 |
| Fees | $ 0.00 |
| **Assessment Amount Due** | **$ 982.44** |
| Refund(s), Payment(s) or Credit(s) on this Tax Filing Period | $ 0.00 |
| Pre-Assessment Liability | $ 0.00 |
| Interest on Pre-Assessment Liability | $ 0.00 |
| **Total Amount Due on this Tax Filing Period** | **$ 982.44** |

NOTICE OF FINAL ASSESSMENT OF GENERAL EXCISE AND/OR USE TAX

# DETAILS FOR TAX FILING PERIOD

**Filing Period Beginning:** January 1, 2016
**Filing Period Ending:** December 31, 2016

**Tax Account No:** GE-085-075-5584-01R
**Letter ID:** L1519166976

**Proposed Assessment Mail Date:** May 9, 2019

**Final Assessment Mail Date:** June 10, 2019
**Preparer:** A. Velasco

**Taxpayer Name:** ENERGYMAN LTD.
**Address:** 59-032 HOLAWA ST
HALEIWA HI 96712-9706

Provided below is detailed information regarding this period's assessment. Following the reasons for the assessment, is the Audit Adjustment Summary which details the adjustments that were made and the resulting penalty, interest, and balance or credit due.

## Audit Assessment Reason(s):

The assessments/adjustments shown are made in accordance with the provisions of Chapter 237, Hawaii Revised Statutes (HRS). The information for this assessment was obtained from your Federal Tax Information and from your Hawaii S Corporation Income Tax Return.

Commissions Underreported Under Section 237-13(9), HRS.

County Surcharge Underreported Under section 237-8.6, HRS.

Form 1120S - Gross Receipts or Sales: $468,778.

As filed - $15,213.

Additional tax/difference - $453,565.

A 25% penalty is assessed under section 231-39(b)(1), HRS, for the failure to timely file the required return by the original or extended due date.

A 25% penalty is assessed under section 231-39(b)(2)(A), HRS, for the failure to pay the tax due to negligence or intentional disregard of the rules.

A 10% penalty is assessed under section 237-8.6(g), HRS, for the failure to file the schedule or the failure to correctly report the assignment of the general excise tax by taxation district on the schedule.

## Audit Adjustment(s) Summary:

| Description | As Filed | As Adjusted | Additional Taxable | Rate | Additional Tax |
|---|---|---|---|---|---|
| Commissions | $ 15,213.00 | $ 468,778.00 | $ 453,565.00 | 0.0400 | $ 18,142.60 |
| Oahu Surcharge | $ 15,213.00 | $ 468,778.00 | $ 453,565.00 | 0.0050 | $ 2,267.83 |

## Computation of Total Amount Due on this Period:

| | |
|---|---|
| Total Additional Tax | $ 20,410.43 |
| Failure to Timely File Penalty @ 25% | $ 5,102.60 |
| County Surcharge Penalty @ 10% | $ 2,109.50 |
| Other Penalty @ 25% | $ 5,102.61 |
| Non-Interest Bearing Penalty | $ 0.00 |
| Interest @ 8% to 6/20/2019 | $ 5,604.37 |
| Fees | $ 0.00 |
| **Assessment Amount Due** | **$ 38,329.51** |
| Refund(s), Payment(s) or Credit(s) on this Tax Filing Period | $ 0.00 |
| Pre-Assessment Liability | $ 0.00 |
| Interest on Pre-Assessment Liability | $ 0.00 |
| **Total Amount Due on this Tax Filing Period** | **$ 38,329.51** |

NOTICE OF FINAL ASSESSMENT OF GENERAL EXCISE AND/OR USE TAX

# DETAILS FOR TAX FILING PERIOD

**Filing Period Beginning:** January 1, 2017
**Filing Period Ending:** December 31, 2017

**Tax Account No:** GE-085-075-5584-01R
**Letter ID:** L1519166976

**Proposed Assessment Mail Date:** May 9, 2019

**Final Assessment Mail Date:** June 10, 2019
**Preparer:** A. Velasco

**Taxpayer Name:** ENERGYMAN LTD.
**Address:** 59-032 HOLAWA ST
HALEIWA HI 96712-9706

Provided below is detailed information regarding this period's assessment. Following the reasons for the assessment, is the Audit Adjustment Summary which details the adjustments that were made and the resulting penalty, interest, and balance or credit due.

## Audit Assessment Reason(s):

The assessments/adjustments shown are made in accordance with the provisions of Chapter 237, Hawaii Revised Statutes (HRS). The information for this assessment was obtained from your Federal Tax Information and from your Hawaii S Corporation Income Tax Return.

Commissions Unreported Under Section 237-13(9), HRS.

County Surcharge Unreported Under section 237-8.6, HRS.

Form 1120S - Gross Receipts or Sales: $101,886.

A 25% penalty is assessed under section 231-39(b)(1), HRS, for the failure to timely file the required return by the original or extended due date.

A 25% penalty is assessed under section 231-39(b)(2)(A), HRS, for the failure to pay the tax due to negligence or intentional disregard of the rules.

A 10% penalty is assessed under section 237-8.6(g), HRS, for the failure to file the schedule or the failure to correctly report the assignment of the general excise tax by taxation district on the schedule.

## Audit Adjustment(s) Summary:

| Description | As Filed | As Adjusted | Additional Taxable | Rate | Additional Tax |
|---|---|---|---|---|---|
| Commissions | $ 0.00 | $ 101,886.00 | $ 101,886.00 | 0.0400 | $ 4,075.44 |
| Oahu Surcharge | $ 0.00 | $ 101,886.00 | $ 101,886.00 | 0.0050 | $ 509.43 |

## Computation of Total Amount Due on this Period:

| | |
|---|---|
| Total Additional Tax | $ 4,584.87 |
| Failure to Timely File Penalty @ 0% | $ 0.00 |
| County Surcharge Penalty @ 10% | $ 458.49 |
| Other Penalty @ 25% | $ 1,146.22 |
| Non-Interest Bearing Penalty | $ 0.00 |
| Interest @ 8% to 6/20/2019 | $ 577.78 |
| Fees | $ 0.00 |
| **Assessment Amount Due** | **$ 6,767.36** |
| Refund(s), Payment(s) or Credit(s) on this Tax Filing Period | $ 0.00 |
| Pre-Assessment Liability | $ 0.00 |
| Interest on Pre-Assessment Liability | $ 0.00 |
| **Total Amount Due on this Tax Filing Period** | **$ 6,767.36** |