



DEPARTMENT OF THE ATTORNEY GENERAL

News Release

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STATE WINS \$16 MILLIION TAX APPEAL BY HEI DIVERSIFIED, INC.

HONOLULU-Attorney General Mark Bennett announced today that the Tax Appeal Court, State of Hawaii, has ruled in favor of the State in a tax appeal filed by HEI Diversified, Inc., and its subsidiaries.

The Appellant was seeking to avoid \$16 million in Hawaii income taxes by taking a \$225 million deduction for dividends it received from a real estate investment trust ("REIT"), American Savings Bank Realty Corporation. A "dividends received" deduction is not permitted under section 857(c) of the Internal Revenue Code for dividends paid by REITs. In 1965, the Legislature imposed Hawaii's income taxes on real estate investment trusts, and stated that it intended to give REITs the same tax treatment they receive under the Internal Revenue Code. The State argued successfully that, to conform to the Internal Revenue Code, the State's income tax law should be read to deny the deduction, too.

The Tax Appeal Court granted the State's motion for summary judgment on June 7, 2004. The ruling means that the State does not need to refund \$16 million in Hawaii income taxes, plus over \$1 million in interest that has accumulated on the taxes paid under protest.

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