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DEPARTMENT OF TAXATION ANNOUNCEMENT NO. 2004-17

RE: Relief for Taxpayers Affected by Heavy Rains and Flooding on October 30 and 31, 2004 in the Manoa Valley Area in the City and County of Honolulu

In light of the recent rainstorm that caused substantial damage to homes and businesses in the Manoa Valley area, the Department of Taxation ("Department") recognizes that affected taxpayers may have difficulty meeting their tax obligations. The Department, therefore, will consider requests for extensions to file and pay other taxes and waivers of penalties and interest on a case-by-case basis. In addition, the Department will also follow federal casualty loss provisions in the event of a Presidential declaration of a natural disaster.

I. Mark Returns "2004 Flood Relief"

All returns that are filed under the provisions of this Announcement should be clearly marked "2004 Flood Relief" on the top center of the return. Do not place the words "2004 Flood Relief" in the "DO NOT WRITE IN THIS SPACE" area in the upper right corner of any return. Taxpayers and tax practitioners who want to use the provisions of this Announcement, but whose addresses (on file with the Department) are not within the areas directly affected, should also include a brief statement as to how the disaster adversely affected their ability to meet their tax obligations.

II. Hawaii Employer's Withholding Taxes

Taxpayers whose Hawaii employer's withholding taxes are due November 10, 2004 (accelerated due date filers) or are due November 15, 2004, and who, as a result of the rains and flooding cannot meet these due dates, may file their returns and pay the tax due by December 10, 2004 (for accelerated due date filers only) or by December 15, 2004 without incurring any penalties or interest. No late filing penalty will be imposed for returns that are postmarked on or before December 10, 2004 (for accelerated due date filers only) or December 15, 2004.

Employers who have employees at several locations in the State, including locations affected by the rains and flooding, should file their returns on time. If complete information from locations affected by the rains and flooding is not available by the due

date of the return, an amended return should be filed when the information becomes available.

III. Special Consideration

The Department will consider requests for extensions to file and pay other taxes and waivers of penalties and interest on a case-by-case basis. Each request should include a statement as to how the 2004 Manoa Valley flood adversely impacted the taxpayer.

IV. Casualty Losses

For purposes of the Hawaii Income Tax Law, you may claim all of the casualty loss deductions allowed by § 165 of the Internal Revenue Code. Casualty losses on business property are deductible in full. The first $100 of the eligible unreimbursed casualty losses on nonbusiness property is not deductible. The remaining loss is deductible to the extent it exceeds 10 per cent (10%) of the taxpayer's Hawaii adjusted gross income. The following options are available after you have determined the amount of your losses:

1. In the event that the President of the United States of America issues a proclamation of a natural disaster, taxpayers may claim a casualty loss deduction on their 2003 income tax returns for losses from the rains and flooding on October 30 and 31, 2004 (an amended return must be filed if this option is chosen); or

2. Taxpayers may elect to deduct the losses on their 2004 income tax returns; or

3. Taxpayers may elect to deduct the losses in five (5) equal installments over a period of five (5) consecutive years, beginning with the 2004 income tax return; or

4. If your casualty loss is more than your income, you may have a net operating loss. A net operating loss may be used to lower your taxes in an earlier year, allowing you to receive a refund for taxes that you have already paid. Or if you properly elect, a net operating loss may be used to lower your taxes in a later year. You do not have to be a business to claim this benefit; all taxpayers may claim this carryback or carryover net operating loss.

V. General Excise Tax Exemption for Insurance Proceeds Received Because of a Natural Disaster, § 237-24.7(6), HRS

On October 31, 2004, the Governor signed a State Disaster Proclamation in which she determined (pursuant to § 209-2, HRS) that a disaster had occurred in the Manoa Valley area. Therefore, taxpayers may be eligible for this general excise tax exemption if they receive amounts under property and casualty insurance policies for damage or loss

of inventory used in a trade or business located within the Manoa Valley area. Please refer to the instructions for Forms G-45 and G-49 for more information.

Tax forms and information are available on the Department's website at www.state.hi.us/tax. If you know which tax form or publication you need, please call the Department's request line at 808-587-7572, or toll-free from the neighbor islands and continental U.S. at 1-800-222-7572. This service is available 24 hours a day, 7 days a week. Additional information is available by calling the Taxpayer Services Branch during business hours at 587-4242, or toll-free at 1-800-222-3229, or by e-mailing them at Taxpayer.Services@hawaii.gov.

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