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DEPARTMENT OF TAXATION ANNOUNCEMENT NO. 2005-16

RE: Adoption of Proposed Amendments to Section 18-235-98, Hawaii Administrative Rules, Relating to Extension of Time for Filing Income Tax

The Department of Taxation (Department) is pleased to announce the adoption of amendments to Section 18-235-98, Hawaii Administrative Rules (HAR) which became effective on June 5, 2005.

The amendments to HAR section 18-235-98 provide that for individuals seeking an additional four-month period to file a return, the taxpayer does not need to file Form N-101A with the Department on or before the prescribed due date of the return, unless the extension is being accompanied by a payment. The Department will grant an automatic four-month extension for individual taxpayers provided that:

1. The taxpayer files the required return within the time granted by the automatic extension;
2. The tax return is accompanied by payment of the tax to the extent not already paid; and
3. The taxpayer is not under a court order to file a tax return, declaration, statement or other document on or before the prescribed due date.

The amendments also clarify that the Department may grant an additional period of time to all taxpayers (not to exceed six months including any automatic extension) provided that:

a. The application for additional extension of time is filed prior to the expiration of the time specified by the automatic extension;
b. The application for additional extension is accompanied by payment of at least ninety (90) per cent of the tax to the extent not already paid;
c. The taxpayer shows reasonable cause for the additional extension;
d. The tax return is filed within the additional time period granted;
e. The tax return is accompanied by payment of the tax to the extent not already paid; and
f. The taxpayer is not under a court order to file a tax return, declaration, statement or other document on or before the prescribed due date.

Finally, the amendments clarify that extensions of time for filing returns do not extend the deadline for payment of the tax, and that the penalty for failing to timely file a tax return

imposed under HRS § 231-39(b)(1)) will not be imposed if an extension is granted and the taxpayer files the return within the extension period.

Current forms and other tax information may be downloaded from 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.

KURT KAWAFUCHI
Director of Taxation

HAR Section Explained: HAR Section 18-235-98.