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November 3, 2005

DEPARTMENT OF TAXATION ANNOUNCEMENT NO. 2005-19

RE: Adoption of Section 18-235-20.5-01, Hawaii Administrative Rules, Relating to the Imposition of Fees for (1) the Issuance of High Tech Comfort Rulings and (2) the Certification of (a) the High Technology Business Investment Tax Credit and (b) the Tax Credit for Research Activities.

The Department of Taxation (Department) is pleased to announce the adoption of section 18-235-20.5-01, Hawaii Administrative Rules (HAR), which becomes effective on November 3, 2005. The new fees will be imposed on any comfort rulings or certification forms such as Forms N-318A and N-319A, postmarked after November 4, 2005.

Act 215, Session Laws of Hawaii 2004, has established a new "Tax Administration Special Fund" and has authorized the Department of Taxation (Department) to charge fees for issuing high tech comfort rulings (comfort rulings) and certifying credit amounts for the high technology business investment tax credit (investment credit) and the tax credit for research activities (research credit).

Section 18-235-20.5-01, HAR, sets forth the following fee structure:

Comfort Ruling Requests/Certification Submissions	Date of Receipt	Amount
Comfort Rulings Requests	Anytime	$1,000
Investment Credit Certification Submitted by Investor (Form N-318A)	Before the third Wednesday in January following the year in which the investment was made[1]	$100
Investment Credit Certification Submitted by Investor (Form N-318A)	On or after the third Wednesday in January following the year in which the investment was made[2]	$150
Investment Credit Certification Submitted by Pass-Through Entities on Behalf of Their Partners, Shareholders, etc. (Form N-318A)	Before the third Wednesday in January following the year in which the investment was made[1]	$750
Investment Credit Certification Submitted by Pass-Through Entities on Behalf of Their Partners, Shareholders, etc. (Form N-318A)	On or after the third Wednesday in January following the year in which the investment was made[2]	$1,000
Research Credit Certification (Form N-319A)	Before the third Wednesday in January following the year in which the research expenses were incurred[1]	$400

[1] For fiscal year filers, the form must be received before the third Wednesday of the first month following the close of the taxpayer's fiscal year in which the investment was made.
[2] For fiscal year filers, the form must be received on or after the third Wednesday of the first month following the close of the taxpayer's fiscal year in which the investment was made.

Research Credit Certification (Form N-319A)	On or after the third Wednesday in January following the year in which the research expenses were incurred[2]	$750

For purposes of the fee imposition, a comfort ruling is defined as, a ruling concerning the application of the following high technology tax incentives:

1. The high technology business investment tax credit under section 235-110.9, HRS;
2. The income tax exclusion for royalties and other income derived from patents and copyrights received by an individual or a qualified high technology business and developed and arising out of a qualified high technology business under section 235-7.3, HRS;
3. The income tax exclusion for stock options, dividends from stock, the receipt of options, the exercise of the options, and income from the sale of the options under section 235-9.5, HRS; or
4. The tax credit for research activities under section 235-110.91, HRS.

Section 18-235-20.5-01, HAR, also provides a fee exemption for any person requesting a certificate of either the investment or research credit where the represented claim of the applicable credit is less than $25,000. Notwithstanding this fee exemption, such person is still subject to the certification requirements and required to submit the applicable certification form.

Any comfort ruling request, Form N-318A, or Form N-319A postmarked after November 4, 2005 must be accompanied by a check for the proper amount made payable to the Director of Finance. Due to the new fee, the Department will no longer accept comfort letter ruling requests submitted by e-mail. All comfort letter ruling requests and forms should be mailed to:

Department of Taxation
Rules Office
P.O. Box 259
Honolulu, HI 96809

If you have any questions concerning this announcement, please call Roni Matsuda at 808-587-1570. Current forms and other tax information may be downloaded from the Department's website at: www.hawaii.gov/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 Sections 18-235-20.5-01