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May 26, 2006

DEPARTMENT OF TAXATION ANNOUNCEMENT NO. 2006-04

RE: Act 110, Session Laws of Hawaii 2006, Relating to Taxation, Tax Credit For Flood Victims (Act 110)

On May 19, 2006, the Governor signed H.B. No. 957, H.D.1, S.D.1, C.D.1, into law as Act 110. Included as a tax relief measure in this Act is an income tax credit for those affected by the flooding of the Manoa Stream on October 30, 2004 on Oahu, and the flooding in all counties from February 20 through April 9, 2006 caused by the record rainstorm between February 20 and April 9.

Section 4 of Act 110 provides a one-time income tax credit equal to 10% of the amount the taxpayer spent on costs directly related to the damage directly caused by the heavy rain and flooding to the taxpayer's real or personal property, such as cars, furniture or carpet. To be eligible for the credit, the costs cannot be reimbursed by insurance or other disaster relief payments from government agencies or non-profit organizations. The tax credit will be recaptured if the taxpayer subsequently is reimbursed by insurance or other disaster relief payments after claiming the credit. The maximum credit amount is $10,000 per taxpayer, so the maximum amount of costs eligible for the credits is $100,000.

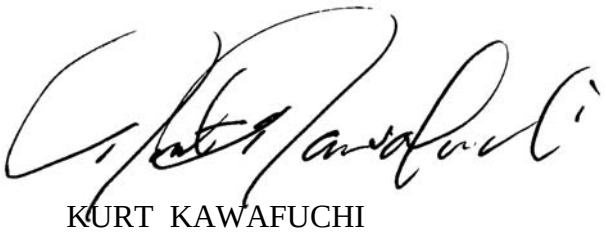
The tax credit is generally nonrefundable. However, the tax credit may be refundable for those eligible flood victims who meet the following requirements:

(1) all of the taxpayers' income is exempt from taxation under section 235-7(a)(2) of the Hawaii Revised Statutes (HRS), i.e., distribution from a public retirement plan or system, or section 235-7(a)(3) of the HRS, i.e., any compensation received in the form of a pension for past services; or

(2) the taxpayer has Hawaii adjusted gross income of $20,000 or less.

If the taxpayer claims a credit for flood relief under Act 110, the taxpayer may not claim any other credit or deduction for the same expenses, such as a casualty loss deduction, or have elected to currently expense rather than depreciate business assets under section 179 of the Internal Revenue Code. In addition, the taxpayer cannot increase the basis of any real or personal property by any costs for which the credit is claimed. If the taxpayer elects to increase the basis and claim the credit, then the taxpayer must include the credit in his or her taxable income.

This credit is applicable to taxable years beginning after December 31, 2003, and ending before January 1, 2007. The credit must be claimed on or before December 31, 2007. The credit should be claimed on Form N-338, "Tax Credit for Flood Victims", which will be forthcoming. A penalty of 50% of the credit claimed will apply to anyone who makes a fraudulent claim, false statement, or willfully disregards the facts.



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