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# DEPARTMENT OF TAXATION ANNOUNCEMENT NO. 2007-04

RE: Act 84, Session Laws of Hawaii 2007, Relating to Conformity of the Hawaii Income Tax Law to the Internal Revenue Code.

On May 22, 2007, Governor Linda Lingle signed into law House Bill 1411 HD 2, SD 1, as Act 84.

Act 84 provides for conforming amendments to Chapter 235, Hawaii Revised Statutes (HRS), based upon amendments made to the Internal Revenue Code for the calendar year 2006.

Section 235-2.5(c), HRS, mandates that the Department submit to each regular session of the Legislature a bill that amends Hawaii income tax law to conform to the changes in the Internal Revenue Code (IRC), for the previous calendar year.

Section 1 of Act 84 amends section 235-2.3(a), HRS, to conform the Hawaii Income Tax Law to the operative IRC sections of Subtitle A, Chapter 1, amended as of December 31, 2006. Generally, Subtitle A, Chapter 1, refers to the IRC sections 1 through 1400T.

The following is a description of the federal Acts that passed in 2006 and a discussion of the impact on Hawaii income tax law:

1. **The Tax Increase Prevention and Reconciliation Act of 2005. (P. L. No. 109-222; May 17, 2006):**

   Most of the Internal Revenue Code provisions amended by this Act are not operative for Hawaii income tax purposes. The amendments to operative provisions include: clarification of the earnings stripping rules for the deduction of interest by corporations; making permanent the election to treat musical compositions or copyrights in musical works as capital assets; amendments to rules relating to corporate spin-offs; rules relating to the conversion of traditional IRAs into Roth IRAs; rules relating to CERCLA settlement funds; and rules relating to regulated investment companies (RICs).

2. **The Heroes Earned Retirement Opportunity Act of 2006. (P. L. No. 109-227; May 29, 2006):**

   The Heroes Earned Retirement Opportunity Act of 2006 allows nontaxable combat compensation to be counted as taxable income for IRA contributions calculation purposes under section 219 of the IRC.

3. **The Pension Protection Act of 2006. (P. L. No. 109-280; August 17, 2006).**

   The Pension Protection Act of 2006 mainly focused on two areas: pensions and charitable contribution reforms. This Act overhauls the funding and disclosure rules for defined benefit plans; addresses conversion of pension plans to cash balance plans; and provides liberalized payout and rollover rules. The pension reforms apply to Internal Revenue Code provisions that are operative for Hawaii income tax purposes.

   On the charitable reform side, the Act focused on donor-advised funds and supporting organizations. The rules relating to how these funds and organizations operate are operative for Hawaii tax purposes. However, the provisions imposing excise taxes and reporting requirements on these funds and organizations are not operative for Hawaii income tax purposes.

   This Act also contains numerous other provisions that are operative for Hawaii income tax purposes, such as increasing the charitable contribution deduction for conservation easements; amendments regarding unrelated business income tax for certain tax-exempt organizations; and basis adjustment rules for S-corporations that contribute property to charity.

4. **An Act to Complete the Codification of Title 46, United States Code, 'Shipping', as Positive Law. (P. L. No. 109-304; October 6, 2006):**

   This Act makes changes to the references in the Internal Revenue Code from the Merchant Marine Act of 1936 to Title 46 of the United States Code.

5. **The Tax Provisions of the Tax Relief and Health Care Act of 2006. (P. L. No. 109-432; December 20, 2006):**

   In general, this Act extends the effective date of expired or expiring provisions, such as the deduction for teachers who purchase items for their classrooms and the research tax credit, along with making technical amendments to various provisions. The operative provisions for this Act include the following amendments: deductions relating to IRS whistleblower costs; elections for suspension of the use requirements for exclusion from the gain on the sale of a principal residence for members of the U.S. military, U.S. foreign service, or employees of the intelligence community; extension of the election to deduct state and local sales tax in lieu of state and local income tax; rules relating to the charitable contribution of computer equipment by

corporations; extension of the deduction for energy efficient buildings for one year; new deductions for mine safety equipment; rules relating to Archer Medical Savings Accounts and Health Savings Accounts; rules relating to unrelated business income of charitable remainder trusts; and disclosure of return information to federal law enforcement agencies investigating terrorist threats or activity.

**Effective Date**

The federal effective dates for amendments to operative IRC sections are adopted for purposes of Hawaii income tax law. Each of the respective federal effective dates will be the respective effective dates for purposes of Chapter 235, HRS. These effective dates can be found by referencing the specific federal Act.

For more information on Act 84, please contact the Rules Office at 808-587-1577.

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