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DEPARTMENT OF TAXATION ANNOUNCEMENT NO. 2008-02

RE: New Electronic Income Tax Form N-317, "Statement By Qualified High Technology Business"

Act 206 (SLH 2007) requires certain qualified high technology businesses ("QHTB") as defined by § 235-110.9, Hawaii Revised Statutes ("HRS"), to file an electronic annual survey with the Department.

In general, for purposes of § 235-110.9, HRS, a QHTB is a business that employs or owns capital or property in Hawaii, or maintains an office in Hawaii, and meets either the Activity Test or the Gross Income Test.

- To meet the Activity Test, more than 50% of the business's total business activities must be qualified research as defined in § 235-110.9, HRS and more than 75% of the qualified research must be conducted in Hawaii.
- To meet the Gross Income Test, more than 75% of the business's gross income must be derived from qualified research as defined in § 235-110.9, HRS and the income from this qualified research must be received from:
  a. Products sold from, manufactured, or produced in Hawaii; or
  b. Services performed in Hawaii.

WHO MUST FILE NEW ELECTRONIC FORM N-317

A QHTB that accepts a cash investment for which a tax credit may be claimed pursuant to § 235-110.9, HRS must file the electronic annual survey for the calendar year that the cash investment was accepted and each of the following four calendar years.

Since this new electronic form only begins with calendar year 2007, a QHTB that accepted a cash investment in calendar years 2003, 2004, 2005, 2006, or 2007 must file the electronic Form N-317 for calendar year 2007. If the QHTB accepted cash investments in those previous calendar years and did not file the required paper Form N-317 for the year of investment and the following four calendar years up to calendar 2007, please contact the Department for the appropriate paper forms.

FILING DEADLINES FOR NEW FORM N-317

The new electronic income tax Form N-317 must be completed and filed by June 30 of

the year following any calendar year for which a taxpayer is required to file.

The new electronic income tax Form N-317 is now available on the Department's website.

WHERE TO FILE NEW FORM N-317

This form is to be filed exclusively by electronic means through the Department of Taxation's e-filing website. The current address of the Department's e-filing website is http://ehawaii.gov/efile/.

The new form N-317 must be filed electronically. The Department will not accept paper copies of income tax Form N-317 for calendar years after 2006. Also, absent special permission from the Director, the Department will not accept income tax Form N-317 submitted to the Department by any means, electronic or otherwise (including email, fax, etc.) other than through the Department's e-filing website.

APPLICABLE PENALTIES

If the QHTB accepted a cash investment after June 30, 2007 for which a tax credit may be claimed under § 235-110.9, HRS, failure to timely file this Form N-317 will result in a penalty of $1,000 per month for each month the annual survey is not filed, not to exceed a total of $6,000 for every annual survey not filed.

Furthermore, the failure to file, or to provide complete and accurate information, may result in applicable civil and/or criminal penalties.

PAPER FORM N-317 OBSOLETE

For tax years after 2006, the paper income tax Form N-317 is no longer available. The current Form N-317 is the annual survey required by Act 206 and must be filed electronically. In order to avoid confusion, the Department's website no longer allows taxpayers to download the paper version of the income tax Form N-317 for previous calendar years. If a taxpayer is required to file an income tax Form N-317 for calendar years 2002 through 2006, please contact the Department for a copy of the relevant paper form.

ADDITIONAL INFORMATION

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



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