LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR

KURT KAWAFUCHI
DIRECTOR OF TAXATION

SANDRA L. YAHIRO
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809

PHONE NO: (808) 587-1510
FAX NO: (808) 587-1560

October 30, 2008

DEPARTMENT OF TAXATION ANNOUNCEMENT NO. 2008-07

RE: High Tech Comfort Rulings Relying Upon the Gross Income Test

Effective immediately, the Department of Taxation (Department) is exercising its discretion with regard to construing Hawaii revenue laws and will not issue high tech comfort rulings to businesses relying upon the Gross Income Test as the means of qualifying as a Qualified High Technology Business (QHTB).

In order for an investment to qualify for the High Technology Business Investment Tax Credit, the investment must be made into a QHTB. HRS § 235-110.9(a). A business may qualify as a QHTB if, during the five-year period after the investment, the business satisfies either the Activities Test or the Gross Income Test. HRS § 235-110.9(g). The QHTB Gross Income Test is defined as follows—

> (2) More than seventy-five per cent of [the QHTB's] gross income is derived from qualified research; and provided further that this income is received from:
> (A) Products sold from, manufactured in, or produced in this State; or
> (B) Services performed in this State.

Due to the highly fact intensive nature of qualifying as a QHTB under the Gross Income Test, including the uncertainty and ambiguity of: 1) revenue streams associated with qualified research; 2) determining the source of product sales; 3) manufacturing or production quantification; as well as 4) the extent services are performed in the State within the meaning of HRS § 235-110.9(g), the Department will not issue rulings determining whether a business satisfies the Gross Income Test for purposes of qualifying as a QHTB.

KURT KAWAFUCHI
Director of Taxation