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DEPARTMENT OF TAXATION ANNOUNCEMENT NO. 2008-12

RE: HIGH TECHNOLOGY BUSINESS INVESTMENT CREDIT

I. Comfort Rulings – Nonfossil Fuel Energy-Related Technology

On September 15, 2008, the Department issued Announcement No. 2008-06 notifying taxpayers of a temporary delay in issuing comfort rulings with regard to the high technology tax incentives available under Sections 235-110.9 and 235-110.91 of the Hawaii Revised Statutes, ("HRS"), ("High Tech Tax Incentives"), while the Department reviewed how comfort rulings would be processed for High Tech Tax Incentives on a prospective basis. Since prior to September 24, 2008, the Department has been issuing comfort rulings in cases, other than nonfossil fuel energy-related technology, that clearly meet the criteria for qualification.

This Announcement identifies some of the general factors the Department will consider favorably when processing comfort rulings of High Tech Incentives for businesses that seek to qualify as a Qualified High Technology Business ("QHTB") engaged in qualified research under the Nonfossil Fuel Energy-Related Technology category for purposes of satisfying the requirement that more than 50% of the businesses activities must be in qualified research and more than 75% of its qualified research must be conducted in Hawaii ("Activity Test").

These favorable factors are:

(1) The business is engaged in an activity that is clearly innovative, research-oriented and/or substantially improves existing technology.

(2) The technology developed or commercialized by the business will generate significant amounts of energy for use by many people/users.

(3) The business is not merely commercializing technology that was developed or substantially improved by a separate business whose activities were already subsidized with the High Tech Incentives.

(4) The U.S. National Renewable Energy Laboratory strongly supports the development of the type of renewable energy technology in question or favorably views the potential for the technology to efficiently produce useable energy.

The factors presented in this Announcement are intended to provide general guidance only; the factors are not presented or intended as a substitute for the Activity Test. No one factor is determinative; and satisfactory responses to all factors will not guarantee a favorable comfort ruling. Each factor will be reviewed independently, and the failure to satisfy a particular factor will not automatically result in the rejection of a comfort ruling request.

II. Requests for Extensions of Time to Fund Qualified High Technology Business Investments for Calendar Year 2008

The Department of Taxation will no longer approve requests from qualified high technology businesses (QHTBs) or their investors to extend the time within which investments must be made into QHTBs in order to generate high technology business investment tax credits under Section 235-110.9, Hawaii Revised Statutes, for the 2008 taxable year.

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