LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR

KURT KAWAFUCHI
DIRECTOR OF TAXATION

STANLEY SHIRAKI
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

DEPARTMENT OF TAXATION ANNOUNCEMENT NO. 2009-25

September 9, 2009

RE: Adoption of Tax Penalty Temporary Rules

On September 7, 2009, the Department of Taxation (Department) adopted temporary administrative rules providing guidance to taxpayers and tax practitioners on recently enacted penalties. Temporary rules become effective seven days after public notice is issued.

Pursuant to its authority under Section 231-10.6, Hawaii Revised Statutes, the temporary administrative rules provide guidance in the application of the following penalties passed during the 2009 legislative session:

- Penalty for understatement of tax liability by a tax return preparer, HRS § 231-36.5;
- Penalty for substantial understatement or misstatement of tax, HRS § 231-36.6 ;
- Penalty for promoting abusive tax shelters, HRS §231-36.7; and
- Penalty for erroneous refund claims, HRS § 231-36.8.

Taxpayers and tax practitioners are advised to amend any prior year's return that may be in violation of the foregoing penalties as a result of the retroactive effective date contained in Act 166, SLH 2009. Section 27 of Act 166 makes certain penalties and acts, including the foregoing penalties, retroactive for any return where the statute of limitations remains open; provided that no such penalty may be assessed if an amended return is filed by October 1, 2009. Taxpayers have until October 1, 2009 to file an amended return curing any defect, which could result in a penalty under Act 166.

Temporary rules are effective for 18 months after their effective date. The Department is also proposing formal administrative rules pursuant to Chapter 91, HRS, concurrently with the adoption of these temporary rules.

Copies of the temporary administrative rules (as well as the proposed formal administrative rules) are available at the Department's website, the Lieutenant Governor's website, and at the offices of the Department.

If you have additional questions, please contact the Department at 587-1577.

KURT KAWAFUCHI
Director of Taxation