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DEPARTMENT OF TAXATION ANNOUNCEMENT NO. 2011-06

RE: Relief for Taxpayers Affected by the March 11, 2011 Tsunami

In light of the recent earthquake that shook Japan on March 10, 2011, and generated a tsunami that reached the State of Hawaii on March 11, 2011, the Department of Taxation (the "Department") recognizes that affected taxpayers may have difficulty meeting their tax obligations. The Department, therefore, will consider requests for extensions to file and pay other taxes and waivers of penalties and interest on a case-by-case basis. *See* Hawaii Revised Statutes (HRS) §§ 231-3(12) and 235-98. In addition, on April 8, 2011, the President of the United States of America issued a proclamation of a natural disaster in Hawaii. Therefore, the Department will also follow federal casualty loss provisions allowed in such event.

I. Mark Returns "2011 TSUNAMI Relief"

All returns that are filed under the provisions of this Announcement should be clearly marked "2011 Tsunami Relief" on the top center of the return. Do not place the words "2011 Tsunami Relief" in the "DO NOT WRITE IN THIS SPACE" area in the upper right corner of any return. The Department recognizes that the tsunami impacted the entire State, whether the impact on taxpayers was temporary loss of power, property loss, or injury. Taxpayers and tax practitioners who rely on the provisions of this Announcement should also include a brief statement as to how the disaster adversely affected their ability to meet their tax obligations.

II. Hawaii Employer's Withholding Taxes

Taxpayers whose Hawaii employer's withholding taxes were due on March 15, 2011, and who, as a result of the tsunami could not meet this due date, may file their returns and pay the tax due by April 15, 2011, without incurring any penalties or interest. No late filing penalty will be imposed for returns that are postmarked on or before April 15, 2011. This remission of penalties and interest also applies to those who are required under § 235-62, HRS, to file monthly and remit payments on a semi-weekly schedule (tax payment may be made when the return is filed).

Employers who have employees at several locations in the State, including locations not affected by the tsunami, must file their returns on time. If complete information from locations affected by the tsunami is not available by the due date of the return, an amended return should be filed when the information becomes available.

III. Special Consideration

The Department will consider requests for extensions to file and pay other taxes and waivers of penalties and interest on a case-by-case basis. Each request should include a statement as to how the 2011 statewide tsunami adversely impacted the taxpayer.

IV. Casualty Losses

For purposes of the Hawaii income tax law, taxpayers may claim all of the casualty loss deductions allowed by § 165 of the Internal Revenue Code of 1986, as amended, (See IRS Publication 547 for more information). Casualty losses on business property are deductible in full. The first $100 of the eligible unreimbursed casualty losses on nonbusiness property is not deductible. The remaining loss is deductible to the extent it exceeds 10 per cent (10%) of the taxpayer's Hawaii adjusted gross income. The following options are available after determination of the amount of losses:

1. The President of the United States of America issued a proclamation of a natural disaster in Hawaii. As a result, taxpayers may claim a casualty loss deduction on their 2010 income tax returns, instead of on their 2011 income tax returns, for losses from the tsunami occurring on March 11, 2011 (an amended return must be filed if this option is chosen); or

2. Taxpayers may elect to deduct the losses on their 2011 income tax returns; or

3. If taxpayers' casualty losses are more than income, a net operating loss may result. A net operating loss may be used to lower taxes in an earlier year, allowing receipt of a refund for taxes already paid. If properly elected, a net operating loss may be used to lower taxes in a later year. Taxpayers do not have to be a business to claim this benefit; all taxpayers may claim this carryback or carryover net operating loss.

V. General Excise Tax Exemption for Insurance Proceeds Received Because of a Natural Disaster, § 237-24.7(6), HRS

On March 11, 2011, the Governor signed a State Disaster Proclamation pursuant to § 209-2, HRS that a disaster occurred in the State of Hawaii. Therefore, taxpayers may be eligible for a general excise tax exemption if they receive amounts under property and casualty insurance policies for damage or loss of inventory used in a trade or business. Please refer to the instructions for Forms G-45 and G-49 for more information.

Tax forms and information are available on the Department's website at www.hawaii.gov/tax. Tax forms and publications are available through the Department's request line at 808-587-4242, or toll-free from the neighbor islands and continental United States at 1-800-222-3229. This service is available 24 hours a day, 7 days a week. Additional information is available by calling the Taxpayer Services Branch during business hours at 587-4242, or toll-free at 1-800-222-3229, or by e-mailing Taxpayer.Services@hawaii.gov.



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