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June 30, 2011

DEPARTMENT OF TAXATION ANNOUNCEMENT NO. 2011-11

RE: Act 101, Session Laws of Hawaii 2011, Relating to the Taxation

On June 9, 2011, Governor Neil Abercrombie signed into law House Bill 801 HD2, SD2, CD1 as Act 101, Session Laws of Hawaii 2011.

This Act clarifies the Department of Taxation's investigatory and subpoena authority for audits, hearings, investigations and criminal investigations under Section 231-7, Hawaii Revised Statutes. Specifically this Act clarifies the Department's authority by:

Under subsection (a), clarifying that, rather than "inquiries," the Department may conduct civil audits and criminal investigations.

Under subsection (a), clarifying that the Department may conduct audits into the financial resources of delinquent taxpayers.

Under subsection (c), clarifying when the Department may issue subpoenas, what objects and information the Department may subpoena, and the form such subpoenas shall take.

Under subsection (c), clarifying that a court may quash or modify Department subpoenas if compliance would be unreasonable or oppressive, or would violate any privilege, and that a court may find a person in contempt for failing to comply with a subpoena.

Under subsection (d), clarifying that, during criminal investigations, the Department may subpoena witnesses, examine witnesses under oath, and require production of any books, papers, documents, other designated objects or other records, including electronic records, that are relevant to the investigation. The Act specifies the form such subpoenas shall take.

Under subsection (f), clarifying that the Department shall reimburse subpoenaed financial institutions for certain costs incurred in complying with subpoenas.

Under subsection (g), clarifying that persons subpoenaed pursuant to the audit, investigation, or hearing of another person shall not be liable for damages arising from compliance with the subpoena.

Act 101 takes effect July 1, 2011 for any subpoena issued on or after the effective date.

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

Frederick D Pablo

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Director of Taxation