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September 22, 2011

DEPARTMENT OF TAXATION ANNOUNCEMENT NO. 2011-24

RE: Act 74, Session Laws of Hawaii 2010; Estate & Transfer Tax

On April 29, 2010, House Bill 2866 HD 1 SD 1 CD 1, became law as Act 74, Session Laws of Hawaii 2010. This act reenacted Hawaii's Estate & Transfer Tax under Chapter 236D, Hawaii Revised Statutes (HRS) in a form that adopted conforming provisions to the Internal Revenue Code (IRC), Title 26, Subtitle B, Estate & Gift Tax, but involving two separate points in time. In response to Act 74, the Department of Taxation (Department) issued a revised Form M-6, "Hawaii Estate Tax Report," to be filed by decedents dying on or after May 1, 2010.

The Department has determined that the form as issued contains an error which results in the amount of the estate tax to be overpaid by some taxpayers. As a result, the Department is in the process of revising the Form M-6 to correct the error, and expects that it will be available to the public by October 1, 2011.

For decedents dying on or after May 1, 2010 who have previously filed a Form M-6, the Department is in the process of recalculating the amount of tax due, and will send out to affected taxpayers a refund (including interest at the statutory rate) of any amount overpaid.

For decedents dying on or after May 1, 2010 whose gross estate exceeds $3.5 million and who have not yet filed a Form M-6, the Department sets the due date for filing such form to 60 days from the time the revised Form M-6 is made available to the public on the Department's website, or nine months from the date of death, whichever is later. In addition, a six-month extension is available by filing Form M-68, "Application for Automatic Extension of Time to File Hawaii Estate Tax Report." No penalties and/or interest will be assessed a taxpayer who files a Form M-6 within the time provided herein.

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

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