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DEPARTMENT OF TAXATION ANNOUNCEMENT NO. 2013-01

RE: Filing Date Extension and Estimated Tax Penalty Relief for Farmers and Fishermen

I. Federal Income Tax Treatment

On January 29, 2013, the Internal Revenue Service (IRS) issued Notice 2013-5 to give guidance on the relief from the estimated tax penalty for farmers and fishermen who are unable to pay their 2012 taxes by March 1, 2013. A taxpayer qualifies as a farmer or fisherman for 2012 if at least two-thirds of the taxpayer's gross income was from farming or fishing in either 2011 or 2012. Generally, farmers and fishermen are required to either make one estimated tax payment by January 15, 2013 or file their federal income tax returns and pay the full amount of tax due by March 1, 2013. However, there was a delay in the start for filing federal tax returns due to the enactment of the American Taxpayer Relief Act (ATRA) which affected the IRS' ability to accept and process forms.

Under Internal Revenue Code (IRC) section 6654(e)(3), the IRS may waive the estimated tax penalty in unusual circumstances where its imposition would be against equity and good conscience. Therefore, the IRS will waive the estimated tax penalty for farmers and fishermen who miss the March 1, 2013 deadline if they file their federal tax return and pay the full amount of tax due by April 15, 2013. The penalty waiver is not automatic. Farmers and fishermen requesting relief from the estimated tax penalty must attach federal Form 2210-F to their federal tax return.

II. Hawaii Income Tax Treatment

Under section 235-97(f)(4), Hawaii Revised Statutes, conforms to IRC section 6654(e)(3) relating to the estimated tax penalty waiver provisions and the special rule for farmers and fishermen under IRC section 6654(i) except the due date for farmers and fishermen to make a Hawaii estimated tax payment is January 20, 2013. Accordingly for Hawaii income tax purposes, farmers and fishermen who elect not to make an estimated tax payment by January 20, 2013, will not be subject to the estimated tax penalty if they file their Hawaii income tax return and pay the full amount due by **April 15, 2013**, which is an extension of the March 1, 2013 deadline. Farmers and fishermen requesting relief from the estimated tax penalty must complete and attach Hawaii Form N-210, Underpayment of Estimated Tax by Individuals, Estates, and Trusts, to their Hawaii income tax returns. On Form N-210, check box "a" to request a waiver of penalty, and print "Farmers/Fishermen ATRA" next to “waiver of penalty”.

Current forms and other tax information may be downloaded from the Department's website at www.hawaii.gov/tax. For more information, please call Taxpayer Services at 808-587-4242, or toll-free from the neighbor islands and continental U.S. at 1-800-222-3229.

/s/

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