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DEPARTMENT OF TAXATION ANNOUNCEMENT NO. 2013-22

RE: Act 256, Session Laws of Hawaii 2013, Relating to Taxation

This Announcement supplements and supersedes in part Department of Taxation Announcement No. 2011-20, dated July 19, 2011. On July 2, 2013, Governor Neil Abercrombie signed into law House Bill 430, H.D.1, S.D. 1, C.D. 1, as Act 256, Session Laws of Hawaii 2013 (Act 256). Act 256 is effective July 1, 2013 and applies to taxable years beginning after December 31, 2012. For purposes of Hawaii income tax, Act 256 excludes charitable contributions from the hard cap limitations established under Act 97, Session Laws of Hawaii 2011 (Act 97).

I. Background

Act 97 limits the total itemized deductions that may be claimed by taxpayers to the lesser of:

(A) The overall limitation under section 68 of the Internal Revenue Code (IRC) using the thresholds operative for federal tax year 2009 for taxpayers with Hawaii adjusted gross income (AGI) that exceed $83,400 for married filing separate filers and $166,800 for all other filers; or

(B) The hard caps in section 3 of Act 97 as follows:

Type of filer	Federal AGI	Amount of hard cap
Individual or Married filing separately	$100,000 or more	$25,000
Head of Household	$150,000 or more	$37,500
Joint or Surviving Spouse	$200,000 or more	$50,000

II. Limitations on Total Itemized Deductions

Act 256 amends section 3 of Act 97 by carving out charitable contributions from the hard

cap amounts. All itemized deductions except for charitable contributions remain subject to the applicable hard caps (see part I, section B). This means that the total itemized deductions that may be claimed by taxpayers who meet or exceed the respective AGI thresholds is the lesser of:

(A) The overall limitation under IRC section 68 using the thresholds operative for federal tax year 2009; or

(B) The applicable hard cap plus allowable charitable contributions.

For example, a single filer with a federal AGI of $150,000 has $70,000 of itemized deductions ($30,000 of charitable contributions and $40,000 of other itemized deductions). The itemized deductions under Act 97 as amended by Act 256 are capped at $55,000 ($25,000 hard cap + $30,000 charitable contributions). The $40,000 of itemized deductions is capped at $25,000 for single filers and added to the $30,000 of charitable contributions which are not subject to the hard cap. The total itemized deductions that may be claimed is the lesser of the cap amount ($55,000) or the overall limitation under IRC section 68.

III. Effective Dates

Act 326 applies to taxable years beginning after December 31, 2012, but not to taxable years beginning after December 31, 2015.

Forms, publications, and other tax information are available on the Department of Taxation's website at tax.hawaii.gov.

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