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April 4, 2016

DEPARTMENT OF TAXATION ANNOUNCEMENT NO. 2016-04

RE: Adoption of Temporary Hawaii Administrative Rules Relating to: (1) Act 204, Session Laws of Hawaii 2015; (2) Disclosure of Tax Return Information to Persons with a Material Interest in the Return; and (3) Revocation of General Excise Tax Licenses Because of Abandonment.

The Department of Taxation (Department) announces the adoption of temporary administrative rules, as described below, which will take effect on April 4, 2016 and expire on October 4, 2017. Pursuant to section 231-10.7, Hawaii Revised Statutes (HRS), temporary rules have the same force and effect as any other administrative rules.

Temporary Administrative Rules Relating to Act 204, Session Laws of Hawaii 2015

The temporary rules implement Act 204, Session Laws of Hawaii 2015, which requires that operators and plan managers of transient accommodations designate an on-island local contact and display the contact's name, phone number and email address inside the unit, as well as in online advertisements or to the guest upon check-in. Act 204 also requires Transient Accommodations Tax license numbers be displayed both inside the unit and in all online advertisements, either directly in the advertisement or by a link, and imposes fines on operators, plan managers, and transient accommodations brokers for failure to comply.

The temporary rules explain how the Department will issue citations and fines for violations of Act 204, explain instances where the Department will issue a written warning in lieu of a citation, and provide procedures for appeals.

Temporary Administrative Rules Relating to Disclosure of Tax Return Information to Persons with a Material Interest in the Return

The temporary rules clarify the term "persons with a material interest in the return, return information, or report" in section 237-34, HRS, which provides that tax return information may be disclosed to such persons. The temporary rules clarify that persons with a material interest in a return include persons whose tax liability is based on the gross income, deductions, exemptions, or tax liability of the taxpayer.

In certain audit situations, to properly review and assess the appropriate tax, the Department must examine more than one taxpayer's return. For example, when a general contractor takes a subcontractor deduction pursuant to section 237-13(3), HRS, the Department will examine the general contractor's and subcontractor's returns. If an assessment is made

against the general contractor, the Department may need to disclose relevant portions of the subcontractor's return to the general contractor. The temporary rules clarify that the Department is authorized to disclose tax return information under these and similar circumstances.

Temporary Administrative Rules Relating to Revocation of General Excise Tax Licenses Because of Abandonment

The temporary rules allow the Department to revoke abandoned general excise tax licenses by publishing notice of its intent to revoke the licenses on the Department's website for a period of 45 days. Pursuant to section 18-231-3-14.17(c), Hawaii Administrative Rules, a license is deemed abandoned if the taxpayer has not filed any returns for five years, not including time periods when the license is on inactive status.

Copies of the rules are available at the Department's website at tax.hawaii.gov. For more information, please contact the Rules Office at 808-587-1530 or by email at Tax.Rules.Office@hawaii.gov.

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