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DEPARTMENT OF TAXATION ANNOUNCEMENT NO. 2016-08

RE: Relief for Taxpayers Affected by Heavy Rains and Flooding from September 11, 2016 to September 14, 2016 in the counties of Maui and Kalawao

As a result of the heavy rains and flooding from September 11, 2016 to September 14, 2016 that caused extensive damage in Maui and Kalawao counties, Governor David Y. Ige signed an emergency proclamation on September 16, 2016, designating the counties of Maui and Kalawao as disaster areas. Additionally, on October 6, 2016, President Barack Obama signed a federal disaster declaration for the affected areas.

This Tax Announcement describes various forms of relief that are available to taxpayers who were affected by the disaster.

I. MARK TAX RETURNS "2016 MAUI/KALAWAO FLOOD RELIEF"

The Department of Taxation (Department) recognizes that taxpayers affected by the disaster may have difficulty meeting their tax obligations. Accordingly, the Department will consider requests by affected taxpayers for extensions to file and pay Hawaii taxes and for waivers of penalties and interest on a case-by-case basis. *See* Hawaii Revised Statutes (HRS) §§ 231-3(12), 235-98.

All Hawaii tax returns in which relief is requested in connection with the disaster should be clearly marked "2016 Maui/Kalawao Flood Relief" on the top center of the return. Do not write "2016 Maui/Kalawao Flood Relief" in the "DO NOT WRITE IN THIS SPACE" area in the upper right corner of any return. Taxpayers who were affected by the disaster, but whose address on file with the Department are not in Maui or Kalawao counties, should also include a brief statement as to how the disaster adversely affected their ability to meet their tax obligations.

II. CASUALTY LOSSES

For purposes of Hawaii income tax law, taxpayers may claim all of the casualty loss deductions allowed by section 165 of the Internal Revenue Code of 1986, as amended. Please refer to Internal Revenue Service Publication 547 for more information. Casualty losses on business property are deductible in full. The first $100 of eligible unreimbursed casualty losses

on nonbusiness property are not deductible. The remaining loss is deductible to the extent it exceeds 10 percent of the taxpayer's Hawaii adjusted gross income. The following options are available after determining the amount of losses:

1. Taxpayers may elect to claim a casualty loss deduction on their 2015 income tax returns, instead of on their 2016 income tax returns, for losses from the federally declared disaster (an amended return must be filed if this option is chosen);

2. Taxpayers may elect to deduct the losses on their 2016 income tax returns; or

3. If taxpayers' casualty losses are more than income, a net operating loss may result. A net operating loss may be used to lower taxes in an earlier year, resulting in a refund for taxes already paid. If properly elected, a net operating loss may be used to lower taxes in a later year. A taxpayer does not have to be a business to claim this benefit; all taxpayers may claim this carryback or carryover net operating loss.

III. General Excise Tax Exemption for Insurance Proceeds Received Because of a Natural Disaster

Pursuant to section 237-24.7(6), HRS, amounts received under property and casualty insurance policies for damage or loss of inventory used in a trade or business located within an area declared a disaster by the governor are exempt from general excise tax. Please refer to the instructions for Forms G-45 and G-49 for more information.

Tax forms and information are available on the Department's website at tax.hawaii.gov. Additional information is available by calling the Technical Section during business hours at (808) 587-1577, or by e-mailing tax.technical.section@hawaii.gov.

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