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DEPARTMENT OF TAXATION ANNOUNCEMENT NO. 2019-01

RE: Military Spouses Residency Relief Act; Amendments to the Servicemembers Civil Relief Act enacted December 31, 2018; Tax Information Release No. 2010-01

The Department addressed previous iterations of the Servicemembers Civil Relief Act (SCRA) and the Military Spouses Residency Relief Act in Tax Information Release (TIR) No. 2010-01. This Announcement provides interim guidance until the Department issues a revised TIR based on the discussion below.

On December 31, 2018, President Donald Trump signed the Veterans Benefits and Transitions Act of 2018 (VBTA), Pub. L. No. 115-407. Section 302 of the VBTA allows spouses of servicemembers to elect to use the same residence for purposes of state taxation as the servicemember, regardless of the date on which the marriage occurred. Because the VBTA was signed on the last day of taxable year 2018, spouses can make this election for state and local returns for taxable year 2018 filed in the 2019 income tax filing season.

The Department previously required that the spouse and servicemember were domiciled in the same state other than Hawaii in order to qualify for the SCRA income tax exemption. Based on Section 302 of the VBTA, the Department will no longer enforce this requirement.

Beginning with income tax year 2018, income received by the servicemember's civilian spouse for services performed by the servicemember's spouse in Hawaii is not considered Hawaii-sourced income and therefore, not subject to Hawaii income tax if the following conditions are met:

1. The servicemember (as defined in 10 U.S.C. §101(a)(5)) is present in Hawaii solely in compliance with military or naval orders; and
2. The spouse is in Hawaii solely to be with the servicemember.

For general information about the SCRA's application to Hawaii tax law, see TIR No. 2010-01. If you have any questions regarding this Announcement, please contact the Technical Section by email at tax.technical.section@hawaii.gov or by phone at (808) 587-1577.

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