JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR

GARY S. SUGANUMA
DIRECTOR OF TAXATION

KRISTEN M.R. SAKAMOTO
DEPUTY DIRECTOR

STATE OF HAWAIʻI
DEPARTMENT OF TAXATION
Ka 'Oihana 'Auhau
P.O. BOX 259
HONOLULU, HAWAIʻI 96809
PHONE NO: (808) 587-1530
FAX NO: (808) 587-1584

August 23, 2023

DEPARTMENT OF TAXATION ANNOUNCEMENT NO. 2023-03 (AMENDED)

RE: Relief for Taxpayers Affected by the Wildfires in the Counties of Maui and Hawaiʻi.

As a result of the wildfire disasters in the counties of Maui and Hawaiʻi, Lieutenant Governor Sylvia Luke, in her capacity as Acting Governor, signed a proclamation on August 8, 2023, declaring this event to constitute an emergency or disaster in accordance with section 127A-14, Hawaiʻi Revised Statutes (HRS). Additionally, second and third proclamations relating to wildfires were issued by Acting Governor Luke on August 9, extending the disaster relief period through August 31, 2023. On August 10, President Joe Biden approved a federal disaster declaration, making federal funds available for affected residents in Maui County. Governor Josh Green issued fourth, fifth and sixth proclamations on August 10, August 13, and August 19, respectively, to help facilitate response, recovery, and rebuilding for the affected counties.

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

I. FILING INSTRUCTIONS FOR REQUESTING WILDFIRE 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 Hawaiʻi taxes, for waivers of any penalties and interest, and for relief based on interruptions to mail delivery, on a case-by-case basis. The relief provided by this section applies to all taxes that the Department administers, including general excise, transient accommodations, net income, tobacco, and liquor.

For taxpayers who file by paper and wish to request relief, please clearly write "2023 Wildfire Relief" on the top center of the return. Do not write "2023 Wildfire Relief" in the "DO NOT WRITE IN THIS SPACE" area in the upper right corner of any return. For taxpayers who file electronically and wish to request relief, please send a message at the time of filing via Hawaiʻi Tax Online by selecting "I have a 2023 Wildfire Relief question" and include the information noted below.

Taxpayers requesting relief should include a brief statement explaining what specific relief they are requesting and how the wildfire disaster adversely affected their ability to meet their tax obligations. Paper filers can attach this statement when submitting their return(s); electronic filers can include this statement with their message on Hawai‘i Tax Online. An "adversely affected taxpayer" may include any individual, business entity, or other person who is unable to file returns or unable to make payments because of the wildfire disaster's impact. Depending on the circumstances, a taxpayer may be adversely affected even if their address on file with the Department is not within the area directly affected by the wildfire. The Department will consider all requests on a case-by-case basis.

II. CASUALTY LOSSES

For purposes of Hawai‘i income tax, taxpayers may claim all of the casualty loss deductions allowed by section 165 of the Internal Revenue Code of 1986, as amended (IRC). 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 Hawai‘i 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 2022 income tax returns, instead of on their 2023 income tax returns (an amended return may need to be filed if this option is chosen) based on the President's issuance of a federal disaster declaration;

2. Taxpayers may elect to deduct the losses on their 2023 income tax returns; or

3. If taxpayers' casualty losses are more than their income, a net operating loss may result. A properly elected net operating loss may be carried forward and used to lower taxes in a future year; however, any portion of a net operating loss that is a farming loss may be used to lower taxes in each of the two preceding tax years.

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 or 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 (GET). Please refer to instructions for Form G-45 and G-49 for more information.

IV. DISASTER RELIEF PAYMENTS

Pursuant to section 235-2.3, HRS, Hawai‘i adopts IRC section 139 in its entirety. IRC section 139 provides that any amounts received by an individual as a "qualified disaster relief payment" are excluded from the individual's gross income and thus not subject to taxation.

Based on the August 10 federal disaster declaration, the following amounts received by an individual may be excluded from gross income for purposes of Hawai‘i income tax:

1. Amounts to reimburse or pay reasonable and necessary personal, family, living, or funeral expenses incurred as a result of the wildfires;
2. Amounts to reimburse or pay reasonable and necessary expenses incurred for the repair or rehabilitation of a personal residence (or repair or replacement of its contents) to the extent that the need for such repair, rehabilitation, or replacement is attributable to the wildfires;
3. Amounts paid by a person engaged in the furnishing or sale of transportation as a common carrier due to death or personal physical injuries incurred as a result of the wildfires; and
4. Amounts paid by a federal, state, or local government, or an agency or instrumentality thereof, in connection with the wildfires, in order to promote the general welfare.

These qualified disaster relief payment amounts may only be excluded from an individual's gross income to the extent that the individual does not receive compensation for the same loss from other sources, such as homeowner's insurance. Additionally, the general rule preventing double benefits applies to disaster relief payments. No deduction or credit is allowed for amounts that are excluded from gross income.

Tax forms and information are available on the Department's website at tax.hawaii.gov, or by calling the Department's Technical Section at (808) 587-1577.

For all inquiries relating to relief for taxpayers affected by the wildfires in Maui County and Hawai‘i County, please email the Department at Tax.2023WildfireRelief@hawaii.gov.

GARY S. SUGANUMA
Director of Taxation