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DEPARTMENT OF TAXATION ANNOUNCEMENT NO. 2023-06

RE: Suspension of General Excise Tax for Housing Projects Certified Under the Governor's Emergency Rules

On May 19, 2023, Governor Josh Green, M.D. signed the Fourth Proclamation Relating to Homelessness ("Fourth Proclamation"), which suspended general excise tax (GET) for the planning, design, financing, construction, sale, or lease in the State of a project certified under the Governor's emergency rules. Governor Green subsequently issued the Fifth Proclamation Relating to Homelessness ("Fifth Proclamation") on July 18, 2023 and the Sixth Proclamation Relating to Homelessness ("Sixth Proclamation") on September 15, 2023.

This Tax Announcement details the suspension of GET for housing projects for homeless persons afforded under the Fourth Proclamation, Fifth Proclamation, and Sixth Proclamation (hereinafter collectively referred to as the "Proclamations").

Suspension of GET for Housing Projects Certified by the Governor's Coordinator on Homelessness

Pursuant to the Proclamations, chapter 237, Hawaii Revised Statutes (HRS), is suspended:

> [T]o the extent that the suspension shall only apply to qualified persons or firms involved with a newly constructed, or a moderately or substantially rehabilitated, project that is developed under this Proclamation for the provision of housing for homeless persons, subject to the attached Governor's emergency rules. The suspension shall apply to the planning, design, financing, construction, sale, or lease in the State of a project that has been certified under the attached Governor's emergency rules. "Moderate rehabilitation" and "substantial rehabilitation" shall have the same meaning as set forth in section 201H-36(d), HRS.

In accordance with the foregoing, GET will be suspended for gross income received by a qualified person or firm for the planning, design, financing, construction, sale, or lease in the State for a newly constructed, or a moderately or substantially rehabilitated, project certified by the Governor's Coordinator on Homelessness under the Governor's emergency rules.

The term "moderate rehabilitation" means "rehabilitation to upgrade a dwelling unit to a decent, safe, and sanitary condition, or to repair or replace major building systems or components in danger of failure."

The term "substantial rehabilitation":

(1) Means the improvement of a property to a decent, safe, and sanitary condition that requires more than routine or minor repairs or improvements. It may include but is not limited to the gutting and extensive reconstruction of a dwelling unit, or cosmetic improvements coupled with the curing of a substantial accumulation of deferred maintenance; and

(2) Includes renovation, alteration, or remodeling to convert or adapt structurally sound property to the design and condition required for a specific use, such as conversion of a hotel to housing for elders.

Certification Process for GET Suspension

Once a project is certified by the Governor's Coordinator on Homelessness, the taxpayer must complete Form G-37, General Excise/Use Tax Exemption for Certified or Approved Housing Projects. Form G-37 will be amended at a later date to allow taxpayers to indicate that a project is being developed pursuant to an emergency proclamation. Until Form G-37 is amended, please clearly write "Emergency Proclamation" at the top of Form G-37 and leave the three boxes under the "pursuant to (*check one*)" section of the form unchecked.

Form G-37 must be filed with the Hawai'i Housing Finance and Development Corporation (HHFDC). Upon certification by HHFDC, HHFDC will provide a copy of Form G-37 to the taxpayer and transmit the original directly to the Department of Taxation.

GET Filing Requirements

Taxpayers must report all gross income received from the planning, design, financing, construction, sale, or lease in the State of a project certified by the Governor's Coordinator on Homelessness on Form G-45, Periodic General Excise/Use Tax Return, and Form G-49, Annual Return and Reconciliation of General Excise/Use Tax Return. Taxpayers must also file Schedule GE, General Excise/Use Tax Schedule of Exemptions and Deductions, and use the Exemption/Deduction (ED) Code "100."

If any income was received prior to the issuance of this Tax Announcement for which GET would be suspended under the Proclamations, taxpayers should seek HHFDC certification for that income and amend any previously-filed tax returns accordingly.

If you have questions about the certification process for the suspension of GET under the Proclamations, please contact HHFDC at 808-587-0620. If you have any questions about this Tax Announcement or the Department of Taxation's implementation of the GET suspension under the Proclamations, please contact the Rules Office at 808-587-1530 or by emailing Tax.Rules.Office@hawaii.gov.

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