JOHN WAIHEE
GOVERNOR

RICHARD F. KAHLE, JR.
DIRECTOR OF TAXATION

GARY S. MIJO
DEPUTY DIRECTOR

JOYCE T. OMINE
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809-0259

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TAX INFORMATION RELEASE NO. 90-4

RE: Taxability of Benefit Payments from Pension Plan to Participants who Attain Age 70-1/2 as Required by the Internal Revenue Code (IRC) Section 401(a)(9)(C).

This Tax Information Release is issued in response to numerous requests for information regarding the taxability of the required distribution from pension plans to participants who are still employed by the employer and attain age 70-1/2.

IRC section 401(a)(9)(C) requires that benefit payments from a pension or profit sharing plan must start on or before April 1 after the year the participant reaches age 70-1/2, whether or not the employee has retired.

For State net income tax purposes, these benefit payments qualify for the exclusion under section 235-7(a)(3), Hawaii Revised Statutes, provided the plan is intended as pension plan and is fully funded by the employer.

For plans funded by employers as well as employees, the exclusion amount is limited to the amount attributable to the employers' contributions and the earnings thereon.

Richard F. Kahle

RICHARD F. KAHLE, JR.
Director of Taxation