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DEPARTMENT OF TAXATION ANNOUNCEMENT NO. 2019-08

RE: Delay in Implementing the Withholding of Taxes on Income of Nonresident Partners and Beneficiaries of Partnerships, Estates, and Trusts; Act 232 Session Laws of Hawaii 2019

Act 232, Session Laws of Hawaii 2019 (Senate Bill 1360, S.D. 1, H.D. 1) became effective July 2, 2019 and applies to taxable years beginning after December 31, 2018. Act 232 requires income tax withholding for nonresident taxpayers based on the taxpayers' distributive share of income attributable to the State reflected on the partnership's, estate's, and trust's return for the taxable period. The amount withheld equals to the highest marginal tax rate applicable to a nonresident taxpayer multiplied by the amount of the taxpayer's distributive share of income attributable to the State.

Act 232 provides an exemption from withholding for publicly traded partnerships, as defined by section 7704(b) of the Internal Revenue Code. A publicly traded partnership is required to file an annual information return of each unit holder with income sourced to Hawaii.

The Department of Taxation (Department) is currently in the process preparing to implement and enforce Act 232. The Department will not require partnerships, estates, and trusts to withhold income taxes as mandated by Act 232 while it is in this preparation phase. The Department intends on requiring withholding under Act 232 no sooner than taxable years beginning after December 31, 2019.

For more information, or questions regarding this Tax Announcement, please contact the Rules Office at (808) 587-1530 or by email at Tax.Rules.Office@hawaii.gov

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