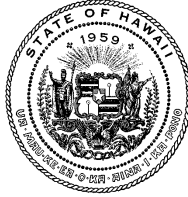


**BENJAMIN J. CAYETANO**  
GOVERNOR

**MAZIE HIRONO**  
LT. GOVERNOR



**RAY K. KAMIKAWA**  
DIRECTOR OF TAXATION

**SUSAN K. INOUE**  
DEPUTY DIRECTOR

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

May 21, 1998

## **TAX INFORMATION RELEASE NO. 98-3**

RE: 1998 Legislation Regarding Business Development Corporations (“BDCs”)

The 1998 Legislature passed H.B. No. 2749, H.D. 1, S.D. 1, C.D. 1, which provides for the repeal of Chapter 420, Hawaii Revised Statutes (“HRS”), on December 31, 2001. Under the bill, BDCs may not be formed after June 30, 1998, and BDCs formed before July 1, 1998 may continue to operate only if they fulfill the purposes and requirements of chapter 420, HRS. Of those BDCs, the tax exemptions and credits provided under section 420-16, HRS, are phased out over a four-year period starting with the taxable year 1998, with a complete phase out in the taxable year 2002.

As stated in Tax Information Release No. 97-5 (October 17, 1997), the Department will not consider operating business activities as fulfilling the purposes and requirements of chapter 420, HRS, and will continue to challenge any tax exemptions or credits taken with respect to those activities.

Taxpayers and practitioners are advised that the Department will not consider as having a business purpose any transaction in which assets or entities are acquired by existing or future BDCs which do not fulfill the purposes and requirements of chapter 420, HRS.

The law is unclear as to what form of organization BDCs will be classified for state law purposes upon repeal of chapter 420, HRS. In any event, the Department will treat BDCs as liquidated for tax law purposes on the date that chapter 420, HRS, is repealed.

**RAY K. KAMIKAWA**  
Director of Taxation

HRS Sections Explained: HRS Sections 420-2 and 420-16.