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GOVERNOR

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December 6, 2011

Mr. Randall Y. Iwase  
Chair, Tax Review Commission  
PO Box 259  
Honolulu, HI 96809

Dear Chair Iwase:

This letter responds to the request for a status report on materials to be provided by the Department of Taxation, and for a review of the tax legislation enacted in the last four years (2008 to 2011) and tax legislation that sunsets in the next two years (2011 and 2012).

The Department of Taxation is working on updating two appendices contained in the report of the 2005-2007 Tax Review Commission. The update of Appendix A, "Study on the Question 'Is Hawaii's Tax Structure Adequate?'" is on schedule for completion by mid-March, 2012. The work on updating Appendix I, "Summary of Recommendations Made by Tax Review Commissions," is pending the recommendations of the 2010-2012 Tax Review Commission.

Attached is the summary of the tax legislation enacted in the last four years (2008 to 2011) and tax legislation that sunsets in the next two years (2011 and 2012).

Please feel free to contact Donald Rousslang, Acting Tax Research and Planning Officer, at 587-1572 or Johnnel Nakamura, Rules Officer, at 587-1553 if you have any further questions.

Sincerely,

A handwritten signature in black ink, reading "Frederick D. Pablo".

FREDERICK D. PABLO  
Director of Taxation

Enclosures

## LEGISLATION

### REGULAR SESSION 2008

<u>Act</u>	<u>Brief Description</u>
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| 016 | <b>Relating to Statutory Revision: Amending or Repealing Various Provisions of the Hawaii Revised Statutes and the Session Laws of Hawaii for the Purpose of Correcting Errors and References, Clarifying Language, and Deleting Obsolete or Unnecessary Provisions.</b> Deletes obsolete provisions and references relating to the sale of tangible personal property to services enacted by Act 70, SLH 1999, and Act 198, SLH 2000, that had repealing language effective January 1, 2006. <i>Effective April 15, 2008.</i>                       |
| 028 | <b>Relating to Condominiums: Making Various Technical Amendments to the Hawaii Revised Statutes for the Purpose of Correcting Errors and References, and Clarifying Language.</b> Amends various provisions of the HRS relating to condominiums to reflect the existence of two different chapters relating to condominiums. <i>Effective April 22, 2008, retroactive to July 1, 2006. The amendments to §237-24.3, HRS, by §26 of this Act shall not be repealed when that section is reenacted on December 31, 2009, by §4, Act 239, SLH 2007.</i> |
| 057 | <b>Relating to Intra-County Ferry Service.</b> Provides priority assignment of mooring space for an intra-county ferry service regulated by the public utilities commission servicing Maui County. Exempts fuel purchases for such ferry service from the fuel tax under Chapter 243, HRS. The sale of the fuel remains subject to general excise taxation under Chapter 237, HRS. <i>Effective May 1, 2008, and applies to taxable years beginning after December 31, 2007.</i>   |
| 058 | <b>Relating to Income Tax Credit.</b> Provides a one-time, refundable, income tax credit of \$1 for each qualified exemption, except additional exemptions for age and disability, claimed by resident individuals to satisfy the requirements of Article VII, section 6, of the Constitution of the State of Hawaii. <i>Effective May 1, 2008.</i>  |
| 084 | <b>Relating to The Cancer Research Special Fund.</b> Amends the disposition of the cigarette tax revenues deposited into the Cancer Research Special Fund to allow the monies to be used for capital expenditures. <i>Effective May 1, 2008.</i>   |
| 089 | <b>Relating to the General Excise Tax.</b> Amends the definition of service-to-service transactions qualifying for the wholesale 0.5% general excise tax rate to include the furnishing of goods and services to satisfy the warranty obligations of manufacturers to the purchasers of the manufacturers' goods. <i>Effective July 1, 2008.</i>   |

- 093 Relating to Conformity of the Hawaii Income Tax Law to the Internal Revenue Code.** Amends Hawaii's income tax law to conform with changes to the IRC, with exceptions. *Effective May 22, 2008, and applies to taxable years beginning after December 31, 2007; provided that retroactive and prospective effective dates contained in the congressional acts relating to the IRC and enacted during 2007 shall be operative.*
- 141 Relating to the Armed Services.** Provides an exemption from the vehicle weight taxes for one noncommercial vehicle per member of the National Guard or Reserves. *Effective October 1, 2008.*
- 143 Relating to State Enterprise Zones.** Amends the requirements of the state enterprise zone program to ensure that qualifying agricultural businesses will continue to qualify for state enterprise zone incentives for the duration of a *force majeure* event's effects, and exclude from the general excise tax exemption allowed to qualifying businesses in an enterprise zone gross income from the retail sale of certain agricultural products that are not genetically engineered. *Effective July 1, 2008.*
- 175 Relating to Fraud Prevention.** Affects tax forms that require notarization by requiring notaries to place their seal over the specific phrase describing the document being notarized, and to keep a record describing the nature of the notarized document. *Effective January 1, 2009.*
- 202 Relating to Taxation.** Requires the Department to allow individual taxpayers who electronically file their income tax returns to designate a maximum of three checking or savings accounts into which direct deposits of their refunds may be made, provided that the same accounts are designated on the taxpayers' federal income tax return. Also requires the Director of Taxation to annually visit low-income communities to assist taxpayers in the preparation of their tax returns and other documents; the selection of the specific communities is at the discretion of the director. *Effective June 24, 2008, and applies to taxable years beginning after December 31, 2007.*
- 204 Relating to Energy Resources.** Prohibits, with exceptions, the issuance of a building permit on or after January 1, 2010, for single-family residences that do not include a solar water heater system that meets the standards established by the Public Utilities Commission; restricts the renewable energy technologies credit allowed for solar thermal energy systems installed on single-family residences to properties issued building permits prior to January 1, 2010; and denies renewable energy technologies credit claims by residential home developers for solar thermal, wind, and photovoltaic energy systems that are installed on single-family residences and that are placed in service in 2009. *Effective June 26, 2008, provided that the amendments relating to the renewable energy technology tax credit apply to taxable years beginning after December 31, 2008.*
- 226 Relating to Transportation.** Section 13 of this Act extends the \$3 per day rental motor vehicle surcharge tax to August 31, 2011. *Effective July 1, 2008.*

- 233 Relating to Important Agricultural Lands.** Part III of this Act provides for a new, refundable, important agricultural land qualified agricultural cost income tax credit that may be claimed beginning the taxable year following the taxable year in which the Ko Olina Resort and Marina attractions and educational facilities tax credit is repealed, exhausted, or expired. The credit is computed as follows: Year 1—the lesser of 25% of qualified agricultural costs or \$625,000; Year 2—the lesser of 15% of qualified agricultural costs or \$250,000; Year 3—the lesser of 10% of qualified agricultural costs or \$125,000. The Department of Agriculture may certify, and the Department of Taxation may allow, no more than \$7.5 million of credit in the aggregate per taxable year. *Effective July 1, 2008.*
- 244 Relating to Campaign Spending.** Section 34 of this Act increases the individual income tax check-off from \$2 to \$3 per taxpayer. Married couples filing joint returns may each make this election. *Effective July 8, 2008.*

## REGULAR SESSION 2009

<u>Act</u>	<u>Brief Description</u>
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| <b>005</b> | <b>Relating to the Bureau of Conveyances.</b> Allows the redaction of the first five digits of social security numbers on judgments, court orders, and decrees of documents to be filed, recorded, or registered at the Bureau of Conveyances. <i>Effective April 16, 2009.</i>  |
| <b>011</b> | <b>Relating to Statutory Revision: Amending or Repealing Various Provisions of the Hawaii Revised Statutes and the Session Laws of Hawaii for the Purpose of Correcting Errors and References, Clarifying Language, and Deleting Obsolete or Unnecessary Provisions.</b> In part, this Act (1) amends § 237-31, HRS, to delete paragraph (3); (2) corrects a reference in § 43, Act 28, SLH 2008, to § 23 of that Act; (3) repeals chapter 235D, HRS; (4) repeals § 237-27.1, HRS; and (5) amends the definition of "person totally disabled" in § 235-1, HRS. <i>Effective April 21, 2009; provided that (1) § 23 of the Act is retroactively effective June 29, 2008; (2) Part II of the Act is retroactively effective April 3, 2008; provided that § 58 and § 59 are effective on July 1, 2009; and (3) § 62 shall not be repealed when § 461-1, HRS, is reenacted on July 1, 2010, pursuant to § 11, Act 190, SLH 2004.</i> |
| <b>030</b> | <b>Relating to Tobacco.</b> Makes permanent the retail tobacco permit law. <i>Effective June 30, 2009.</i>   |
| <b>040</b> | <b>Relating to the Rate of Interest Applicable to Overpayments of Tax.</b> Reduces the interest rate payable on overpayments of tax from two-thirds of one percent to one-third of one percent. <i>Effective May 5, 2009; applies to claims for refund made on or after January 1, 2009.</i>   |

- 056 Relating to Taxation.** Increases the per-cigarette tax to 13 cents beginning July 1, 2009, 14 cents beginning July 1, 2010, and 15 cents beginning July 1, 2011. Amends the dates on which changes in the amount of cigarette tax collections deposited into various special funds occur to coincide with the dates of the tax increases. *Effective June 30, 2009.*
- 058 Relating to Tax on Tobacco Products Other Than Cigarettes.** Adds a new definition for "little cigar," and amends the definition of "tobacco products" to exclude little cigars. Taxes little cigars at the rate of 11 cents per little cigar on and after October 1, 2009, and at the same rate as cigarettes for periods on and after October 1, 2010. Increases the tax on the wholesale price of tobacco products other than cigars sold on or after September 30, 2009, from 40% to 70%. Assesses a tax of 50% on the wholesale price of cigars sold, used, or possessed by a wholesaler or dealer on and after September 30, 2009. The additional revenues shall be deposited into the General Fund. *Effective May 9, 2009; provided that the amendments made to § 245-1, HRS, shall not be repealed when that section is reenacted on July 1, 2009, pursuant to § 9 of Act 131, SLH 2005.*
- 059 Relating to the Conveyance Tax.** Temporarily reduces the distribution of conveyance tax revenues to the Rental Housing Trust Fund and the Natural Area Reserve Fund, and increases the conveyance tax on the conveyance of properties with a value of \$2 million or more. *Effective July 1, 2009.*
- 060 Relating to Taxation.** Temporarily increases the standard deduction and personal income amounts for individual taxpayers, and temporarily adds three income tax brackets that increase the tax on individuals with high net taxable incomes from a maximum of 8.25% to a maximum of 11%. *Effective May 8, 2009; provided that (1) § 2 of the Act shall apply to taxable years beginning after December 31, 2008; (2) § 1 and § 3 shall apply to taxable years beginning after December 31, 2010; and (3) the Act shall be repealed on December 31, 2015, and §§ 235-2.4(a), 235-51(a)-(c), and 235-54(a), HRS, shall be reenacted in the form in which they read on the day before May 8, 2009.*
- 061 Relating to Taxation.** Adds to the 7.25% transient accommodations tax an additional 1% for the period July 1, 2009, through June 30, 2010, and an additional 2% for the period July 1, 2010, through June 30, 2015. The additional 1% and 2% transient accommodations tax collections shall be deposited into the General Fund; the distribution of the existing 7.25% transient accommodations tax is unchanged. *Effective July 1, 2009; provided that this Act shall be repealed on June 30, 2015, and §§ 237D-2 and 237D-6.5, HRS, reenacted in the form in which they read on June 30, 2009.*
- 070 Relating to General Excise Taxation.** Excludes from the general excise tax amounts received by a managed care support contractor of the federal TRICARE program for the actual cost or advancement to third-party health care providers pursuant to a contract with the United States. *Effective July 1, 2009; provided that this Act shall be repealed on December 31, 2013, and § 235-24, HRS, reenacted in the form in which it read on June 30, 2009.*

- 084 Relating to Income Tax Credit.** Provides a one-time, refundable, income tax credit of \$1 for each qualified exemption, except additional exemptions for age and disability, claimed by resident individuals to satisfy the requirements of Article VII, section 6, of the Constitution of the State of Hawaii. *Effective June 2, 2009.*
- 091 Relating to the State of Hawaii College Savings Program.** Allows persons other than the account holder (e.g., relatives and friends) to make contributions to an established college savings account. *Effective July 1, 2009; applies to taxable years beginning after December 31, 2008.*
- 102 Relating to Real Property.** Divides chapter 502, HRS, "Bureau of Conveyances; Recording," into 11 parts, and adds a new part, Uniform Real Property Electronic Recording Act, which allows the Bureau of Conveyances to accept electronic documents with electronic signatures for recording. Also allows the Bureau of Conveyances to convert existing documents into electronic form. *Effective July 1, 2009.*
- 120 Relating to Bureau of Conveyances.** Makes various amendments to transfer fee time share interests from the Land Curt system to the regular system, allow owners to "opt out" of Land Court and deregister land to the regular system; establish a working group to resolve implementation issues; establish a pilot program to implement the electronic recording of fee time share interests; allow the Bureau of Conveyances to charge a fee for deregistering a fee time share interest; and allow the Bureau of Conveyances to accept electronic documents and instruments with electronic signatures for recording. *Effective July 1, 2009; provided that (1) § 2 is effective July 1, 2011, and repealed on December 31, 2014; (2) § 16 is effective July 1, 2009, and repealed on the effective date of administrative rules adopted by the Department of Land and Natural Resources establishing transaction fees for each recording in the Bureau of Conveyances and in the office of the assistant registrar of the Land Court; (3) § 17 is effective January 1, 2012; and (4) § 18 is effective upon approval and repealed on January 31, 2010.*
- 133 Relating to Conformity of the Hawaii Income Tax Law to the Internal Revenue Code.** Amends Hawaii's income tax law to conform with changes to the IRC, with exceptions. *Effective July 1, 2009.*
- 134 Relating to Tax Administration.** Enacts the "Cash Economy Enforcement Act of 2009." Provides for the creation of a new special enforcement section to carry out civil enforcement efforts; allows the special enforcement section to issue cease and desist citations, which may include a monetary fine if so provided by future legislation. Provides a definition of a "cash-based business." Imposes new civil fines for violations including the failure of a person to produce a required tax license upon demand by the special enforcement section, the failure to keep adequate books and records, and other violations; provides for higher fines on cash-based businesses for certain violations. Amends the definition of "person" in § 231-1, HRS, and provisions in § 235-20.5, HRS, relating to the Tax Administration Special Fund. Adds a new section to chapter 237, HRS, to require persons not having a general excise tax license at the time the federal government awards the person a contract for any construction

project in Hawaii to report certain information to the Department of Taxation; failure to file the required report is subject to a penalty of \$1,000 per month, or fraction thereof, up to \$6,000. Provides for a fine of up to \$500 (not less than \$500 and not more than \$2,000 if a cash-based business) if a person with gross income subject to the general excise tax fails to obtain a general excise tax license. *Effective June 18, 2009; provided that (1) amendments made to § 235-20.5, HRS, shall not be repealed when § 235-20.5, HRS, is reenacted on January 1, 2011, pursuant to section 8 of Act 206, SLH 2007; (2) new §§ 231-F and 231-J through 231-P in section 2 are effective July 1, 2009; and (3) this Act shall be repealed on June 30, 2014, and § 235-20.5, HRS, reenacted in the form in which it read on the day before the effective date of section 8 of Act 206, SLH 2007, and §§ 231-1, 237-9, and 237-12(b), HRS, reenacted in the form in which they read on the day before June 18, 2009.*

- 154 Relating to Taxation.** Amends § 235-12.5, HRS, regarding the renewable energy technologies income tax credit, to reduce the three technology categories (solar thermal energy systems, photovoltaic energy systems, and wind-powered energy systems) to two categories (solar energy systems and wind-powered energy systems). The maximum credit amounts that previously applied to solar thermal energy systems now apply to solar energy systems primarily used to heat water. The maximum credit amounts that previously applied to photovoltaic energy systems now apply to all other solar energy systems, with the proviso that the credit for photovoltaic energy systems on single-family residential property is reduced by 35% of the system's cost or \$2,250, whichever is less, if all or a portion of the system is used to fulfill the variance allowed pursuant to § 196-6.5(3), HRS. The maximum credit amounts for wind-powered energy systems are unchanged except for a new proviso that the credit for single-family residential property is reduced by 20% of the system's cost or \$1,500, whichever is less, if all or a portion of the system is used to fulfill the variance allowed pursuant to § 196-6.5(3), HRS. This Act also permits the credit to be refundable in certain cases, deletes the provision prohibiting residential home developers from claiming the credit for systems installed and placed in service in 2009, and adds a provision disallowing the credit for the portion of a system that is required by § 196-6.5, HRS, and that is installed and placed in service on new single-family residential property authorized by a building permit issued on or after January 1, 2010. *Effective July 1, 2009.*
- 155 Relating to Energy Resources.** This Act in part amends § 235-12.5, HRS, regarding the renewable energy technologies income tax credit, to reduce the credit for wind-powered and photovoltaic energy systems on single-family residential property if all or a portion of the system is used to fulfill the variance allowed pursuant to § 196-6.5(3), HRS. *Effective July 1, 2009.*
- 165 Relating to State Income Tax.** Decouples State income tax law from the federal Internal Revenue Code with respect to wagering losses, such that wagering losses are not deductible and cannot be used to offset gambling winnings. *Effective July 1, 2009, and applies to taxable years beginning after December 31, 2008.*
- 166 Relating to Taxation.** Part I of this Act, Tax Return Preparers, provides for a tax return preparer penalty for the understatement of a taxpayer's liability. Part II of this Act, Fraudulent

Tax Practices, adds new sections to chapter 231, HRS, to deter tax fraud and amends §§ 235-111, 237-40, 237D-9, 238-7, 243-14, 247-6.5, 251-8, 346E-6, and 431:7-204.6, HRS, to provide for a 15-year statute of limitations on collection actions. Part III of this Act, Tax Administration, in part authorizes the implementation of an administrative appeals and dispute resolution program, provides for the disclosure of any and all advice given or communications made by the Department in conformity with § 6110, IRC, and authorizes the adoption of temporary rules. Part IV of this Act, Criminal Tax Enforcement, establishes as a class C felony the willful failure to collect and pay over any tax, and makes other conforming changes to chapter 231, HRS. *Effective July 1, 2009; provided that (1) this Act does not affect returns prepared and transactions promoted, rights and duties that matured, penalties that were incurred, and proceedings that were begun before July 1, 2009; (2) §§ 1, 3–8, 10, and 11 shall apply to any return prepared, refund claim, understatement, omission, or fraud contained in any return for which the statute of limitations has not expired; and (3) this Act shall not apply to any return prepared, refund claim, understatement, omission, or fraud in any return for which an amended return is filed by October 1, 2009, to the extent the amended return cures, corrects, or eliminates any item constituting an unreasonable position, erroneous refund claim, substantial understatement, substantial omission, or fraud as provided in this Act.*

- 174 Relating to State Enterprise Zones.** This Act in part allows limited liability companies to be qualified businesses and service businesses; allows the receipts, sales, and employees of a business's establishments in all enterprise zones within the same county to count towards the business's qualification requirements; allows the general business credit for manufacturers and agricultural producers to continue at the 20% rate beyond the seventh year for an additional three years; and allows the general excise tax exemption for manufacturers and agricultural producers to continue beyond the seventh year for an additional three years. *Effective July 1, 2009.*
- 178 Relating to Taxation.** For taxable years beginning on or after January 1, 2009, and ending before January 1, 2011, the Act limits claims for the technology infrastructure renovation credit (§ 235-51, HRS) and the high technology business income tax credit (§§ 235-110.9, 241-8, and 431:7-209, HRS) to no more than 80% of the taxpayers' tax liability for the taxable year, and disallows the carryover of any excess credit to subsequent years. Makes operative § 704, IRC, with respect to allocations of the high technology business investment tax credit. Amends § 235-110.7, HRS, to reduce the capital goods excise tax credit rate from 4% to 0% for calendar years beginning after December 31, 2008, but restores the 4% credit rate for calendar years beginning after December 31, 2009. *Effective July 15, 2009, and applies to investments made, renovations costs incurred, or eligible depreciable property placed in service on or after May 1, 2009.*
- 181 Relating to Taxation.** Excludes from treatment as a tax-free rollover transfers of pre-tax employee deferrals or contributions from § 403, IRC, employee annuity plans, and § 457, IRC, state and local government and tax-exempt organization deferred compensation plans, that are used solely to obtain retirement credits under the State employee retirement system, such that these transfers are subject to Hawaii income tax. *Effective July 1, 2009, and applies*



*to taxable years beginning after December 31, 2008.*

- 184 Relating to Liquor.** This Act in part amends §§ 231-28 and 281-45, to allow liquor licenses to be issued, renewed, or transferred if applicants who cannot obtain a tax clearance certificate have entered into an installment plan agreement with the Department of Taxation and are in compliance with the installment plan agreement. *Effective July 15, 2009.*
- 196 Relating to Taxation.** Part I of this Act (1) authorizes the Director of Taxation to require persons who are required to file a federal return or remit federal taxes electronically to also electronically file Hawaii returns and remit Hawaii taxes; (2) authorizes the Director of Taxation to require employers who are required to remit federal income tax withheld from employees on a semi-weekly schedule to also remit Hawaii income tax withheld from employees on a semi-weekly schedule; and (3) changes the deadline for filing periodic general excise tax returns and remitting the amounts due from the last day of the month following the close of the period to the twentieth day of the month following the close of the period. Part II of this Act delays the repeal of Act 239, SLH 2007, from December 31, 2009, to December 31, 2010, such that the extension to suboperators and timeshares of the exemption from the general excise tax of certain amounts received by hotel operators is allowed for an additional year, but only up to a maximum aggregate exemption of \$400,000 per taxable year ending on or before January 1, 2010, and January 1, 2011. *Effective July 15, 2009; applies to returns and payments due after May 31, 2009; provided that Part II is effective July 15, 2009.*
- 198 Relating to Taxation.** In part increases the tax on naphtha sold for use in a power-generating facility from 1 cent per gallon to 2 cents per gallon, and changes the sunset date of amendments made by Act 103, SLH 2007, to enact a specific tax on naphtha sold for use in a power-generating facility from December 31, 2009, to December 31, 2012. *Effective July 1, 2009.*

## **FIRST SPECIAL SESSION 2009**

### **Act      Brief Description**

- 014 Relating to Tax Exemptions.** Conforms Hawaii income tax law to § 151(d)(3), IRC, with respect to the phaseout of the personal exemption, but setting the Hawaii threshold income amounts at 75% of the federal threshold income amounts as of July 1, 2008. *Effective July 15, 2009, and shall apply to taxable years beginning after December 31, 2008; provided that this Act shall be repealed on June 30, 2015, and § 235-54, HRS, reenacted in the form in which it read on July 14, 2009.*

## REGULAR SESSION 2010

<u>Act</u>	<u>Brief Description</u>
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| 021 | <b>Relating to Tax Credits.</b> Provides that refundable credits shall be used first to offset tax liabilities, after which nonrefundable credits that may be carried forward until exhausted may be used. <i>Effective April 14, 2010; applies to taxable years beginning on or after January 1, 2010.</i>  |
| 022 | <b>Relating to Tax Administration.</b> Moves up the filing and payment deadlines from the last day to the twentieth day of the month following the tax period for the following: (1) transient accommodations tax periodic returns; (2) use tax returns; (3) fuel tax monthly returns; (4) liquor tax monthly returns; (5) cigarette and tobacco tax monthly returns and other monthly payments and reports; and (6) rental motor vehicle and tour vehicle surcharge tax periodic returns. Act 22 also amends the insurance premiums tax law to require monthly instead of quarterly periodic returns, and moves up the filing deadline for those returns from the last day to the twentieth day of the month following the month in which the taxes accrue. <i>Effective July 1, 2010.</i>  |
| 023 | <b>Relating to Taxation.</b> Reverses the amendment made by Act 165, SLH 2009, and restores the income tax deduction for wagering losses, up to the amount of wagering gains, to retroactively conform Hawaii law regarding wagering losses to the IRC. <i>Effective April 15, 2010; applies to taxable years beginning after December 31, 2008.</i>   |
| 059 | <b>Relating to Taxation.</b> Part I repeals the income tax deduction for contributions to a political party and contributions to candidates for office who abide by the Hawaii campaign spending limits. Part II increases the tax on each cigarette or little cigar sold on or after July 1, 2010, by one cent to 15 cents, and by an addition one cent to 16 cents for each cigarette or little cigar sold on or after July 1, 2011. Part III and Part IV add and increase insurance-related fees imposed by the Department of Commerce and Consumer Affairs. <i>Effective July 1, 2010; provided that: (1) Part I is effective January 1, 2011, and applies to taxable years beginning after December 31, 2010; provided that the amendments made to §235-7, HRS, under section 1 of this Act will not be repealed when that section is reenacted on January 1, 2013, pursuant to Act 166, SLH 2007; (2) Part III is effective upon the repeal and reenactment of §431:7-101, HRS, pursuant to Act 177, SLH 2008, as amended by Act 11, SLH 2009; and (3) Part IV will be repealed on July 1, 2014, and §§431:7-101(a), (b), and (e), HRS, reenacted as they read on June 30, 2010.</i> |

- 073 Relating to Government.** Contains various provisions to further Hawaii's energy and food self sufficiency. With respect to taxation, this Act temporarily amends §243-3.5, HRS, to increase the environmental response tax from \$0.5 per barrel of petroleum product sold to \$1.05 per barrel and change the name of the tax to the "environmental response, energy, and food security tax." It also deletes the provision in §128D-2, HRS, that requires the Department of Health to notify the Department of Taxation when the fund balance exceeds \$20 million, at which time the fuel distributors would cease collecting the tax until the balance declined to less than \$3 million. *Effective July 1, 2010; provided that sections 2, 3, 4, and 7 of this Act are repealed on June 30, 2005, and §§128D-2, 201-12.8, and 243-3.5, HRS, reenacted in the form in which they read on June 30, 2010.*
- 074 Relating to Taxation.** Amends chapter 236D, HRS, to subject the estates of decedents to the Hawaii estate and transfer tax on taxable income determined under the Internal Revenue Code as of December 31, 2009, in the amount of the credit for state death taxes allowed pursuant to the IRC as of December 31, 2000. It also amends the law to subject nonresidents who also are not citizens of the United States to the tax on assets with situs in Hawaii, except that the exclusion is only \$60,000. *Effective April 29, 2010; applies to decedents dying after April 30, 2010.*
- 084 Relating to the Secure and Fair Enforcement of Mortgage Licensing Act.** Makes amendments to the application, licensing, and regulatory requirements of the Secure and Fair Mortgage Licensing Act. Establishes the mortgage recovery fund to protect consumers injured by violations of chapter 454F, HRS. Includes mortgage loan originator companies in the regulatory system established by chapter 454F, HRS. Authorizes the commissioner of financial institutions to hire temporary and permanent staff to effectuate the purposes of chapter 454F, HRS. In part, it amends §237-24.8(b), HRS, and §241-1, HRS, to make nonsubstantive conforming changes. *Effective July 1, 2010; provided that sections 6, 7, 25, and 29 are effective January 1, 2011; and provided further that sections 30 and 31 are effective May 7, 2010.*
- 089 Relating to the Transfer of Homeless Programs Within the Department of Human Services.** Transfers homeless programs and services within the Department of Human Services by relocating the state homeless programs from the Hawaii Public Housing Authority to the benefit, employment, and support services division. In part, it amends §237-23(a)(4), HRS, to change the chapter reference from 356D to 346. *Effective July 1, 2010.*
- 090 Relating to Taxation.** Amends the definition of "little cigar" and "tobacco products," and adds a new definition for "large cigars." Clarifies that the 50% tax on the wholesale price of cigars applies specifically to large cigars. *Effective July 1, 2010.*

- 091 Relating to General Excise Tax.** Extends the general excise tax exemption for amounts received by hotel operators from hotel owners for employee expenses to amounts received by hotel operators from timeshare associations and by hotel suboperators from hotel owners, hotel operators, and timeshare associations. The definition of "hotel" was amended to include timeshare plans. However, the exemption is capped at \$400,000 in tax per calendar year. *Effective July 1, 2010.*
- 109 Relating to Appellate Jurisdiction.** Permanently establishes the jurisdictional responsibilities of the appellate courts, including amendments made to chapters 232 and 235, HRS. *Effective June 29, 2010.*
- 112 Relating to Conformity of the Hawaii Income Tax Law to the Internal Revenue Code.** Amends Hawaii's income tax law to conform with changes to the IRC, with exceptions. *Effective May 17, 2010; provided that section 6 (amending the title and subsection (a) of §235-2.4, HRS) is effective January 1, 2011.*
- 121 Relating to Construction Sites.** Requires the Director of the Department of Commerce and Consumer Affairs to convene a construction site inspection task force that would, in part, examine ways to deter tax evasion at construction sites. The task force will include at least two representatives from the Department of Taxation. *Effective July 1, 2010.*
- 155 Relating to General Excise Tax.** Denies general excise tax preferences to taxpayers who fail to file their general excise tax annual return and reconciliation later than the twelfth month following the prescribed due date of the return. Also creates a trust responsibility for the general excise tax due on each business transaction regardless of whether an amount represented as the general excise taxes is visibly passed on to customers or not. Holds an officer, member, manager, or other responsible person personally liable for the general excise tax due, including any penalty and/or interest. *Effective July 1, 2010; applies to gross income or gross proceeds received on or after July 1, 2010.*
- 171 Relating to Taxation.** Requires that refunds be paid within 90 days of the due date of the return or the date the return is filed, whichever is later, and changes the method for adding interest on these amounts. Also requires that any increase in general excise and use tax collections attributable to an increase in tax rate be used first to pay any unpaid tax refunds delayed from FY 2010 to FY 2011. *Effective July 1, 2010, and applies to taxable years beginning after December 31, 2009.*
- 182 Relating to the Permitted Transfers in Trust Act.** Adds a new Permitted Transfers in Trust chapter to the HRS, which allows the transfer of assets into a trust to protect those assets from creditors. Imposes a one-time excise tax of 1.0% on the fair market value of all permitted transfers. *Effective July 1, 2010; provided that section 2 shall apply to permitted transfers made after July 1, 2010.*

- 192 Relating to Non-General Funds.** In part, this Act specifies that the refundable income tax credit for commercial fishers is to be paid from the State Highway Fund and amends §245-15, HRS, regarding the deposit of cigarette taxes into various special funds. *Effective July 1, 2010.*

## **REGULAR SESSION 2011**

### **Act      Brief Description**

- 001 Relating to Civil Unions.** Extends the same rights, benefits, protections, and responsibilities of spouses in a marriage to partners in a civil union. All provisions of the Internal Revenue Code that apply to a husband and wife, spouses, or person in a legal marital relationship apply to partners in a civil union. *Effective January 1, 2012.*
- 032 Relating to Use Tax.** Clarifies the current application of the use tax exemption for certain interstate commerce activities by repealing overbroad and redundant language in the use tax law. *Effective April 29, 2011.*
- 086 Relating to Motor Vehicle Weight Tax.** Increases the annual state motor vehicle weight tax as follows:
- For vehicles up to and including four thousand pounds net weight, the tax rate increases from 0.75 cents per pound to 1.75 cents per pound;
  - For vehicles over four thousand pounds and up to and including seven thousand pounds net weight, the tax rate increases from 1.00 cents per pound to 2.00 cents per pound;
  - For vehicles over seven thousand pounds and up to and including ten thousand pounds, the tax rate increases from 1.25 cents per pound to 2.25 cents per pound; and
  - For vehicles over ten thousand pounds net weight, the flat tax rate increases from \$150 to \$300.
- Effective July 1, 2011.*
- 091 Relating to Conformity of the Hawaii Income Tax Law to the Internal Revenue Code.** Amends Hawaii's income tax law to conform with changes to the IRC, with exceptions. *Effective June 9, 2011.*
- 097 Relating to Taxation.** Eliminates the deduction for state taxes paid for taxpayers with income above specified thresholds as follows:
- \$100,000 for single or married filing separately;
  - \$150,000 for head of household;
  - \$200,000 for joint returns or surviving spouse.
- Places temporary limitations on claims for itemized tax deductions by the lesser of the limitation provided in section 68 of the Internal Revenue Code or the limitation as follows:
- \$50,000 in the case of a joint return with an adjusted gross income of over \$200,000;

- \$37,500 in the case of a head of household with adjusted gross income of over \$150,000; and
  - \$25,000 in the case of an individual with an adjusted gross income of over \$100,000.
- Delays the standard deduction and personal exemption increases approved under Act 60, SLH 2009, while also making those increases permanent. *Effective July 1, 2011, applicable to tax years beginning after December 31, 2010.*
- 100 Relating to Conveyance Tax.** Repeals conveyance tax exemption for low-income housing projects certified by the Hawaii Housing Finance and Development Corporation. *Effective July 1, 2011.*
- 101 Relating to Taxation.** Clarifies the Department of Taxation's subpoena authority for civil and criminal tax investigations. *Effective July 1, 2011.*
- 102 Relating to Taxation.** Clarifies violations of record and receipt requirements. Limits fines for violation if person is otherwise in compliance with tax laws to a level commensurate with the violation, as determined by the Department of Taxation in accordance with rules adopted under chapter 91, Hawaii Revised Statutes. *Effective July 1, 2011.*
- 103 Relating to the Transient Accommodations Tax.** Applies a \$10.00 daily transient accommodations tax to each transient accommodation furnished on a complimentary or gratuitous basis, or otherwise at no charge. Imposes a ceiling on the amount of transient accommodation tax funds transferred to the tourism special fund (\$69 million/year) and to the counties (\$93 million/year) from July 1, 2011 through June 30, 2015. *Effective July 1, 2011.*
- 104 Relating to Transportation.** Provides rent relief to airport concessionaires that do not have a self-adjusting rent formula. Extends sunset date of Act 33, First Special Session Laws of Hawaii 2009, until July 1, 2013. Increases the rental motor vehicle surcharge tax under section 251-2(a), Hawaii Revised Statutes, to \$7.50 per day for the period of July 1, 2011 to June 30, 2012, and deposits \$4.50 per day of the tax into the general fund for that period. Suspends the rental motor vehicle customer facility charges under section 261-7(h), HRS, for the period of July 1, 2011 to June 30, 2012. *Effective June 30, 2011.*
- 105 Relating to Taxation.** Suspends temporarily the exemptions for certain persons and certain amounts of gross income or proceeds from the general excise and use tax and requires the payment of both taxes at a four per cent rate. Applies to the following:
- Subcontractors' deduction;
  - Federal cost-plus contractors' exemption for materials, plant, and equipment;
  - Home service providers acting as service carriers providing mobile telecommunications services;
  - Sublease deduction;
  - Certain convention, conference, and trade show fees paid to non-profit organizations;
  - Amounts received by a producer of sugarcane from the manufacturer;

- Amounts received for loading, transportation, and unloading agricultural commodities shipped for a producer on one island of this State to another island in this State;
- Sales of liquor, cigarettes, tobacco products, and food to common carriers engaged in interstate or foreign commerce, whether by air or sea;
- Amounts received from loading or unloading ships, tugboat services;
- Amounts received by a labor organization for real property leases to a labor organization;
- Rental or leasing of aircraft or aircraft engines used for interstate transport;
- Amounts received by stock or commodities exchange, including transaction fees, membership dues, service fees, and listing fees;
- Amounts received as grants under section 206M-15 (high technology loans and grants from the State or federal government);
- Aircraft service and maintenance or for construction of an aircraft maintenance facility;
- Sales of liquor, tobacco, and other TPP to the federal government;
- Sales by a petroleum refiner to another refiner;
- Construction of, or income from the operation of, an air pollution control facility
- Gross receipts from shipbuilding and ship repair business;
- Gross receipts from operating a call center by a telecommunications business;
- Enterprise Zone sales and construction, unless business qualified before July 1, 2011;
- Exemption from Use Tax for leasing and renting of aircraft used in interstate air transportation; for use of oceangoing vessels for transportation within the State as a public utility; use of a vessel constructed under section 189-25, HRS, prior to July 1, 1969;
- Exemption from Use Tax for use or sale of liquor, cigarettes or tobacco products imported for resale to a common carrier;

Not subject to the suspension:

- Gross income or gross proceeds from stevedoring and related services furnished to a company by its wholly owned subsidiary;
- If property, services, or contracting is imported or purchased under binding written contracts that were:
  - Entered into prior to July 1, 2011, and
  - Do not permit the passing on of increased tax rates.

*Effective July 1, 2011, and sunsets on June 30, 2013.*

**158 Relating to Low-Income Housing.** Establishes a program for granting low-income housing tax credit loans in lieu of low-income housing tax credits administered by the Hawaii Housing Finance and Development Corporation. *Effective July 1, 2011, and shall apply to qualified low-income buildings placed in service after December 31, 2011.*

**161 Relating to the Permitted Transfer in Trust Act.** Amends provisions of the Permitted Transfers in Trust Act governing transfers of property from a transferor to a trustee by means of an irrevocable trust instrument. *Effective July 1, 2011.*

- 167 Relating to Tax Appeals.** Allows discovery with court approval, limits the award of costs in controversies involving small claim tax appeals, and requires notice to the Director of Taxation and the county real property assessment division. *Effective July 1, 2011.*

#### **TAX LEGISLATION EXPIRING IN 2011 AND 2012**

There is no Hawaii tax legislation that sunset in 2011 or 2012.