

## ACT 22

An Act to Amend Act 173 First State Legislature, Regular Session 1961 to Allow Income Tax Relief for Certain Victims of Natural Disasters and Set Limitations for Relief.

WHEREAS, section 11 of Article III of the Constitution of the State of Hawaii provides for the consideration and enactment in a budget session of all urgency measures deemed necessary in the public interest; and

WHEREAS, said section further provides that no urgency measure shall be considered unless a statement of facts constituting such urgency shall be set forth in a section thereof and until such statement of urgency shall have been first approved by each house; and

WHEREAS, it is the intention of the legislature to enact this as an urgency measure pursuant to said section 11 of Article III; now, therefore,

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. This Act is hereby declared to be an urgency measure deemed necessary in the public interest within the meaning of section 11 of Article III of the Constitution of the State of Hawaii.

The following is a statement of facts constituting such urgency:

Act 173, First State Legislature, Regular Session 1961, was enacted to provide tax relief to persons suffering property damages due to natural disasters. Throughout the Act, it is mentioned that a claimant whose disaster losses are certified by the disaster commission shall be entitled to a refund of taxes due and payable by the claimant under chapters 117 (excise tax law), 121 (net income tax law) and 128 (real property tax law), Revised Laws of Hawaii 1955, as amended. However, the critical provisions affecting such tax refunds or remissions (subsection (c) of Section 4 of Act 173 aforesaid) is silent on the matter relating to the refund of net income taxes due and payable by a claimant under the provisions of said chapter 121.

Since disaster claims are already being processed under the provisions of said Act 173, and since the omission in said subsection (c) of any reference to net income tax refunds or remissions will prevent the director of taxation from providing a tax relief which obviously was intended to be provided by said Act 173, this Act will rectify said omission and afford all of the tax benefits that said Act 173 clearly sought to provide.

SECTION 2. Act 173, First State Legislature, Regular Session 1961 is hereby amended by amending:

(a) Subsection (c) of Section 4 thereof to read in full as follows:

“(c) Upon receipt of the certification of losses from the commission, the director shall remit or refund from the current general revenues of the State or forgive, for a period not to exceed five consecutive years commencing January 1 of the year in which the disaster occurred, until the amount of the loss certified is recovered up to but not in excess of the limits provided in section 7 of this Act or until the claimant recovers the full amount of his certified loss or until the expiration of said five year period, whichever shall first occur, (1) real property taxes for that year and thereafter as provided above, due from the claimant on account of any real property under the provisions of chapter 128, Revised Laws of Hawaii 1955 as amended, (2) taxes due from the claimant under the provisions of chapter 117 on account of any trade or business conducted by the claimant on the island on which the losses were incurred for the year in which the disaster occurred and thereafter as provided above, and (3) taxes due from the claimant under the provisions of chapter 121 on account of any income earned or derived by the claimant on the island on which the losses were incurred for the year in which the disaster occurred and thereafter as provided above.

“In no event shall taxes due and payable under chapter 121 by a public utility as defined in section 104-1, Revised Laws of Hawaii 1955 as amended, be remitted, refunded or forgiven.”

(b) Section 7 is hereby amended by deleting the first sentence thereof and substituting the following therefor:

“Section 7. No claimant shall recover, against the total losses certified by the commission, remittances, refunds or forgiveness of taxes in excess of \$10,000.00 for all taxes due under chapter 121, Revised Laws of Hawaii 1955 as amended, nor shall any claimant recover remittances, refunds or forgiveness of taxes in excess of \$250,000.00 for all taxes due under Chapter 117, nor shall any claimant recover remittances, refunds or forgiveness of taxes in excess of \$350,000.00 for all taxes due under chapters 117, 121 and 128. Whenever a claimant has deducted in his chapter 121 returns for any of the five years stated in section 4(c) of this Act any portion of the losses suffered by reason of the disaster as permitted by section 121-5(f) of said chapter 121, there shall be deemed as having been due from such claimant under chapter 121 and as having been remitted, refunded or forgiven an additional amount of tax equal to the difference between the taxes due as returned and the taxes which would have been due if computed without deducting said losses so that the amount of his recovery shall not exceed that amount recoverable under this Act if the deduction were not taken.”

SECTION 3. Notwithstanding any contrary provision set out in Sections 4(b) and 10 of Act 173, First State Legislature, Regular Session 1961, a victim of the Puna volcanic eruption and the tsunami described in Section 10 of said Act 173 who, during the period from July 10, 1961 to January 10,

1962, neither owned any real property subject to the tax imposed by Chapter 128 nor earned any income subject to the tax imposed by Chapter 117 may file a claim for relief under said Act 173 as amended by this Act and the single commission described in the third sentence of Section 10 of said Act 173 shall receive the claim of such victim provided that such claim is filed under oath with the commission within a period of six months from the effective date of this Act.

SECTION 4. This Act shall take effect upon its approval and shall apply to all claims filed, including claims heretofore filed, under the provisions of Act 173, First State Legislature, Regular Session 1961.

(Approved May 17, 1962.) **S.B. 95.**

---