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MEMO TO: Lance Okumura, Administrator, Real Property Tax Division,
Department of Finance

V I A: Keith Regan, Director, Department of Finance

F R O M: Cheryl Tipton, Deputy Corporation Counsel

D A T E: May 21, 2004

**SUBJECT: REASONABLE ACCOMMODATIONS, MAUI COUNTY CODE, SECTION
3.48.780**

When we met on February 10, 2004 to review the status of the tax appeal cases, you asked for clarification of how requests for reasonable accommodation should be handled when homeowners with disabilities are applying for the circuit breaker credit pursuant to Maui County Code, Section 3.48.780.

As you know, the recent tax appeal raised this very issue. The case was settled because of the low amount involved.

It is my understanding that the Real Property Tax Division does not have very many requests for accommodations - this memo is to help in those rare instances when such requests for accommodations are made.

I. Application for Circuit Breaker Credit.

Pursuant to Maui County Code, Section 3.48.780, the circuit breaker credit is based on the homeowner's income as reported on federal and state income tax returns. Pursuant to Subsection (C) of Section 3.48.780, a taxpayer who is required to file income tax returns must submit copies of those returns with each application for a circuit breaker credit.

While federal returns are required to be filed on April 15 of each year and state returns within a week thereafter, extensions for filing are automatically granted for four months and may be extended for an additional time, usually no more than two months. However, for federal income tax purposes, the taxpayer seeking an extension must still file by April 15 an estimate of income and taxes due with the request for an extension. (Federal Form 4868 for automatic four (4) month extension; Form 2688 for additional period.)

Taxpayers who receive extensions for filing their tax returns may not be able to provide the County with their final tax returns to claim the circuit breaker credit by the September 30th deadline specified in Subsection (C) of Section 3.48.780, but they should be able to provide a copy of the extension request which will show the estimated income. Once the tax returns are completed, copies can be submitted to the Real Property Tax Division to supplement the taxpayer's application for the circuit breaker credit.

II. The Real Property Tax Division Should Provide A Reasonable Accommodation To Those Taxpayers Who Request An Accommodation Because Of Their Disability.

The law is unclear as to whether a reasonable accommodation must be provided to a taxpayer with a disability who is seeking the tax credit. To reduce the possibility of complaints or challenges based on disability, if a taxpayer asks for additional time beyond September 30 to submit an application because the taxpayer has, or claims to have, a disability and was given an extension of time to file tax returns, the Real Property Tax Division may reasonably accommodate the taxpayer as follows:

A. The taxpayer should complete the application form for the circuit breaker credit prior to the September 30th deadline.

B. Along with the application, the taxpayer should submit a copy of the taxpayer's request for an extension of time to file a federal or state tax return that shows the taxpayer's estimated income and taxes.

C. When the taxpayer files his or her tax return, copies should be provided to the Real Property Tax Division to supplement the application. Because the last day for filing federal tax returns when extensions have been granted would rarely be any later than October 15 (and a week later for the state returns), the taxpayer should be able to supplement his or her application by the end of October. That would still give the Real Property Tax Division time to make any corrections to the calculations for the circuit breaker credit, which is applied to the following year's taxes.

D. The Real Property Tax Division should consider adopting administrative rules detailing these procedures.

III. Other Considerations.

A. A person with a disability may not need any accommodation. Therefore, unless a request is made to extend the deadline for submitting the tax documentation for the circuit

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breaker credit, the September 30th deadline specified in the Code should be followed.

B. The taxpayer with a disability does not have to say, "I need a reasonable accommodation", or similar words, to request an accommodation. Any request that appears to ask for additional time or some other consideration is probably sufficient.

C. A request for an accommodation does not have to be made by the taxpayer. A request can be made by a taxpayer's personal representative or someone else acting in the taxpayer's behalf. The person making the request on behalf of the taxpayer does not have to have a formal power of attorney. However, if the person represents that he or she has a power of attorney to represent the taxpayer, ask for a copy of the power of attorney for the Real Property Tax Division's file.

D. The taxpayer should state either orally or in writing what kind of accommodation is needed. The Real Property Tax Division is not required to provide the exact accommodation requested by the taxpayer, only one that is a reasonable accommodation.

E. If the disability is not apparent (as for instance with some mental disabilities), the Real Property Tax Division may choose to ask the taxpayer to provide a doctor's verification that the taxpayer has a disability and that an accommodation is needed. Neither the taxpayer nor the doctor are required to identify the specific disability by name; all that is needed is a confirmation that the taxpayer has a disability for which an accommodation is needed. It would be a good idea to give the taxpayer a reasonable deadline by which to return the verification. A month should, in most cases, be very reasonable but flexibility is advised.

F. Questions to clarify what type of accommodation will assist the taxpayer are permissible. In fact, this type of interactive process is encouraged. In the majority of cases, the request will most likely be for additional time to complete the application process.

G. It is important to make a prompt decision on providing the requested accommodation. Even if the disability seems questionable and the taxpayer does not return the medical verification in a prompt manner, in order to avoid possible legal challenges, the Real Property Tax Division should provide the accommodation as outlined in Part II above.

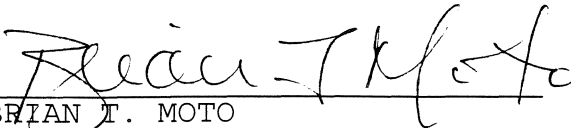
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H. All requests for reasonable accommodation should be documented. Included in the documentation should be the date of the request and the action taken in response to the request.

xc: Keith A. Regan
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APPROVED FOR TRANSMITTAL:


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