DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT

Amendments to Chapter 14-44,
Hawaii Administrative Rules

December 22, 1997

SUMMARY

1. §§14-44-8 and 14-44-24 are amended.

2. §14-44-21 is amended by adding a new subsection (c).

§14-44-8 Limitations on deferral amounts. (a) The minimum deferral amount per pay period shall be $10 per investment product.

(b) The maximum deferral amount per taxable year, including a taxable year under section 14-44-9, shall be identical to the limits established under section 457 of the Code. [Eff. 5/12/83; am JAN 05 1998] (Auth: HRS §88E-3) (Imp: HRS §88E-3)

§14-44-21 <u>When payable; earliest and latest dates.</u> (a) Benefits under the plan shall be paid or made available to the participant no earlier than:

(1) Separation from service when an employee is no longer employed by an employer under the plan due to termination, retirement, or death; or

(2) The occurrence of an unforeseeable emergency as provided in sections 14-44-30 to 14-44-33.

(b) Payment of benefits shall commence no later than sixty days after the close of the calendar year in which the participant separates from service or the participant attains or would have attained normal retirement age as defined in section 14-44-23, whichever is later.

(c) Notwithstanding section 14-44-21(a), a participant may elect to receive, or the Board may direct the administrator to distribute without the participant's consent, the total amount payable to a participant under the plan if:

(1) The total amount payable to a participant does not exceed the dollar limit specified in section 411(a)(11)(A) of the Code;

(2) The participant has not deferred any compensation under the plan during the two-year period immediately prior to the date of distribution; and

(3) The participant has not previously received a distribution under the plan as allowed in this subsection.

An election by a participant shall be made on a distribution request form, which shall be filed with the administrator and subject to the administrator's approval. Any distribution approved or directed under this subsection shall supersede all prior conflicting elections made by a participant. [Eff. 5/12/83; am JAN 05 1998] (Auth: HRS §88E-3) (Imp: HRS §88E-3)

§14-44-24 Election to commence benefits. (a) Upon separation from service, but not later than thirty days after the close of the calendar year in which the participant separates from service, a participant may elect to have benefits commence at a fixed future time within limits allowed under section 14-44-21(b). The election shall be made on a distribution request form, which shall be filed with the administrator and subject to the administrator's approval.

(b) In the absence of an election within the prescribed time under subsection (a), benefits shall commence at the latest time provided under section 14-44-21(b).

(c) Before commencement of distributions under subsections (a) or (b), as applicable, a participant may elect to further delay commencement of the distributions. The participant may make such an election only once and delayed distributions shall not commence later than the required beginning date specified in section 401(a)(9) of the Code. The election to delay shall be made on a distribution request form, which shall be filed with the administrator and subject to the administrator's approval. [Eff. 5/12/83; am JAN 05 1998] (Auth: HRS §88E-3) (Imp: HRS §88E-3)

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The amendments to chapter 14-44, Hawaii Administrative Rules, on the Summary Page dated December 22, 1997, were adopted on December 22, 1997 following a public hearing held on December 22, 1997 after public notice was given in the Honolulu Star Bulletin, Hawaii Tribune-Herald, the Maui News, and the Garden Island News on November 21, 1997.

The amendments shall take effect ten days after filing with the Office of the Lieutenant Governor.

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APPROVED AS TO FORM:

Deputy Attorney General

BENJAMIN J. CAYETANO
Governor
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Date: 12/24/97

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Filed

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