

Honolulu, Hawaii

FEB 14 2007

RE: S.B. No. 711

Honorable Colleen Hanabusa  
President of the Senate  
Twenty-Fourth State Legislature  
Regular Session of 2007  
State of Hawaii

Madam:

Your Committee on Economic Development and Taxation, to which was referred S.B. No. 711 entitled:

"A BILL FOR AN ACT RELATING TO TAXATION,"

begs leave to report as follows:

The purpose of this measure is to establish a ten-year statute of limitations on tax collections, and to clarify that the three-year statute of limitations on tax assessments for the general excise tax, use tax, and other period taxes begins at the filing of each periodic return.

Testimony in support of this measure was received from The Chamber of Commerce of Hawaii; Hawaii Society of Certified Public Accountants; Volunteer Legal Services Hawai'i; Chun, Kerr, Dodd, Beaman & Wong; Horwath Kam & Company; and three individuals. The Department of Taxation (Department) opposed the measure. The Tax Foundation of Hawaii submitted comments.

Your Committee finds that under existing law, Hawaii has no statute of limitations on the collection of delinquent taxes, unlike the federal government, which has a ten-year statute of limitations. Your Committee has heard the concerns of the Department, that the federal government is far more adequately funded and staffed to collect delinquent taxes within the ten-year period. However, members noted that the Department has also recently announced record levels of delinquent tax collections, and has requested substantially increased funding in the current budget cycle for additional staff and technological resources to be used in part for collection of past due taxes.



With regard to the three-year statute of limitations on assessment of periodic returns, your Committee finds that the existing law is confusing, and leaves law abiding taxpayers vulnerable to misinterpretation of their responsibilities in filing. Your Committee members believe clarification would be in the best interests of both taxpayers and the State in its efforts to administer Hawaii tax law in a judicious and efficient manner.

Your Committee received a revenue impact statement from the Department that the proposal could cost \$50,000,000 annually in lost tax revenues.

In its methodology, the Department states that the effect of the ten-year statute of limitations is uncertain, as it could speed up the Department of Taxation collections on accounts that are long overdue. According to the Collections Division, in the six-month period ending December 31, 2005, the Department collected about \$4,500,000 in delinquent taxes from accounts more than ten years old. However, that amount represented less than one per cent of the total tax collections of \$4,600,000,000 in fiscal 2005. According to estimates from the Department's Audit Division, the change in the statute of limitations for periodic returns for the general excise tax might have cost \$40,000,000 in lost revenues in fiscal year 2006.

Your Committee has considered the concerns of the Department, but believes that these projections are based on optimal collections of delinquent taxes, as opposed to actual collections, as stated above. In addition, your Committee notes that the revenue loss does not fall in any one year, but would be spread over a number of years.

Further, your Committee believes that the testimony by the Department is somewhat overstated. The Department's statement that the Internal Revenue Service (IRS) is better staffed and funded, fails to note that the computers used by IRS are substantially out of date compared to the Department's computer system. The Department has all the tools that the IRS has to collect before the three or ten year limitation period; those include levy, attachment, and execution. In addition, the Department states that where there are large tax liabilities, it may take decades for a taxpayer to accumulate sufficient wealth to be able to pay their tax bill. If the Department is operating correctly, the taxpayer should be on a payment plan and already paying off their tax liability. These plans generally require a



down payment and only run, at the most, for a few years. Your Committee notes that the Department also keeps aging records and thus would know when the three or ten year period is about to be triggered.

After careful review, your Committee finds that the provisions in this measure will provide needed conformity with federal tax law, as well as ensure clarity for Hawaii taxpayers in meeting their tax obligations in a timely manner.

As affirmed by the record of votes of the members of your Committee on Economic Development and Taxation that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 711 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Respectfully submitted on  
behalf of the members of the  
Committee on Economic  
Development and Taxation,



CAROL FUKUNAGA, Chair



The Senate  
 Twenty-Fourth Legislature  
 State of Hawaii

**Record of Votes**  
**Committee on Economic Development and Taxation**  
**EDT**

|  |  |                          |
|--|--|--------------------------|
| Bill / Resolution No.:*  | Committee Referral:                    | Date:                    |
| <i>SB 711</i>  | <i>EDT, WAM</i>                        | <i>2-08-07</i>           |
| <input type="checkbox"/> The committee is reconsidering its previous decision on this measure.<br>If so, then the previous decision was to: _____                                      |  |                          |
| The Recommendation is:   |  |                          |
| <input checked="" type="checkbox"/> Pass, unamended 2312 <input type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313 |  |                          |
| Members  | Aye                                    | Aye (WR)                 |
| Nay  | Excused                                |                          |
| FUKUNAGA, Carol (C)  | ✓                                      |                          |
| ESPERO, Will (VC)  | ✓                                      |                          |
| ENGLISH, J. Kalani   | ✓                                      |                          |
| IGE, David Y.  | ✓                                      |                          |
| SLOM, Sam  | ✓                                      |                          |
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| <b>TOTAL</b>   | <i>5</i>                               |                          |
| Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted   |  |                          |
| Chair's or Designee's Signature: <i>Will Espero</i>  |  |                          |
| Distribution:  | Original<br>File with Committee Report | Yellow<br>Clerk's Office |
|  |  | Pink<br>Drafting Agency  |

\*Only one measure per Record of Votes