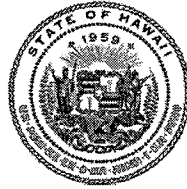


LINDA LINGLE  
GOVERNOR

JAMES R. AIONA, JR.  
LT. GOVERNOR



KURT KAWAFUCHI  
DIRECTOR OF TAXATION

SANDRA L. YAHIRO  
DEPUTY DIRECTOR

STATE OF HAWAII  
DEPARTMENT OF TAXATION  
P.O. BOX 259  
HONOLULU, HAWAII 96809

PHONE NO: (808) 587-1510  
FAX NO: (808) 587-1560

## SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND TAXATION

### TESTIMONY REGARDING SB 3115 RELATING TO ELECTRONIC TAX ADMINISTRATION

**TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)**

**DATE: FEBRUARY 7, 2008**

**TIME: 10AM**

**ROOM: 224**

---

This bill provides the Department of Taxation with the authority to require the electronic filing of tax returns and electronic payment of taxes owed. This bill shall take effect upon approval.

The Department of Taxation (Department) **strongly supports** this Lingle-Aiona administration measure.

Currently, the Department is allowed under § 231-8.5, Hawaii Revised Statutes (HRS), to allow taxpayers to electronically file (e-file) tax returns. However, the Department seeks authority to *require* e-filing for certain groups of taxpayers. Also, the Department is allowed under § 231-9.9, HRS, to require electronic payment of taxes owed, however the base amount at which the Department's authority to require payment is \$100,000.

#### **STRONG SUPPORT FOR TRANSITIONING TO ELECTRONIC TRANSMISSIONS**

The Department supports this legislation and the authority to require electronic transmissions of returns and taxes for the following reasons:

**Increasing computer use among taxpayers** – Computer use among the general public for conducting personal and business transactions has increased substantially since enactment of the original § 231-8.5 e-filing provision in 1997. Today, many taxpayers possess a level of sophistication regarding computer use such that they could easily and smoothly transition into e-filing of tax returns.

**Mandatory e-filing improves the Department's ability to capture data** – Increased breadth and scope of data that can be collected via e-filing, is another advantage. The Department will experience enhanced capability of acquiring more specific data on Hawaii taxes that in turn, will better enable the State to modify and improve tax laws.

**E-Pay would also benefit the State**—one of the intended benefits of requiring electronic payments would also be to provide the general fund with faster processing of money, which economically infuses the general fund by providing direct access to funds.

**The Department is currently authorized to require e-pay, but the limits are high**—The Department points out that it already has the authority to require electronic payment of taxes in excess of \$100,000 and \$40,000 for withholding taxes. The Department is interested in exploring lower caps for certain types of taxes or taxpayers.

**Taxpayers will be granted ample opportunity to comment on the Department's use of these authorities** – As the e-filing and e-pay rules prescribed by the Department must be adopted in accordance with the procedure established by Chapter 91, HRS, the public will be provided sufficient notice and opportunity to provide input regarding the rules.

#### **REVENUE ESTIMATE**

Once administrative rules have been passed that require taxpayers to electronically pay their taxes, this legislation will result in a revenue gain to the general fund because of the quicker access to the money.

Because there are no current administrative rule projects, no revenue estimate is cited. However, if the Committee provided the Department with certain assumptions regarding a reasonable timeline for legislation and an administrative rules project targeting certain taxpayers of interest to the Committee, a *pro forma* revenue gain can be provided for discussion purposes.

## L E G I S L A T I V E

**TAXBILLSERVICE**

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

**SUBJECT:** ADMINISTRATION, Electronic filing required

**BILL NUMBER:** SB 3115; HB 3193 (Identical)

**INTRODUCED BY:** SB by Hanabusa by request; HB by Say by request

**BRIEF COMMENTS:** Amends HRS section 231-8.5 to allow the department of taxation to require, by rule adopted pursuant to HRS chapter 91, the electronic filing of any tax return, application, report, or other document required to be filed under any law of title 14 administered by the department.

Amends HRS section 231-9.9 to authorize the director of taxation to require, by rule adopted pursuant to HRS chapter 91, the payment of taxes by electronic funds transfer for an amount of \$100,000 or less.

**EFFECTIVE DATE:** Upon approval

**STAFF COMMENTS:** This is an administration measure submitted by the department of taxation TAX-10(08). The legislature by Act 176, SLH 1997, permitted the department of taxation to allow taxpayers to electronically file any tax return, application, report, or other required document. Further, Act 121, SLH 1995, authorized the department to require taxpayers with tax liability of \$100,000 or more to pay or remit the taxes due by electronic funds transfer. The proposed measure would give the department of taxation the authority to require, rather than allow, taxpayers to file electronically.

While the justification sheet alludes that in the next decade a majority, if not all, tax filings will be done electronically and so the department would eventually require all returns and information to be filed electronically, it makes the assumption that all taxpayers have the resources to file a tax return electronically.

While one option for those who may not have access or knowledge about using a computer would be to require filing by phone, if available, it should be acknowledged that not all taxpayers are capable of understanding, let alone comprehending, telephone payment instructions to file a tax return or required information. Surrendering oversight over how constituents must comply with the law by allowing the department to adopt filing requirements sets a dangerous precedent.

Although most of society is moving into the digital and paperless age, consideration should be given to allow taxpayers to also file their tax returns in the traditional method, by snail mail. At least taxpayers have the satisfaction that their tax return information was "physically" sent rather than lost in cyberspace. Setting a requirement where noncompliance may incur penalties without recognizing the capabilities of the taxpayer is arrogant.

Digested 2/05/08