

STAND. COM. REP. NO.

1212

Honolulu, Hawaii

APR 09 2009

RE: H.B. No. 1739  
H.D. 1  
S.D. 1

Honorable Colleen Hanabusa  
President of the Senate  
Twenty-Fifth State Legislature  
Regular Session of 2009  
State of Hawaii

Madam:

Your Committee on Ways and Means, to which was referred H.B. No. 1739, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO TAXATION,"

begs leave to report as follows:

The purpose of this measure is to prohibit taxpayers from claiming an income tax credit on grants received from the federal government.

Prior to hearing this measure, your Committee circulated a proposed Senate Draft No. 1 that replaced the substantive provisions of this measure with those of S.B. No. 973, S.D. 1 that was previously heard by your Committee.

The purpose of the proposed draft is to deter tax fraud and promote uniformity in the state tax system by conforming Hawaii tax law to the Internal Revenue Code with respect to regulating tax return preparers and adopting other accuracy-related federal provisions.

In addition, the proposed draft:

- (1) Defines the term "tax return preparer";
- (2) Provides for an expedited administrative appeals program;



- (3) Authorizes the Department of Taxation to undertake temporary rulemaking;
- (4) Makes documents submitted to a tax review board public information; and
- (5) Clarifies the burden of proof with respect to issues relating to false or fraudulent tax returns.

Your Committee received written testimony in support of the proposed draft of this measure from one government agency. Written testimony in opposition was received from forty-three private organizations and forty-two individuals. Your Committee also received written comments from one government agency and two private organizations. Written testimony and comments presented to the Committee may be reviewed on the Legislature's website.

Your Committee finds that tax preparers are not required to audit, examine, or review books, records, or other documents in order to independently verify information provided by taxpayers. However, if a tax preparer finds information provided by the taxpayer to be incorrect or incomplete, the tax preparer must make reasonable additional inquiries. This measure enables the Department of Taxation to hold a tax preparer accountable for understatements of liability based on an unreasonable position on a tax return. This accountability is critical in the wake of recent corporate fraud scandals.

Your Committee also finds that greater accountability is necessary with respect to abusive tax schemes, erroneous tax refund claims, and the collection and payment of withholding taxes. These tax violations result not only in substantial revenue losses for the State but in a greater tax burden for the law abiding, taxpaying public.

On further consideration, your Committee has amended the proposed draft by:


- (1) Clarifying the circumstances under which a tax preparer may be required to pay a fine for understatement of liability based on unreasonable positions in a tax return or claim for tax refund;



- (2) Clarifying that the penalty for underpayment due to substantial understatement of tax liability applies to the taxable year in which the understatement was made;
- (3) Changing the effective date to July 1, 2090, to facilitate further discussion; and
- (4) Making technical nonsubstantive changes for the purposes of clarity, consistency, and style.

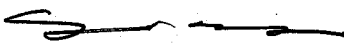
As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1739, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1739, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on behalf of the members of the Committee on Ways and Means,

  
DONNA MERCADO KIM, Chair

The Senate  
Twenty-Fifth Legislature  
State of Hawaii

**Record of Votes**  
**Committee on Ways and Means**  
**WAM**

Bill / Resolution No.:* <b>HR 1739 HD1</b>	Committee Referral: <b>WAM</b>	Date: <b>APRIL 6 2009</b>		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
KIM, Donna Mercado (C)	/			
TSUTSUI, Shan S. (VC)	/			
CHUN OAKLAND, Suzanne	/			
ENGLISH, J. Kalani	/			
FUKUNAGA, Carol	/			
GALUTERIA, Brickwood	/			
HEE, Clayton	/			
HOOSER, Gary L.	/			
KIDANI, Michelle N.	/			
KOKUBUN, Russell S.	/			
TOKUDA, Jill N.	/			
HEMMINGS, Fred	/			
<b>TOTAL</b>	<b>12</b>			
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
<b>Distribution:</b> Original                      Yellow                      Pink                      Goldenrod File with Committee Report    Clerk's Office            Drafting Agency        Committee File Copy				

\*Only one measure per Record of Votes