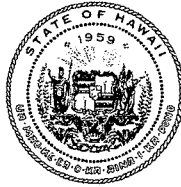


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**HOUSE COMMITTEES ON FINANCE  
TESTIMONY REGARDING HB 1551  
RELATING TO TAXATION**

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

**DATE: FEBRUARY 26, 2009**

**TIME: 11:00AM**

**ROOM: 308**

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This bill removes the refunding feature of the capital goods excise tax credit, instead allowing a taxpayer to claim the credit only to extent the taxpayer has tax liability.

The Department of Taxation takes no position on this bill, but suggests alternative language to effectuate its purpose.

The department suggests that the bill read as follows:

SECTION 2. Section 235-110.7, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) [~~If the capital goods excise tax credit allowed under subsection (a) exceeds the taxpayer's net income tax liability, the excess of credit over liability shall be refunded to the taxpayer; provided that no refunds or payment on account of the tax credit allowed by this section shall be made for amounts less than \$1.~~]

The credit allowed under this section shall be claimed against the net income tax liability for the taxable year. If the tax credit under this section exceeds the taxpayer's income tax liability, the excess of credit over liability may be carried forward until exhausted.

All claims for tax credits under this section, including any amended claims, must be filed on or before the end of the twelfth month following the close of the taxable year for which the credits may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit."

Department of Taxation Testimony

HB 1551

February 26, 2009

Page 2 of 2

**REVENUE GAIN**—This legislation will result in a revenue gain of about \$10 million in FY11, \$3 million in FY12 and \$1 million in FY13 and no impact in FY14 and after.

# TAXBILLSERVICE

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TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Capital goods excise tax credit

BILL NUMBER: HB 1551

INTRODUCED BY: Chong, Say and Yamashita

BRIEF SUMMARY: Amends HRS section 235-110.7 to provide that the capital goods excise tax credit shall be nonrefundable between January 1, 2009 and June 30, 2015.

Repeals this act on June 30, 2015 and provides that HRS section 235-110.7 shall be reenacted in the form in which it read on the day before the effective day of this act.

EFFECTIVE DATE: Tax years beginning after December 31, 2008

EFFECTIVE DATE: Currently the capital goods excise tax credit is refundable so that any credit in excess of a taxpayer's income tax liability is refunded to the taxpayer. It appears that this measure proposes that the capital goods excise tax credit shall be made temporarily nonrefundable until 2015 to address the state's fiscal crisis. However, one has to question the prudence of this strategy as one has to assume that when the moratorium expires in 2015, the capital goods excise tax credit will once more become refundable. If it is assumed that the current economic conditions continue for some time to come and businesses do not turn a profit because of the slump in the economy, they will probably have very little income tax liability.

If that is the case, when the refundable feature is restored in 2015, there will, no doubt, be an onslaught of claims with the general fund taking a huge hit as claims for the refundable credit are filed. Currently, the tax credit has a \$23 million cost to the state general fund. Multiply this by the six years of nonrefundable status and the state could be hit with a tab of nearly \$150 million.

More importantly, it should be remembered that this credit was adopted to reduce the cost of capital goods which everyone acknowledges is crucial to the creation of jobs. Given the rising unemployment rate as a result of the downturn in the economy and it makes no sense to eliminate the refundable feature of this credit. Unlike many other targeted business tax credits, the capital goods excise tax credit is available to any and every industry. The refundable feature insures that businesses see an immediate return of this tax which supplements their cash flow, keeping them in business during these tough times.

Digested 2/25/09