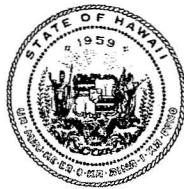


LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR



KURT KAWAFUCHI
DIRECTOR OF TAXATION

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DEPUTY DIRECTOR

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DEPARTMENT OF TAXATION
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HOUSE COMMITTEE ON FINANCE

TESTIMONY REGARDING SB 1461 SD 2 RELATING TO TAXATION

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

DATE: MARCH 25, 2009

TIME: 4PM

ROOM: 308

This bill provides the Department of Taxation with the authority to require the electronic filing of tax returns and electronic payment of taxes owed by those required to file and remit payment of tax federally.

The Department of Taxation (Department) **supports** this measure and **requests amendments**.

Currently, the Department is allowed under § 231-8.5, Hawaii Revised Statutes (HRS), to allow taxpayers to electronically file (e-file) tax returns. 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. This measure seeks to conform to federal law to the extent this measure authorizes the Department to require taxpayers who are required to file and pay for federal purposes to likewise file and pay for state tax purposes.

I. 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:

E-PAY WOULD BENEFIT THE STATE—One of the intended benefits of requiring electronic payments and filings would 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 appreciates the ability to, in addition to its current authority, require taxpayers required to file or pay federal to likewise do the same on the state level.

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.

II. SUPPORT FOR CONCEPT OF ADVANCING TAX DEADLINE; PREFERENCE FOR HB 1735

SUPPORT FOR ONE-TIME WINDFALL—The Department supports the intent of this measure, which is to leverage financial accounting principles to generate a one-time infusion of revenue. In light of the current budget issues and the need to balance the budget by session's end, the Department supports that the Legislature is considering tax policy measures such as this.

POTENTIAL COMPUTER ISSUES—According to the Department's computer management personnel, amending the due date itself is relatively straightforward. However, the ancillary issues incumbent with a due date change could have a potentially large impact on the Department's administration of the general excise tax enforcement and collection efforts. For example, the calculation of interest will need to be changed. Penalty and interest modifications to the Department's computer are extremely complex due to the algorithmic and testing scenarios that must accompany such changes. Also, billing notice modifications could be affected.

COMPUTER ISSUES ARE TIME CONSUMING AND COSTLY—As with all computer issues, the changes contemplated by this measure are not only potentially time consuming, but costly. The Department would be placed in a difficult position if this bill were passed without additional resources because its effective date is relatively soon after the bill consideration deadline.

PREFERENCE FOR HB 1735 BECAUSE IT FOCUSES ONLY ON GET—The Department prefers the approach contained in HB 1735, which advances the deadline for the general excise tax only. The Department understands the approach in amending other tax types; however given the relatively short turnaround time to advance the money into this fiscal year, the Department's progress could be impacted if it has to focus on modifications for tax types other than the general excise tax.

III. COMMENTS AND REQUESTED AMENDMENTS

EFFECTIVE DATE NEEDS TO BE CLARIFIED—If the intent of this measure is to advance the general excise tax deadline for purposes of capturing the windfall, the effective date needs to be carefully crafted. The effective date needs to be very soon after passage and the effective date needs to apply to the period closing immediately before the due date ending prior to the close of the fiscal year. Stated another way, this measure needs to apply to tax periods ending prior to June 1, 2009 and to taxes due before July 1, 2009 (*i.e.*, June 20 after passage of the bill).

PUBLIC OUTREACH—A major impact of this legislation would also be on the public. The public has filed at the end of the month for decades. The changes proposed in this measure would open taxpayers up to additional liability if they filed late with such short notice. The Department would need additional resources to initiate a public outreach campaign to ensure taxpayers comply with the new deadline and new electronic filing and payment obligations.

MODIFY OTHER SECTION—The Department suggests modifying HRS § 231-8.5 to include the electronic filing requirement and eliminate the filing requirement from HRS § 231-9.9. Similar language in the measure could be to the electronic filing provision. An amended similar to the following is suggested:

[+]§231-8.5[+] Electronic filing of tax returns.

The department may allow filing by electronic, telephonic, or optical means of any tax return, application, report, or other document required under the provisions of title 14 administered by the department. The date of filing shall be the date the tax return, application, report, or other document is transmitted to the department in a form and manner prescribed by departmental rules adopted pursuant to chapter 91. The department may determine alternative methods for the signing, subscribing, or verifying of a tax return, application, report, or other document that shall have the same validity and consequences as the actual signing by the taxpayer. A filing under this section shall be treated in the same manner as a filing subject to the penalties under section 231-39. Notwithstanding the authority in this subsection, the director of taxation is authorized to require any person who is required to electronically file a federal return or electronically pay to the federal government, to electronically file a state return under title 14 to the department. The director is authorized to grant an exemption to the electronic filing and payment requirements for good cause.

CHANGE "AND" TO "OR" TO PROVIDE MORE FLEXIBILITY—The Department also suggests amending Section 231-9.9, HRS, so that if a person is required to electronically file **or** pay the Internal Revenue Service, the Department may require electronic filing **or** payment at the state level. As currently drafted, taxpayers could argue both electronic filing and paying at the federal level must be required before the state could require electronic filing and payment.

COLLABORATION WITH COMMITTEES AND CONFEREES—The Department is very interested in this measure and ensuring that its passage works correctly to advance the tax deadlines to accelerate tax revenues into the close of this fiscal year. The Department is offering its assistance and will work with the committees and conferees on crafting the language necessary to ensure all technical aspects are covered.

REVENUE ESTIMATE & METHODOLOGY

This measure will result in the following revenue impact:

General Funds

- \$25 million gain for FY10 (including one-time gain of \$5 million for income tax withholding),
- \$20 million revenue gain for FY11,
- \$40 million revenue gain for FY12 (weekend effect elimination: cash flow),
- No impact for FY13,
- \$40 million revenue loss for FY14 (weekend effect elimination: cash flow)

Special Funds:

- About \$2 million in FY10 and \$2 million in FY11, and no impact after that.

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: ADMINISTRATION, GENERAL EXCISE, TRANSIENT ACCOMMODATION, FUEL, TOBACCO, TOUR VEHICLE SURCHARGE; Electronic filing required; amend filing date

BILL NUMBER: SB 1461, SD-2

INTRODUCED BY: Senate Committee on Ways and Means

BRIEF SUMMARY: Amends HRS section 231-9.9 to authorize the director of taxation to require taxpayers who are required to electronically file a federal return and electronically remit any federal taxes to the federal government, to electronically file a state return and electronically remit to the department any state taxes due under title 14.

Amends HRS section 237-30 to provide that monthly general excise tax returns shall be filed by the 20th day of the month following the month in which the general excise tax liability accrues, rather than the last day of the month.

Quarterly general excise tax returns shall be filed by the 20th day of the calendar month after the close of each quarter rather than the last day of the calendar month. Fiscal year quarterly general excise tax returns shall be filed by the 20th day of the fourth month, seventh month, and tenth month following the beginning of the fiscal year, and before the 20th day of the close of a fiscal year. Replaces the \$4,000 threshold with \$ _____.

Semiannual general excise tax returns shall be filed by the 20th day of the calendar month following the close of each six-month period. Fiscal year semiannual general excise tax returns shall be filed by the 20th day of the seventh month following the beginning of a fiscal year or before the 20th day of the month following the close of a fiscal year. Replaces the \$2,000 threshold with \$ _____.

Amends HRS chapters 243, 245 and 251 to require an annual, monthly, quarterly, semiannual return or other return that is due on the last day of the month to be filed by the 20th day of the month.

EFFECTIVE DATE: July 1, 2009; applicable to tax years beginning after December 31, 2008

STAFF COMMENTS: The legislature by Act 121, SLH 1995, required taxpayers with tax liability of \$100,000 or more to remit the taxes due by electronic funds transfer. This measure proposes that taxpayers who are required to file a federal return electronically regardless of income shall be required to file electronically with the state.

While it would make sense for the state to require those taxpayers who are already required to file electronically to also file their state tax returns electronically for all taxes, hopefully this will not be a slippery slope to require all taxpayers to file electronically. 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.

The proposed measure also accelerates filing and payment of the general excise, transient accommodations, fuel, cigarette, and rental motor vehicle and tour vehicle surcharge taxes to the 20th day rather than the last day of the month following the business activity. While the proposed measure will address the "weekend" effect where the last day of the following month falls on a weekend, pushing collections of the tax into the next month as the mail is opened on the following Monday which might be the first day of the next month, consideration should be made to also amend other filing dates throughout title 14 for consistency, i.e., use tax, public service company, etc.

On the other hand a similar proposal was made in the early 1990 's to accelerate the day the monthly general excise tax return was due. That proposal elicited cries of foul with many larger businesses protesting that they could not meet the earlier deadline as their records needed to be reconciled. Perhaps technology has addressed those concerns, but in any case, lawmakers should check with the business community to see if this earlier deadline can be met.

Digested 3/24/09



Representative Marcus Oshiro, Chair
Representative Marilyn Lee, Vice Chair
Committee on Finance

HEARING Wednesday, March 25, 2009
4:00 pm
Conference Room 308
State Capitol, Honolulu, Hawaii 96813

RE: **SB1461, SD2, Relating to Taxation**

Chair Oshiro, Vice Chair Lee, and Members of the Committee:

Retail Merchants of Hawaii (RMH) is a not-for-profit trade organization representing 200 members and over 2,000 storefronts, and is committed to support the retail industry and business in general in Hawaii.

While we are cognizant of the State's challenge to balance the budget, and, acknowledging that the provision in SB1461, SD2, which accelerates the filing and payment due dates for certain taxes, applies to legitimate recurring business obligations to the State, **we must oppose SB1461, SD2.**

Of great concern is that accelerating the filing and payment due dates most surely will have a negative impact on our hundreds of small businesses. From one of RMH's small retailers:

These are challenging times and we should be looking for ways to ease the burdens of small business rather than add to or accelerate the demands placed on a business owner's time. Our business does not have additional resources to apply to new or accelerated requirements. While we are not yet laying off employees, we are pulling together as a workgroup to accomplish more in order to keep our customers engaged.

We feel that accelerating the filing requirements will place an additional burden on our business. I simply cannot see how we can get our filing done any earlier. Of course if required I am sure that many businesses will find a way to get it done, but I am sure there will be an increase in late filings which will increase fees (late fees) on business and add an additional burden on the Department of Taxation Collection staff.

We respectfully ask your consideration that this one-time windfall to the state not be done at the expense of Hawaii's small businesses. Thank you for your consideration and for the opportunity to comment on this measure.

Carol Pregill, President

RETAIL MERCHANTS OF HAWAII
1240 Ala Moana Boulevard, Suite 215
Honolulu, HI 96814
ph: 808-592-4200 / fax: 808-592-4202



March 25, 2009

Representative Marcus R. Oshiro, Chair
Representative Marilyn B. Lee, Vice Chair
Committee on Finance

Hearing: Wednesday, March 25, 2009
4:00 p.m., Conference Room 308
Fax: 586-6001

Re: SB 1461, SD2 (SSCR847) Relating to Taxation

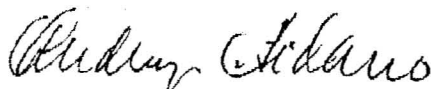
My name is Audrey Hidano, of Hidano Construction, Inc. and I am testifying in OPPOSITION to SB 1461, SD2 (SSCR847)

For the construction industry, billings for completed work have to be negotiated and approved by the owner before we can submit any and all billings of which takes time going back and forth to said parties (even after the work, or portions of the work is already completed). Most construction companies elect to pay GET based on an accrual basis thus; taxes are paid based on the billings for the previous month and NOT on our cash receipts. This means the State is really getting paid the GET in advance as we have not collection our monies yet. As you might know, lots of times, we don't get paid in 30 days or 60 days and we have since made our GET payment to the State.

By moving the due date to be any earlier in said month, we will be having another noose around our neck in these bad, slow economic times.

Please consider leaving it status quo or think of another plan to get monies into the State coffers.

Thank you for the opportunity to testify.


Audrey Hidano

/BIA/C90325 test SB 1461, SD2 (SSCR847) re GET taxation

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 23, 2009 4:11 PM
To: FINTestimony
Cc: refrey2001@yahoo.com
Subject: Testimony for SB1461 on 3/25/2009 4:00:00 PM

Testimony for FIN 3/25/2009 4:00:00 PM SB1461

Conference room: 308
Testifier position: oppose
Testifier will be present: No
Submitted by: Richard Frey
Organization: Individual
Address:
Phone:
E-mail: refrey2001@yahoo.com
Submitted on: 3/23/2009

Comments: