

**SB 1461**

# LATE

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## SENATE COMMITTEE ON WAYS & MEANS

### TESTIMONY REGARDING SB 1461 SD 1 RELATING TO TAXATION

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

**DATE: MARCH 4, 2009**

**TIME: 9:30AM**

**ROOM: 211**

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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 offers comments.

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.

### **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.

**STRONG SUPPORT FOR CONCEPT OF ADVANCING TAX DEADLINE**

**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. The Department would need additional resources and some sort of penalty and interest waiver authority in the measure with the Legislature's approval until the computer can be fully modified and functioning, which would give the Department the opportunity to amend the due date, but delay assessment of penalties and interest until the changes can be instituted.

**COMMENTS**

**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:

**[H]§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 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.

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 filing and paying at the federal level must be required before the state could require electronic filing and payment.

#### **REVENUE ESTIMATE & METHODOLOGY**

This measure will result in the following revenue impact:

- **General Fund:** \$20 million gain for FY10, \$20 million for FY11, and no impact after that.
- **Special Funds:** about \$2 million in FY10 and \$2 million in FY11, and no impact after that.

Cash flow of \$7.2 million would result from \$72 million (10 days of processing) for the next two years; but discounted 40% for other taxes not impacted by the bill.