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**HOUSE COMMITTEE ON HEALTH
TESTIMONY REGARDING HB 2394
RELATING TO TAXATION**

*****WRITTEN TESTIMONY ONLY*****

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)
DATE: FEBRUARY 9, 2010
TIME: 9:30AM
ROOM: 329

This measure provides for a refundable tax credit for the purchase of vog-related respiratory equipment.

The Department of Taxation (Department) **opposes** this measure because it is **outside the budget priorities this legislative session.**

The Department defers to the Department of Health on the health-related policies of this legislation. Notwithstanding the merit of this measure, the Department cannot support the tax impacts in this measure because these tax breaks are not factored into the budget. The Department must be cognizant of the biennium budget and financial plan. This measure has not been factored into either. Given the forecasted decrease in revenue projections, this measure would add to the budget shortfall.

The Department simply cannot support this tax incentive given the other competing priorities for general fund revenues.

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SUBJECT: INCOME, Credit for vog-related respiratory assistance equipment

BILL NUMBER: HB 2394

INTRODUCED BY: Evans, Chang, Hanohano, Nakashima, Say, Tsuji

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to allow a taxpayer to claim an income tax credit for the purchase or installation of respiratory assistance equipment in a taxpayer's primary residence for the purpose of creating a safe room to protect against the effects of vog. The total amount of the credit allowed shall not exceed \$200.

"Respiratory assistance equipment" means equipment that includes air purifiers, air-conditioning systems, and oxygen tanks used in connection with a respiratory disorder caused or affected by vog or volcanic smog. Defines "vog" or "volcanic smog" for purposes of the measure.

Tax credits in excess of a taxpayer's tax liability shall be refunded to the taxpayer; provided such amounts are over \$1. Requires all claims, including amended claims, to be filed on or before the end of the twelfth month following the close of the taxable year for which the credit may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit. Directs the director of taxation to prepare the necessary forms to claim a credit under this section. The director shall also require the taxpayer to furnish the following information to ascertain the validity of the claims for credits made under this section: (1) a receipt for the purchase or installation of respiratory assistance equipment purchased in the year the tax credit is properly claimed; and (2) a letter from the taxpayer's primary care physician verifying a respiratory disorder caused or affected by vog.

Amends HRS section 328L-4 to provide that the tobacco settlement special fund shall be used to fund income tax credits for the purchase of vog-related respiratory assistance equipment.

EFFECTIVE DATE: Taxable years beginning after December 31, 2010

STAFF COMMENTS: This measure proposes a tax credit for the purchase of "respiratory assistance equipment." While the measure allows taxpayers to claim the credit regardless of a taxpayer's need for tax relief, the proposed credit is nothing more than a partial subsidy by the state to taxpayers for the purchase of such equipment with absolutely no indication of the taxpayer's need for that subsidy.

Tax credits generally are designed to mitigate the tax burden of those individuals who do not have the ability to pay their share of the tax burden. These credits are justified on the basis that low-income taxpayers should be relieved of the burden imposed by taxes that are not based on the ability of the taxpayer to pay that tax. While the proposed credit bears little relationship to the tax burden imposed or the taxpayer's ability to pay his or her taxes, this proposal cannot be justified.

The measure also provides that the tobacco settlement fund shall be used to fund the proposed tax

credits. The settlement of the litigation against the tobacco producers has produced a feeding frenzy in an environment of lawmakers hungry to get their hands on any kind of money. As a result, lawmakers and constituents have lost sight of what the tobacco settlement monies were supposed to accomplish. First and foremost the litigation was brought to make tobacco producers pay the costs incurred as a result of health problems occurring from the use of their products. Second, the settlement was a one-shot deal even though it will run for more than two decades. Once all payments are made, that will be the end of the payments.

Thus, this measure ignores all of those factors and instead proposes to use the moneys for programs that have no direct relationship to the smoking problem and that are ongoing programs of the state. This is an irresponsible use of these one-time monies because once they are gone, what then will lawmakers use to pay for these ongoing programs? This is blatant evidence that lawmakers do not know how to set priorities for public programs with what limited resources are available. This is the very reason that the state is faced with its current financial crisis. It is unbelievable that lawmakers would propose measures that drain the state treasury while contemplating raising even more taxes to balance the state budget. This is highly irresponsible.

Digested 2/8/10

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**HOUSE OF REPRESENTATIVES
THE TWENTY-FIFTH LEGISLATURE
REGULAR SESSION OF 2010**

COMMITTEE ON HEALTH

**Hearing February 9, 2010
Testimony on H.B. 2394
(Relating to Taxation)**

Chair Yamane, Vice Chair Nishimoto and members of the Committee:

My name is Peter Fritz. I am an attorney specializing in tax matters. I offer comments about H.B. 2394 relating to whether a taxpayer would receive a double tax benefit under this bill.

HB 2461 provides a refundable tax credit for the purchase of respiratory equipment to protect against the effects of vog for persons whose primary care physician recommends that they create a "safe room" in their homes with the assistance of that respiratory equipment.

- Hawaii permits taxpayers to claim a deduction for medical expenses.
- Under this bill, as presently drafted, a taxpayer could claim this refundable credit and also claim a medical deduction for the same expenses.
- It is suggested that this bill should be amended to require a taxpayer to either claim the credit in this bill or claim a medical deduction on their tax return, not both.

Thank you for the opportunity to testify.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Peter L. Fritz". The signature is stylized and cursive.

Peter L. Fritz