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**SENATE COMMITTEE ON WAYS & MEANS
TESTIMONY REGARDING SB 2834
RELATING TO TAXATION**

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

DATE: FEBRUARY 10, 2010

TIME: 9:30AM

ROOM: 211

This measure deletes the decoupling language from Section 235-2.4(e), which provides for a wagering loss deduction.

The Department of Taxation (Department) **supports conformity** to the internal revenue code.

OPEN TO REVISITING WAGERING TAXATION—The Department is open to the idea of conforming to federal law on the treatment of wagering winnings and losses. Last legislative session, the law was changed to disallow the wagering loss offset against commensurate winnings. In short, this law requires taxpayers in Hawaii to report all gross winnings, no matter how much wagering money was lost in earning the winnings. Effectively, Hawaii taxpayers would be required to pay tax—even when they lost more than they won. Though the Department supported the law change last session, the Department has practical concerns over whether taxpayers will accurately report and pay on their winnings without netting their losses.

SUPPORT FOR CONFORMITY—As a general matter, the Department supports conforming to the Internal Revenue Code in all respects. This measure would bring Hawaii back into conformity on the treatment of wagering winnings and losses. The Internal Revenue Code allows gambling losses of nonprofessional gamblers to be deducted up to the amount of gambling winnings. This measure will eliminate any confusion currently being experienced by many taxpayers that travel to gambling destinations.

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- SUBJECT:** INCOME, Reinstate deduction for wagering losses
- BILL NUMBER:** SB 2834; HB 2035 (Identical); HB 1924; HB 2356 (Identical);
SB 2206; HB 2313; HB 2627 (Identical)
- INTRODUCED BY:** SB 2834 by Tsutsui, Baker, Chun Oakland, English, Hee, Hooser, Kidani, Sakamoto, Tokuda and 5 Democrats; HB 2035 by Keith-Agaran, C. Lee, Nakashima, 2 Democrats and 1 Republican; HB 1924 by Choy; HB 2356 by Nishimoto and 1 Democrat; SB 2206 by Green; HB 2313 by Chong, Aquino, Awana, Cabanilla, Chang, Coffman, Evans, Hanohano, Har, Ito, Karamatsu, Keith-Agaran, M. Lee, Luke, Magaoay, Manahan, McKelvey, Mizuno, Morita, Nakashima, B. Oshiro, M. Oshiro, Sagum, Say, Souki, Takumi, Tsuji, Yamane, Yamashita and 5 Democrats and 1 Republican; HB 2627 by Wakai, Aquino, Chang, Chong, Keith-Agaran, C. Lee, Luke, McKelvey, Takumi and 3 Democrats
- BRIEF SUMMARY:** Amends HRS section 235-2.4(e) to provide that IRC section 165(d) (with respect to wagering losses) shall be operative for Hawaii income tax purposes.
- HB 1924 and HB 2356 also provide for the repeal of Act 165, SLH 2009.
- EFFECTIVE DATE:** SB 2834, HB 2035, HB 1924, HB 2356 - Tax years beginning after 12/31/08;
SB 2206, HB2313, HB 2627 - Tax years beginning after 12/31/09
- STAFF COMMENTS:** The legislature by Act 165, SLH 2009, provided that Hawaii taxpayers would not be able to deduct their “gambling” losses against their winnings for tax years beginning after December 31, 2008. These measures would reinstate the wagering deduction and bring Hawaii’s income tax law regarding this deduction back into conformity with the federal Internal Revenue Code provisions.
- As there is no hard data on this deduction, it is difficult to ascertain whether there was any revenue gain when the wagering deduction was suspended during the past year. However, lawmakers did believe that in taking away the provision that allowed the deduction there were additional revenues to be had. Unfortunately, their gambling happy constituency did not think it was fair and apparently lawmakers heard the loud protests.
- It should be noted that there appears to be statutory language omitted in SB 2834, HB 1924, HB2035, and HB 2356 that may have no effect on the content of the measure.

Digested 2/4/10