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HOUSE COMMITTEE ON FINANCE
TESTIMONY REGARDING SB 76 SD 1
RELATING TO TAXATION

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)
DATE: MARCH 17, 2010
TIME: 4PM
ROOM: 308

This measure amends the current law that distributes payments amongst principal tax, penalties and interest to be payable in equal parts.

The Department of Taxation (Department) **opposes** this bill because **it is contrary to the State's fiscal interests** and would require a substantial financial investment in the Department's computer to accomplish on a global scale.

AMENDMENT IS CONTRARY TO THE STATE'S FISCAL INTEREST—Currently, state law dictates that tax payments are to be paid first to interest, then penalties, and finally the principal of taxes owed. The current regime is in the State's best interests because it ensures payments of interest (reflecting time value of money) as the priority, followed by penalties, and then principal. By paying principal last, the State is ensured the optimal time value of money when the principal is paid last and payments are spread over time.

COMPUTER SYSTEM MODIFICATIONS REQUIRED—Changes to the Department's computer system will need to be made to implement this legislation. The current computer system is established to reflect current law and does not allow for equal distribution of tax payments. Making automation changes to the Department's computer system may have an unknown revenue impact on the Department's budget, which has not been considered in this year's budget. In short, the Department's budget will not allow it to make the changes contemplated by this act without additional resources.

EFFECTIVE DATE—The Department suggests a delayed effective date be inserted because of the length of time it will take to reprogram the computer.

REVENUE LOSS—This legislation would result in a sizeable revenue loss. This measure is expected to result in a revenue loss of $1 million in the first year; $2 million in the second year; and $3 million in the third year, after implementation.

L E G I S L A T I V E

TAXBILLSERVICE

126 Queen Street, Suite 304 TAX FOUNDATION OF HAWAII Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: ADMINISTRATION, Partial payment of taxes

BILL NUMBER: SB 76, SD-1

INTRODUCED BY: Senate Committee on Ways and Means

BRIEF SUMMARY: Amends HRS section 231-27 to provide that a partial payment of an assessment of taxes shall be credited to interest, penalties, and principal in equal amounts, by the department of taxation.

EFFECTIVE DATE: July 1, 2070

STAFF COMMENTS: Currently, when the department of taxation receives a partial payment for an assessment of taxes due, the payment is applied to interest, penalties, then principal. The proposed measure would allow payments to be applied to interest, penalties, and principal in equal amounts, similar to a repayment schedule.

On the federal level, the IRS implemented an additional payment option on January 17, 2005 known as the Partial Payment Installment Agreement (PPIA) for taxpayers who have outstanding federal tax liabilities. This new payment option became possible with the passage of the American Jobs Creation Act of 2004 and allows the IRS to enter into installment agreements that result in full or partial payment of the tax liability.

Taxpayers who are being considered for a PPIA must provide complete and accurate financial information that will be reviewed and verified. Taxpayers will also be required to address equity in assets that can be utilized to reduce or fully pay the amount of the outstanding liability.

In addition, taxpayers granted PPIAs will be subject to a subsequent financial review every two years. As a result of this review, the amount of the installment payments could increase or the agreement could be terminated if the taxpayer's financial condition improves.

Taxpayers may utilize the installment method for a fee (currently $52 for direct debit agreements and $105 for non-direct debit agreements).

Digested 3/16/10

Gerald Gregory

95-201 Kui' kepa Place

Mililani Hi., 96789

Representative Marcus R. Oshiro
Chair, Finance Committee
State Capitol, Room 306
Honolulu Hawaii., 96813

RE: SB 76
SUBJECT: Move SB 76

Dear Chair Oshiro,

This letter is in support of SB 76 and ask that you move this bill. The Director of Taxation has stated that this already administratively possible to accommodate request to pay across the board on interest, penalties, and principal and in certain circumstances but yet what circumstances is not clarified by the Director of Taxation .Since march of 2008 I have personally made payments in person so I could meet other tax payers to talk and listen to their problems with their taxes. Also the Tax Department has always taken payments and applied them to the oldest tax because that is their policy (not the law) but that is not always beneficial to the taxpayer because is they are applying it to the oldest tax it has the higher interest, it is better to apply it to the most recent years because interest is smallest and you can move to the penalty and principal faster therefore paying off the year in questions faster and paying less interest. The longer you don't touch the recent years it lets a high amount of taxes owed gain a substantial amount of interest (%) before getting to it when it becomes the oldest tax. The Director of Taxation is aware of this practice at the Department of Taxation but does nothing about it because this would also be considered lost revenue. There is no law that allows this practice to gain revenue but yet they do it with no hesitation. This Bill SB (76) is to encourage people to pay more revenue which would be worth the small amount of revenue the Department of Taxation is assuming it will lose. There is a time for change and fairness in the Department of Taxation and that time is now when change is taking place.

Hawaii, Revised Statute: Section 231-27 was enacted in 1949 (S.B. No. 412, Act 312, Session Laws of Hawaii 1949) and the distribution of partial payment of taxes has not been amended since the original enactment. Except for the Committee Reports issued by the Committee on Ways and Means (SSCR 387) and Committee on Finance (HSCR 86), there is no explanation for the rational or legislature intent in the enactment of the law the Committee on Ways and Means (SCCR) stated that.

The purpose of this bill is to require all partial payments of a particular assessment of taxes to be devoted first to delinquent interest, then to penalties and then to principal. At the time present time, a taxpayer has no choice. Since the delinquent interest only on principal and penalties, it is obvious that one devoting his partial payment first to principal or penalties is in a better position that the devoting his partial payment first to interest. The bill would remedy this inequality

Tax Foundation of Hawaii stated in testimony (no opposition or support of SB 76), That the Federal Government implemented an additional payment option on Jan 17, 2005 known as the partial payment installment agreement (PPIA). The new payment option became possible of the American Jobs Creations Act of 2004.

The Director of Taxation has testified on record about leveling the field between Federal, State, and Taxpayer. He had referred to the Sarbanes-Oxley Act. He says penalties are drawn from the Internal Revenue Code (IRC) sections 6694 and 7407. Sometimes leveling the field such as SB 76 affects revenue. The people are in hard economic times in step with the State being in hard economic times. The Director has constantly stated fairness SB 76 does not take away any money owed the state. Should SB76 allow taxpayers to pay off their taxes faster why would the Depart of Taxation oppose such a possibility of a taxpayer paying their debt faster Why has the Department of Taxation become so addicted to penalties and interest? The taxpayer is also paying for the addiction of penalties, because they cannot deduct the penalties from their income because they are not tax deductible and must leave them as income and are taxed again

I strongly support SB 76 and encourage you to move this bill and support its passage. We are all in economic hard times let's do it together, a humble constituent

Very truly yours
Gerald Gregory
(Humble Constituent)

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 16, 2010 5:41 PM
To: FINTestimony
Cc: patrickwweeks@aol.com
Subject: Testimony for SB76 on 3/17/2010 4:00:00 PM

Testimony for FIN 3/17/2010 4:00:00 PM SB76

Conference room: 308
Testifier position: support
Testifier will be present: No
Submitted by: Patrick Weeks
Organization: Individual
Address: 3458 A Kalihi Street Honolulu, HI
Phone: 808/843-8002
E-mail: patrickwweeks@aol.com
Submitted on: 3/16/2010

Comments:

S876
I have read about this bill online. and I think it would be of great benefit to the taxpayers of Hawaii as well the State itself.
Naturally, Mr. Kawafuchi has written in opposition to this bill- that's his job. But it is not necessarily the case that this bill would diminish tax revenues. As someone who once spent 9 years paying off the IRS, I can tell you that applying payments to interest. penalty and principal. would make it much easier to want 10 payoff the debt. And without a doubt it would get paid up much sooner.
It would help the taxpayer and, in the long run, it will benefit the State, in much the same way that cutting taxes can often increase revenues by stimulating the economy. I think this bill warrants serious consideration.
Thank You.
Pat Weeks