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GOVERNOR

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## LATE TESTIMONY

### HOUSE COMMITTEE ON ECONOMIC REVITALIZATION & BUSINESS

#### TESTIMONY OF THE DEPARTMENT OF TAXATION REGARDING HB 848 RELATING TO TAXATION

**TESTIFIER:** FREDERICK D. PABLO, INTERIM DIRECTOR OF TAXATION (OR DESIGNEE)

**COMMITTEE:** ERB

**DATE:** FEBRUARY 8, 2011

**TIME:** 8AM

**POSITION:** TECHNICAL COMMENTS; RECOMMENDED AMENDMENTS; CONCERNED WITH COSTS

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This measure expands the general excise tax exemption for common paymasters. It also makes some changes to the general excise tax exemption for amounts received, charged, or attributable to services furnished by one related entity to another.

The Department of Taxation (Department) is concerned with this measure's anticipated revenue loss. The Department also offers technical amendments.

**UNCLEAR OF INTENT**— The Department is not clear what the intent of this bill is. The Department needs to understand the problem this bill is trying to fix before the Department can adequately comment on this bill.

**CONCERN FOR REVENUE COST**—This measure expands a general excise tax exemption, which will result in decreased general excise tax revenue.

**TECHNICAL COMMENTS**—If the Legislature intends to move forward with this bill, the Department offers the following technical comments, which it

believes clarify some portions of the bill, while making other portions easier to administer.

**REFERENCE TO IRC § 267** - First, in the proposed amendment to section 237-23.5(a), the bill's two references to section 267 of the Internal Revenue code should be deleted. Section 267 of the Internal Revenue Code does not use the term "related entity" and thus its use in this sentence of section 237-23.5(a) does not make sense. Also, it is unclear whether the "related entities" definition in subsection (a) should be deleted or whether it still applies.

**EXPANSION OF DEFINITION OF "SERVICES"** - The bill's expansion of this definition in subsection (a) is outside the bill's stated intent of expanding the common paymaster exemption. However, insofar as the Legislature intends to expand this definition to include services such as maintenance and repair, the Department's only recommendation is to delete the word "reimbursable." Reimbursements are exempt from general excise tax under section 237-20.

# LATE TESTIMONY

## Petition

Honorable Representative Angus L. K. McKelvey, Chair  
Honorable Representative Isaac W. Choy, Vice Chair  
House Committee on Economic, Revitalization & Business  
Members of the House Committee on Economic, Revitalization & Business

RE: **HOUSE BILL HB848 - RELATING TO THE GENERAL EXCISE TAX  
HEARING SCHEDULED FOR TUESDAY, FEBRUARY 8, 2011, AT  
8:00 A.M., HAWAII STATE CAPITOL, CONFERENCE ROOM 312**

Dear Honorable Angus McKelvey, Chair and Members of the House Committee on Economic Revitalization & Business:

We are in support of House Bill HB848 to expand the general excise tax exemption for a common paymaster. In the case of a common pay master such as Altres Staffing, they provide services for unrelated entities and charge them a fee for handling the payroll for those unrelated companies. They pay general excise tax only on the fee they charge to the unrelated entities and not on the payroll they handle for the unrelated company.

In the case of a related entity, under the statute, it states **services** between related parties are exempt from general excise tax. What we are proposing is a clarification in the interpretation of the Hawaii tax law in place and believe the amendment proposed by HB848 more specifically under the definition of "Services" to include legal and accounting services, **maintenance services, reimbursable repairs and maintenance expenses paid on behalf of affiliates...** be added to section 237-23.5.

By allowing this change, we can be assured *related common paymaster* companies are not penalized with additional general excise taxes when they are reimbursed from their affiliate companies.

Please approve House Bill HB848

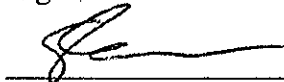
Sincerely,

Print Name

Signature

Address

Steve Kakuni



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