

Honolulu, Hawaii

MAR 30 2012

RE: H.B. No. 1695

S.D. 1

Honorable Shan S. Tsutsui  
President of the Senate  
Twenty-Sixth State Legislature  
Regular Session of 2012  
State of Hawaii

Sir:

Your Committee on Ways and Means, to which was referred H.B. No. 1695 entitled:

"A BILL FOR AN ACT RELATING TO TAXATION,"

begs leave to report as follows:

The purpose and intent of this measure is to incorporate the anti-stacking fairness provisions included in the federal Internal Revenue Code, by prohibiting penalties for:

- (1) Failure to collect and pay taxes;
- (2) Substantial understatements or misstatements on tax returns; and
- (3) Erroneous claims for refund or credit on tax returns;

from being added to tax underpayments on which certain other penalties are already imposed.

Your Committee received testimony in support of this measure from one individual. Your Committee received comments on this measure from the Department of Taxation and the Tax Foundation of Hawaii.

Your Committee finds that, under the Internal Revenue Code, failure to collect and pay taxes is a criminal offense and substantial understatements or misstatements on tax returns are accuracy-related civil offenses. Your Committee also finds that



the Internal Revenue Code does not preclude the stacking of penalties for criminal offenses, nor is there any indication that accuracy-related penalties should not be assessed against persons who are guilty of tax crimes. However, your Committee finds that the Internal Revenue Code does preclude the stacking of accuracy-related penalties with penalties imposed for erroneous claims for refund or credit.

Your Committee has amended this measure by:

- (1) Deleting the provisions prohibiting penalties imposed for:
  - (A) Wilful failure to collect and pay over tax; and
  - (B) Substantial understatements or misstatements of amounts; and
- (2) Amending the provision regarding penalties imposed for erroneous claims for refund or credit by clarifying that the prohibition against stacking shall only apply to tax underpayments on which penalties are already imposed for substantial understatements or misstatements.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1695, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1695, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on  
behalf of the members of the  
Committee on Ways and Means,

  
\_\_\_\_\_  
DAVID Y. IGE, Chair



The Senate  
 Twenty-Sixth Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Ways and Means**  
**WAM**

Bill / Resolution No.:* <b>HB 1695</b>	Committee Referral: <b>WAM</b>	Date: <b>3-22-12</b>		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
IGE, David Y. (C)	✓			
KIDANI, Michelle N. (VC)	✓			
CHUN OAKLAND, Suzanne	✓			
DELA CRUZ, Donovan M.	✓			
ENGLISH, J. Kalani				✓
ESPERO, Will	✓			
FUKUNAGA, Carol	✓			
KIM, Donna Mercado	✓			
KAHELE, Gilbert	✓			
KOUCHI, Ronald D.	✓			
RYAN, Pohai	✓			
TOKUDA, Jill N.	✓			
WAKAI, Glenn	✓			
SLOM, Sam	✓			
<b>TOTAL</b>	<b>13</b>	<b>0</b>	<b>0</b>	<b>1</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <i>Michelle N. Kidani</i>				
<b>Distribution:</b> Original     Yellow     Pink     Goldenrod File with Committee Report     Clerk's Office     Drafting Agency     Committee File Copy				

\*Only one measure per Record of Votes