

Honolulu, Hawaii

March 23 , 2012

RE: S.B. No. 2226  
S.D. 2  
H.D. 1

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Sixth State Legislature  
Regular Session of 2012  
State of Hawaii

Sir:

Your Committee on Economic Revitalization & Business, to which was referred S.B. No. 2226, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO TAXATION,"

begs leave to report as follows:

The purpose of this measure as received by your Committee is to:

- (1) Amend Hawaii's tax laws in conformity with the Streamlined Sales and Use Tax Agreement, to take effect when the State becomes a party to the Streamlined Sales and Use Tax Agreement; and
- (2) Establish a committee to oversee the Department of Taxation's implementation and administration of, and compliance with the Streamlined Sales and Use Tax Agreement.

For the purposes of a public hearing on this bill, your Committee circulated Proposed S.B. No. 2226, S.D. 2, H.D. 1, and notified the public that it would be accepting testimony on that proposal, which, among other things:

- (1) Requires the collection of use taxes by sellers of tangible personal property who enter into agreements under which a person in the State refers potential



purchasers to the seller, including by an internet link or web site, or performs related services in the State on behalf of the seller;

- (2) Specifying that the definition of "engaged in business in the State" is presumed to include sellers, including affiliates of sellers within the meaning of section 1504 of the Internal Revenue Code; and
- (3) Exempts certain sellers engaged in business in the State from the collection of use taxes if they did not actually engage in referrals or other activities to maintain the seller's market within the State.

Your Committee received testimony from the following organizations and individuals on S.B. No. 2226, S.D. 2, as received by your Committee, and on the Proposed Draft:

The Hawaii Government Employees Association, Hawaii Association of REALTORS, and Retail Merchants of Hawaii testified in support of the measure as received by your Committee. Walgreen Co. testified in support of the intent of the measure as received by your Committee. The Tax Foundation of Hawaii provided comments on the measure as received by your Committee.

Retail Merchants of Hawaii and Walgreen Co. testified in support of the Proposed Draft. The Hawai'i Association of REALTORS and The Chamber of Commerce of Hawaii testified in support of the intent of the Proposed Draft. The Hawaii Innovation Alliance testified in opposition to the Proposed Draft. The Hawaii Government Employees Association and the Tax Foundation of Hawaii provided comments on the Proposed Draft.

Your Committee considered the merits of both S.B. No. 2226, S.D. 2, as received by your Committee, and the Proposed Draft. Upon careful consideration, your Committee adopted the Proposed Draft with the following amendments:

- (1) Inserting the language of H.B. No. 1695, which prohibits penalties for substantial understatements or misstatements and for erroneous claims for refund or credit from being added to tax underpayments on which certain other penalties have already been imposed;
- (2) Changing the effective date to July 1, 2112, to facilitate further discussion; and



- (3) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Economic Revitalization & Business that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2226, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2226, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Respectfully submitted on  
behalf of the members of the  
Committee on Economic  
Revitalization & Business,



ANGUS L.K. MCKELVEY, Chair



State of Hawaii  
House of Representatives  
The Twenty-sixth Legislature

HSCR 1227-12

Record of Votes of the Committee on Economic Revitalization & Business

*Proposed HD*  
Bill/Resolution No.: SB 2220, SD2 (SSCP 2630) Committee Referral: ERD, FIN Date: 3/15/12

The committee is reconsidering its previous decision on the measure.

The recommendation is to:  Pass, unamended (as is)  Pass, with amendments (HD)  Hold  
 Pass short form bill with HD to recommit for future public hearing (recommit)

ERB Members	Ayes	Ayes (WR)	Nays	Excused
1. McKELVEY, Angus L.K. (C)	✓			
2. CHOY, Isaac W. (VC)	✓			
3. AWANA, Karen L.	✓			
4. BROWER, Tom	✓			
5. EVANS, Cindy	✓			
6. HASHEM, Mark J.	✓			
7. NISHIMOTO, Scott Y.	✓			
8. TOKIOKA, James Kunane	✓			
9. TSUJI, Clift	✓			
10. MARUMOTO, Barbara C.		✓		
11. PINE, Kymerly Marcos	✓			
TOTAL (11)	10	1	—	—

The recommendation is:  Adopted  Not Adopted  
If joint referral, \_\_\_\_\_ did not support recommendation.  
\_\_\_\_\_ committee acronym(s)

Vice Chair's or designee's signature: 

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