

Honolulu, Hawaii

April 5, 2012

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

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

Sir:

Your Committee on Finance, to which was referred S.B. No. 2226, S.D. 2, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO TAXATION,"

begs leave to report as follows:

The purpose of this measure is to make specific changes to Hawaii's tax law. Specifically, among other things, this measure:

- (1) 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) 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;
- (3) Specifies 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



- (4) 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.

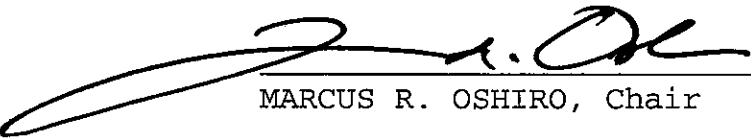
The Department of Taxation, Retail Merchants of Hawaii, Walgreen Co., and CHUN, KERR, DODD, BEAMAN & WONG, a Limited Liability Law Partnership testified in support of this measure. The Tax Foundation of Hawaii; Hawaii Association of REALTORS; Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO; and a concerned individual provided comments.

Your Committee has amended this measure by:

- (1) Deleting the provision that prohibits penalties for substantial understatements or misstatements from being added to tax underpayments on which certain other penalties have already been imposed;
- (2) Adding a savings clause; and
- (3) Making technical, nonsubstantive amendments for clarity, consistency, and style.

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

Respectfully submitted on  
behalf of the members of the  
Committee on Finance,

  
MARCUS R. OSHIRO, Chair



