

STAND. COM. REP. NO.

2436

Honolulu, Hawaii

MAR 01 2012

RE: S.B. No. 2998
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 S.B. No. 2998 entitled:

"A BILL FOR AN ACT RELATING TO TAX PENALTIES,"

begs leave to report as follows:

The purpose and intent of this measure is to incorporate fairness provisions into Hawaii tax laws that are similar to those used in the Internal Revenue Code for the calculation of tax penalties.

Specifically, this measure prohibits the stacking of tax underpayment penalties.

Your Committee received testimony in support of this measure from Chun, Kerr, Dodd, Beaman & Wong, LLLP, and two private individuals.

Your Committee received testimony in opposition to this measure from the Department of Taxation.

Your Committee received comments on this measure from the Tax Foundation of Hawaii.

Your Committee finds that several tax penalties were established through the enactment of Act 166, Session Laws of Hawaii 2009, and that these penalties are similar to penalties imposed by the Internal Revenue Code. However, the state tax penalties differ from their federal counterparts, in that the federal penalties do not stack onto one another for the same violation. Your Committee further finds that this measure would promote fairness in the application of state tax penalties by

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prohibiting the assessment of multiple penalties for the same violation.

Your Committee has amended this measure by:

- (1) Limiting the prohibition against the assessment of multiple penalties as follows:
 - (A) Penalties imposed for wilful failure to collect and pay over tax under section 231-36.4, Hawaii Revised Statutes (HRS), shall not be stacked with penalties imposed for the erroneous claim for refund or credit under section 231-36.8, HRS;
 - (B) Penalties imposed for substantial understatements or misstatements under section 231-36.6, HRS, shall not be stacked with penalties imposed for the erroneous claim for refund or credit under section 231-36.8, HRS; and
 - (C) Penalties imposed for the erroneous claim for refund or credit under section 231-36.8, HRS, shall not be stacked with penalties imposed for substantial understatements or misstatements under section 231-36.6, HRS; and
- (2) Deleting the savings clause as unnecessary.

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 S.B. No. 2998, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2998, 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.:* <i>SB2998</i>	Committee Referral: <i>WAM</i>	Date: <i>2-10-12</i>		
<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	✓			
TOTAL	<i>14</i>			
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <i>Michelle N. Kidani</i>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes