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**DEPARTMENT OF TAXATION**

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To: The Honorable Rida T.R. Cabanilla, Chair  
and Members of the House Committee on Housing

Date: Wednesday, February 8, 2012  
Time: 9:10 A.M.  
Place: Conference Room 325, State Capitol

From: Frederick D. Pablo, Director  
Department of Taxation

Re: H.B. No. 2144, Relating to Taxation

The Department of Taxation (Department) appreciates the intent of H.B. 2144, but must oppose this measure. The reporting required of the Department under this measure is subject to strict confidentiality laws.

H.B. 2144 requires the Department to prepare and submit an annual report to the legislature and the Hawaii Housing Finance and Development Corporation (HHFDC) on the general excise tax exemptions granted pursuant to section 201H-36, Hawaii Revised Statutes, for development of low-cost housing and affordable rental housing during the taxable year beginning after December 31, 2010. This report must include specific information regarding each exemption granted, but excludes individual-identifying information.

The Department notes that HHFDC is responsible for granting these tax exemptions, not the Department of Taxation. Information provided to the Department based on tax exemptions granted by HHFDC, similar to all other taxpayer information, is confidential and may not be disclosed to the public. Additionally, it should be noted that not only is an individual's tax information not disclosable, tax information that could lead to the identification of a taxpayer also is deemed confidential. For example, if there is only one taxpayer, or few taxpayers, granted certain tax exemptions by the HHFDC in a taxable year, release of the tax information could lead to the identification of the taxpayer and violate the confidentiality provisions of Title 14, Hawaii Revised Statutes. For these reasons, we respectfully oppose this measure.

Thank you for the opportunity to provide comments.

# TAXBILLSERVICE

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TAX FOUNDATION OF HAWAII

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**SUBJECT:** GENERAL EXCISE, Report on tax exemptions

**BILL NUMBER:** HB 2144

**INTRODUCED BY:** Morikawa, Kawakami, Marumoto, Takai, 6 Democrats, 1 Republican

**BRIEF SUMMARY:** Requires the department of taxation to submit a report to the legislature and the Hawaii housing finance and development corporation (HHFDC) at least 20 days prior to the convening of the regular session of 2013 on the general excise tax exemptions granted pursuant to HRS section 201H-36, during the taxable year beginning after December 31, 2010, to qualified persons or firms involved with newly constructed, or rehabilitated projects developed: (1) under part II of HRS chapter 201H; (2) under a government assistance program approved by the HHFDC under HRS section 201H-36; (3) under the sponsorship of a private nonprofit organization providing home rehabilitation or new homes for qualified families in need of decent, low-cost housing; and (4) by a qualified person or firm to provide affordable rental housing under HRS section 201H-36.

The report shall include information on the total amount of otherwise-taxable revenue subject to the exemption granted under HRS section 201H-36 as well as information regarding individual exemptions awarded, the criteria under which individuals or entities qualified for the exemption, and the length of time each individual or entity has been exempt.

**EFFECTIVE DATE:** Upon approval

**STAFF COMMENTS:** This measure would require the department of taxation to report to the legislature and the HHFDC on the general excise tax exemptions granted pursuant to HRS section 201H-36 for development of low-cost housing and affordable rental housing during the taxable year beginning after December 31, 2010.

While this measure targets only the general excise tax exemptions granted for the development of low-cost housing and affordable rental housing, over the years numerous tax exemptions and credits have been enacted and no review has been performed to ascertain their effectiveness.

Given that these tax credits, tax exclusions, and tax exemptions are a back door expenditure of public dollars, the granting of these preferences should be subjected to the same scrutiny that appropriations and expenditure of tax dollars are subjected to under the rubric of the procurement code. How can policymakers justify the establishment of such tax incentives when there is no means by which to measure whether or not the promise of jobs, economic stimulation, or growth in the industry has resulted if this information is not available?

Conversely, if these beneficiaries want to feed on public dollars through these tax incentives, then they should be more than willing to reveal how those dollars were used and how those dollars benefitted the taxpaying public. The analogy is something akin to having to put the quarter in the juke box if one

wants to dance. Although it will take resources, at the very least, the tax department should begin to collect this data as these preferences have a substantial impact on the revenue base and tax collections.

During the late 1970's when money was also tight, the department of budget and finance used to publish a listing of all exemptions but placed no dollar figure on each as they were not in the position to collect that information. The department of taxation, on the other hand, already does collect some data about tax credits and publishes that information. However, with the help of technology, the department should be able to collect data such as exemptions from the general excise tax as that is specific information that the claimant must file on his or her return. Exclusions may be a bit more difficult to capture as that is not a number that may be required to be listed as it is an exclusion of a certain type of income, such as pensions. However, that data probably could be collected from federal data for Hawaii.

Regardless, the taxpayers deserve to know how much is being provided in tax incentives where there is no apparent evidence that the claiming taxpayer needs relief from an undue burden. Many of these tax incentives are targeted business tax incentives while others intend to get taxpayers to act in a particular manner, none of which is related to the tax burden of the claimant.

Digested 2/7/12