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To: The Honorable Marcus Oshiro, Chair
and Members of the House Committee on Finance

Date: Wednesday, February 15, 2012
Time: 2:00 p.m.
Place: Conference Room 309, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: H.B. 2606 Relating to Tax Clearance Fees

The Department of Taxation (Department) supports the adoption of H.B. 2606 and offers the following information for the Committee's consideration.

H.B. 2606 authorizes the Department to charge a \$20 fee at the time a request for a tax clearance is made. Thereafter, an additional fee of \$5 may be charged for certified copies of the tax clearance certificate. The request to charge a fee is part of the Department's strategy to move toward more e-filing of tax forms and payments.

A tax clearance certificate is issued by the Department to certify that a taxpayer has filed all tax returns due, and paid all amounts owed, as of the date the certificate is issued. Tax clearance certificates are valid for six months from the date of issuance.

Currently, taxpayers may obtain tax clearances without paying a fee for the tax clearance. On average, the Department processes approximately 30,000 tax clearance requests per year and issues approximately 60,000 certified copies of tax clearance. Each tax clearance request takes approximately 15-30 minutes of staff time, depending on the number and complexity of the taxpayer's accounts. These requests include tax clearances needed for bi-annual license renewals of contractors (approximately 8000) and annual liquor license renewals.

State and county vendors with contracts valued at \$2500 or more are now required to register through Hawaii Compliance Express (HCE). This requirement has reduced the number of tax clearances requested via paper form. However, since the verification process leading to issuing a "compliant" or "non-compliant" designation for HCE purposes still requires a manual review of a taxpayer's account, the HCE process has not significantly reduced the workload for processing tax clearances.

At this time, the Department's intention is to move toward electronic filing and issuance of tax clearances to expedite and the process automate the process. Testing is currently being done and the Department is hoping to offer this service to the public in the coming months.

Once the automated tax clearance system is available for public use, the Department would then consider whether to impose the fee for paper filed tax clearance requests, since these transactions take more staff time to process. E-filing tax clearance requests could continue to be free to encourage more taxpayers to use this service. We believe that providing the electronic service for free will encourage most taxpayers to use this process without having to mandate e-filing for tax clearances.

Thank you for the opportunity to provide comments.

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SUBJECT: ADMINISTRATION, Tax clearance fees

BILL NUMBER: SB 2868; HB 2606 (Identical)

INTRODUCED BY: SB by Tsutsui by request; HB by Say by request

BRIEF SUMMARY: Adds a new section to HRS chapter 231 to allow the department of taxation to charge a fee of \$20 for each tax clearance application submitted by a taxpayer and \$5 for each certified copy of a tax clearance; provided the department may charge additional fees relating to the issuance of tax clearances.

This act shall be applicable to requests for tax clearances and requests for certified copies of tax clearances received on or after July 1, 2012.

EFFECTIVE DATE: Upon approval

STAFF COMMENTS: This is an administration measure submitted by the department of taxation TAX-02 (12). Currently, tax clearances requested by taxpayers are provided by the department of taxation at no cost to the taxpayer. If a taxpayer needs a tax clearance from the Internal Revenue Service, the same form that is submitted to the department of taxation can be used and there is no fee for the federal tax clearance.

While this measure proposes a fee of \$20 for each tax clearance application and \$5 for each certified copy, it should be noted that as compared to the fees charges by other state departments, these appear to be rather high. The department of health charges a fee of \$10 for the first copy of each certified copy of a birth, death, civil union, marriage and divorce certificate, and \$4 for each additional copy of the same certificate ordered at the same time.

Given that taxpayers are required to comply with the tax laws of the state and pay what is do, a tax clearance is merely a validation on the department of taxation that the taxpayer is compliant. In as much as a tax clearance is a requirement in bidding on or securing a state or county contract, those tax clearances should be made available without cost to the taxpayer. It should be noted that taxpayers can obtain tax clearances from both the department of taxation and the Internal Revenue Service as well as clearances from the departments of labor and commerce and consumer affairs by using the department of accounting and general services' (DAGS) Hawaii compliance Express HCE program that charges a \$12 annual registration fee.

Given the ability to secure a tax clearances through the HCE program, imposing a charge for a tax clearance seems redundant. All future requests should be referred to the on-line DAGS program.

Digested 2/3/12