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LATE

To: The Honorable David Ige, Chair
And Members of the Senate Committee on Ways and Means

Date: February 10, 2012
Time: 9:00a.m.
Place: Conference Room 211, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: S.B. No. 2867 Relating to Conformity to the Internal Revenue Code

The Department of Taxation (Department) supports the adoption of S.B. 2867, which proposes to update the Hawaii income tax law to conform to changes to the Internal Revenue Code that occurred in calendar year 2011. The Department supports this bill to continue in conformity with the Internal Revenue Code.

In 2011, Congress enacted very few tax measures. The following federal legislation contains tax provisions that were analyzed to determine whether Hawaii should conform to the enacted Internal Revenue Code changes:

1. "James Zadroga 9/11 Health and Compensation Act of 2010," P.L. 111-347, enacted on January 2, 2011;
2. "Surface Transportation Extension Act of 2011," P.L. 112-5, enacted on March 4, 2011;
3. "Airport and Airway Extension Act of 2011," P.L. 112-7, enacted on March 31, 2011;
4. "Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011," P.L. 112-9, enacted on April 14, 2011;
5. "Department of Defense and Full-Year Continuing Appropriations Act, 2011," P.L. 112-10, enacted on April 11, 2011;
6. "Airport and Airway Extension Act of 2011, Part II," P.L. 112-16, enacted on June 1, 2011;

7. "Airport and Airway Extension Act of 2011, Part III," P.L. 112-21, enacted on June 22, 2011;
8. "Airport and Airway Extension Act of 2011, Part IV," P.L. 112-27, enacted on July 15, 2011;
9. "Surface and Air Transportation Programs Extension Act of 2011," P.L. 112-30, enacted on September 16, 2011;
10. "To Extend the Generalized System of Preferences, and for other purposes," P.L. 112-40, enacted on October 13, 2011;
11. "United States-Korea Free Trade Agreement Implementation Act," P.L. 112-41, enacted on October 21, 2011;
12. "United States-Colombia Trade Promotion Agreement Implementation Act," P.L. 112-42, enacted on October 21, 2011;
13. "United States-Panama Trade Promotion Agreement Implementation Act," P.L. 112-43, enacted on October 21, 2011;
14. "3% Withholding Repeal and Job Creation Act," P.L. 112-56, enacted on November 21, 2011; and
15. "Temporary Payroll Tax Cut Continuation Act of 2011," P.L. 112-78, enacted on December 23, 2011.

As explained further below, generally, the Department recommends nonconformance for those provisions that we have consistently not conformed to in the past.

Section 2 of this bill amends section 235-2.3(a), HRS, to conform the Hawaii Income Tax Law to the operative Code sections of subtitle A, chapter 1, amended as of December 31, 2011. Generally, subtitle A, chapter 1, refers to Code sections 1 through 1400T. The majority of changes to the Internal Revenue Code in the federal acts cited above do not involve provisions of subtitle A, chapter 1, of the Internal Revenue Code or provisions to which the state currently conforms, such as the work opportunity credit for veterans and the credit for health care coverage.

Section 3 of this bill amends section 235-2.35, by deleting the information reporting requirement for corporations that was repealed at the federal level in the "Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011," P.L. 112-9, enacted on April 14, 2011. Prior to its repeal and re-designation, section 6041(h) required that Form 1099s be provided to corporations, which was first enacted in 2010. Due to complaints from businesses concerning this new requirement, Congress repealed this reporting requirement in 2011 before it ever became effective. This bill would conform to the federal repeal of this information reporting requirement at the state level.

Thank you for the opportunity to provide comments.