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

Date: Friday, March 15, 2013
Time: 9:05 a.m.
Place: Conference Room 308, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: H.B. 425 H.D.1 Relating to Offers In Compromise

The Department of Taxation **strongly supports** H.B. 425 H.D.1, which conforms to the requirements set forth by the Internal Revenue Service (IRS) for offers in compromise (OIC) submitted to it.

This measure requires that any offer in compromise submitted to the Department be accompanied by 20% of the amount of the offer in cases of a lump-sum OIC and the first proposed payment in the case of a periodic payment OIC. Low-income taxpayers who meet the thresholds set annually by the IRS would not be required to submit a payment with an OIC submission. In cases where an OIC is rejected, the payment amount would be applied to the tax liability of the taxpayer that was first assessed. This measure is effective upon its approval.

Conformance with the IRS rules and regulations substantially assists both the taxpayers and the Department as clear guidance on the issue is available and taxpayers do not have to be concerned with differing procedures for federal and state tax purposes. In addition, the Department believes that requiring a payment with the submission of an OIC will reduce the number of frivolous OIC applications filed.

This bill would not bring in any material amount of additional revenue that would not have otherwise been collected.

Thank you for the opportunity to provide comments.

L E G I S L A T I V E

TAXBILLSERVICE

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SUBJECT: ADMINISTRATION, Offers in compromise

BILL NUMBER: HB 425, HD-1

INTRODUCED BY: House Committee on Finance

BRIEF SUMMARY: Adds a new section to HRS chapter 231 to provide that requests for compromises authorized under HRS section 231-3 shall be submitted to the department of taxation and accompanied by: (1) in the case of a lump-sum offer in compromise, 20% of the amount of the offer; or (2) in the case of a periodic payment offer in compromise, payment in the amount of the first proposed installment. Any failure to make an installment other than the first installment due under the offer in compromise during the period the offer is being evaluated by the department may be treated as a withdrawal of the offer in compromise. In the case where an offer in compromise is not accepted, any payments made for an offer in comprise shall be applied to the tax first assessed or other amounts imposed under HRS title 14.

Allows the department of taxation to waive the payment requirements for individual taxpayers who meet the low-income certification guidelines published by the Internal Revenue Service for the period in which the request for compromise has been submitted. Directs the director of taxation to prepare the necessary forms to meet the requirements of this section and may also require the taxpayer to furnish reasonable information to substantiate the validity of the request for any payment waiver. Also allows the department to adopt rules pursuant to HRS chapter 91 to carry out the purposes of this section. Defines "lump-sum offer in compromise" as any offer of payments made in five or fewer installments and "periodic payment offer in compromise" as any offer of payments made in six or more installments.

EFFECTIVE DATE: Upon approval

STAFF COMMENTS: An offer in compromise is an agreement between a taxpayer and the department of taxation or on the federal level, the Internal Revenue Service, that settles the taxpayer's tax liabilities for less than the full amount owed. If the tax liabilities can be fully paid through an installment agreement or other means, the taxpayer is not eligible for an offer in compromise. In order to be eligible for an offer in compromise, the taxpayer must be current in his tax filings - filed all tax returns and made all required estimated tax payments for the current year.

Currently, the administrative rules require each offer in compromise to be submitted with a remittance representing the amount of the compromise, or a substantial deposit if the offer allows installment payments. The proposed measure would require offers in compromise to be accompanied with 20% of the amount of the offer in the case of a lump-sum offer in compromise or the first installment in the case of a periodic payment offer in compromise. This is similar to the federal treatment of offers in compromise under the Internal Revenue Code. Having the ability to negotiate a settlement of an assessment based on mitigating circumstances and good faith effort to meet current obligations should help to clear the backlog of delinquencies.

Digested 3/12/13