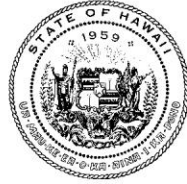


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To: The Honorable Sylvia Luke, Chair  
and Members of the House Committee on Finance

Date: Thursday, March 14, 2013  
Time: 2:00 p.m.  
Place: Conference Room 308, State Capitol

From: Frederick D. Pablo, Director  
Department of Taxation

Re: S.B. 1188, S.D.1 Relating to the Estate and Generation Skipping Transfer Tax

The Department of Taxation (Department) **strongly supports** S.B. 1188, S.D.1 and provides the following information and comments for your consideration.

S.B. 1188, S.D.1 effects two non-substantive corrections to the estate and generation-skipping transfer taxes and clarifies the treatment of a decedent who is part of a civil union. The bill merely clarifies language and treatment under the estate and generation skipping transfer tax, and neither increases nor decreases the burden on the Department.

Thank you for the opportunity to provide comments.

# TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

**SUBJECT:** ESTATE AND GENERATION-SKIPPING TRANSFER TAX, Technical corrections

**BILL NUMBER:** SB 1188, SD-1

**INTRODUCED BY:** Senate Committee on Ways and Means

**BRIEF SUMMARY:** Amends HRS 236E-21(a) to provide that if a decedent who was in a valid civil union or recognized equivalent under the laws of the state, but that is not recognized by the Internal Revenue Code (IRC) as a marriage for federal tax purposes, shall compute the valuations of property, the gross estate, federal taxable estate, and applicable exclusion amount as if it were recognized as a marriage.

Amends HRS section 236E-2 to add a definition of “nonresident not citizen” to mean a decedent required to file under subchapter B of chapter 11 of the IRC.

Amends HRS section 236E-6(a)(3) to replace the phrase “nonresidents who are not citizens” with “nonresidents not citizens.”

**EFFECTIVE DATE:** Decedents dying or taxable transfers occurring after December 31, 2012

**STAFF COMMENTS:** This is an administration measure submitted by the department of taxation TAX-06 (13). With the adoption of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA), the federal estate tax was phased out and repealed over a ten-year period. With that repeal, Congress also got rid of the “state death tax credit” on which Hawaii relied to determine what was owed as its state estate tax. This necessitated the legislature to establish an estate and generation-skipping transfer tax by Act 220, SLH 2012, codified into HRS section 236E.

This measure makes technical corrections to that act to ensure that the provisions of Act 220/HRS chapter 236E apply to decedents in a civil union or recognized equivalent as they apply to decedents of a marriage. Other technical, nonsubstantive changes are made to HRS chapter 236E to clarify its application.

Digested 3/12/13