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

Date: Wednesday, January 30, 2013
Time: 9:00 A.M.
Place: Conference Room 211, State Capitol

From: Frederick D. Pablo, Director
            Department of Taxation

Re: S.B. 1190, Relating to the Imposition of Use Tax on Imported Contracting

The Department of Taxation (Department) strongly supports S.B. 1190 and provides the following information and comments for your consideration.

S.B. 1190 clarifies taxation of imported contracting under the use tax laws. Specifically, it removes reference to imported contracting from items excluded from the definition of "use" in Section 238-1, Hawaii Revised Statutes and amends section 238-2.3, Hawaii Revised Statutes, which imposes the use tax on imported contracting. Existing language in Section 238-2.3, Hawaii Revised Statutes, indicates that imported contracting is subject to use tax at rates of either one-half of one percent or four percent.

The Department notes that there is confusion among taxpayers regarding the application of existing use tax law to imported contracting. The use tax is designed to compliment the general excise tax, and generally items should be taxed similarly under both taxes. Contracting is subject to general excise tax at the rate of four percent, or is not taxed where the subcontractor deduction is allowed.

Amendment of sections 238-1 and 238-2.3 as described in this bill will make treatment of contracting consistent between the general excise tax and the use tax. This will help to alleviate some of the confusion presently experienced by taxpayers in regards to use tax imposition on imported contracting. If approved, the taxes imposed under chapter 237 and 238, Hawaii Revised Statutes, will be evenly applied to contracting.

Thank you for the opportunity to provide comments.