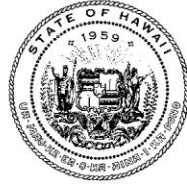


NEIL ABERCROMBIE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION
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FREDERICK D. PABLO
DIRECTOR OF TAXATION

JOSHUA WISCH
DEPUTY DIRECTOR

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

Date: Thursday, March 28, 2013
Time: 3:15 p.m.
Place: Conference Room 312, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: S.B. No. 1196, S.D. 1 Relating to Cash Economy Enforcement

The Department of Taxation (Department) **strongly supports** SB 1196, SD 1, and provides the following information and comments for your consideration.

S.B. 1196, S.D. 1 will aid the Department in its mission to enforce the State's tax laws by amending Hawaii Revised Statutes (HRS) section 231-96, which requires a vendor to offer receipts and keep contemporaneous records. As proposed, the requirements will apply to all taxpayers engaging in business rather than merely taxpayers who conduct more than ten taxable business transactions per day.

The Department has found that some taxpayers use the current law as justification for failing to keep any records of cash-based business transactions at all. Taxpayers state that they have not done ten cash-based transactions and are not required to keep any record at all, regardless of the number of cash-based transactions in which they may have actually engaged. Moreover, without records for the first ten transactions per day, the cash-based businesses records are not accurate.

For clarification, cash-based businesses involve a seller who intends to engage in business, regardless of whether the business results in a profit or loss. The seller's intent to engage in business is what distinguishes them from a seller conducting a casual sale, and therefore, the requirement to keep records of sales transactions. A casual sale involves an occasional or isolated cash sale or transaction of tangible personal property; someone conducting a casual sale does not intend to engage in the business of selling tangible personal property. For that reason, someone conducting a casual sale is not required to obtain a general excise tax license nor maintain records of the sale. A common example of a casual sale is a garage sale.

The Department estimates that this measure will have modest revenue gain to the general fund of less than \$100,000 annually.

Thank you for the opportunity to provide comments.

TAXBILLSERVICE

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TAX FOUNDATION OF HAWAII

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SUBJECT: ADMINISTRATION, Cash economy enforcement

BILL NUMBER: SB 1196, SD-1

INTRODUCED BY: Senate Committee on Ways and Means

BRIEF SUMMARY: Amends HRS section 231-96(a) to replace the language that “it shall be unlawful to conduct more than ten taxable business transactions per day” with “it shall be unlawful for any person doing business under chapter 237, other than casual sales, to conduct any transaction.”

EFFECTIVE DATE: July 1, 2050

STAFF COMMENTS: This is an administration measure submitted by the department of taxation TAX-15 (13). It appears that under the existing language, taxpayers have stated that they have conducted under ten transactions and are not required to keep any records for the cash-based transaction. This measure would remove that language and subject all transactions, other than casual sales, to the laws regulating cash transactions including offering receipts and keeping timely records of transactions handled each day.

Digested 3/13/13