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# LATE TESTIMONY

To: The Honorable Glenn Wakai, Chair  
and Members of the Senate Committee on Technology and the Arts

The Honorable Clayton Hee, Chair  
and Members of the Senate Committee on Judiciary and Labor

Date: Monday, February 11, 2013  
Time: 9:30 a.m.  
Place: Conference Room 016, State Capitol

From: Frederick D. Pablo, Director  
Department of Taxation

Re: S.B. 1200 Relating to Unauthorized Inspection of Tax Returns and Tax Return Information

The Department of Taxation (Department) strongly supports S.B.1200.

S.B. 1200 creates a new section in Chapter 231 of the Hawaii Revised Statutes (HRS), clarifying that unauthorized wilful inspection of any tax return or tax return information is punishable upon conviction by up to imprisonment of one year, a \$1,000 fine, or both. In addition, violations are grounds for dismissal of the employee where the good faith exception does not apply. A violation by any person under a contract with the Department is grounds for prohibiting that person from working on the contract, terminating the contract, or prohibiting the contractor from entering into a future contract with the Department.

Currently, the Department's Administrative Directive 2008-03 (Directive) indicates that the Department will adopt the positions of Internal Revenue Code (IRC) sections 6103(a), (b), and (d), 7213(a)(2), 7213A, and 7431 in pursuing criminal and civil remedies against Department employees. IRC section 7213A is the federal code section which sets forth the criminal and civil penalties to be assessed against a person who has committed the act of unauthorized inspection.

Although the Directive does not have the same effect as law, all Department employees and contractors with access to confidential tax returns and tax return information must execute the a Confidentiality of Tax Returns and Tax Return Information Acknowledgement Form. By executing this form, all Department employees and vendors agree to comply with all terms of the Directive and acknowledge that civil and criminal disciplinary action may be taken for non-

compliance. The purpose of this measure is to codify both the prohibited conduct and the penalties for any violations.

The Department believes that the confidentiality of tax return and tax return information is of the utmost importance in order to maintain an effective voluntary tax compliance system, which is the model that the United States and the State of Hawaii tax laws are based on. Unauthorized inspection violations are matters that the Department takes very seriously.

Adoption of this measure will also complement the Department's Tax System Modernization project. The TSM project is an overhaul of the existing computer system. Development of this system and will include the enhancement of security protocols for the Department's computer system. Providing uniformity between our state prohibitions against unauthorized inspection and federal law will simplify the development of security protocols of TSM project.

On a technical note, the Department suggests that the language on page 2, lines 9-15 be indented flush with subsection (a)(3) since the provision applies to the entire subsection.

Thank you for the opportunity to provide comments.