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

Date: Tuesday, January 29, 2013

Time: 9:00 a.m.

Place: Conference Room 211, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: S.B. 948 Relating to Taxation

The Department of Taxation (Department) appreciates the intent of S.B. 948, but is opposed to the bill for the reasons discussed below.

The purpose of this bill is to conform Hawaii law to the requirements of the Streamlined Sales and Use Tax Agreement ("SSUTA"). The Department notes that the SSUTA is an undertaking of numerous states with the intent of collecting unpaid use taxes on internet purchases.

The Department continues to study the effectiveness of the SSUTA and its implementation, especially in light of the projected budget deficit. However, the Department continues to see unresolved issues with the SSUTA, including inherent limitations in a "voluntary" system of collection by vendors; the uncertainty of potential revenue that could be expected to benefit the general fund; as well as policy limitations placed on participant States by becoming a full member of SSUTA. In fact, the National Governor's Association recently stated its position to the United States Senate Committee on Finance, "urging Congress to honor these guidelines and level the playing field between out-of-state and in-state retailers by authorizing states to require vendors to collect state sales taxes."

The Department believes that Hawaii's current General Excise Tax (GET) structure is sufficient to level the playing field through the taxation of remote sellers. To create a level playing field, the Department intends to assess non-filing taxpayers who are subject to the GET on the gross receipts derived from its business activities related to Hawaii. The enforcement of the existing GET law is likely to benefit the State and its taxpayers more than the adoption of the SSUTA.

Furthermore, the implementation of the SSUTA with the Department's current financial resources and staffing would be very difficult if not impossible at this time. In order to implement the adoption of the SSUTA, the Department would need to prepare new form, instructions and publications, reprogram the existing computer system, train Department personnel, and educate taxpayers. As the Department has previously stated, the current computer system has many severe limitations that make programming modifications archaically difficult, thus, the complete implementation of the SSUTA would likely take a minimum of 2-3 years to complete.

However, if Congress passes a federal law allowing states to require out-of-state vendors to collect state use taxes, SSUTA would be more attractive as the probability of effectiveness would drastically increase.

Thank you for the opportunity to provide comments.

LATE



**Testimony to the Senate Committee on Ways and Means
Tuesday, January 29, 2013
9:00 a.m.
Conference Room 211, State Capitol**

RE: SENATE BILL NO. 948 RELATING TO TAXATION

Chair Ige, Vice Chair Kidani, and Members of the Committee:

The Chamber of Commerce of Hawaii ("The Chamber") supports the intent of SB 948 relating to Taxation and respectfully asks the committee to pass this measure for further discussion.

The Chamber is the largest business organization in Hawaii, representing more than 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state's economic climate and to foster positive action on issues of common concern.

Currently, many internet-based sellers unfairly benefit from the State's inability to enforce the Use Tax against individual purchasers. The result is often lost revenue by the State, and lost sales by conventional and "brick and mortar" retailers, many of which provide employment opportunities for our residents. The bill would help eliminate this tax gap. We believe that measures such as these, which improve the enforceability of existing tax laws, are far preferable to new and higher taxes as the means of meeting the State's budgetary requirements.

Thank you for the opportunity to provide testimony.

LATE



Senator David Y. Ige, Chair
Senator Michelle N. Kidani, Vice Chair
Committee on Ways and Means
State Capitol, Honolulu, Hawaii 96813

HEARING Tuesday, January 29, 2013
 9:00 am
 Conference Room 211

RE: SB948, Relating to Taxation

Chair Ige, Vice Chair Kidani, and Members of the Committee:

Retail Merchants of Hawaii (RMH) is a not-for-profit trade organization representing 200 members and over 2,000 storefronts, and is committed to support the retail industry and business in general in Hawaii. The retail industry is one of the largest employers in the state, employing 25% of the labor force.

RMH supports SB948, which adopts amendments to Hawaii's tax laws to implement Streamlined Sales and Use Tax Agreement.

Through our affiliation with the National Retail Federation, the world's largest retail trade association, and a major participant in the Streamlined Sales Tax Project, RMH has watched the development and progress of this program over the past ten years and has supported Hawaii's initiatives to participate in the multi-state discussions.

As electronic commerce continues its dramatic increase, traditional brick and mortar retailers, which are required by law to collect taxes for government, are experiencing continued erosion of their sales base to remote sellers, which, under most circumstances, are not subject to tax mandates. The Streamlined Sales and Use Tax Project will level the playing field. The unfair disadvantage our local small businesses are experiencing leads to less commerce at brick-and-mortar establishments that most certainly affects employment. It's important to understand that collecting the sales tax won't hurt small businesses that operate online; in fact, there will be exemptions for the smallest sellers.

The reality is that the State of Hawaii has considerable liabilities and unfunded mandates that cannot be satisfied without additional revenue or cutting essential services. It is more than reasonable to collect a tax that's already due before instituting new taxes on everyone. Tax revenue generated from online sales can be used to pay down deficits and get Hawaii back on track toward fiscal solvency.

In 2012, retailers nationally were encouraged that initiatives in Congress, Main Street Fairness Act, Marketplace Fairness Act and Marketplace Equity Act held great promise to ameliorate this unfair situation, and there is consensus that this legislation will be once again on the table. SB948 makes the necessary amendments to Hawaii tax laws to facilitate our compliance.

We respectfully request that you pass SB948. Thank you for your consideration and for the opportunity to comment on this measure.

Carol Pregill, President