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

JOSHUA WISCH
DEPUTY DIRECTOR

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

Date: Friday, March 21, 2014
Time: 9:05 a.m.
Place: Conference Room 211, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: H.B. No. 1847, H.D. 1, Relating to Taxation

The Department of Taxation (Department) appreciates the intent of H.B. 1847, H.D. 1, and offers the following comments for the Committee's consideration.

H.B. 1847, H.D. 1, requires all General Excise Tax (GET) returns to be filed electronically beginning January 1, 2015. The measure provides the Director of Taxation with the authority to assess an administrative fee on GET returns that are not filed electronically. H.D. 1 has a defective effective date of July 1, 2030.

The Department finds that the most efficient method of receiving tax returns is via electronic transmission, which requires significantly less resources to process than paper returns. Taxpayers who are required to file electronically will experience the ease of preparing the returns electronically and will have certainty that their returns were sent and received by the Department because they will receive immediate confirmation of the filing of the tax returns.

Although the Department would benefit greatly from requiring all GET returns to be filed electronically, it recognizes that there are issues regarding computer accessibility that may pose problems for certain taxpayers. Instead, the Department recommends that mandatory electronic filing should be phased in, starting first with business taxpayers (i.e., GET, Transient Accommodations Tax, and other miscellaneous business taxes) with the largest liabilities.

For that reason, the Department prefers the approach set forth in H.B. 2342, an Administration measure, which would provide the Department with the most administrative flexibility in mandating the electronic filing of tax returns. Specifically, H.B. 2342 amends Hawaii Revised Statutes (HRS) section 231-8.5, to provide the Department with the statutory authority to mandate electronic filing for all HRS Title 14 taxes. The Department believes that

the provisions set forth in H.B. 2342 are more efficient than adding an electronic filing provision to each chapter in HRS Title 14. Flexibility in this area is important so that the Department can phase in mandatory electronic filing as the Tax System Modernization project is developed and the functionality becomes available, rather than having to seek statutory amendments each time.

In the alternative, the Department prefers H.B. 1848 over this measure, as it only requires monthly GET filers to file electronically. The Department believes that H.B. 1848 better mitigates taxpayer accessibility issues.

If the Committee wishes to advance this measure, for the purposes of clarity and consistency, the Department suggests Section 1 be amended to read as follows:

"SECTION 1. Section 237-34, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

(a) All monthly and annual returns [~~filed manually~~] shall be transmitted to the office of the taxation district in which the privilege upon which the tax accrued is exercised. Where the privilege is exercised in more than one taxation district the returns shall be transmitted to the office of the first district.

Beginning January 1, 2015, all returns shall be filed electronically. The director, in the director's discretion, may assess an administrative fee on a return that [~~filed manually~~] is not filed electronically.

~~[For the purposes of this section, "filed manually" means a filing that is not by electronic, telephonic, or optical means.]~~

The department may determine alternative methods for the signing, subscribing, or verifying of a tax return, application, report, or other document that shall have the same validity and consequences as the actual signing by the taxpayer. A filing under this section shall be treated in the same manner as a filing subject to the penalties under section 231-39."

Thank you for the opportunity to provide comments.



DISABILITY AND COMMUNICATION ACCESS BOARD

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March 21, 2014



TESTIMONY TO THE SENATE COMMITTEE ON WAYS AND MEANS

House Bill 1847, HD1 - Relating to Taxation

The purpose of House Bill 1847, HD1 is to require all general excise tax returns to be filed electronically, beginning January 1, 2015. The bill states that all returns shall be filed electronically and that the Director of Taxation may assess an administrative fee on a return that is filed manually.

The Disability and Communication Access Board (DCAB) has no position regarding this bill, however we do offer comments.

DCAB acknowledges that with advances in technology more services are available electronically. This makes filing general excise tax returns easier for the state and for businesses. However, there may be individuals, including people with disabilities, who have no access to a computer or who may wish to file manually. Our concerns with the bill are:

1. The filing of forms must be accessible.
2. If the State requires all general excise tax returns be electronically filed, individuals with disabilities who cannot file electronically due to their disability, need to be provided with an alternate means of filing. If that alternate means is manually, then the administrative fee should be waived.

DCAB is responsible for providing technical assistance regarding the Americans with Disabilities Act (ADA), and an important issue discussed with various state and county agencies is making programs and services of government accessible to individuals with disabilities.

We urge your consideration of our comments to amend the bill.

Thank you for the opportunity to testify.

Respectfully submitted,

BARBARA FISCHLOWITZ-LEONG
Chairperson
Legislative Committee

FRANCINE WAI
Executive Director

TAXBILLSERVICE

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TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: GENERAL EXCISE, Electronic filing of returns

BILL NUMBER: HB 1847, HD-1

INTRODUCED BY: House Committee on Finance

BRIEF SUMMARY: Amends HRS section 237-34 to require all general excise tax returns to be filed electronically beginning on January 1, 2015. Allows the director of taxation to assess an administrative fee on a return that is filed manually.

EFFECTIVE DATE: July 1, 2030

STAFF COMMENTS: The legislature by Act 176, SLH 1997, permitted taxpayers to file any tax return, application, report or other document required under Title 14 administered by the department of taxation, by electronic, telephonic, or optical methods. While the proposed measure would **require** rather than **allow** the filing of general excise tax returns electronically, there may be taxpayers filing returns “manually” out of necessity like senior citizens or small mom and pop corner store taxpayers who have no means to file a tax return electronically. If this measure is adopted, those taxpayers will be penalized. Unfortunately, not everyone has access to a computer or appropriate software, and not everyone is computer literate. Thresholds should be in place to make sure that such people are not unduly penalized.

Digested 3/18/14



Chamber of Commerce HAWAII
The Voice of Business

**Testimony to the Senate Committee on Ways and Means
Friday, March 21, 2014 at 9:05 A.M.
Conference Room 211, State Capitol**

RE: HOUSE BILL 1847 HD1 RELATING TO TAXATION

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

The Chamber of Commerce of Hawaii ("The Chamber") **supports** HB 1847 HD1, which requires all general excise tax returns to be filed electronically beginning on January 1, 2015; authorizes DOTAX to assess a fee on returns filed manually.

The Chamber is the largest business organization in Hawaii, representing over 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 members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

We believe electronic filing will make it more efficient and convenient for businesses to timely file and pay their taxes. We would be interested to see with electronic filing, what payment options will be available to business in paying their taxes.

Thank you for the opportunity to testify.

PETER L. FRITZ
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THE SENATE
THE TWENTY-SEVENTH LEGISLATURE
REGULAR SESSION OF 2014

COMMITTEE ON WAYS AND MEANS
Hearing: March 21, 2014
Testimony on H.B.1847 HD1

(RELATING TO TAXATION)

Chair Ige, Vice Chair Kidani and members of the Committee, my name is Peter Fritz. I am an individual with a disability, past member and Chair of the State Rehabilitation Committee, member and Chair, member of the Disability and Communications Access Board, former Rules Specialist with the Department of Taxation (“DOTAX”) and an attorney with a practice that includes disability rights. I am **offering comments**.

This bill would require all general excise tax returns to be filed electronically beginning on January 1, 2015. It also authorizes the Department of Taxation (“DOTAX”) to assess a fee on returns filed manually. I offer the following comments for the Committee’s consideration:

- The assessment of a fee on an individual with a disability who needed to file a “manual” return as an accommodation for his/her disability because the DOTAX electronic filing system is inaccessible violate the Americans with Disabilities regulation 28 CFR §35.130(f). This regulation prohibits a state from imposing a surcharge charge on a particular individual with a disability or any group of individuals with disabilities to cover the costs of measures [such as allowing the individual filing a manual return] . . . [to provide] program accessibility. It is the same regulation that prohibits the State of Hawaii charging for the issuance of parking permits.
- The forms on the current DOTAX website are not accessible to individuals with vision impairments that use programs such as JAWS[®] to convert the text on a page to speech.
- The updated DOTAX ITMS system will not fully operational by January 1, 2015 based on discussions at the Information Technology Steering Committee (“IT Steering Committee”) meetings.
- The OIMT transition plans presented to the Legislature do not have any provisions relating to bringing the DOTAX into compliance with the Americans with Disabilities Act.

Testimony of Peter L. Fritz on H.B. 1847 HD1

March 21, 2014

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- If this bill is to advance, it should not become effective until the DOTAX publishes rules regarding accommodation for individuals with disabilities and brings the website into compliance with Title II of the ADA and Section 508 of the Rehabilitation Act.

Thank you for the opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to read "Peter L. Fritz". The signature is stylized with a large initial "P" and a long horizontal stroke.

PETER L. FRITZ