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

Date: Thursday, March 20, 2014
Time: 9:00 a.m.
Place: Conference Room 211, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: H.B. No. 1870, Relating to Taxation

The Department of Taxation (Department) defers to the appropriate agency on the merits of H.B. 1870 H.D. 1. The Department notes that its previous suggestions to the House Committee on Finance were incorporated into the current H.D. 1 version of this measure.

H.B. 1870 establishes a non refundable tax credit of an unstated amount based on an unstated percentage of the costs incurred by a taxpayer for the purchase of a residential backup generator. The measure applies to taxable years beginning after December 31, 2013, and has a defective effective date of July 1, 2030.

The Department believes that it will be able to enforce the measure as it is written without an undue administrative burden on the Department.

Thank you for the opportunity to provide comments.

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SUBJECT: INCOME, Credit for residential backup generator

BILL NUMBER: HB 1870, HD-1

INTRODUCED BY: House Committee on Finance

EXECUTIVE SUMMARY: Adopts an income tax credit of ___% of the cost of a residential backup generator. The proposed credit would allow taxpayers to claim the credit regardless of a taxpayer's need for tax relief. This type of targeted tax incentive creates winners and losers, the winners being those in the favored industry who receive the incentives and the losers being the rest of us who have to pay for them. When judging targeted tax incentives, such as this credit, consideration should be given to the observations of the 2001-2003 Tax Review Commission.

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to allow a taxpayer to claim an income tax credit of ___% of the cost of a residential backup generator; provided the maximum allowable tax credit shall not exceed \$ ____.

Defines "residential backup generator" as an electrical generator purchased by a taxpayer and operated for the purpose of providing emergency power to the residence of a taxpayer. The credit may be claimed only once per taxpayer and shall not include costs of installation or prefatory work and any costs for which another credit may be claimed.

Tax credits in excess of a taxpayer's tax liability shall be applied to subsequent income tax liability until exhausted. Requires all claims, including amended claims, to be filed on or before the end of the twelfth month following the close of the taxable year for which the credit may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit. Directs the director of taxation to prepare the necessary forms to claim a credit under this section.

EFFECTIVE DATE: July 1, 2030; applicable to taxable years beginning after December 31, 2013

STAFF COMMENTS: This measure proposes a tax credit for the purchase of a residential backup generator. While the measure allows taxpayers to claim the credit regardless of a taxpayer's need for tax relief, the proposed credit is nothing more than a partial subsidy by the state to taxpayers for the purchase of such equipment with absolutely no indication of the taxpayer's need for that subsidy. This type of targeted tax incentive creates winners and losers, the winners being those in the favored industry who receive the incentives and the losers being the rest of us who have to pay for them.

When judging targeted tax incentives such as this one, we all should be mindful of these observations of the 2001-2003 Tax Review Commission:

Targeted tax incentives are generally only demonstrably good for those relatively few taxpayers that qualify for the benefits, and may not be demonstrably good for anyone else.

They are not supported by rules of sound tax policy. In the first instance, they decrease State revenue and add complexity to the tax system. They may also be unfair to other businesses. Almost all of the present incentives lack accountability, and therefore create something of a “black hole” in State fiscal responsibility. A targeted tax incentive does not appropriate hard earned and increasingly scarce revenues. Rather, it creates a tax benefit of unknown proportions against future revenues, before the revenues are collected and subjected to the legislative appropriation process.

Appropriations to favored businesses, or subsidies, are rarely enacted. Every public appropriation is publicly scrutinized. A tax incentive is a potential “black hole,” because it is a future benefit of unknown proportions, which is determined by the favored taxpayer’s interpretation of what the tax credit should be, and is claimed on a tax return which is confidential.

Digested 3/18/14