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

Date: Wednesday, February 12, 2014  
Time: 2:00 p.m.  
Place: Conference Room 308, State Capitol

From: Frederick D. Pablo, Director  
Department of Taxation

Re: H.B. No. 2342 Relating to Electronic Filing of Tax Returns

The Department of Taxation (Department) stands in strong support of this Administration measure.

H.B. 2342 clarifies that the Department may require the electronic filing of tax returns, and provides a penalty of two percent of the amount of the tax if a taxpayer, who is required to file a return electronically fails to file a return electronically, on or before the date prescribed therefor, unless it is shown that the failure is due to reasonable cause and not to neglect. The measure is effective upon approval, and applies to taxable years beginning after December 31, 2014.

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. The 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. Clarifying that the Department may require electronic filing of tax returns will assist the Department as it begins the process of Tax System Modernization.

The Department is aware of the potential burden that this measure may impose on taxpayers without access to a computer, but does not believe that this requirement is unreasonably burdensome. In order to alleviate any burden, the Department is working on a strategic plan to implement this measure, which will start with the business tax filings with large liabilities. The Department believes that these taxpayers have access to resources sufficient to comply with the provisions of this measure.

The Department also notes that subsection (b) at line 17 of page 1, is missing the word "fails", and respectfully requests the following amendment:

(b) If a taxpayer who is required under subsection (a) fails to file a return electronically on or before the date prescribed therefor, unless it is shown that the failure is due to reasonable cause and not to neglect, there shall be added to the tax required to be so remitted a penalty of two per cent of the amount of the tax. The penalty under this subsection is in addition to any penalty set forth in title 14.

Thank you for the opportunity to provide testimony.

# TAXBILLSERVICE

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SUBJECT: ADMINISTRATION, Electronic filing of returns

BILL NUMBER: SB 2892; HB 2342 (Identical)

INTRODUCED BY: SB by Kim by request; HB by Souki by request

BRIEF SUMMARY: Amends HRS section 231-8.5 to require the department of taxation to require the electronic filing of tax returns. Provides that if a taxpayer who is required to file a tax return electronically doesn't do so on or before the due date, unless it is shown that the failure is due to reasonable cause and not to neglect, there shall be added to the tax required to be remitted a penalty of two per cent of the amount of the tax. The penalty imposed shall be in addition to any penalty set forth in title 14.

EFFECTIVE DATE: Tax years beginning after December 31, 2014

STAFF COMMENTS: This is an administration measure submitted by the department of taxation TAX-07 (14). 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 tax returns, electronically, there may be taxpayers filing returns "manually" out of necessity like senior citizens, taxpayers who file a simple short-form return or those taxpayers that 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 1/27/14

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Testimony of Hawai'i Appleseed Center for Law and Economic Justice  
Commenting on HB 2342 Relating to the Electronic Filing of Tax Returns  
House Committee on Finance  
Scheduled for Hearing Wednesday, February 12, 2:00 PM, Room 308

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*Hawai'i Appleseed Center for Law and Economic Justice is a nonprofit, 501(c)(3) law firm created to advocate on behalf of low income individuals and families in Hawai'i on civil legal issues of statewide importance. Our core mission is to help our clients gain access to the resources, services, and fair treatment that they need to realize their opportunities for self-achievement and economic security.*

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Thank you for an opportunity to **comment** on House Bill 2342, which would allow the Department of Taxation to require the filing of electronic tax returns. We have significant concerns about the potential to require electronic filing of personal income tax returns and respectfully propose an amendment that removes the Department's ability to require electronic filing for personal income tax returns.

Should the Department apply this requirement to personal income tax returns, many taxpayers will face significant barriers to filing their taxes. Many low-income individuals and older adults have limited access to technology or lack technological literacy. The digital divide remains wide for many groups, as well as those in rural areas. To file an electronic tax return, a filer must have access to a computer, a secure internet connection, and the technological literacy—or help of others—to complete the return. Even where free computers and internet are available, such as a library, tax filers may still have access issues. For individuals with limited transportation, those in rural areas, or mobility impairments, just getting to such a site can be a challenge. Moreover, free computers and internet are generally connected to a public network and may not offer an adequate secure connection. The need to use public computers also raises privacy and other security issues that these individuals would be ill-equipped to protect themselves against.

Others may not be adept at the use of technology and switching to electronic filing could present significant challenges. If electronic filing is a barrier, these households would be more likely to be late, make errors in their returns, or even fail to submit a tax return at all. To create a fair system, the state would need to create facilities and assistance for people to come in and have their taxes prepared. But even with such a significant investment, the same barriers to accessing these sites remain.

People are required to file their taxes, and we should not make this task more onerous for struggling members of society. A system of exemptions or waived penalties for people who cannot readily access the internet would just create additional burdens on the tax collection system as well as the individual filer. We understand the benefits of electronic tax returns and requiring them may be appropriate in some circumstances, but we should not impose an extra barrier on disenfranchised members of our society for administrative convenience. We strongly encourage the committee to disallow the Department of Taxation from requiring the electronic filing of personal income tax returns. Thank you again for the opportunity to comment on this bill.