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To: The Honorable Chris Lee, Chair
and Members of the House Committee on Energy and Environmental Protection

Date: Tuesday, February 3, 2015
Time: 8:30 A.M.
Place: Conference Room 325, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: H.B. 657, Relating to Taxation

The Department of Taxation (Department) appreciates the intent of H.B. 657 and offers the following comments.

H.B. 657 creates a tax credit for purchase of a residential backup generator, equal to twenty-five percent of the cost of the generator and capped at an unspecified amount per taxpayer. The tax credit would be available in taxable years beginning after December 31, 2014.

The Department notes that this credit contains a definition of "net income tax liability" which may cause some confusion among taxpayers. If the intent of this definition is to ensure that this credit is applied to a taxpayer's income tax liability as reduced by other tax credits, the Department suggests putting this requirement in a separate subsection rather than styling it as a definition.

The effective date in section 3 of H.B. 657 applies this tax credit to taxable years beginning after December 31, 2014. Because this is a new tax credit, adoption will require the Department to develop new forms, instructions, and computer system enhancements. For these reasons, the Department requests that the effective date be extended to taxable years beginning after December 31, 2015.

Thank you for the opportunity to provide comments.

SUBJECT: INCOME, Credit for residential backup generator

BILL NUMBER: HB 657

INTRODUCED BY: Say and 1 Democrat

EXECUTIVE SUMMARY: Adopts an income tax credit of 25% 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 25% 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 power to the residence of a taxpayer when the utility from whom the taxpayer would otherwise purchase power is unable to provide it. 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: Tax years beginning after December 31, 2014

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 2/2/15