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

Date: Tuesday, March 22, 2016

Time: 2:00 P.M.

Place: Conference Room 308, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: S.B. 2925, S.D. 1, Relating to the Tax Adjustments.

The Department of Taxation (Department) strongly supports S.B. 2925, S.D. 1, an Administration measure, and provides the following comments for your consideration.

S.B. 2925, S.D. 1, amends section 235-101(b), Hawaii Revised Statutes (HRS), by clarifying that the statute of limitations for State tax refunds can only be extended under section 235-101(b), HRS, where the IRS has made an adjustment to the taxpayer's federal return or the taxpayer has filed a timely amended federal tax return which has been accepted by the IRS. The measure is effective upon approval.

Generally speaking, a claim for refund must be filed within three years from the time the return was filed or from the due date prescribed for the filing of the return, or within two years from the time the tax was paid, whichever is later. As currently enacted, section 235-101(b), HRS, seems to allow a taxpayer who has failed to timely file a refund claim with the Department to extend the statute of limitations by merely filing an amended federal tax return, irrespective of whether the amended return is accepted by the IRS. The Department does not believe that the intent of this statute was to allow taxpayers to circumvent the general refund statute of limitations.

Thank you for the opportunity to provide testimony in support.