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To: The Honorable Jill N. Tokuda, Chair
and Members of the Senate Committee on Ways and Means

Date: Tuesday, February 7, 2017
Time: 9:30 A.M.
Place: Conference Room 211, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: S.B. 1003, Relating to Electronic Filing

The Department of Taxation (Department) strongly supports S.B. 1003, an Administration measure, and provides the following comments for your consideration.

S.B. 1003 authorizes the Department to require taxpayers to file tax returns by electronic or similar means, subject to a reasonable cause exception. The bill also imposes a fine of two percent of the amount of the tax required to be shown on the return for failure to file by electronic or similar means. The bill becomes effective upon approval.

First, the Department believes that the best way to realize the full benefits of the Tax System Modernization (TSM) program is to expand electronic filing. This is because tax administration gains efficiency as electronic filing increases and TSM will enhance the Department's ability to accept electronically filed returns.

Fully achieving these expected efficiency gains, though, depends on increasing the proportions of electronically filed returns. The Department believes this measure will accelerate the expansion of electronic filing, and thus increase the Department's efficiency and effectiveness.

Second, the Department notes that this measure will not mandate electronic filing outright, but merely allows the Department to require electronic filing at its discretion. This means that the Department will be able to analyze and determine which situations warrant mandatory electronic filing and which do not, while considering its own resources and the resources available to taxpayers.

Finally, the Department is fully aware that exceptions to any mandatory electronic filing requirement must be provided, and has therefore included a "reasonable cause" exception to be defined by administrative rules. The Department already acknowledges that lack of internet

access would qualify as a reasonable cause exception, and will gather public testimony regarding additional exceptions through the rulemaking process.

Thank you for the opportunity to provide comments.

TAX FOUNDATION OF HAWAII

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SUBJECT: ADMINISTRATION, Mandatory electronic filing of tax returns

BILL NUMBER: SB 1003; HB 1137 (Identical)

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

EXECUTIVE SUMMARY: Requires electronic filing of tax returns. The statute as drafted provides for a reasonable cause exception only if the department adopts rules, and can be improved if the reasonable cause exception is written into the law.

BRIEF SUMMARY: Amends HRS section 231-8.5 to allow the department of taxation to require electronic filing of any tax return, application, report, or other document required under title 14. The department may by rule allow exceptions for reasonable cause.

Provides that a taxpayer who is required to file but doesn't is penalized 2% of the amount of the tax required to be shown on the return.

EFFECTIVE DATE: Upon approval.

STAFF COMMENTS: This is an administration measure submitted by the department of taxation TAX-02 (17). The point of the bill is to require electronic filing for all or part of the tax base. Some of the tax base, however, might not be comfortable with electronic payment, let alone electronic filing. Electronic filing does seem to be the way of the future, with the potential for speeding up the processing of tax returns and at the same time slashing the error rates associated with scanned or manually entered returns.

There seems to be a reasonable cause exception for the penalties, and we suggest that it be written into the statute, with the department having the ability to interpret that term if it wishes. As drafted, there is no reasonable cause exception unless the department adopts rules. We suggest language similar to HRS section 231-9.9(c).

"[§231-8.5] **Electronic filing of tax returns.** (a) The department may [allow] require filing by electronic, telephonic, or optical means of any tax return, application, report, or other document required under the provisions of title 14 administered by the department. The date of filing shall be the date the tax return, application, report, or other document is transmitted to the department in a form and manner prescribed by departmental rules adopted pursuant to chapter 91. 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.

(b) If a person who is required under subsection (a) to file a return electronically department fails to file electronically using an approved method 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 shown on the return a penalty of two per cent of the amount of the tax."

Digested 2/5/2017

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 3, 2017 3:47 PM
To: WAM Testimony
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for SB1003 on Feb 7, 2017 09:30AM*

SB1003

Submitted on: 2/3/2017

Testimony for WAM on Feb 7, 2017 09:30AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Oppose	No

Comments:

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Cc: teresa.parsons@hawaii.edu
Subject: *Submitted testimony for SB1003 on Feb 7, 2017 09:30AM*

SB1003

Submitted on: 2/6/2017

Testimony for WAM on Feb 7, 2017 09:30AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Teresa Parsons	Individual	Support	No

Comments:

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