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To: The Honorable Donovan M. Dela Cruz, Chair  
and Members of the Senate Committee on Ways and Means

Date: Friday, March 29, 2019  
Time: 10:00 A.M.  
Place: Conference Room 211, State Capitol

From: Linda Chu Takayama, Director  
Department of Taxation

Re: H.B. 114, Relating to Amending or Repealing Hawaii Income Tax Laws  
for the Purpose of Deleting Obsolete or Unnecessary Provisions

The Department of Taxation (Department) offers the following comments on H.B. 114 for the Committee's consideration.

H.B. 114 identifies Hawaii Revised Statutes (HRS) section 235-103 as unnecessary due to the existence of HRS section 231-3.1 and proposes its repeal. The measure is effective upon approval and applies to taxable years beginning after December 31, 2018.

HRS section 235-103 provides that the Department may assess income tax by disregarding certain transactions between related taxpayers and by taking account of reasonable profits that would have been made but for the arrangements made between the related taxpayers.

The Department has reviewed HRS section 235-103 and believes that HRS section 231-3.1 provides equivalent protection so that HRS section 235-103 may be repealed.

Thank you for the opportunity to provide comments.

# TAX FOUNDATION OF HAWAII

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SUBJECT: INCOME TAX, Cleanup Bill

BILL NUMBER: HB 114

INTRODUCED BY: LUKE, CULLEN

EXECUTIVE SUMMARY: Repeals unnecessary or redundant provisions of the income tax law.

SYNOPSIS: Repeals section 235-103, HRS.

EFFECTIVE DATE: This Act, upon its approval, shall apply to taxable years beginning after December 31, 2018.

STAFF COMMENTS: Section 235-103, HRS, allows the department to adjust for transactions at less than a fair price, especially when the transactions are between related taxpayers. The section now appears unnecessary because section 231-3.1, HRS, which also relates to consideration paid not being indicative of fair market value, applies to all taxes.

Digested 2/4/2019