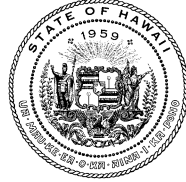


DAVID Y. IGE
GOVERNOR

JOSH GREEN M.D.
LT. GOVERNOR



RONA M. SUZUKI
DIRECTOR OF TAXATION

DAMIEN A. ELEFANTE
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
Phone: (808) 587-1540 / Fax: (808) 587-1560
Email: Tax.Directors.Office@hawaii.gov

To: The Honorable Sylvia Luke, Chair;
The Honorable Ty J.K. Cullen, Vice Chair;
and Members of the House Committee on Finance

From: Rona M. Suzuki, Director
Department of Taxation

Re: H.B. 1970, Relating to the Statute of Limitations for Income Tax Purposes

Date: Wednesday, February 5, 2020

Time: 2:00 P.M.

Place: Conference Room 308, State Capitol

The Department of Taxation (Department) opposes H.B. 1970. This measure amends section 235-101, Hawaii Revised Statutes (HRS), by deleting the provision that requires taxpayers to report to the Department a change in taxable income due to a renegotiation of a federal contract. Under current law, the statute of limitations (SOL) for assessment of any additional tax due would be extended by one year after being notified by the Internal Revenue Service or by the taxpayer, whichever occurs earlier.

It is unclear how this measure eliminates a redundancy. If this measure were adopted, the remaining paragraphs in section 235-101(b), HRS, would not apply if the renegotiation of the federal contract resulted in additional taxable income after the federal SOL for assessment had expired. Under section 6501 of the Internal Revenue Code, the SOL for assessment is three years from the date that the return was filed. The Internal Revenue Service also does not accept amended returns after the SOL for assessment has expired. Thus, it appears that the deletion proposed by this measure may actually result in the additional income not being reported to the Department and the SOL for assessment not being reopened at all.

Thank you for the opportunity to testify in opposition to H.B. 1970.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Technical Amendment to Statute of Limitations

BILL NUMBER: HB 1970

INTRODUCED BY: LUKE

EXECUTIVE SUMMARY: Was intended to eliminate a redundancy regarding the reopening of the statute of limitations for income tax purposes if a federal contract is renegotiated. The Foundation has agreed with the Department of Taxation that the bill has an unintended substantive effect and should not move forward.

SYNOPSIS: Amends section 235-101, HRS, to eliminate the requirement that a return be amended, and the reopening of the statute of limitations, when a change in taxable income results from a renegotiation of a contract with the United States.

EFFECTIVE DATE: Upon approval.

STAFF COMMENTS: The purpose of this Act is to amend section 235-101, Hawaii Revised Statutes, to eliminate a redundancy regarding the reopening of the statute of limitations for income tax purposes if a federal contract is renegotiated. The statute already allows for the reopening if a recomputation of the income tax imposed by the United States under the Internal Revenue Code results from any cause, so the prong relating to renegotiated contracts is redundant.

The Foundation drafted this bill to remove the redundancy in the statute. No substantive change is intended.

In testimony before the Senate on SB2298, the Department of Taxation has stated that the bill has a substantive effect. Thus, the Foundation has agreed with the Department of Taxation that the bill has an unintended substantive effect and should not move forward.

Digested 2/1/2020