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Statement of
MIKE MCCARTNEY
Director

Department of Business, Economic Development, and Tourism

before the
SENATE COMMITTEE ON ENERGY, ECONOMIC DEVELOPMENT, AND TOURISM

Monday, February 03, 2020
2:55 PM
State Capitol, Conference Room 414

In consideration of
SB3007
RELATING TO TAX CREDITS.

Chair Wakai, Vice Chair Taniguchi, and Members of the Senate Committee on Energy, Economic Development, and Tourism.

The Department of Business, Economic Development and Tourism (DBEDT) appreciates the intent of, and provides **comments** for SB3007, which requires DBEDT to file a public disclosure identifying the taxpayers that receive tax credits for specific economic activities.

This bill requires DBEDT to file “a public disclosure” identifying taxpayers that received tax credits under section 235-17, HRS (Motion Picture, Digital Media, and Film Production tax credit), section 235-110.91, HRS (Research Activities tax credit) and chapter 209E, HRS (State Enterprise Zones).

Section 235-110.91(k) already specifically states that DBEDT shall identify each business that is the beneficiary of the Research Activities tax credit in its annual reports to the Legislature.

Our primary concern is that section 235-17(i), HRS (Motion Picture, Digital Media, and Film Production tax credit) specifically states that the annual report presented to the Legislature shall be “in a redacted format to preserve the confidentiality of the taxpayers claiming the credit.” If this bill were to pass, it would

be in direct conflict with section 235-17(i) and could be construed as repealing by implication the confidentiality of the taxpayers that the Legislature has already sought to protect. Further, "a public disclosure" is not defined in the measure, so it is unclear where and how DBEDT would file this disclosure.

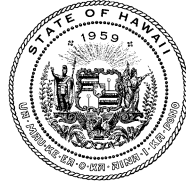
It's important to keep in mind that this change in the law, in addition to being in direct conflict with a law that is already on the books, could very well act as a deterrent for applicants seeking to utilize the Motion Picture, Digital Media, and Film Production tax credit, as the confidentiality of the taxpayer has been ensured over the life of the film tax credit program, since 2006.

We defer to the Department of Taxation regarding the appropriate use of taxpayer information.

Thank you for the opportunity to testify on this measure.

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To: The Honorable Glenn Wakai, Chair;
The Honorable Brian T. Taniguchi, Vice Chair;
and Members of the Senate Committee on Energy, Economic Development, and
Tourism

From: Rona M. Suzuki, Director
Department of Taxation

Re: S.B. 3007, Relating to Tax Credits

Date: Monday, February 3, 2020

Time: 2:55 P.M.

Place: Conference Room 414, State Capitol

The Department of Taxation (Department) offers the following comments regarding S.B. 3007.

S.B. 3007 requires the Department of Business, Economic Development, and Tourism (DBEDT) to file a public disclosure identifying the taxpayers that received any tax credit under Hawaii Revised Statute (HRS) section 235-17 (motion picture, digital media, and film production income tax credit), section 235-110.91 (research activities tax credit), and chapter 209E (state enterprise zones) upon certification of the tax credits by DBEDT. The bill is effective upon its approval.

DBEDT certifies qualified expenditures from the previous taxable year for the tax credits under HRS sections 235-17 and 235-110.91. Similarly, DBEDT certifies the tax credits and exemptions under HRS chapter 209E after a taxpayer meets certain requirements to be designated a qualified business in the enterprise zone.

With its current effective date, this measure will in essence apply retroactively, impacting taxpayers who took action to qualify for the tax credits prior to knowing that public disclosure would be required. This measure should apply on a going forward basis to give taxpayers the opportunity not to take the action to qualify for the credit if they do not want their tax information disclosed. To address this, the Department suggests amending the effective date so that the measure applies to taxable years beginning after December 31, 2020.

Thank you for the opportunity to provide comments.

TAX FOUNDATION OF HAWAII

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SUBJECT: INCOME, GENERAL EXCISE, MISCELLANEOUS, Public Disclosure of Credit Recipients

BILL NUMBER: SB 3007

INTRODUCED BY: WAKAI, RIVIERE, Harimoto, Kanuha, J. Keohokalole, Kim, Nishihara

EXECUTIVE SUMMARY: Requires the Department of Business, Economic Development, and Tourism to make a public disclosure identifying the taxpayers receiving certain tax credits.

SYNOPSIS: Adds a new section to chapter 201, HRS, requiring DBEDT to publicly identify the taxpayers receiving any of the following tax credits: (1) the motion picture, digital media, and film production income tax credit (section 235-17, HRS); (2) the tax credit for research activities (section 235-110.91, HRS); and (3) credits under the enterprise zone program (chapter 209E, HRS).

EFFECTIVE DATE: Upon approval.

STAFF COMMENTS: Current law, including sections 235-116 and 237-34, HRS, prohibits the disclosure of tax return information by any person or any officer or employee of the State. Such disclosure is a class C felony. If the Legislature decides, as a policy matter, that it is better to make such a public disclosure, then appropriate amendments need to be made to the tax return confidentiality statutes.

Digested 1/31/2020