

MAR 05 2021

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## SENATE RESOLUTION

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REQUESTING THE DIRECTOR OF TAXATION TO WAIVE PENALTIES AND  
INTEREST SOUGHT FROM SMALL BUSINESSES AND INDIVIDUAL  
TAXPAYERS AS A RESULT OF UNDUE HARDSHIP RELATED TO THE  
CORONAVIRUS DISEASE 2019 PANDEMIC.

1        WHEREAS, the Director of Taxation's prologue to the Hawaii  
2 Taxpayer Bill of Rights states, in relevant part: "Hawaii  
3 taxpayers have many rights. Some are based on laws, and others  
4 are based on our commitment to administer Hawaii's tax laws in a  
5 fair and equitable manner . . . Taxpayer rights are at the heart  
6 of good tax administration – a pledge that the tax laws will be  
7 administered with fairness, uniformity, courtesy, and common  
8 sense"; and  
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10        WHEREAS, the Bill of Rights explicitly includes waivers of  
11 penalties and interest: "Taxpayers have a right to request that  
12 the Department of Taxation waive penalties and interest added to  
13 any tax if the taxpayer can show that failure to file a return  
14 or pay a tax on time was due to reasonable cause not due to the  
15 taxpayer's own carelessness, neglect, or willful disregard of  
16 the law, but due to circumstances beyond the taxpayer's  
17 control"; and  
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19        WHEREAS, the coronavirus disease 2019 (COVID-19) pandemic,  
20 and the State and counties' responses to it, including forced  
21 closures and limitations on business operations, constitute  
22 circumstances beyond the taxpayer's control and would qualify as  
23 a "reasonable cause" for a taxpayer to fail to timely pay their  
24 taxes; and  
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26        WHEREAS, the Taxpayer Bill of Rights allows the Director of  
27 Taxation the discretionary authority to approve "offers in  
28 compromise" requested by taxpayers who owe \$50,000 or less in  
29 taxes; and  
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31        WHEREAS, tens of thousands of small businesses and many  
32 individual taxpayers have failed to remit their General Excise



# S.R. NO. 46

1 Tax in a timely manner or failed to set aside money to pay their  
2 income taxes during the economic and financial irregularities  
3 experienced during the COVID-19 pandemic; and  
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5 WHEREAS, pursuant to section 231-10.7, Hawaii Revised  
6 Statutes, the Director of Taxation has the authority to adopt  
7 temporary rules that take effect seven days after notice of the  
8 temporary rule is issued; now, therefore,  
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10 BE IT RESOLVED by the Senate of the Thirty-first  
11 Legislature of the State of Hawaii, Regular Session of 2021,  
12 that the Director of Taxation is requested to waive General  
13 Excise Tax penalties and interest when the tax upon which the  
14 penalties and interest is owed was incurred after March 4, 2020;  
15 and the small business attests that the failure to timely remit  
16 payment in full was due to the COVID-19 pandemic, or any local,  
17 state, or federal government response to it; and  
18

19 BE IT FURTHER RESOLVED that the Director of Taxation is  
20 requested to waive income tax penalties and interest imposed on  
21 any individual taxpayer who attests that they failed to file or  
22 timely remit taxes due to the COVID-19 pandemic, or any local,  
23 state, or federal government response to it; and  
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25 BE IT FURTHER RESOLVED that certified copies of this  
26 Resolution be transmitted to the Director of Taxation and the  
27 Governor.  
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OFFERED BY:

