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To: The Honorable Sharon Y. Moriwaki, Chair;  
The Honorable Donovan M. Dela Cruz, Vice Chair;  
and Members of the Senate Committee on Government Operations

From: Isaac W. Choy, Director  
Department of Taxation

Date: February 9, 2021  
Time: 3:05 P.M.  
Place: Via Videoconference, Hawaii State Capitol

**Re: S.B. 1204, Relating to Tax Appeals**

The Department of Taxation (Department) strongly supports S.B. 1204, an Administration measure, and offers the following comments for the Committee's consideration.

S.B. 1204 would make significant amendments to chapter 232, Hawaii Revised Statutes (HRS), to replace the four district tax Boards of Review with a single statewide Board of Review (BOR) appointed by the Governor, consisting of ten members with three required for quorum. Although one Board member will be required to be physically present at each meeting, the measure also authorizes other members of the BOR to use cost-efficient means such as teleconferencing to conduct their proceedings. Additionally, taxpayers and others appearing before the BOR would be permitted to also participate via teleconference or any other permissible cost-efficient means.

The measure also clarifies that any vacancy in the BOR would not impair the authority of the remaining members to exercise their powers, as long as there is quorum. Moreover, the measure would authorize the Governor to appoint acting members to the BOR to temporarily fill vacancies created by a current member's illness, recusal from a case, or temporary absence from the State.

The Department stresses that the currently existing BOR appeals structure, with one board for each tax district, is overwhelmed with challenges to the point where it has become essentially inoperable. A substantial number of tax appeals have been unable to be heard, or have been substantially delayed in being heard, due to the boards' inability to constitute quorum.

The Department believes that Hawaii taxpayers will greatly benefit from improved efficiency in tax administration and having their appeals decided expeditiously. Accordingly, the

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Department strongly supports this measure, and will be able to implement it with its current effective date of January 1, 2022.

Thank you for the opportunity to provide testimony in support of this measure.

# OFFICE OF INFORMATION PRACTICES

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To: Senate Committee on Government Operations

From: Cheryl Kakazu Park, Director

Date: February 9, 2021, 3:05 p.m.  
Via Videoconference

Re: Testimony on S.B. No. 1204  
Relating to Tax Appeals

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Thank you for the opportunity to submit testimony on this bill, which would replace the four district tax boards of review with a single statewide board of review. The Office of Information Practices (OIP) takes no position on the composition of the Tax Board of Review, but **offers comments on a provision allowing teleconference meetings and recommends its deletion based on a conflict with other measures addressing remote meetings and remote contested case proceedings.**

A provision on bill page 4, lines 4-7, allows the Tax Board of Review to have only one member physically present at meetings while board members and others "teleconference." It does not provide standards for what that would entail or how the public interest in access to the Board's proceedings would be protected.

The Tax Board of Review meets the definition of a "board" subject to the Sunshine Law and thus would be required to follow the Sunshine Law when it is not considering a contested case; and when it is considering a contested case it is

presumably subject to the contested case standards set out in chapter 91, HRS.

**The teleconference provision in this bill would conflict with the Sunshine Law as it currently exists, and would also conflict with proposals moving in the Legislature to allow remote meetings under the Sunshine Law (H.B. 503, passed out of PDP, and S.B. 1034, set for hearing by JDC on February 12) and remote contested case proceedings (S.B. 873, also set for hearing by JDC on February 12).** Those proposals set detailed requirements for how a Sunshine Law meeting or contested case may be held with members and others attending remotely via interactive conference technology, and attempt to balance board members' convenience with the public interest.

Because the ability to hold remote meetings is being addressed generally for Sunshine Law boards by a remote meetings bill, and the ability to hold remote contested case proceedings by a remote contested case bill, there is no reason the Tax Review Board should have its own special provision allowing its members to attend meetings via teleconference with effectively no standards or public protections. **OIP therefore recommends this Committee delete the teleconferencing provision as applied to board members, at board page 4, lines 4-7.**

Thank you for considering OIP's concerns and suggested amendment.