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TESTIMONY OF
GARY S. SUGANUMA, DIRECTOR OF TAXATION

TESTIMONY ON THE FOLLOWING MEASURE:

H.B. No. 2488, Relating to the Taxation Board of Review.

BEFORE THE:

House Committee on Judiciary & Hawaiian Affairs

DATE: Tuesday, February 6, 2024

TIME: 2:00 p.m.

LOCATION: State Capitol, Room 325

Chair Tarnas, Vice-Chair Takayama, and Members of the Committee:

The Department of Taxation ("Department") strongly supports H.B. 2488, an Administration measure, and offers the following comments for your consideration.

H.B. 2488 amends section 232-6(b), Hawaii Revised Statutes (HRS), which requires that the Chairperson of the Taxation Board of Review be either an attorney licensed to practice law in all courts of the State, or a certified public accountant (CPA) with experience in the State, to instead provide that the Chairperson must be an attorney or accounting professional with experience in Hawai'i state taxes. The measure is effective upon approval.

The current licensing requirements to serve as Chairperson of the Taxation Board of Review do not necessarily reflect whether a person has the knowledge or experience to serve as the chairperson, as any attorney or CPA may currently qualify to serve as the Chairperson even if they do not have experience in Hawai'i tax.

The current requirements have also proven an obstacle to attracting candidates. Attorneys or accounting professionals who have retired from their profession or who have been employed in positions that have not required them to maintain an active license would not be able to qualify as the chairperson under current law.

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This measure is intended to allow a wider pool of potential candidates with relevant experience in State tax law to apply for the Chairperson position.

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

TAX FOUNDATION OF HAWAII

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SUBJECT: APPEALS, Qualifications of the Chair of the Taxation Board of Review

BILL NUMBER: HB 2488, SB 3177

INTRODUCED BY: HB by SAIKI; SB by KOUCHI (Governor's Package)

EXECUTIVE SUMMARY: Amends the minimum qualifications for the Chairperson of the Taxation Board of Review.

SYNOPSIS: Amends section 232-6(b), HRS, to change the requirement for the Chair of the Taxation Board of Review from (1) an attorney or certified public accountant, to (2) an attorney or accounting professional with experience in Hawaii state taxes.

EFFECTIVE DATE: Upon approval.

STAFF COMMENTS: This is an Administration measure sponsored by the Department of Taxation and designated TAX-05 (24).

The justification sheet accompanying the bill states that

current licensing requirements have made it difficult to attract applicants who would otherwise have the knowledge or experience to serve as the Chairperson, such as persons who have retired from their profession or who have been employed in positions that have not required them to maintain an active license.

The bill appears to be a reasonable way of addressing the problem that motivated the Department of Taxation to introduce this bill.

Digested: 2/4/2024

HB-2488

Submitted on: 2/2/2024 4:45:09 PM

Testimony for JHA on 2/6/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Richard McClellan	Individual	Oppose	Written Testimony Only

Comments:

I am a tax attorney in private practice since 1993.

I recognize there may be problems filling the Chairperson position (and potentially other positions). These problems are probably more a function of the initial term length and the ramifications of public employment for licensed attorneys than actual qualifications or qualified persons.

This bill however excessively dilutes the requirements and presents a real risk of an inappropriate appointment that could undermine the purposes of the revisions to the Taxation Board of Review by the Legislature.

What is an "attorney"? Does that mean a graduate of a law school, possibly an unaccredited one? A graduate of a foreign law school? It is pretty clear what "an attorney at law licensed to practice in all Courts of the State" means in the existing text.

Does "with experience in Hawaii state taxes" modify "attorney" or only "accounting professional"? what does "with experience in Hawaii state taxes" mean? does this mean a person that filed a couple of Hawaii tax returns as a return preparer, using software, working in Oregon? An attorney that filed a Hawaii income tax return using tax preparation software?

What is an "accounting professional"? A bookkeeper, potentially with no formal education or training? Someone that works in accounts receivable? We know what a CPA is and we know how difficult it is to become and maintain a CPA license -- speaking to a level of ability and competence with concepts critical to our tax laws.

If Hawaii is going to have a competent, professional tax tribunal that the public and tax professionals can rely upon to adjudicate differences between taxpayers and the public, we need appropriate persons and this bill may be counterproductive.

I think the requirements should remain.