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**TESTIMONY OF  
GARY S. SUGANUMA, DIRECTOR OF TAXATION**

**TESTIMONY ON THE FOLLOWING MEASURE:**

S.B. No. 3174, Relating to State Tax Administration.

**BEFORE THE:**

Senate Committee on Judiciary

**DATE:** Friday, February 2, 2024

**TIME:** 10:00 a.m.

**LOCATION:** State Capitol, Room 016

Chair Rhoads, Vice-Chair Gabbard, and Members of the Committee:

The Department of Taxation ("Department") strongly supports S.B. 3174, an Administration measure, and offers the following comments for your consideration.

This bill amends section 231-10.8, Hawaii Revised Statutes (HRS), relating to tax clearance fees, sections 237-30.5 and 237D-8.5, HRS, relating to rental collection agreements, and section 237-49, relating to unfair competition. The bill is effective on January 1, 2025.

**Tax Clearance Fees**

Section 1 of S.B. 3174 amends section 231-10.8, HRS, to remove the \$5 fee charged for each certified copy of a tax clearance. This fee provision is outdated and no longer applicable because the Department does not certify tax clearances.

**Rental Collection Agreements**

Sections 2 and 4 of the bill amend sections 237-30.5 and 237D-8.5, HRS, to establish a penalty of \$500 per violation for failure to comply with the notice and filing requirements of those sections. Under current law, every person authorized to collect rent on behalf of an owner of real property in the State is required to provide the

Department with the name, address, social security number, general excise tax (GET) license number, and transient accommodations tax (TAT) registration number of the owner within 30 days after entering into the agreement, or in the alternative, must provide the Department with a copy of federal Form 1099 at the same time the form must be filed with the Internal Revenue Service. There is, however, no penalty for a taxpayer's failure to comply with these requirements. Adding an enforcement mechanism would be an excellent tool to help the Department promote tax compliance and uphold the State's tax laws.

### **Unfair Competition**

Section 3 of the bill amends section 237-49, HRS, to increase the fine for unfair competition in GET law from \$50 to \$1000. This law prohibits taxpayers from advertising or holding out to the public that GET is not considered an element in the price to the purchaser. This amendment is necessary to account for inflation and update the Department's enforcement tools, as the fine has not been increased since it was first enacted in 1935.

These amendments would help improve tax administration and efficiency by modernizing outdated provisions and giving the Department enhanced tools to help enforce tax laws and ensure tax compliance. The Department also notes that the two new penalty subsections proposed to be added to sections 237-30.5 and 237D-8.5, HRS, include provisions to safeguard taxpayers' appeal rights and due process.

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

# TAX FOUNDATION OF HAWAII

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**SUBJECT:** ADMINISTRATION, GENERAL EXCISE, TRANSIENT ACCOMMODATIONS, Fees; Tax Clearances; Collection of Rental Payments by Third Party; Unfair Competition Penalty

**BILL NUMBER:** SB 3174, HB 2485

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

**EXECUTIVE SUMMARY:** Eliminates fees for tax clearances that are no longer certified. Adds a penalty for failure to comply with reporting requirements under general excise tax law and transient accommodations tax law for collection of rent by a third party. Raises the unfair competition penalty under general excise tax law to adjust for inflation.

**SYNOPSIS:** Amends section 231-10.8, HRS, to eliminate the \$5 fee for certified tax clearances that are no longer certified by the Department of Taxation ("DOT").

Adds new section 237-30.5 (e), HRS, allowing the DOT to issue citations and monetary fines of not more than \$500 per occurrence for non-compliance with the general excise tax information reporting requirements for third party rent collectors. Fines are payable 30 days from issuance and subject to appeal rights.

Amends section 237-49 HRS, to increase the \$50 penalty to \$1,000 per offense for directly or indirectly representing that the general excise tax is not considered an element of the purchase price.

Adds new section 237D-8.5 (e), HRS, allowing the DOT to issue citations and monetary fines of not more than \$500 per occurrence for non-compliance with the transient accommodations tax information reporting requirements for third party rent collectors. Fines are payable 30 days from issuance and subject to appeal rights.

**EFFECTIVE DATE:** January 1, 2025.

**STAFF COMMENTS:** This is an Administration bill sponsored by the Department of Taxation and designated TAX-02 (24).

The removal of a fee for tax clearance certifications that are no longer issued will update an outdated HRS provision.

Under current law, property managers and similar businesses who collect rent for owners are required to provide the Department and their clients with specific information with respect to the rental collection agreement. However, since current law does not provide penalties for failure to do so, the proposed amendments will address this compliance concern.

Re: SB 3174

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The section 237-49, HRS amendment to update the penalty for unfair competition was originally set as a \$50 fine in 1935 and has not been increased since. The increase to the fee would provide more teeth to the enforcement mechanism.

Digested: 1/30/2024