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

TESTIMONY ON THE FOLLOWING MEASURE:

S.B. No. 1464, Relating to Conformity to the Internal Revenue Code.

BEFORE THE:

Senate Committee on Ways and Means

DATE: Wednesday, February 12, 2025

TIME: 10:00 a.m.

LOCATION: State Capitol, Room 211

Chair Dela Cruz, Vice-Chair Moriwaki, and Members of the Committee:

The Department of Taxation (DOTAX) supports S.B. 1464, an Administration measure, and offers the following comments for your consideration.

S.B. 1464 conforms Hawai'i's income and estate and generation-skipping transfer taxes to the Internal Revenue Code (IRC) as of December 31, 2024. Sections 235-2.5 (c) and 236E-4, Hawaii Revised Statutes (HRS), require DOTAX to submit legislation to each regular session of the legislature to adopt the IRC as it exists on the 31st day of December preceding the regular session.

Section 2 of the measure amends section 235-2.3(a), HRS, to conform Hawai'i income tax law to the operative IRC sections of subtitle A, chapter 1, as amended as of December 31, 2024. Subtitle A, chapter 1, refers to IRC sections 1-1400 A-2.

Section 3 of the measure amends section 236E-3, HRS, to conform Hawai'i estate and generation-skipping transfer tax law to the operative IRC sections of subtitle B, as amended as of December 31, 2024. Generally, subtitle B of the IRC contains the estate tax provisions and consists of IRC sections 2001-2801.

The United States Congress enacted the Federal Disaster Tax Relief Act of 2023 (FDTRA), which was signed into law on December 12, 2024 as Public Law 118-148.

The FDTRA makes several changes to the federal income tax law for persons impacted by a qualified disaster between 2020 and 2023, which includes the Maui wildfire. Significant changes include the following:

Exclusion of Certain Wildfire Relief Payments

Section 3 of the FDTRA excludes from gross income the following amounts received by an individual as a qualified wildfire relief payment: “[A]ny amount received by or on behalf of an individual as compensation for losses, expenses, or damages (including compensation for additional living expenses, lost wages (other than compensation for lost wages paid by the employer which would have otherwise paid such wages), personal injury, death, or emotional distress) incurred as a result of a qualified wildfire disaster, but only to the extent the losses, expenses, or damages compensated by such payment are not compensated for by insurance or otherwise.”

DOTAX notes that this would expand the gross income exclusion of qualified disaster relief payments under IRC section 139, which the State conforms to pursuant to section 235-2.3, HRS.

Deductibility of Personal Casualty Losses

Under IRC section 165, the first \$100 of personal casualty losses arising from a qualified disaster are not deductible. The remaining net loss is deductible if it exceeds 10 percent of the taxpayer’s adjusted gross income (AGI). The State conforms to these provisions pursuant to section 235-2.4(f), HRS. Section 2 of the FDTRA allows these losses to be deductible to the extent they exceed \$500 per casualty and regardless of whether they exceed 10 percent of AGI.

Additionally, IRC section 165 requires that taxpayers itemize their deductions in order to claim personal casualty losses. The State conforms to this requirement pursuant to section 235-2.4(f), HRS. Under section 2 of the FDTRA, a taxpayer would not be required to itemize deductions to claim a deduction for the disaster-related personal casualty losses (i.e., the taxpayer may claim the standard deduction and still benefit from the personal casualty loss deduction).

Revenue Impact and Amendments to Conformity

Should the Committee wish to adopt the tax law provisions in the FDTRA, section 2 of the bill should be amended by inserting the following provision as a new paragraph in section 235-2.3(a), HRS, beginning on page 1, line 16:

Sections 1, 2, and 3 (relating to disaster tax relief) of Public Law 118-148 shall be operative for

purposes of this chapter.

DOTAX estimates that conforming to the FDTRA will result in a revenue loss of \$10 million.

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

TAX FOUNDATION OF HAWAII

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SUBJECT: INCOME, ESTATE, Conformity to Internal Revenue Code

BILL NUMBER: SB 1464, HB 1145

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

EXECUTIVE SUMMARY: Conforms Hawai'i income and estate and generation-skipping transfer tax laws to the Internal Revenue Code of 1986, as amended as of December 31, 2024.

SYNOPSIS: Amends HRS section 235-2.3(a) by changing the date references to make the Internal Revenue Code (IRC) applicable for state income tax purposes as it was amended on 12/31/24 for tax years beginning after 12/31/24.

Amends HRS section 236E-3 by changing the date references to make the IRC applicable for state estate and generation-skipping tax purposes as it was amended on 12/31/24 for decedents dying or taxable transfers occurring after 12/31/24.

EFFECTIVE DATE: For income tax, taxable years beginning after December 31, 2024; and for estate tax, decedents dying or taxable transfers occurring after December 31, 2024.

STAFF COMMENTS: This is the annual conformity measure submitted by the department of taxation TAX-01 (24) in compliance with HRS section 235-2.5 which requires the department to annually submit a measure to maintain state income tax conformity with the federal Internal Revenue Code, and in compliance with HRS section 236E-4 which requires the department to annually submit a measure to maintain state estate and generation-skipping tax conformity with the federal Internal Revenue Code.

Digested: 2/8/2025