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SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND TAXATION

TESTIMONY REGARDING SB 591, PROPOSED SD1 RELATING TO TAXATION

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)
DATE: FEBRUARY 5, 2008
TIME: 8:30AM
ROOM: 325

This is a short form bill. This testimony relates to the proposed Senate Draft 1.

The Department of Taxation (Department) **supports** this legislation which amends, in text only, the capital goods excise tax credit at section 235-110.7.

I. THIS IS THE DEPARTMENT'S RESPONSE TO SCR 115, SLH 2007.

Senate Concurrent Resolution 115, Session Laws of Hawaii 2007, requested that the Department "redraft the capital goods excise tax credit to remedy old references to repealed law and to incorporate the current status of the Internal Revenue Code." This bill represents the Department's response to that request.

II. THIS IS NOT A SUBSTANTIVE AMENDMENT OF THE LAW.

This bill is an amendment in text only. The Department has made no substantive amendments to the current law whatsoever. Instead, this bill is the Department's effort to eliminate references to repealed Internal Revenue Code sections, and replace them with text that accurately describes how the Department currently enforces this law. Enactment of this law will have no effect on how the law is administered by the Department.

III. THE DEPARTMENT STRONGLY RECOMMENDS THE LAW REMAIN CODIFIED AT SECTION 235-110.7.

Currently, a significant number of Hawaii Administrative Rules as well as guidance by the Department, such as Tax Information Releases reference, section 235-110.7. Because this legislation does not represent a substantive change in the law, all references contained in these documents will remain valid. Changing the codification of this statute would result in the

Department needing to re-issue and re-promulgate all such guidance and Administrative Rules.

IV. THIS BILL MAKES THE LAW SIMPLER AND MORE ACCESSIBLE.

This bill represents significant clarification regarding the capital goods excise tax credit. The current law is extremely difficult to access, as it requires knowledge of Internal Revenue Code statutes that have been repealed for over 20 years. This bill eliminates that burdensome need.

V. IMPORTANT COMMITTEE REPORT CONSIDERATION

The Department requests that the Committee Report issued by this Committee clearly set forth that the intent of this legislation is not to amend the law in any substantive form so that the record is clear that this legislation is a mere recodification. This will assist the Department with administering any amendments to the credit between any transition period. This will also give taxpayers comfort during this period. As the Committee is likely aware, a majority of Hawaii businesses claim this credit on a routine basis for capital assets placed in service.

VI. NO REVENUE IMPACT.

Because this bill does not represent a substantive change in the law and merely represents a clarification of the text, the Department anticipates that this legislation would have no revenue impact.

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FEB 7 2008

February 12, 2008

The Honorable Carol Fukunaga, Chair
Senate Committee on Economic Development and Taxation
State Capitol, Room 224
415 South Beretania Street
Honolulu, Hawaii 96813

RE: S.B. 591, S.D. 1, Relating to Taxation
Hearing Date: February 12, 2008 @ 9:25 a.m., Room 224

I am Craig Hirai, a practicing certified public accountant, who was a practicing tax attorney when I served as the Chair of the 2001-2003 Tax Review Commission. I am submitting this testimony in **support of S.B. 591, S.D. 1,** which repeals and reenacts the capital goods excise tax credit in order to reflect the definitions and other references to the Internal Revenue Code of 1954, as amended.

I would respectfully request that you note that Part II, Section K, Item 1, of the Report of the 2001- 2003 Tax Review Commission reads as follows:

1. Overhaul and Update the Capital Goods Excise Tax Credit.

The four percent capital goods excise tax credit was originally enacted in 1987. The effect of the credit is essentially to refund the GET and Use Tax paid on capital goods by businesses.

The credit was designed to alleviate the cost of acquiring capital goods which has long been acknowledged to be important for the creation of jobs, and was patterned after the federal investment tax credit with references to former IRC §§38 and 48, which have now been repealed for over ten years. As a result, administration and compliance with the provisions of the capital goods excise tax credit have been less than forthright. Recent interpretations of the credit have resulted in applications that may stray from the original intent and letter of the former Federal statutes.

The Commission therefore recommends that HRS §235-110.7 be revised or rewritten as a whole to provide contemporary definitions and provisions under State law, rather than relying on outdated Federal statutes.

I believe that S.B. 591, S.D. 1, is consistent with the above recommendation, and I therefore urge you to pass this bill.

Mahalo for the opportunity to testify.

Craig K. Hirai, CPA/ABV, MBA, LLM