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**HOUSE COMMITTEE ON FINANCE
TESTIMONY REGARDING HB 733
RELATING TO TAXATION**

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)

DATE: FEBRUARY 18, 2009

TIME: 2PM

ROOM: 308

This measure requires tax refunds to be deposited in the taxpayer's accounts and prohibits deposit into a paid preparer's accounts. The measure also requires a paid preparer to sign returns prepared by the preparer and establishes penalties for failure to do so.

The Department of Taxation **supports the measure which helps protect consumers** in the State and provides comments.

PROTECTS THE CONSUMER/TAXPAYER—The Department supports the measure which prohibits a paid preparer from designating the preparer's own personal or business accounts as the account into which a client's tax refund should be deposited.

GENERAL COMMENTS—The Department notes that the measure prohibits a paid preparer from designating the preparer's own accounts as the depository account for a client's tax refund and provides for penalties for doing so. This measure thus exempts unpaid tax preparers. In addition, the measure does not prohibit the preparer from using accounts other than preparer's own accounts. For example, an account held by the spouse, which the preparer has no authority over, would fall outside the realm of this measure. The Department would suggest that a preparer, whether paid or unpaid, be required to designate only accounts controlled by the taxpayer for direct deposit of refunds.

TO: COMMITTEE ON FINANCE
Representative Marcus R. Oshiro, Chair
Representative Marilyn B Lee, Vice Chair

FROM: Eudice R. Schick
PABEA (Policy Advisory Board for Elder Affairs)

SUBJECT: HB 733

HEARING: Wednesday, February 18, 2009 2:30 p.m. Room 308

POSITION: Support of HB 733

I am offering testimony on behalf of PABEA, the Policy Advisory Board for Elder Affairs, which is an appointed Board tasked with advising the Executive Office on Aging (EOA). My testimony does not represent the views of the EOA but of the Board.

HB 733 protects the consumer. Under no circumstances should any professional business that is responsible for the funds of its clients be allowed to co-mingle funds. If the professional business has funds of a client, these funds must be placed in a separate, non-interest bearing trust fund. If interest is collected it must be paid to the client. Having refunds deposited directly to the client is for the protection of both parties.

Your support of HB 733 is appreciated.

Eudice R. Schick, Chair PABEA Legislative Committee

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TAX FOUNDATION OF HAWAII

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SUBJECT: INCOME, Direct deposit of refund

BILL NUMBER: SB 194; HB 733 (Identical)

INTRODUCED BY: SB by Chun Oakland and 3 Democrats; HB by Mizuno

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to provide that an individual taxpayer who qualifies for an income tax refund and requests a direct deposit of the refund, shall designate the taxpayer's checking or savings accounts at financial institutions for direct deposit of the taxpayer's income tax refund.

A paid income tax preparer shall not designate the paid preparer's personal or business checking or savings account for direct deposit of a client taxpayer's income tax refund. Violations of this provision shall subject to a fine of \$500 for each separate offense and the preparer shall return the full amount of the direct deposit to the taxpayer for whom the return was prepared. Stipulates that all moneys collected for violations of this provision shall be credited to the department of taxation and shall not lapse to the general fund

Amends HRS section 235-98 to add a new paragraph to provide that a paid income tax preparer, with respect to a tax return or claim for refund of tax, shall sign the return or claim for refund after it is completed and before it is presented to the taxpayer for signature. If the initial paid preparer is unavailable, another paid preparer shall review the entire tax return or claim for refund, and then sign the return or claim for refund. If more than one paid preparer is involved in the preparation of the return or claim for refund, the individual paid preparer who has the primary responsibility for the overall substantive accuracy of the preparation of the return or claim for refund shall be considered to be the paid preparer.

A paid income tax preparer of any return or claim for refund who fails to sign a return, unless it is shown that the failure is due to reasonable cause and not due to wilful neglect, shall be fined \$50 for each failure to sign, with a maximum of \$25,000 per person imposed with respect to each calendar year.

EFFECTIVE DATE: Tax years beginning after December 31, 2008

STAFF COMMENTS: This measure prohibits a paid income tax preparer to direct deposit a client's income tax refund into the paid preparer's personal or business checking or saving account. The measure also establishes provisions relating the signing of tax return by a paid income tax preparer. While the measure establishes penalties for violations of these provisions, the measure provides that the failure of a paid preparer to sign a return shall be subject to a fine of \$50 for each failure to sign with a maximum of \$25,000 per person. It is questionable why there is such a disparity in the dollar amount of the fines.

It should be noted that currently taxpayers are allowed to designate a checking or savings account into which their income tax refund may be deposited, it is questionable why this provision is proposed in this measure.

Digested 2/10/09

Natalie J. Iwasa, CPA, Inc.
1331 Lunalilo Home Road
Honolulu, HI 96825
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DATE: February 16, 2009

TO: Rep. Marcus Oshiro, Chair
Rep. Marilyn Lee, Vice Chair
House Committee on Finance

HEARING DATE: Wednesday, February 18, 2009, 2:30 p.m.

SUBJECT: Opposition to HB 733 - Relating to Taxation

Aloha Chair Oshiro and Members of the Committee,

I have been working in public accounting for over 15 years. This bill would require paid tax preparers to sign tax returns before presentation to clients for their signature. I oppose this bill because it will create confusion on behalf of clients who choose to electronically file their returns.

Hawaii participates with the IRS in its e-file program. In order to e-file an individual income tax return, the preparer is not always required to sign the Form 8879, IRS *e-file* Signature Authorization, even though there is a space to do so.

I respectfully ask that you vote in opposition to this bill.

Sincerely,



Natalie Iwasa, CPA