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HOUSE COMMITTEE ON FINANCE
TESTIMONY REGARDING HB 1948
RELATING TO TAXATION

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)
DATE: FEBRUARY 10, 2010
TIME: 3PM
ROOM: 308

This measure amends current law to require the payout of tax refunds at the earlier of when the tax return is due or 90 days after filing.

The Department of Taxation (Department) **opposes** this measure.

CLARIFY INTENT—The Department requests that this measure be clarified. Is the intent to require a refund on the sooner of the due date or 90 days after the return is due? Or, does not measure require a refund to be paid 90 days after the tax is due?

INTERFERES WITH THE BUDGETING DISCRETION PROVIDED BY LAW TO ENSURE BALANCED BUDGET—The Department also opposes this measure because it interferes with the budgetary discretion provided to the Department and other agencies in paying out tax refunds to ensure the general fund is not unnecessarily drained. For example, this fiscal year the Department is utilizing its authority to delay payments to ensure the budget remains balanced. Without the authority for the Department to payout refunds within a reasonable time, the budget and general fund are put at risk if all refunds went out at the same time (*i.e.*, April 20). The current refund payout law is logical and provides important latitude when fiscal times are tough.

L E G I S L A T I V E

TAXBILLSERVICE

126 Queen Street, Suite 304 TAX FOUNDATION OF HAWAII Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: ADMINISTRATION, Expedite payout of tax refunds

BILL NUMBER: HB 1948

INTRODUCED BY: Chong, M Oshiro and Say

BRIEF SUMMARY: Amends HRS section 231-23(d) to provide that for any overpayment of tax, any tax refund shall be paid by the department of taxation within 90 days of the tax filing date or the date the tax was due, whichever occurred first. Requires interest to be paid on any tax refund not paid within 90 days by the department of taxation.

EFFECTIVE DATE: Tax years beginning after December 31, 2009

STAFF COMMENTS: Currently, the director of taxation receives a tax return with a request for a return of the overpayment of taxes, the director has 90 days from the due date or the date the return is received, whichever is later, to approve a refund voucher and then the state comptroller has 45 days to send a refund warrant to the taxpayer. If a refund is not processed within this 135-day period, then interest is paid on the amount returned. The interest rate on that refund was reduced by the 2009 session from 8% to 4%. Taxes owed the state, on the other hand, continue to accrue interest at the rate of 8%.

The proposed measure proposes that any tax refund shall be paid by the department of taxation within 90 days of the date the return was filed or the date the tax was due, whichever occurs first. Thus, this turns the marking of time around if the return was filed before the statutory due date, the running time would then begin from the date the return was filed and not when the return would ordinarily have been due. The measure deletes any reference to the processing of the return by the state comptroller who processes the refund voucher. If this measure is enacted, it is questionable whether the state has sufficient resources and manpower to accelerate the issuance of tax refunds as proposed by this measure.

This measure is, no doubt, in reaction to the administration's plan to delay the return of state income refunds, maximizing the 135-day period allowed under current law before interest is payable. While that strategy will help the cash flow for the current year, it merely delays the day of reckoning until the next fiscal year. Should the prospects for state revenue collections not improve, the state will be caught in the same cash flow dilemma next fiscal year.

Digested 2/9/10