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**HOUSE COMMITTEE ON FINANCE
TESTIMONY REGARDING HB 2313
RELATING TO TAXATION**

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

DATE: FEBRUARY 10, 2010

TIME: 3PM

ROOM: 308

This measure requires the reporting of wagering losses.

The Department of Taxation has **no comments** on this measure at this time.

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Reinstate deduction for wagering losses

BILL NUMBER: SB 2834; HB 2035 (Identical); HB 1924; HB 2356 (Identical);
SB 2206; HB 2313; HB 2627 (Identical)

INTRODUCED BY: SB 2834 by Tsutsui, Baker, Chun Oakland, English, Hee, Hooser, Kidani, Sakamoto, Tokuda and 5 Democrats; HB 2035 by Keith-Agaran, C. Lee, Nakashima, 2 Democrats and 1 Republican; HB 1924 by Choy; HB 2356 by Nishimoto and 1 Democrat; SB 2206 by Green; HB 2313 by Chong, Aquino, Awana, Cabanilla, Chang, Coffman, Evans, Hanohano, Har, Ito, Karamatsu, Keith-Agaran, M. Lee, Luke, Magaoay, Manahan, McKelvey, Mizuno, Morita, Nakashima, B. Oshiro, M. Oshiro, Sagum, Say, Souki, Takumi, Tsuji, Yamane, Yamashita and 5 Democrats and 1 Republican; HB 2627 by Wakai, Aquino, Chang, Chong, Keith-Agaran, C. Lee, Luke, McKelvey, Takumi and 3 Democrats

BRIEF SUMMARY: Amends HRS section 235-2.4(e) to provide that IRC section 165(d) (with respect to wagering losses) shall be operative for Hawaii income tax purposes.

HB 1924 and HB 2356 also provide for the repeal of Act 165, SLH 2009.

EFFECTIVE DATE: SB 2834, HB 2035, HB 1924, HB 2356 - Tax years beginning after 12/31/08;
SB 2206, HB2313, HB 2627 - Tax years beginning after 12/31/09

STAFF COMMENTS: The legislature by Act 165, SLH 2009, provided that Hawaii taxpayers would not be able to deduct their "gambling" losses against their winnings for tax years beginning after December 31, 2008. These measures would reinstate the wagering deduction and bring Hawaii's income tax law regarding this deduction back into conformity with the federal Internal Revenue Code provisions.

As there is no hard data on this deduction, it is difficult to ascertain whether there was any revenue gain when the wagering deduction was suspended during the past year. However, lawmakers did believe that in taking away the provision that allowed the deduction there were additional revenues to be had. Unfortunately, their gambling happy constituency did not think it was fair and apparently lawmakers heard the loud protests.

It should be noted that there appears to be statutory language omitted in SB 2834, HB 1924, HB2035, and HB 2356 that may have no effect on the content of the measure.

Digested 2/4/10

IRON WORKERS STABILIZATION FUND

Fax: 586-6001

February 9, 2010

Hon. Marcus Oshiro, Chair
House Committee on Finance
State Capitol – Room 306
Honolulu, HI 96813

Iron Workers Stabilization Fund – T. George Paris, Managing Director

Hearing Date – February 10, 2010, 3:00 p.m.

Support of HB 2313, Relating To Taxation

Under the amendment made to HRS 235-2.4 in the 2009 session, one could not offset losses from winnings. In our view this is not fair, and a change should be made to permit the offset of losses from winnings.

We therefore are in full support of this measure which would bring HRS 235-2.4 back to what it was prior to the change made in the 2009 session.

94-497 UKEE STREET ■ WAIPAHU, HAWAII 96797 ■ (808) 671-4344



The Honorable Chairs and Members of the House Committee on Finance:

I would like to urge the passage of House Bill 2312, Relating To Taxation.

The bill if passed by the Hawaii State Legislature will repeal a law that was passed last year that for purposes of State taxation disallows the deductions for gambling losses.

I believe that the existing law is inequitable and unfair because its enforcement only targets people whose gambling is limited to slots including video poker. While on its surface the law is supposed to apply to all forms of gambling including table games such as blackjack, poker, craps, etc., I believe that the Hawaii State Department of Taxation has no intent to enforce this law for people playing table games unless a W-2G is issued and reported by the Casino facility.

For the people whose gambling is limited to slots, a W-2G is issued when the jackpot is over \$1,199.00 then reported to the Internal Revenue Service by the Casino facility. However, for people who play table games, the Casino Facility does not issue a W-2G for winnings, even if the winning exceeds \$1,999.00. Of course, I have heard of cases where a Casino may issue a W-2G if the winnings are fairly significant.

The effect of the state law that disallows the deduction of gambling losses will apply to situations where an individual whose gambling activity in the tax year resulted in a "net" loss. While I have no qualms about paying taxes on "net" gambling winnings as is the case with the Internal Revenue Code, losses should be deductible to the extent of your winnings consistent with federal laws.

Unless the Hawaii State Department of Taxation can assure all taxpayers that the law will be enforced equally to all, the law as it will be enforced will be blatantly inequitable and unfair.

In view of the above, I respectfully urge this committee to pass House Bill 2313, Relating To Taxation which will repeal the state law that disallows gambling losses.

While I cannot be present at the hearing on Wednesday, February 10, 2009, I would be happy to answer any questions that your committee members may have. My contact information has been inputted on your web site.

Sincerely,

Alan T. Shimabukuro
2/08/2010

FINTestimony

From: mailinglist@capitol.hawaii.gov
It: Wednesday, February 10, 2010 10:24 AM
To: FINTestimony
Cc: oconnellj002@hawaii.rr.com
Subject: Testimony for HB2313 on 2/10/2010 3:00:00 PM

Testimony for FIN 2/10/2010 3:00:00 PM HB2313

Conference room: 308
Testifier position: support
Testifier will be present: Yes
Submitted by: joan o'connell
Organization: Individual
Address:
Phone:
E-mail: oconnellj002@hawaii.rr.com
Submitted on: 2/10/2010

Comments:
re: hb2313

I believe the correct effective date of this bill should be for the tax year following 12-31-08.