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**LATE TESTIMONY**

## HOUSE COMMITTEE ON ECONOMIC REVITALIZATION & BUSINESS

## TESTIMONY OF THE DEPARTMENT OF TAXATION REGARDING HB 962 PROPOSED HD 1 RELATING TO TAXATION

**TESTIFIER:** FREDERICK D. PABLO, INTERIM DIRECTOR OF TAXATION (OR DESIGNEE)
**COMMITTEE:** ERB
**DATE:** FEBRUARY 8, 2011
**TIME:** 8AM

**POSITION:** GENERAL COMMENTS; CONCERNED WITH COSTS

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This measure conforms Hawaii income tax law to section 179 of the Internal Revenue Code (IRC), which allows a qualifying taxpayer to treat the cost of certain property as an expense and deduct it in the year the property is placed in service instead of depreciating it over several years.

The Department of Taxation (Department) has **concerns** with this measure because of the **anticipated revenue loss**.

**THE DEPARTMENT GENERALLY SUPPORTS CONFORMITY TO THE IRC**—Conformance to the IRC assists taxpayers and the Department alike. Rather than having differing federal and state tax treatment, conformity to the IRC reduces the complexity of the tax code by providing uniform treatment for tax items. In addition, there is generally substantial authority, case law, and rules and regulations that provide taxpayers with the certainty that they need in making business decisions.

**INCENTIVES ARE IMPORTANT**—The Department supports the general purpose of this legislation, which is to encourage Hawaii employers to modernize their facilities to make it more productive and competitive in the marketplace. Hawaii's economy has been struggling in recent years and the Department is supportive of efforts such as this, which in turn will stimulate Hawaii's economy during the period of economic recovery.

**CONCERN RELATING TO CONFORMING TO FEDERAL INCENTIVES**—The Department points out a general tax policy concern, which is the propriety of providing a "double incentive" since the federal government is already providing substantial incentives for businesses to purchase equipment and modernize facilities. With state revenues scarce and social service priorities growing, the Department questions whether already limited state general fund revenues should be expended in this manner, since businesses will likely be motivated to acquire qualifying property due to the higher federal tax rates, if the business has the needs and resources for the qualifying property.

The Department would note that the Small Business Jobs Act (SBJA) of 2010 increased the IRC section 179 limitations on expensing of depreciable business assets and expanded the definition of qualified property to include certain real property for the 2010 and 2011 tax years. Under SBJA, qualifying businesses can expense up to $500,000 of section 179 property with a $2 million for tax years 2010 and 2011. For tax year 2012, the expensing limit will be $125,000 with a $500,000 phase-out after. After 2012, the expensing limit will be $25,000 with a $200,000 phase-out.

**CONCERN FOR REVENUE COST**—As with all measures, the Department must be cognizant of the biennium budget and financial plan. This measure has not been factored into either. Because of the breadth of eligible property, the revenue loss could be substantial.