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To: The Honorable Jill N. Tokuda, Chair
and Members of the Senate Committee on Ways and Means

Date: Tuesday, February 17, 2015
Time: 9:00 A.M.
Place: Conference Room 211, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: S.B. 1134, Relating to the Estate and Generation-Skipping Transfer Taxes

The Department of Taxation (Department) strongly supports S.B. 1134, an Administration measure, and provides the following comments for your consideration.

S.B. 1134 conforms chapter 236E, Hawaii Revised Statutes (HRS), to the Internal Revenue Code of 1986 (IRC), as amended as of December 31, 2014, and makes technical, nonsubstantive changes. The measure applies to decedents dying or taxable transfers occurring after December 31, 2014.

Section 236E-4, HRS, mandates that the Department submit to each regular session of the Legislature a bill that amends Hawaii's estate and generation-skipping transfer tax law to conform to changes in the IRC, and accordingly, this bill amends section 236E-4, HRS to conform to the IRC as of December 31, 2014, as it related to the estate and generation-skipping transfer tax. There were no substantive changes made to the IRC regarding the estate and generation-skipping transfer tax.

The Department notes that it always prefers conformity to the IRC where possible, as this provides clear guidance to both the Department and to taxpayers, since there is substantial guidance issued in the form of rules and regulations issued by the Internal Revenue Service, as well as court decisions regarding the various sections of the IRC. Conformity minimizes the burden on taxpayers and assists greatly in compliance with Hawaii's estate and generation-skipping transfer tax law.

Thank you for the opportunity to provide comments.

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SUBJECT: ESTATE AND GENERATION-SKIPPING TRANSFER TAX, Clarify application

BILL NUMBER: SB 1134; HB 965 (Identical)

INTRODUCED BY: SB by Kim by request; HB by Souki by request

BRIEF SUMMARY: Amends HRS section 236E-3 to update the December 31, 2013 date to December 31, 2014 to conform HRS chapter 236E to the Internal Revenue Code (IRC) as it was amended on December 31, 2014.

Amends HRS section 236E-4(b) by changing the date references to make the Internal Revenue Code (IRC) applicable for state estate and generation-skipping transfer tax purposes as it was amended from January 2, 2013 to the December 31 preceding the regular session.

EFFECTIVE DATE: Upon approval; applicable to decedents dying or taxable transfers occurring after December 31, 2014.

STAFF COMMENTS: This is an administration measure submitted by the department of taxation TAX-02 (2014). With the adoption of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA), the federal estate tax was phased out and repealed over a ten-year period. This necessitated the legislature to establish an estate and generation-skipping transfer tax by Act 220, SLH 2012, as HRS chapter 236E. While HRS section 236E-4 requires the department of taxation to submit a measure to update HRS chapter 236E to changes in the federal IRC, this measure complies with that requirement.

Digested 2/13/15