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To: The Honorable Donovan M. Dela Cruz, Chair;  
The Honorable Gilbert S.C. Keith-Agaran;  
and Members of the Senate Committee on Ways and Means

From: Rona M. Suzuki, Director  
Department of Taxation

Re: **H.B. 1046, Relating to Tax Return Preparers**

Date: Tuesday, March 17, 2020

Time: 2:15 P.M.

Place: Conference Room 211, State Capitol

The Department of Taxation (Department) **strongly supports** H.B. 1046, an Administration measure, and offers the following comments.

H.B. 1046 adds a new section to chapter 231, Hawaii Revised Statutes (HRS), requiring tax return preparers to have a valid Preparer Tax Identification Number (PTIN) issued by the Internal Revenue Service to prepare any return or claim for refund for compensation, and to disclose the PTIN where the Department requires the preparer to do so. It also sets forth administrative penalties for violations and authorizes the Department to bring a civil action against violators in certain circumstances. The bill is effective on approval, with penalties for violations beginning on January 1, 2020.

The Department notes that many tax return preparers in Hawaii operate with little State oversight or accountability. Requiring all tax return preparers to have a PTIN will help taxpayers and the Department to ensure that tax return preparers are accountable for the returns they prepare.

Taxpayers will have greater assurance that they can rely on the services of their preparers and the Department will be able to better monitor tax return preparers and detect noncompliance. The provisions relating to penalties and injunctive relief will give the Department more tools to protect taxpayers from harm, ensure fair and accurate tax administration, and prevent malfeasance by bad actors and unintended losses in revenue.

The Department believes that the public will greatly benefit from this improved accountability. However, because this bill was introduced and first heard during the 2019 legislative session, the Department respectfully requests that it be amended so that penalties for violations begin on January 1, 2021. This will allow sufficient time to for the Department to provide notice and education to tax preparers and taxpayers before penalties take effect.

Thank you for the opportunity to testify in strong support of this measure.

# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

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SUBJECT: ADMINISTRATION, Require PTIN Use by Paid Preparers

BILL NUMBER: HB 1046; SB 1272 (Identical)

INTRODUCED BY: HB by SAIKI by request; SB by KOUCHI by request

EXECUTIVE SUMMARY: Requires those who prepare tax returns for compensation to have a federally issued Preparer Tax Identification Number, or PTIN. This may make sense for income tax returns, but much of Hawaii tax involves excise taxes such as the GET. It takes a different skill set entirely to properly prepare an excise tax return, so the requirement of a PTIN makes less sense as to such returns.

SYNOPSIS: Adds a new section to chapter 231, HRS. Provides that a tax return preparer shall have a valid PTIN issued by the Internal Revenue Service, and that the PTIN shall be entered on any tax return prepared for compensation whenever DOTAX requires disclosure of the number on that return.

EFFECTIVE DATE: Upon approval, but tax return preparers shall not be liable for penalties under this Act prior to January 1, 2020.

STAFF COMMENTS: This is an Administration bill sponsored by the Department of Taxation and designated TAX-06 (19). It was in last year's Governor's Package and carried over to the current session.

The Preparer Tax Identification Number (PTIN) is an identification number that all paid tax return preparers must use on U.S. federal tax returns or claims for refund submitted to the Internal Revenue Service (IRS). Anyone who, for compensation, prepares all or substantially all of any federal tax return or claim for refund must obtain a PTIN issued by the IRS.

The PTIN was created in 1999 to protect the privacy of tax return preparers. Preparers used to be required to sign the tax forms they prepared and provide their Social Security Numbers. Starting with the 2000 tax season, the IRS gave preparers the option of using either their SSNs or PTINs. Between August 1999 and August 2010, the IRS issued more than 1 million PTINs.

The PTIN, however, is not a license or a professional credential. On January 18, 2013, in a decision in *Loving v. Internal Revenue Service*, Judge James E. Boasberg of the U.S. District Court for the District of Columbia ruled that the Internal Revenue Service lacked the statutory authority to regulate tax return preparers. On February 1, 2013, the Court issued an additional order clarifying that the IRS is "not required to suspend its PTIN program," but that "no tax-return preparer may be required to pay testing or continuing-education fees or to complete any testing or continuing education." In 2014, the U.S. Court of Appeals for the District of Columbia Circuit affirmed the judgment of the district court. *Loving v. IRS*, 742 F.3d 1013 (D.C. Cir. 2014).

Re: HB 1046

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Given that the PTIN is just a registration number and that it can be issued to anyone who wants one, it may be a mistake to think that those with PTINs are smarter or more reliable than others, and it may be a mistake to give the public the impression that they are.

Digested 3/14/2020



To: The Honorable Donovan Dela Cruz, Chair  
And Members of the Senate Committee on Ways and Means

From: Jeremy Stohs, Director, H&R Block

Date: March 17, 2020

**Re: Support for House Bill 1046, relating to tax return preparers**

On behalf of nearly 50 H&R Block retail tax offices and several hundred tax return preparers in Hawaii, H&R Block appreciates the opportunity to support House Bill 1046.

For more than 60 years H&R Block has been an industry leader because of our commitment to competent, ethical tax return preparation. While most tax preparers share this commitment, unfortunately, some do not. Each day, unscrupulous preparers search for new and exploitative ways to steal from the taxpayers of Hawaii.

House Bill 1046 would provide the Department of Taxation with important, commonsense consumer protection tools. This bill would enable the Department to track individuals who are paid for preparing tax returns in the state by leveraging an IRS identification number that is already required for preparing federal tax returns. Preparers would be required to provide this unique identifier on state tax returns they prepare or be subject to penalties and civil action.

As evidenced by the dozen states that have recently enacted similar legislation, these tools will hold preparers accountable and help stop fraudsters from continuing to prey on Hawaii's taxpayers and tax base.

Earlier this year substantially similar legislation, House Bill 2246 and its companion SB2507, received widespread support by tax practitioners like H&R Block as well as the Department of Taxation.

In order to better protect Hawaii taxpayers during often their most significant financial transaction of the year, we respectfully ask that you pass House Bill 1046.

Mahalo,

Jeremy Stohs  
Director, Government Relations  
H&R Block