

MAR 05 2021

SENATE CONCURRENT RESOLUTION

REQUESTING THE DIRECTOR OF TAXATION TO WAIVE PENALTIES AND
INTEREST SOUGHT FROM SMALL BUSINESSES AND INDIVIDUAL
TAXPAYERS AS A RESULT OF UNDUE HARDSHIP RELATED TO THE
CORONAVIRUS DISEASE 2019 PANDEMIC.

1 WHEREAS, the Director of Taxation's prologue to the Hawaii
2 Taxpayer Bill of Rights states, in relevant part: "Hawaii
3 taxpayers have many rights. Some are based on laws, and others
4 are based on our commitment to administer Hawaii's tax laws in a
5 fair and equitable manner . . . Taxpayer rights are at the heart
6 of good tax administration – a pledge that the tax laws will be
7 administered with fairness, uniformity, courtesy, and common
8 sense"; and
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10 WHEREAS, the Bill of Rights explicitly includes waivers of
11 penalties and interest: "Taxpayers have a right to request that
12 the Department of Taxation waive penalties and interest added to
13 any tax if the taxpayer can show that failure to file a return
14 or pay a tax on time was due to reasonable cause not due to the
15 taxpayer's own carelessness, neglect, or willful disregard of
16 the law, but due to circumstances beyond the taxpayer's
17 control"; and
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19 WHEREAS, the coronavirus disease 2019 (COVID-19) pandemic,
20 and the State and counties' responses to it, including forced
21 closures and limitations on business operations, constitute
22 circumstances beyond the taxpayer's control and would qualify as
23 a "reasonable cause" for a taxpayer to fail to timely pay their
24 taxes; and
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26 WHEREAS, the Taxpayer Bill of Rights allows the Director of
27 Taxation the discretionary authority to approve "offers in
28 compromise" requested by taxpayers who owe \$50,000 or less in
29 taxes; and
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S.C.R. NO. 64

1 WHEREAS, tens of thousands of small businesses and many
2 individual taxpayers have failed to remit their General Excise
3 Tax in a timely manner or failed to set aside money to pay their
4 income taxes during the economic and financial irregularities
5 experienced during the COVID-19 pandemic; and
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7 WHEREAS, pursuant to section 231-10.7, Hawaii Revised
8 Statutes, the Director of Taxation has the authority to adopt
9 temporary rules that take effect seven days after notice of the
10 temporary rule is issued; now, therefore,
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12 BE IT RESOLVED by the Senate of the Thirty-first
13 Legislature of the State of Hawaii, Regular Session of 2021, the
14 House of Representatives concurring, that the Director of
15 Taxation is requested to waive General Excise Tax penalties and
16 interest when the tax upon which the penalties and interest is
17 owed was incurred after March 4, 2020; and the small business
18 attests that the failure to timely remit payment in full was due
19 to the COVID-19 pandemic, or any local, state, or federal
20 government response to it; and
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22 BE IT FURTHER RESOLVED that the Director of Taxation is
23 requested to waive income tax penalties and interest imposed on
24 any individual taxpayer who attests that they failed to file or
25 timely remit taxes due to the COVID-19 pandemic, or any local,
26 state, or federal government response to it; and
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28 BE IT FURTHER RESOLVED that certified copies of this
29 Concurrent Resolution be transmitted to the Director of Taxation
30 and the Governor.
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OFFERED BY: Lana Acasio

