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To: The Honorable Sean Quinlan, Chair;
The Honorable Daniel Holt, Vice Chair;
and Members of the House Committee on Economic Development

From: Isaac W. Choy, Director
Department of Taxation

Date: Friday, February 4, 2022
Time: 10:00 A.M.
Place: Via Video Conference, State Capitol

Re: H.B. 2179, Relating to Collection of Delinquent Taxes

The Department of Taxation (Department) strongly supports H.B. 2179, an Administration measure, and offers the following comments for the committee's consideration.

H.B. 2179 amends section 231-33, Hawaii Revised Statutes (HRS), to authorize the Director of Taxation to apply to the circuit court to convert certain tax liens into enforceable civil judgments. The measure is effective upon approval.

The Department notes that there are several current delinquent tax cases that are essentially uncollectible despite the existence of tax liens. When a delinquent taxpayer deliberately ignores the department's communications and the lien remains uncontested, the collection process cannot move forward. This legislation would allow the Director to seek judicial enforcement of tax liens that were properly recorded and for which at least 365 days have elapsed since official notice with no response or action from the lienor taxpayer. This change will incentivize delinquent taxpayers to proactively respond to lien notices instead of ignoring them, leading to increased tax compliance.

The Department is in strong support of this bill and is able to implement the measure as drafted. Thank you for the opportunity to testify.

TAX FOUNDATION OF HAWAII

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SUBJECT: ADMINISTRATION, Collection of Delinquent Taxes

BILL NUMBER: HB 2179, SB 3147

INTRODUCED BY: HB by SAIKI by request, SB by KOUCHI by request (Governor's Package)

EXECUTIVE SUMMARY: Authorizes the Director of Taxation to apply to the circuit court to convert certain tax liens into enforceable civil judgments.

SYNOPSIS: Amends section 231-33, HRS, to add a new subsection providing that if the Department records a tax lien and there is no response or action by the taxpayer against whom the lien was recorded, the director may apply to the circuit court to have the lien converted into a civil judgment.

EFFECTIVE DATE: Upon Approval

STAFF COMMENTS: This is an Administration bill sponsored by the department of taxation and designated TAX-05 (22).

To us, this seems backwards. Usually, when a civil dispute results in a civil judgment, the judgment is then recorded and the judgment creditor can then enforce the judgment by writ of execution against any property affected.

When a tax is due and unpaid, section 231-33, HRS, says that it automatically becomes a lien against a taxpayer's property or rights to property. Department collectors who find some property in a bank account, for example, can levy upon it right away. If real property exists, the Department, under section 231-63, HRS, can initiate a nonjudicial foreclosure against it, thereby forcing the property to be sold with the proceeds then applied against the tax debt.

We are unsure what a civil judgment would give the Department that it doesn't already have.

Digested: 2/2/2022



February 2, 2022

Rep. Sean Quinlan, Chair
Rep. Daniel Holt, Vice Chair
Members of the House Committee On Economic Development

Re: **HB 2179 Relating to Collection of Delinquent Taxes
(companion SB3147)**

Hearing Date: 2/4/2022, 10:00 AM

Dear Chair Quinlan, Vice-Chair Holt, & Honorable Committee Members:

You should decline to advance this bill.

This appears to be an attempt at a partial back-door repeal of the fifteen-year Statute of Limitations enacted in 2009.

The first wave of tax debts, meaning qualifying debts assessed on or before June 30, 2009 and not otherwise extended or tolled, will be barred by the SOL on July 1, 2024. This will be a mini-Jubilee for tax debts stretching back into the 1970s that have not been collected by the Department, mostly because the taxes are uncollectible. The statute of limitations will clear much deadwood from the DoTax's ledgers and allow appropriate and realistic focus on taxes that are collectible.

This bill proposes to convert tax liens into judgments and appears to propose that the judgments will survive the expiration of the underlying tax debt, albeit without new interest. This is, in essence, a partial repeal of the Statute of Limitations. In theory, under this new provision, the civil judgment would exist for ten years with the ability to extend for another ten years. Total time from assessment, 15 years tax collection + 10 years civil judgment + 10 years extension of civil judgment = 35 years.

Secondarily, the new language has a one year "with no response or action by the taxpayer" provision prior to the application to the Circuit Court. What constitutes an action or response is completely undefined, and it is not explained how the Taxpayer would know that the tax lien has been filed as there is no notification procedure in the bill.

Finally, the bill does not address why a civil judgment is more enforceable than a tax lien or will advance the policy objectives of the State. Statute of Limitations exist for a reason and if the Department cannot collect taxes with fifteen years of assessment, or obtain a voluntary agreement of the taxpayer to extend the collection period, there seems little likelihood this bill will address that situation.

I recommend that you decline to advance this bill.

/s/ Richard McClellan