H .B. NO. 3190

A BILL FOR AN ACT

RELATING TO ARTICLE VII, SECTION 6, OF THE CONSTITUTION OF THE STATE OF HAWAII.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that article VII, section 6, of the Constitution of the State of Hawaii requires the legislature to provide a tax refund or tax credit when certain factors are met. The legislature finds that these factors have been met and that the legislature is constitutionally required to provide a tax refund or tax credit.

The purpose of this Act is to provide for an income tax refund of $_____ multiplied by the number of the taxpayer's dependents to every resident individual taxpayer of the State with an adjusted gross income, as defined by the Internal Revenue Code, below a certain amount, and an income tax refund of $____ multiplied by the number of the taxpayer's dependents to every resident individual taxpayer of the State with an adjusted gross income, as determined by the Internal Revenue Code, above a certain amount, to satisfy the constitutionally mandated requirements.

SECTION 2. (a) There shall be paid, as early as December 1, 2008, or as soon thereafter as reasonably practicable, to each resident individual taxpayer who files an individual income tax return for the taxable year 2006, and who is not claimed or is not otherwise eligible to be claimed as a dependent by another taxpayer for federal or Hawaii state individual income tax purposes, a general income tax refund of $____, with the following filing status and federal adjusted gross income:

Filing status	Federal adjusted gross income
Married filing jointly	$100,000 or less
Head of household or surviving spouse	$75,000 or less
Single, married filing separately	$50,000 or less

There shall be allowed to each resident individual taxpayer who files an individual income tax return for the taxable year 2006, with federal adjusted gross income in excess of the limits described above, and who is not claimed or is not otherwise eligible to be claimed as a dependent by another taxpayer for federal or Hawaii state individual income tax purposes, a general income tax refund of $____.

Each resident individual taxpayer shall be paid the general income tax refund. In addition, each taxpayer shall be paid an amount equal to the general income tax refund multiplied by each

dependent claimed on the taxpayer's 2006 net income tax return; provided that a husband and wife that filed a joint return shall only be entitled to be paid an amount not to exceed the computed refund amount based upon the number of dependents that the husband or wife would have been entitled to claim had the husband or wife filed separately.

Each person to whom the general income tax refund is paid shall have been a resident of the State, as defined in section 235-1, Hawaii Revised Statutes, for at least nine months regardless of whether the qualified resident was physically in the State for nine months.

The general income tax refund shall not be paid to:

(1) Any person who has been convicted of a felony and who has been committed to prison and has been physically confined for the full 2007 taxable year;

(2) Any person who would otherwise be eligible to be claimed as a dependent but who has been committed to a youth correctional facility and has resided at the facility for the full 2007 taxable year; or

(3) Any misdemeanant who has been committed to jail and has been physically confined for the full 2007 taxable year.

(b) The tax refund paid to a resident taxpayer pursuant to this Act shall not be included in the resident taxpayer's gross income.

(c) This section implements the provisions of article VII, section 6, of the Constitution of the State of Hawaii, which reads as follows:

"DISPOSITION OF EXCESS REVENUES

Section 6. Whenever the state general fund balance at the close of each of two successive fiscal years exceeds five percent of general fund revenues for each of the two fiscal years, the legislature in the next regular session shall provide for a tax refund or tax credit to the taxpayers of the State, as provided by law."

SECTION 3. This Act shall take effect upon its approval.

INTRODUCED BY: Calvin K.Y. Say

BY REQUEST

JAN 22 2008

Report Title:
Income Tax Relief; Constitutional Refund

Description:
Provides a constitutionally-mandated refund to Hawaii taxpayers based upon federal adjusted gross income.

HB 3190

JUSTIFICATION SHEET

DEPARTMENT: Taxation

TITLE: A BILL FOR AN ACT RELATING TO ARTICLE VII, SECTION 6, OF THE CONSTITUTION OF THE STATE OF HAWAII.

PURPOSE: To provide for the constitutionally mandated income tax refund or credit when the state general fund balance at the close of each of two successive fiscal years exceeds five percent of general fund revenues for each of the two fiscal years.

MEANS: Provision of a tax refund to each resident individual taxpayer.

JUSTIFICATION: This Act proposes a tax refund to fulfill the requirements of the Hawaii Constitution to return to the taxpayers tax revenues earned by the State when the State reaches a certain level of fiscal prosperity.

Persons who filed a 2006 individual income tax return reporting a federal adjusted gross income of $50,000 or less for persons with a filing status of single or married filing separately; $75,000 or less for persons with a filing status of head of household or surviving spouse; and $100,000 or less for persons with a filing status of married filing jointly would receive an income tax refund. The amount of the refund is calculated by multiplying the number of dependents claimed in the taxpayer's 2006 income tax return by $___. For persons above these federal adjusted gross income limits, the amount of the refund would be $___ multiplied by the number of dependents claimed in the taxpayer's 2006 income tax return. To be eligible, persons must be Hawaii residents for the previous nine months, including Hawaii-domiciled military personnel deployed out-of-state. Incarcerated persons are not eligible.

Impact on the public: Will provide taxpayers with an income tax refund.

Impact on the department and other agencies: The Department of Taxation and Department of Accounting and General Services will be obligated to administer this tax refund.

GENERAL FUND: Unspecified.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: Tax 100.

OTHER AFFECTED AGENCIES: Department of Accounting and General Services.

EFFECTIVE DATE: Upon approval.