H.B. NO. 3193

A BILL FOR AN ACT

RELATING TO ELECTRONIC TAX ADMINISTRATION.

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

SECTION 1. With the advent of increased computer use personally and in daily business operations, electronic and computer-based interactions with government are rising.

As a government agency, the department of taxation interacts with nearly every person in Hawaii on a regular, systematic, and in-depth basis. The department of taxation also regularly interacts with nonresident taxpayers and mainland-based businesses that routinely file tax information with the department.

With the increase in out-of-state interaction with taxpayers and the increase in use of electronic means of filing tax information, the legislature in 1997 made electronic filing an acceptable means of carrying out a taxpayer's obligations under the law.

Since this law was enacted, the ability to interact electronically has grown considerably. This growth is even truer for businesses where almost every business has a computer and access to the internet.

The purpose of this Act is to provide the department of taxation with the authority to require, by rule, electronic filing of tax returns and electronic payment of taxes owed. This Act is a natural progression of how a majority, if not all, tax submissions will be made in the next decade and beyond. To assure that taxpayers are provided with sufficient notice and an opportunity to comment, this Act requires that the rule be adopted pursuant to chapter 91, Hawaii Revised Statutes.

The legislature, which is charged with the responsibility of overseeing the effectiveness of tax incentives and the efficacy of the tax system as a whole, can be provided more specific data on Hawaii taxes if the tax data were captured electronically.

Finally, the legislature finds that there are certain tax returns, such as fuel tax returns, tobacco tax returns, and other specific tax credits, that impact a very small number of taxpayers, all of who likely have computer access. Allowing the department of taxation to require this small population of specific taxpayers to e-file tax returns will not adversely impact such taxpayers. Concomitantly, taxpayers will experience a commensurate decrease in the time it takes to process a return, including the processing of a tax refund. The same

analysis applies to electronic payment of taxes owed, which also stands to benefit the general fund by immediate realization of revenues owed the state.

SECTION 2. Section 231-8.5, Hawaii Revised Statutes, is amended to read as follows:

"[~~[~~] **§231-8.5**[~~]~~] **Electronic filing of tax returns.** The department may allow, or require by rule adopted pursuant to chapter 91, filing by electronic, telephonic, or optical means of any tax return, application, report, or other document required under the provisions of title 14 administered by the department. The date of filing shall be the date the tax return, application, report, or other document is transmitted to the department in a form and manner prescribed by departmental rules adopted pursuant to chapter 91. The department may determine alternative methods for the signing, subscribing, or verifying of a tax return, application, report, or other document that shall have the same validity and consequences as the actual signing by the taxpayer. A filing under this section shall be treated in the same manner as a filing subject to the penalties under section 231-39."

SECTION 3. Section 231-9.9, Hawaii Revised Statutes, is amended to read as follows:

1 "§231-9.9 **Payment of taxes by electronic funds transfer.**
2 (a) The director of taxation is authorized to require every
3 person whose tax liability for any one taxable year exceeds:
4 (1) $100,000[,];or
5 (2) An amount equal to $100,000 or less if required by rule
6 adopted pursuant to chapter 91;
7 and who files a tax return for any tax, including consolidated
8 filers, to remit taxes by one of the means of electronic funds
9 transfer approved by the department; provided that for
10 withholding taxes under section 235-62, electronic funds
11 transfers shall apply to annual tax liabilities that exceed
12 $40,000.
13 (b) Any person who files a tax return for any tax and is
14 not required by subsection (a) to remit taxes by means of
15 electronic funds transfer may elect to remit taxes by one of the
16 means of electronic funds transfer approved by the department
17 with the approval of the director of taxation.
18 (c) If a person who is required under subsection (a) to
19 remit taxes by one of the means of electronic funds transfer
20 approved by the department fails to remit the taxes using an
21 approved method on or before the date prescribed therefor, unless
22 it is shown that the failure is due to reasonable cause and not

to neglect, there shall be added to the tax required to be so remitted a penalty of two per cent of the amount of the tax. The penalty under this subsection is in addition to any penalty set forth in section 231-39.

(d) No later than twenty days prior to the convening of each regular session, the department shall submit a report to the legislature containing:

(1) The number of taxpayers who were assessed the two per cent penalty pursuant to subsection (c);

(2) The amounts of each assessment; and

(3) The total amount of assessments collected for the previous year."

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

INTRODUCED BY: _____

BY REQUEST

JAN 22 2008

H.B. NO. 3193

Report Title:
Tax Administration; Required E-Filing and E-Pay

Description:
Provides the Department of Taxation with the authority to require electronic filing and electronic payment by rule.

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JUSTIFICATION SHEET

DEPARTMENT: Taxation

TITLE: A BILL FOR AN ACT RELATING TO ELECTRONIC TAX ADMINISTRATION.

PURPOSE: Provide the Department of Taxation with the authority to require, by rule, the electronic filing of tax returns and electronic payment of taxes owed.

MEANS: Amend section 231-8.5 and 231-9.9, Hawaii Revised Statutes.

JUSTIFICATION: With the advent of increased computer use personally and in daily business operations, electronic and computer-based interactions with government are rising.

As a government agency, the Department of Taxation interacts with nearly every person in Hawaii on a regular basis. The Department of Taxation regularly interacts with nonresident taxpayers that routinely file tax information with the department.

With the increase in out-of-state interaction with taxpayers and the increase in use of electronic means of filing tax information, the legislature in 1997 made electronic filing an acceptable means of carrying out a taxpayer's obligations under the law.

Since this law was enacted, the ability to interact electronically has grown considerably. This bill is a natural progression of how a majority--if not all--tax filings will be made in the next decade and beyond. To assure that taxpayers are provided with sufficient notice and an opportunity to comment, this bill requires compliance with chapter 91, Hawaii Revised Statutes.

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With electronic filing required, taxpayers will also experience a commensurate decrease in the time it takes to process a return, including any tax refund.

This bill also expands the department of taxation's authority to require electronic payment of taxes owed the state. As with the proposed electronic filing requirement, the department of taxation is authorized to require electronic payment where a taxpayer owes an amount of $100,000 of less if required by rule adopted pursuant to chapter 91, Hawaii Revised Statutes. The department of taxation is currently allowed to require electronic payment for taxpayers with obligations in excess of $100,000.

Impact on the public: Taxpayers required to file and pay exclusively by electronic means will therefore be unable to file paper returns or pay by check. However, return processing and payment will be commensurately more efficient.

Impact on the department and other agencies: Requiring certain taxpayers to file and pay by electronic means will substantially reduce the Department of Taxation's workload of processing paper returns.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: TAX 100.

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: Upon approval.