



**STATE OF HAWAII**  
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To: The Honorable Donovan M. Dela Cruz, Chair  
and Members of the Senate Committee on Ways and Means

Date: Tuesday, February 6, 2018  
Time: 10:00 A.M.  
Place: Conference Room 211, State Capitol

From: Linda Chu Takayama, Director  
Department of Taxation

Re: S.B. 2822, Relating to Electronic Filing

The Department of Taxation (Department) strongly supports S.B. 2822, an Administration measure, and provides the following comments for your consideration.

S.B. 2822 authorizes the Department to require certain taxpayers to file tax returns electronically. To require electronic filing, the Department must provide an electronic filing option and no less than 90 days prior written notice. The requirement is subject to a reasonable cause exception. The bill also imposes a 2% penalty for failure to file electronically. The bill is effective upon approval.

First, the Department notes that under this measure it may not require individual income taxpayers to file electronically. Only the following taxpayers may be required to file electronically:

- Employers with withholding tax liability of more than \$40,000;
  - These employers are currently subject to the electronic funds transfer requirement under section 231-9.9, Hawaii Revised Statutes.
- Taxpayers with annual general excise tax or transient accommodations tax liability over \$4,000; and
  - These taxpayers are monthly filers for general excise tax and transient accommodations tax.
- All taxpayers for corporate income tax, estate tax, public service company tax (utilities), franchise tax (financial institutions), fuel tax, liquor tax, cigarette and tobacco tax, and rental motor vehicle, tour vehicle, and car-sharing tax.

Second, the Department notes that this measure will not mandate electronic filing outright, but merely allow the Department to use its discretion to require the taxpayers listed above to file electronically. Thus, the Department will be able to analyze and determine which

situations warrant mandatory electronic filing and which do not, while considering its own resources and the resources available to taxpayers. In addition, no less than 90 days prior to requiring electronic filing, the Department must provide a written notice of its intention to require electronic filing. This will provide taxpayers with sufficient time to make preparations for complying.

Third, the Department believes electronic filing of tax returns increases the efficiency of tax administration. The Department is updating its computer system and as a result is becoming better equipped to accept electronically filed tax returns at no cost to taxpayers. In addition, the Department believes that taxpayers are becoming receptive to electronic filing. The Department also notes that it already has authority to require certain taxpayers to pay electronically. Allowing the Department to require certain taxpayers to pay and file electronically will increase the efficiency of tax administration.

Finally, the Department recognizes that there may be legitimate situations in which a taxpayer will be unable to file electronically. For this reason, a reasonable cause exception has been included. This will allow the Department to waive the penalty for failure to file electronically if the failure due to reasonable cause. The Department believes this exception will prevent any unjust application of the proposed penalty.

Thank you for the opportunity to provide testimony in support of this measure.

# TAX FOUNDATION OF HAWAII

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SUBJECT: ADMINISTRATION, Mandatory Electronic Filing of Tax Returns

BILL NUMBER: HB 2395; SB 2822 (Identical)

INTRODUCED BY: HB by Saiki by request; SB by Kouchi by request

EXECUTIVE SUMMARY: Requires electronic filing of tax returns. The statute as drafted provides for a reasonable cause exception only if the department adopts rules, and can be improved if the reasonable cause exception is written into the law.

SYNOPSIS: Amends HRS section 231-8.5 to allow the department of taxation to require electronic filing of any tax return, application, report, or other document required under title 14 for the following taxpayers:

- Withholding tax filers, where annual liability exceeds \$40,000.
- Income tax filers, for corporations only.
- General excise tax filers, where annual liability exceeds \$4,000.
- Transient accommodations tax filers, where annual liability exceeds \$4,000.
- All taxpayers subject to the following tax types:
  - Estate / generation-skipping
  - Public service company
  - Franchise
  - Fuel
  - Liquor
  - Tobacco
  - Rental motor vehicle and tour vehicle surcharge

Before it can require electronic filing, the department must provide (1) an electronic filing option to the taxpayer; and (2) no less than 90 days' written notice of its intention to require electronic filing.

Provides that a taxpayer who is required to file but doesn't is penalized 2% of the amount of the tax required to be shown on the return, unless it is shown that the failure is due to reasonable cause and not to neglect.

EFFECTIVE DATE: Upon approval.

**STAFF COMMENTS:** This is an administration measure submitted by the department of taxation TAX-02 (18). The point of the bill is to require electronic filing for all or part of the tax base. Some of the tax base, however, might not be comfortable with electronic payment, let alone electronic filing. Electronic filing does seem to be the way of the future, with the potential for speeding up the processing of tax returns and at the same time slashing the error rates associated with scanned or manually entered returns.

Digested 1/30/2018