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

Date: Monday, February 11, 2019
Time: 10:00 A.M.
Place: Conference Room 211, State Capitol

From: Linda Chu Takayama, Director
Department of Taxation

Re: S.B. 1275, Relating to Taxation

The Department of Taxation (Department) strongly supports S.B. 1275, an Administration measure, and offers the following comments for the Committee's consideration.

S.B. 1275 makes various technical amendments to Title 14, Hawaii Revised Statutes (HRS). Chapters 243, 244D, and 245, HRS, have not been reviewed for technical cleanup in many years. This measure is effective upon approval.

Sections 1 and 2 of the measure are intended to clarify that "director" as used in Title 14, HRS, means Director of Taxation.

Section 3 of the measure clarifies that all returns and taxes dues under Chapter 243, HRS, are due on or before the 20th day following the close of the month.

Section 4 of the measure is nonsubstantive technical clean-up of section 243-10, HRS.

Section 5 of the measure deletes the requirement that the county liquor commissions certify to the Department within 48 hours that a license has been issued, and also clarifies that the life of a liquor permit issued by the Department is the same as the life of a liquor license issued by a county liquor commission. However, upon further review, the Department respectfully requests the Committee amend Section 5 of the measure to read as follows:

"SECTION 5. Section 244D-2, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

"(b) The liquor commission shall certify to the department of taxation [~~from time to time and within forty-eight hours after such license is issued~~] the name of every

dealer, together with the dealer's place of business and the period covered by the dealer's license. The department [~~thereupon~~] shall issue its permit to such person for the period covered by the person's license upon the payment of a permit fee of \$2.50. The permit shall be issued by the department as of the date when the liquor commission issued the license.

(c) Any permit issued under this chapter shall be for the period covered by dealer's license and shall not be assignable; it shall be conspicuously displayed on the licensed premises of the permittee; it shall expire upon the expiration of the period covered by the permittee's license, or on June 30 next succeeding the date upon which it is issued, whichever is earlier, unless sooner suspended, surrendered, or revoked for cause by the department; and it shall be renewed annually before July 1, upon fulfillment of all requirements as in the case of an original permit and the payment of a renewal fee of \$2.50. Whenever a permit is defaced, destroyed, or lost, or the licensed premises are relocated, the department may issue a duplicate permit to the permittee upon the payment of a fee of 50 cents."

Section 6 of the measure removes the old liquor tax rates from section 244D-4.

Section 7 of the measure clarifies that a liquor tax return may be filed with the Department in any district, not only the district where the taxpayer is located.

Section 8 of the measure makes consistent and clarifies that a taxpayer must keep cigarette and tobacco tax records for 5 years. The assessment statute of limitations for this tax type is 5 years.

Section 9 of the measure is nonsubstantive technical clean-up of section 245-9, HRS.

Section 10 of the measure is nonsubstantive technical clean-up of section 245-41, HRS.

Section 11 of the measure deletes section 243-8, HRS. This section becomes unnecessary with the amendment to section 243-10, HRS, proposed in Section 4 of this measure.

Section 12 of the measure deletes section 245-31, HRS. This section is unnecessary as the section 245-5, HRS, requires returns that contains the same information.

The Department believes that the amendments contained in this bill will add clarity to the law and allow for more effective administration. In addition to the amendments described above the Department requests that the bill be amended to include the following amendments:

Deletion of the definition of "month" or "calendar month" in section 243-1, HRS. The Department is suggesting the deletion of this definition because there are no fuel taxpayers that

are using the secondary definition of “month” that the definition provides for.

Amending the definition of “dealer” in section 244D-1, HRS, to read:

"Dealer" means the holder of a manufacturer's license, a wholesaler's license, ~~[or]~~ a brewpub's license, a winery's license, a small craft producer's license, or a direct wine shipper permit under the liquor law.

The Department is suggesting the amendment of this definition to reflect the new types of liquor licenses that were created. The holders of a winery license, small craft producer license, and a direct wine shipper permit are already subject to the liquor tax under chapter 244D, HRS.

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

TAX FOUNDATION OF HAWAII

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SUBJECT: ADMINISTRATION, FUEL, LIQUOR, TOBACCO, Technical Cleanup

BILL NUMBER: HB 1049; SB 1275 (Identical)

INTRODUCED BY: HB by SAIKI by request; SB by KOUCHI by request

EXECUTIVE SUMMARY: Technical amendments to clean up various statutory chapters.

SYNOPSIS: Makes clarifying and technical changes to chapters 231 (tax administration), 243 (fuel tax), 244D (liquor tax), and 245 (tobacco tax).

EFFECTIVE DATE: This Act shall take effect upon its approval.

STAFF COMMENTS: This is an Administration bill sponsored by the Department of Taxation and designated TAX-10 (19).

The bill does appear to be a technical cleanup bill.

Digested 2/4/2019