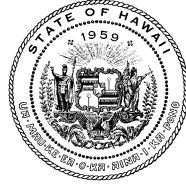


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To: The Honorable Donovan M. Dela Cruz, Chair;
The Honorable Gilbert S.C. Keith-Agaran, Vice Chair;
and Members of the Senate Committee on Ways and Means

From: Rona M. Suzuki, Director
Department of Taxation

Re: S.B. 2058, Relating to the Corporate Dividends Received Deduction

Date: Wednesday, January 29, 2020

Time: 10:10 A.M.

Place: Conference Room 211, State Capitol

The Department of Taxation (Department) supports S.B. 2058 and provides the following comments.

S.B. 2058 amends section 235-7(c), Hawaii Revised Statutes (HRS), to remove unconstitutional limitations on the dividends received deduction. Current law limits the dividend received deduction based on whether the dividend is received from a Hawaii corporation or whether it is received from a foreign corporation; both of these limitations are unconstitutional. The bill becomes effective upon approval and applies to taxable years beginning after December 31, 2019.

This bill matches the Department's current policy regarding the dividends received deduction. The Department has acknowledged that portions of section 235-7, HRS, are unconstitutional and instructed taxpayers to ignore the unconstitutional provisions when filing and paying Hawaii income tax.¹

The Department will be able to administer the provisions of this bill with its current effective date.

Thank you for the opportunity to testify in support of S.B. 2058.

¹ See Department of Taxation Announcement 98-5 and Tax Information Release No. 99-2.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME TAX, Corporate Dividends

BILL NUMBER: SB 2058

INTRODUCED BY: DELA CRUZ, KEITH-AGARAN, KIDANI, Shimabukuro

EXECUTIVE SUMMARY: Eliminates unconstitutional provisions as recognized by the department of taxation. No substantive change.

SYNOPSIS: Amends section 235-7, HRS, to eliminate provisions that were recognized as unconstitutional by the Department of Taxation in Announcement 98-5 and Tax Information Release 98-2

EFFECTIVE DATE: Taxable years beginning after 12/31/2019.

STAFF COMMENTS: This bill was drafted by the Tax Foundation of Hawaii to eliminate statutory provisions that were previously recognized by the Department of Taxation as unconstitutional, and thereby to conform the statutory language to the law as administered by the Department. No substantive change to the law was intended.

Digested 1/27/2020