

Honolulu, Hawaii

FEB 12 2007

RE: S.B. No. 1499
S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fourth State Legislature
Regular Session of 2007
State of Hawaii

Madam:

Your Committee on Economic Development and Taxation, to which was referred S.B. No. 1499 entitled:

"A BILL FOR AN ACT RELATING TO TAX ADMINISTRATION,"

begs leave to report as follows:

The purpose of this measure is to bring Hawaii tax law into conformance with federal tax law relating to tax administration and criminal tax enforcement.

Specifically, the bill imposes civil penalties on:

- (1) Any tax return preparer that makes understatements of liability based on unrealistic positions;
- (2) Any person who promotes an abusive tax shelter; and
- (3) Any person required to collect, account for, or pay over taxes who wilfully fails to do so.

Testimony in support of this measure was received from the Department of Taxation. The Tax Foundation of Hawaii submitted comments.

Your Committee finds that this measure would strengthen state and county compliance tools by establishing penalty provisions that mirror federal statutes. In its comments, however, the Tax Foundation of Hawaii also expressed a concern that the definition of "tax return preparer" was very broad in the understatement of



taxpayer's liability language. Your Committee agrees with this concern and the Department of Taxation has recommended further changes to address this.

It is the intent of your Committee to pass this measure with the revised definition.

Your Committee has amended this measure accordingly, to:

- (1) Amend the definition of "tax return preparer" to mean a professional who prepares, employs, or supervises one or more persons who prepare a tax return or a claim for a tax refund, for payment; and to clarify that a professional includes an enrolled agent, certified public accountant, attorney, or other person paid for preparation of a tax return or claim for tax refund; and
- (2) Make technical, nonsubstantive amendments to conform to the preferred drafting style.

As affirmed by the record of votes of the members of your Committee on Economic Development and Taxation that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1499, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1499, S.D. 1, and be referred to the Committee on Ways and Means.


Respectfully submitted on
behalf of the members of the
Committee on Economic
Development and Taxation,


CAROL FUKUNAGA, Chair



The Senate
Twenty-Fourth Legislature
State of Hawaii

Record of Votes
Committee on Economic Development and Taxation
EDT

Bill / Resolution No.:*	Committee Referral:	Date:
<i>SB 1499</i>	<i>EDT WAM</i>	<i>2/8/07</i>
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____		
The Recommendation is:		
<input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313		
Members	Aye	Aye (WR)
Nay	Excused	
FUKUNAGA, Carol (C)	✓	
ESPERO, Will (VC)	✓	
ENGLISH, J. Kalani	✓	
IGE, David Y.	✓	
SLOM, Sam	✓	
TOTAL	<i>5</i>	
Recommendation:		
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted		
Chair's or Designee's Signature:		
		
Distribution:	Original	Yellow
File with Committee Report	Clerk's Office	Pink Drafting Agency

*Only one measure per Record of Votes