

Honolulu, Hawaii

MAR 01 2019

RE: S.B. No. 495

S.D. 2

Honorable Ronald D. Kouchi  
President of the Senate  
Thirtieth State Legislature  
Regular Session of 2019  
State of Hawaii

Sir:

Your Committee on Ways and Means, to which was referred S.B. No. 495, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO TAXATION,"

begs leave to report as follows:

The purpose and intent of this measure is to establish a presumption relating to the liability for state income taxation of certain businesses located outside of the State.

Specifically, this measure establishes a statutory presumption that a person who lacks physical presence in the State systematically and regularly engages in business in the State and is therefore liable for state income tax if, during a calendar year:

- (1) The person engages in two hundred or more business transactions with persons within the State; or
- (2) The sum of the value of the person's gross income attributable to sources in the State equals or exceeds \$100,000, or for a person that does business within and without the State, the numerator of the person's sales factor for the State equals or exceeds \$100,000.

Your Committee received written comments on this measure from the Department of Taxation and Tax Foundation of Hawaii.



Your Committee finds that this measure is intended to establish the State's authority to collect income taxes from out-of-state businesses when they conduct transactions with persons located in Hawaii.

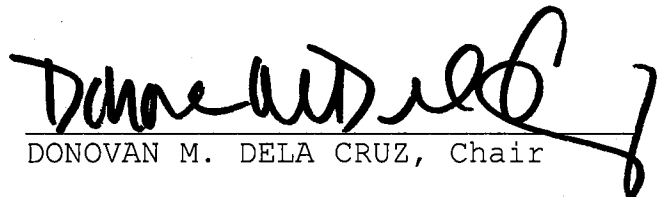
Your Committee notes that, in its written comments, the Tax Foundation of Hawaii suggested that:

- (1) Chapter 231, Hawaii Revised Statutes, be amended to apply the nexus presumptions broadly so qualifying out-of-state businesses are subject to liability for more applicable state taxes; and
- (2) The provision that calculates a person's sales factor as a basis for determining tax liability be deleted.

Your Committee has amended this measure by changing its effective date to July 1, 2050, to facilitate further discussion on the measure.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 495, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 495, S.D. 2.


Respectfully submitted on  
behalf of the members of the  
Committee on Ways and Means,

  
DONOVAN M. DELA CRUZ, Chair



The Senate  
Thirtieth Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Ways and Means**  
**WAM**

Bill / Resolution No.:* <b>SB495, SDI</b>	Committee Referral: <b>JDC, WAM</b>	Date: <b>2/20/19</b>		
<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
DELA CRUZ, Donovan M. (C)	X			
KEITH-AGARAN, Gilbert S.C. (VC)	X			
ENGLISH, J. Kalani	X			
HARIMOTO, Breene				X
INOUYE, Lorraine R.	X			
KAHELE, Kaiali'i	X			
KANUHA, Dru Mamo	X			
KIDANI, Michelle N.	X			
MORIWAKI, Sharon Y.	X			
RIVIERE, Gil				X
SHIMABUKURO, Maile S.L.	X			
TANIGUCHI, Brian T.	X			
FEVELLA, Kurt	X			
<b>TOTAL</b>	<b>11</b>			<b>2</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution:            Original            Yellow            Pink            Goldenrod File with Committee Report            Clerk's Office            Drafting Agency            Committee File Copy				

\*Only one measure per Record of Votes