

STAND. COM. REP. NO.

749

Honolulu, Hawaii

FEB 28 2019

RE: S.B. No. 394
S.D. 1

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. 394 entitled:

"A BILL FOR AN ACT RELATING TO TAXATION,"

begs leave to report as follows:

The purpose and intent of this measure is to amend the way Hawaii taxes multistate businesses.

More specifically, this measure apportions business income by using only the taxpayer's sales factor, rather than the average of the taxpayer's property, payroll, and sales factors.

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

Your Committee finds that, for income tax purposes, most states including Hawaii have adopted the Uniform Division of Income for Tax Purposes Act (UDITPA). Under UDITPA, codified under state law as part II of chapter 235, Hawaii Revised Statutes, a taxpayer is required to compute a property factor, which is a fraction representing the amount of property in Hawaii versus elsewhere; a payroll factor, which is a fraction measuring Hawaii payroll; and a sales factor, a fraction which measures Hawaii sales. The amount of net income apportioned to Hawaii is then the net income from operations everywhere multiplied by the average of the property, payroll, and sales factors. Your



Committee further finds that some states have amended their versions of UDITPA to disregard the property and payroll factors, and apportion business income based solely on a taxpayer's sales factor.

Your Committee has amended this measure by:

- (1) Inserting provisions from S.B. No. 1270 to adopt market-based sourcing for the sale of services and intangible property for purposes of apportioning income under the Uniform Division of Income for Tax Purposes Act; and
- (2) Changing the 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. 394, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 394, S.D. 1, and be placed on the calendar for Third Reading.

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.:* SB 394	Committee Referral: WAM	Date: 2/6/19		
<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			
TOTAL	13			0
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