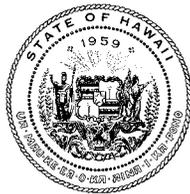


**LINDA LINGLE**  
GOVERNOR

**JAMES R. AIONA, JR.**  
LT. GOVERNOR



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**SENATE COMMITTEE ON WAYS & MEANS  
TESTIMONY REGARDING SB 2752  
RELATING TO TAX ADMINISTRATION**

**TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)**

**DATE: FEBRUARY 23, 2010**

**TIME: 10AM**

**ROOM: 211**

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This measure provides for a cost recovery order issuable by a circuit court for investigation costs when a taxpayer is convicted of a tax crime.

The Department of Taxation (Department) **strongly supports** this measure.

The purpose of this measure is to provide for the mandatory assessment of administrative costs associated with investigating tax crimes when a taxpayer is convicted of a tax offense or has a conviction deferred. This measure serves as further deterrence for tax evasion and other similar behavior.

A tax system is only as effective as the deterrence mechanisms available to curb its abuse. When jail sentences are impractical or convictions are deferred, the criminal deterrence mechanism is reduced. This measure boosts the deterrence by requiring criminals to pay for the cost of investigating their crimes.

# TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: ADMINISTRATION, Assessment of administrative costs

BILL NUMBER: SB 2752; HB 2599 (Identical)

INTRODUCED BY: SB by Hanabusa by request; HB by Say by request

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to provide that any person who is convicted or granted a deferred acceptance of plea of an offense under section HRS 231-34, 231-35, 231-36, or 231-36.4 shall, in addition to any other penalties, be assessed by the court the actual cost of investigating the violation. Any costs recovered under this section shall be deposited into the tax administration special fund.

Makes conforming amendments to HRS section 235-20.5.

The amendments made to section HRS 235-20.5, by this Act shall not be repealed when: (1) HRS section 235-20.5, is reenacted on January 1, 2011, pursuant to section 8 of Act 206, SLH 2007; or (2) HRS section 235-20.5, is reenacted on June 30, 2014, pursuant to section 13 paragraph 3 of Act 134, SLH 2009.

EFFECTIVE DATE: July 1, 2010

STAFF COMMENTS: This measure is an administration measure submitted by the department of taxation TAX-13(10). While this measure would allow the department of taxation to recover the cost of investigating any tax crime when a taxpayer is convicted or is granted a deferred acceptance of guilty plea, a limitation on the amount that may be assessed should be established or such amount may be greater than the fine imposed for the tax crime.

If this measure is to be enacted, then consideration should be given to awarding a defendant taxpayer who is successful in contesting an assessment the cost of his defense. It is indeed sad that the state government has sunk to the level of nickel and diming taxpayers for services that should otherwise be paid out of the general revenues of the state.

Digested 2/5/10