

THE SENATE
THIRTY-FIRST LEGISLATURE, 2021
STATE OF HAWAII

S.C.R. NO. 64

SENATE CONCURRENT RESOLUTION

REQUESTING THE DIRECTOR OF TAXATION TO WAIVE PENALTIES AND
INTEREST SOUGHT FROM SMALL BUSINESSES AND INDIVIDUAL
TAXPAYERS AS A RESULT OF UNDUE HARDSHIP RELATED TO THE
CORONAVIRUS DISEASE 2019 PANDEMIC.

WHEREAS, the Director of Taxation's prologue to the Hawaii Taxpayer Bill of Rights states, in relevant part: "Hawaii taxpayers have many rights. Some are based on laws, and others are based on our commitment to administer Hawaii's tax laws in a fair and equitable manner . . . Taxpayer rights are at the heart of good tax administration – a pledge that the tax laws will be administered with fairness, uniformity, courtesy, and common sense"; and

WHEREAS, the Bill of Rights explicitly includes waivers of penalties and interest: "Taxpayers have a right to request that the Department of Taxation waive penalties and interest added to any tax if the taxpayer can show that failure to file a return or pay a tax on time was due to reasonable cause not due to the taxpayer's own carelessness, neglect, or willful disregard of the law, but due to circumstances beyond the taxpayer's control"; and

WHEREAS, the coronavirus disease 2019 (COVID-19) pandemic, and the State and counties' responses to it, including forced closures and limitations on business operations, constitute circumstances beyond the taxpayer's control and would qualify as a "reasonable cause" for a taxpayer to fail to timely pay their taxes; and

WHEREAS, the Taxpayer Bill of Rights allows the Director of Taxation the discretionary authority to approve "offers in compromise" requested by taxpayers who owe \$50,000 or less in taxes; and

WHEREAS, tens of thousands of small businesses and many individual taxpayers have failed to remit their General Excise Tax in a timely manner or failed to set aside money to pay their income taxes during the economic and financial irregularities experienced during the COVID-19 pandemic; and

WHEREAS, pursuant to section 231-10.7, Hawaii Revised Statutes, the Director of Taxation has the authority to adopt temporary rules that take effect seven days after notice of the temporary rule is issued; now, therefore,

BE IT RESOLVED by the Senate of the Thirty-first Legislature of the State of Hawaii, Regular Session of 2021, the House of Representatives concurring, that the Director of Taxation is requested to waive General Excise Tax penalties and interest when the tax upon which the penalties and interest is owed was incurred after March 4, 2020; and the small business attests that the failure to timely remit payment in full was due to the COVID-19 pandemic, or any local, state, or federal government response to it; and

BE IT FURTHER RESOLVED that the Director of Taxation is requested to waive income tax penalties and interest imposed on any individual taxpayer who attests that they failed to file or timely remit taxes due to the COVID-19 pandemic, or any local, state, or federal government response to it; and

BE IT FURTHER RESOLVED that certified copies of this Concurrent Resolution be transmitted to the Director of Taxation and the Governor.

OFFERED BY: _____