

TAX FOUNDATION OF HAWAII

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October 8, 2014

Rules Office
Hawaii Department of Taxation
830 Punchbowl Street, Room 221
Honolulu, HI 96813

Re: **Comments on Proposed New HAR §§ 18-231-91-01
through 18-231-100-01, Relating to Cash Economy
Public Hearing: October 24, 2014, 9:00 a.m.**

Ladies and Gentlemen:

Of the proposed rules relating to cash economy enforcement, most of the proposed rules, proposed sections 18-231-91-01 to -25, appear to be contested case hearing procedures complying with the Hawaii Administrative Procedures Act, HRS chapter 91. Of these, we note that proposed § 18-231-91-09 states that the director shall conduct the hearings on an appeal and shall render the decision. A presiding officer designated by the director, however, actually conducts the hearing and drafts a proposed decision for the director. This is to preserve the losing party's ability to appeal within the department to the director. However, such a provision may be problematic if the director is absent for an extended period of time or if the director's office is vacant. The department should consider a provision allowing for either a delegation of authority or a successor if one of these circumstances is present.

Because a large part of the taxpayers subject to the cash enforcement provisions are smaller "mom and pop" business and cottage industry taxpayers, in order to encourage greater compliance with the cash economy enforcement provisions, a clearer understanding of the provisions should be made available in plain language so that these taxpayers will understand what they need to do to be in compliance. For example, when the cash economy provisions were adopted, it was unclear as to whether taxpayers had to provide a receipt and what type of receipt, if any, had to be issued. These proposed rules contain some additional guidance as to how to comply with this particular requirement (§ 18-231-96-01) but the department should consider using the practical experience the department has gained in its enforcement of the cash economy provisions so far in order to provide taxpayers additional examples and clear language in the latter rules (§§ 18-231-94-01 to 18-231-100-01).

Thank you for the opportunity to submit comments.

Very truly yours,


Thomas Yamachika
President