

TAX FOUNDATION

O F H A W A I I

126 Queen Street, Suite 304, Honolulu, Hawaii 96813, Telephone 536-4587, www.tfhawaii.org

OFFICERS

Richard Anzai
Chair

Manoj Samaranayake
Vice Chair

Thomas Yamachika
President/Secretary

Justina A. Desuacido
Vice President/Treasurer

Daniel K. Grebence
Asst. Secretary

BOARD OF DIRECTORS

Richard Anzai
Dennis Brown
Helen Chang
Jay Chen
Brent Flygar
Scott W. Hayashi
Ronald I. Heller
Laurie Kawasaki
Ross Kohara
Bennett Liu
Chris Mashiba
Deneen Nakashima
Cyrus Oda
Lon K. Okada
Michael J. O'Malley
Ku'uhaku Park
Manoj Samaranayake
Glenn Shigetomi
Kieran Yap

EXECUTIVE ADVISORY BOARD OF DIRECTORS

Meredith J. Ching
Roger H. Epstein
Richard Henderson
Richard R. Kelley

December 21, 2015

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

Re: **Request for Rule Project Initiation Under HRS §91-6**

Ladies and Gentlemen:

The Foundation supports the Department of Taxation's efforts to provide meaningful and timely guidance to taxpayers on several critical topics.

In addition, the Foundation wishes to point out that there are a number of previously announced but unfinished projects that deserve attention.

- TIR 2009-2 contained proposed administrative rules on the exported services exemption from general excise tax, and the use tax on imported services. The rules were never scheduled for public hearing.
- TIR 2008-5 contained an advanced notice of proposed administrative rules relating to the motion picture and television film production credit under the income tax law and related provisions under the general excise and use tax laws. TIR 2009-5 amended these proposed rules. The rules were never scheduled for public hearing.
- HAR §18-237-13-03, regarding the general excise tax on contracting, which was last revised in 1990, contains several problems including the following.
 - DOTAX Announcement 99-25 states that notwithstanding language in HAR §18-237-13-03(b), HAR, the Department allows the subcontract deduction for general excise tax purposes even if the subcontractor is not licensed by DCCA. This may create confusion because rules are supposed to take precedence over Announcements.
 - HAR §18-237-13-03(b)(4) and (c) Example 2 state rules that were wholly abrogated by Act 169, SLH 1998.
 - HAR §18-237-13-03(d)(4) refers to a general excise tax return as Form G-HW-1. That form has not been used in decades.
- HRS §91-5(a) requires all agencies to compile their rules at least once every ten years. This requirement exists to make sure that current information of general applicability is readily accessible to the public. To our knowledge the Department of Taxation has never done this.

We would be grateful if you would consider this letter a petition for the adoption, amendment, or repeal of rules under HRS §91-6.

Very truly yours,


Thomas Yamachika
President