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NO. CAAP-25-0000002

**IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII**

In re DEPARTMENT OF TAXATION, ADMINISTRATIVE DIRECTIVE NO. 2021-01. TAX FOUNDATION OF HAWAII, a Hawaii nonprofit corporation, Plaintiff-Appellant, vs. DEPARTMENT OF TAXATION, STATE OF HAWAII Defendant-Appellee	Civil No. 1CCV-24-0000661 APPEAL FROM FINAL JUDGMENT, FILED DECEMBER 31, 2024 FIRST CIRCUIT COURT HONORABLE KARIN L. HOLMA

933968

ANSWERING BRIEF

STATEMENT OF RELATED CASES

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I. INTRODUCTION

This case involves Plaintiff-Appellant Tax Foundation of Hawaii's ("Appellant") attempt to restrain the Defendant-Appellee State of Hawaii, Department of Taxation's ("Department") ability to assess and collect taxes by way of a Complaint for Declaratory Judgment. In its action below, Appellant challenged Administrative Directive 2021-01 ("AD 2021-01") issued by the Director of Taxation ("Director") related to the assessment of certain tax penalties pursuant to Section 231-39(b)(2)(A), Hawaii Revised Statute ("HRS"). The Circuit Court properly dismissed the Complaint for Declaratory Judgment for lack of subject matter jurisdiction. The Circuit Court's dismissal is supported in the record below. First, the declaratory relief as requested by the Appellant interferes with the Director's ability to assess and collect taxes. As such, the Appellant's Complaint for Declaratory Judgment falls squarely within HRS § 632-1's prohibition against the Circuit Court's jurisdiction to provide declaratory relief in controversies involving taxes. Appellant's attempt to interpret the last sentence of HRS § 632-1 in isolation as permitting declaratory relief in cases interpreting written instruments and regulations is untenable in light of well-settled canons of statutory construction. Moreover, because the tax code provides for a specific form of remedy for challenges to tax assessments, which involve bringing these matters before the Tax Appeal Court, these remedies must be followed. Finally, Appellant fails to overcome the clear statutory prohibition set forth in HRS § 632-1 against declaratory actions in tax cases by asserting declaratory relief was available pursuant HRS § 91-7. Even if AD 2021-01 was an administrative rule, which the Director does not concede, as HRS § 91-7 merely expands standing in declaratory actions in relation to the validity of agency rules, Appellant is unable to overcome the jurisdictional bar in HRS § 632-1. Therefore, as declaratory relief is not an available remedy for controversies related to taxes here, the Circuit

Court's dismissal of Appellant's Complaint for Declaratory Judgment for lack of subject matter jurisdiction should be upheld.

II. COUNTERSTATEMENT OF THE CASE

On May 20, 2024, Appellant filed a Complaint for Declaratory Judgment alleging, among other things, that the Circuit Court had jurisdiction over a claim for declaratory relief pursuant to HRS §§ 91-7 and 632-1. Record on Appeal ("ROA") Dkt. 1, Complaint for Declaratory Judgment at 2, ¶ 4.[1] Appellant sought a declaration that the Director's guidance regarding HRS § 231-39(b)(2)(A),[2] Failure to Pay Tax penalty, as set forth in Administrative Directive No. 2021-01 ("AD 2021-01") was invalid, and the information contained therein was unlawful. Id. at 6, ¶ 28. Appellant further sought a declaration that certain portions of AD 2021-01 were invalid based on violations of Chapter 91, HRS. Id. at 5, ¶ 25.

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[1] Citation references to documents in the record will be abbreviated as follows: "ROA Dkt. [docket #] at [PDF page #]." The "ROA" reference is to the Judiciary Information Management System ("JIMS") online docket number for the scanned copy of the filing in the Record on Appeal [ICA Dkt. 27], and the "pdf" reference is to the PDF page number(s) of the scanned document, as appropriate

[2] Section 231-39(b)(2)(A) provides:

> (b) There shall be added to and become a part of the tax imposed by such tax or revenue law, and collected as such:
>
> * * *
>
> (2) Failure to pay tax.
>
> (A) If any part of any underpayment is due to negligence or intentional disregard of rules (but without intent to defraud), there shall be added to the tax an amount up to twenty-five per cent of the underpayment as determined by the director.
>
> * * *

On June 19, 2024, Appellant filed a Motion for Summary Judgment ("6-19-24 MSJ"), which the Department opposed on July 2, 2024. ROA Dkts. 23 and 36. Appellant's 6-19-24 MSJ came on for hearing on July 16, 2024, and after a discussion on the record regarding the exhibits to Appellant's 6-19-24 MSJ, the Court denied, without prejudice, Appellant's 6-19-24 MSJ. ROA Dkts. 45 and 55. On October 23, 2024, a Stipulation of Facts was filed with the Court where the parties stipulated to the following facts:

1. Exhibit 1 attached to the Stipulation of Facts is a true and correct copy of Department of Taxation Administrative Directive 2021-01. ("AD 2021-01").

2. AD 2021-01 was placed on the Department of Taxation's internal shared drive and accessible to employees of the Department of Taxation.

3. AD 2021-01 was not uploaded onto the Department's internet website or otherwise made readily accessible to the public.

4. AD 2021-01 has not been superseded or obsoleted, and currently remains in effect.

ROA Dkt. 64.

On October 28, 2024, Appellant refiled a slightly different version of the 6-19-24 MSJ, asserting the same claim for declaratory relief on the basis that certain portions of AD 2021-01 were invalid. ROA Dkt. 67, October 28, 2024, Motion for Summary Judgment ("10-28-24 MSJ"). In response, the Department opposed the 10-28-24 MSJ and filed a Motion to Dismiss the Complaint for Declaratory Judgment, or in the Alternative, Cross-Motion for Summary Judgment ("Mem. in Opp." and "Motion to Dismiss") arguing the Court lacked subject matter jurisdiction as this was a controversy related to taxes. ROA Dkts. 79 and 81. On December 11, 2024, Appellant filed its Memorandum in Opposition to the Department's Motion to Dismiss. ROA Dkt. 95. After having heard oral arguments on the filed motions, the Circuit Court granted the Department's Motion to Dismiss for lack of subject matter jurisdiction and denied Appellant's 10-28-24 MSJ as moot. ROA Dkts. 104-107, 114, and 116. On January 1, 2025,

Appellant filed the instant appeal challenging the Circuit Court's Order granting the Department's Motion to Dismiss. ICA Dkts. 1 and 2.

III. STANDARD OF REVIEW

A. Motion to Dismiss for Lack of Subject Matter Jurisdiction

"The existence of jurisdiction is a question of law that [a court] review[s] *de novo* under the right/wrong standard. Lingle v. Hawaii Gov't Employees Ass'n, AFSCME, Local 152, 107 Hawaii 178, 182, 111 P.3d 587, 591 (2005). On appeal, "[a] trial court's grant or denial of a motion to dismiss for 'lack of subject matter jurisdiction is a question of law, reviewable *de novo*." Hawaiian Airlines, Inc. v. Department of Taxation, 155 Hawaii 197, 210, 559 P.3d 283, 296 (2024) (citation omitted). A court examines the contents of the complaint, and accepts as true allegations contained therein, construed in the light most favorable to the plaintiff. Id. Dismissal of the complaint is improper unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief. Id.

B. Statutory Interpretation

"The interpretation of a statute or ordinance is a question of law reviewable *de novo*." State v. Kaufman, 92 Hawaii 322, 326, 991 P.2d 832, 836 (2000).

IV. ARGUMENT

A. The Circuit Court Lacked Subject Matter Jurisdiction to Adjudicate Appellant's Complaint for Declaratory Judgment Because it is a Controversy Relating to Taxes.

Appellant below sought a declaration that AD 2021-01, an administrative directive related to the imposition of tax penalties pursuant to HRS § 231-39(b)(2)(A), was invalid. The Circuit Court correctly dismissed the Appellant's Complaint for Declaratory Judgment for lack of subject matter jurisdiction because HRS § 632-1, prohibits such a declaration in any controversy with respect to taxes. The basis for HRS § 632-1's prohibition against declaratory relief in tax

matters exists, like in the federal Declaratory Judgment Act ("DJA"),[3] "to permit the government to assess and collect taxes alleged to be due it without judicial interference." Tax Foundation of Hawaii v. State, 144 Hawaii 175, 187, 439 P.3d 127, 139 (2019).

Section 632-1, HRS, grants courts, in cases of actual controversy, the authority to declare the rights of parties. Section 632-1(a), HRS, expressly provides: "In cases of actual controversy, courts of record, within the scope of their respective jurisdictions, shall have power to make binding adjudications of right, . . . provided that declaratory relief *may not be obtained* . . . in any district court, *or in any controversy with respect to taxes*[.] (Emphasis added). To determine if a matter is a "controversy with respect to taxes," the relevant inquiry for this Court is whether granting said relief would interfere with the government's ability to assess or collect taxes. See Tax Foundation, 144 Hawaii at 187, 439 P.3d at 139; ("Declaratory relief may be obtained in tax matters under HRS § 632-1 where such relief does not interfere with the assessment or collection of taxes"); Ocean Resort Villas Vacation Owners Ass'n v. Cty. of Maui, 147 Hawaii 544, 556, 465 P.3d 991, 1003 (2020) (case holding if the declaratory relief sought in a tax matter "would 'interfere with the assessment or collection of taxes,'" then it was "a 'controversy with respect to taxes,' for which declaratory relief under HRS § 632-1 is not allowed.")

1. Appellant's Complaint for Declaratory Judgment Would Restrain the Assessment or Collection of Taxes.

The Department is authorized to assess additional taxes for a taxpayer's noncompliance with the tax code set forth in HRS Chapter 14. These assessments can include additional taxes in the form of penalties. Section 231-39, HRS, titled "additions to taxes for noncompliance or evasion; interest on underpayments and overpayments" applies to "every tax or revenue law of

[3] 28 U.S.C. § 2201.

the State that provides for the filing with the director of taxation a return or statement of the tax or the amount taxable." HRS § 231-39(a). These additions in the form of penalties "shall be added to and become a part of the tax imposed by such tax or revenue law, and collected as such." HRS § 231-39(b). And for the failure to pay tax, HRS § 231-39(b)(2)(A) provides as follows:

> If any part of any underpayment is due to negligence or intentional disregard of rules (but without intent to defraud), there shall be added to the tax an amount up to twenty-five per cent of the underpayment *as determined by the director*. (Emphasis added).

This means any amount up to twenty-five percent of the underpayment of taxes is part of the tax and applied to the taxpayer in the form of an assessment. Any "penalty," therefore, imposed for the underpayment of taxes pursuant to HRS § 231-39(b)(2)(A) is an assessed tax against the taxpayer subject to collection by the Department.

Appellant here, asks the Court to impermissibly prevent the assessment and collection of taxes by the Department. Appellant asserts without support that its Complaint for Declaratory relief is permissible because it seeks only to restrain unlawful assessments and collections of tax. See Dkt. 17 at 16. However, the very intent of Appellant's Complaint for Declaratory Judgment below is to obtain a declaration from this Court that the Department's method of assessing an additional tax because of a taxpayer's failure to pay is invalid. Such declaratory action would not only affect the assessment of taxes but would ultimately obstruct the Department's collection of state taxes.

The cases which Appellants cite in support of its arguments are factually inapposite to this case and can be distinguished on the same ground. Cohen v. United States, 650 F.3d 717, 720 (D.C. Cir. 2011), involved a class action suit by corporate taxpayers challenging the procedure the Internal Revenue Service ("IRS") created to obtain refunds of money already paid

after the collected taxes were determined to be nontaxable. Reviewing the applicability of the Anti-Injunction Act ("AIA"), 26 U.S.C. § 7421(a) and DJA to the IRS' refund procedures, the Court found review of the matter was not barred. The facts relevant to the Court's determination included a finding that the "suit [did] not seek to restrain the assessment or collection of any tax" because the taxes at issue were taxes the IRS had previously assessed and collected. Cohen 650 F.3d at 725. Specifically, the Court found, "[t]he money is in the U.S. treasury; the legal right to it has been previously determined." Id. As such, the outcome of the suit in Cohen would not affect the assessment or collection of taxes. 650 F.3d at 725-26.

Similarly, in Tax Foundation, the Plaintiff (Appellant here) filed a class action suit on behalf of Honolulu taxpayers requesting a refund of money paid to the State to administer the rail surcharge on state general excise and use taxes. 144 Hawaii 175, 439 P.3d 127. The circuit court dismissed the case finding the matter was barred by HRS § 632-1(a)'s prohibition against declaratory judgments in controversies related to taxes. Id. at 183, 439 P.3d at 135. The Hawaii Supreme Court reversed determining that because the plaintiff contested only the administration and allocation of a purported tax *after* it had already been assessed and collected, its claim did not interfere with the government's ability to assess or collect taxes. Id. at 188, 439 P.3d at 140. As such, the Court found that the plaintiff's lawsuit was not a "controversy with respect to taxes" and the exclusionary provisions of HRS § 632-1 did not apply. Id.

Thus, in each of the cases cited by the Appellant -- Cohen and Tax Foundation -- the Courts found declaratory relief was permissible because the suits did not involve a controversy related to taxes. Specifically, both cases involved refund claims for taxes that had been previously assessed and collected. Here, Appellant's Complaint for Declaratory Judgment would clearly interfere with the State's ability to assess and collect taxes. Appellant argues the method

the Director uses to assess and collect taxes as authorized by HRS § 231-39(b)(2)(A) is unlawful. Because the Appellant's Complaint for Declaratory Judgment seeks to restrain the assessment and collection of taxes, it is a controversy with respect to taxes and expressly barred by HRS § 632-1(a).

2. HRS § 632-1 Does Not Permit Declaratory Relief for Written Instruments or Regulations When a Controversy Related to Taxes Has Been Established.

Appellant asserts that despite the express prohibition against declaratory relief for tax controversies, that the last sentence of HRS § 632-1(a), permits declaratory relief in tax cases for controversies involving "the interpretation of deeds, wills, and other instruments of writing, statutes, municipal ordinances, other governmental regulations" See ICA Dkt. 17 at 14. Appellant provides no support for this statement. Given the well-settled canons of statutory interpretation, Appellant is wrong.

> First, the fundamental starting point for statutory interpretation is the language of the statute itself. Second, where the statutory language is plain and unambiguous, our sole duty is to give effect to its plain and obvious meaning. Third, implicit in the task of statutory construction is our foremost obligation to ascertain and give effect to the intention of the legislature, which is to be obtained primarily from the language contained in the statute itself. Fourth, when there is doubt, doubleness of meaning, or indistinctiveness or uncertainty of an expression used in a statute, an ambiguity exists.

Ocean Resort Villas Vacation Owners Ass'n v. Cty of Maui, 147 Hawaii 544, 552-53, 465 P.3d 991, 999-1000 (2020). "[T]he legislature is presumed not to intend an absurd result, and legislation will be construed to avoid, if possible, inconsistency, contradiction, and illogically." State v. Diaz, 128 Hawaii 215, 224, 286 P.3d 824, 933 (2012). "[C]ourts are bound to give effect to all parts of a statute, and that no clause, sentence, or word shall be construed as superfluous. Ho'omoana Foundation v. Land Use Commission, 152 Hawaii 337, 344, 526 P.3d 314, 321 (2023) (citations omitted).

Applying the rules of statutory construction to the present case requires an interpretation of HRS § 632-1(a), that gives effect to its plain and obvious meaning and the intention of the legislature. First, the plain meaning of the statute does not support Appellant's interpretation. The first sentence of HRS § 632-1(a) allows courts to "make binding adjudications of right" "[i]n cases of actual controversy," but subject to certain restrictions on jurisdiction, including that declaratory relief cannot be obtained in district court, in any case where a divorce or annulment of marriage is sought, "or in any controversy with respect to taxes." The second sentence says that controversies "involving the interpretation of deeds, wills, other instruments of writing, statutes, municipal ordinances, and other governmental regulations *may be so determined[.]*" HRS § 632-1(a) (emphasis added). Thus, the second sentence of the statute only allows courts to "so determine" controversies "involving the interpretation" of written instruments *as provided for* in the preceding sentence. In other words, courts have the jurisdiction to issue declaratory judgments interpreting written instruments, but subject to the limitations on jurisdiction listed in the first sentence of HRS § 632-1(a).

Appellant's reading would lead to absurd results contrary to legislative intent. It is well-settled that the legislature intended to prohibit declaratory relief in tax controversies. "HRS § 632-1's tax exclusion provision prohibits declaratory relief in tax matters, in order to permit the government to assess and collect taxes alleged to be due it without judicial interference." Tax Foundation, 144 Hawai'i at 187, 439 P.3d at 139. Under Appellant's interpretation, HRS § 632-1(a) would do little to accomplish its purpose of permitting the government to assess and collect

taxes without judicial interference if plaintiffs could still bring declaratory judgments to challenge tax statutes or rules.[4]

Indeed, this is not how the Hawai‘i Supreme Court has interpreted the statute. In Ocean Resort, 147 Hawai‘i 544, 465 P.3d 991, taxpayers sought declaratory relief regarding the legality of the County of Maui's Ordinance establishing a separate real property tax assessment classification for timeshare properties. In addition to challenging certain assessments as being retaliatory, the plaintiffs there sought a declaration that the Maui County's classification and tax rate itself was unconstitutional. Id at 546, 465 P.3d 993. Under Appellant's interpretation of HRS § 632-1(a), jurisdiction would lie merely because the controversy involved the interpretation of government regulations or other written instruments. The Hawai‘i Supreme Court, however, clearly did not follow Appellant's view. Instead, the Court held that plaintiff's complaints "all sought declaratory relief in the form of voiding the County's real property timeshare tax, a result which would interfere with the assessment or collection of taxes." Id. at 556, 465 P.3d at 1003 (emphasis added). On that basis, the case was a "controversy with respect to taxes," which the circuit court lacked jurisdiction to consider under HRS § 632-1(a). Id.

Just as in Ocean Resort, whether this case presents a "controversy with respect to taxes" is dispositive of whether there is jurisdiction under HRS § 632-1(a) to issue a declaratory judgment. Because Appellant's claims would interfere with the assessment and collection of taxes, this case is a "controversy with respect to taxes," and thus, declaratory judgment under HRS § 632-1(a) is unavailable.

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[4] Similarly, Appellant's interpretation would mean, illogically, that even though the statute evinces a clear intent to preclude district courts from issuing declaratory judgments, they would be allowed to do so in cases involving an interpretation of a contract, statute, regulation, or other written instrument.

3. Challenges to an Assessment of a Tax Penalty Must be Made in Tax Appeal Court.

Declaratory relief is also prohibited because in civil cases, where an actual controversy exists, a specific form of remedy that must be followed. Section 632-1(b), HRS provides in part:

* * *

> *Where, however, a statute provides a special form of remedy for a specific type of case, that statutory remedy shall be followed*; but the mere fact that an actual or threatened controversy is susceptible of relief through a general common law remedy, a remedy equitable in nature, or an extraordinary legal remedy, whether such remedy is recognized or regulated by statute or not, shall not debar a party from the privilege of obtaining a declaratory judgment in any case where the other essentials to such relief are present. (Emphasis added).

For State tax issues, the specific form of remedy for challenges to assessments of taxes are found in the tax code. Disputes regarding the assessment amount as claimed by the Department and the amount claimed by the taxpayer are judicially resolved by the Tax Appeal Court, through the procedures set forth in HRS Chapter 232, and not the circuit court.

Taxpayers seeking to contest assessments may do one of the following: (1) appeal the assessment to the taxation board of review; (2) appeal the assessment to the Tax Appeal Court directly; or (3) pay the disputed assessment under protest and file an action in Tax Appeal Court pursuant to HRS § 40-35. Appeals to the taxation board of review shall "identif[y] the assessment involved in the appeal and stat[e] the grounds of objection to the assessment." See HRS § 232-15(b). The taxpayer may then appeal the decision of the board of review to the Tax Appeal Court. See HRS § 232-17. Alternatively, a taxpayer may "appeal directly to the tax appeal court without appealing to the state taxation board of review or any equivalent administrative body established by county ordinance," provided the appeal raises all questions of fact and law necessary to the determination of the objections raised in the notice of appeal."

See HRS §§ 232-16(a) and (e). Finally, "any disputed portion of moneys representing a claim in favor of the State may be paid under protest…" See HRS § 40-35(a). "Any action to recover payment of taxes under protest shall be commenced in the tax appeal court." See HRS § 40-35(b). The Tax Appeal Court "shall determine all questions of fact and all questions of law, including constitutional questions involved in the appeal," including "the amount of valuation or taxes, as the case may be, in dispute as shown on the one hand by the amount claimed by the taxpayer or county and on the other hand by the amount of the assessment . . ." HRS § 232-13.

A challenge to the amount of taxes assessed against a taxpayer for failure to pay tax, including the increase of the taxes owed because of the application of HRS § 231-39(b)(2)(A), is therefore a challenge to the amount of taxes owed. Challenges to a tax or the amount of the assessment increased by the Department is statutorily committed exclusively to the jurisdiction of the Tax Appeal Court. Appellant, here asserts that it is unable to obtain relief in Tax Appeal Court because "there is no dispute about any particular taxpayer's tax liability." ICA Dkt. 17 at 19. However, as noted above, in the Tax Foundation case the plaintiff there made the same argument; however, because its claim was for funds already collected by the Department, its suit "[did] not interfere with the government's ability to assess or collect either the general excise and use tax, or the Honolulu County surcharge," and declaratory relief was permissible. 144 Hawaii at 188, 439 P.3d at 140. In contrast, here, Appellant's challenge to the Department's discretion regarding the application of penalties prior to the assessment of the tax would directly interfere with the assessment and collection of taxes.

Deciding that the Tax Appeal Court cannot consider tax penalties as part of its determination of the propriety of an assessment impermissibly inserts circuit courts into the jurisdiction of the Tax Appeal Court. The language of HRS § 632-1 reflects a legislative intent to

prevent declaratory actions for pre-assessment challenges in tax controversies and require challenges to assessments to be decided in the Tax Appeal Court instead of circuit courts. Adopting Appellant's arguments here would undermine the intent of the legislature and disrupt the statutory scheme for imposing and enforcing tax penalties. Therefore, as a specific form of remedy exists by statute to contest the additional assessment of taxes, taxpayers are required to have these disputes adjudicated by the Tax Appeal Court.

Finally, Appellant's concern that a taxpayer would not otherwise be able to identify the basis of the penalty in an assessment without the Circuit Court's intervention is baseless. See ICA Dkt. 17 at 12. Nothing in the Appellant's Complaint for Declaratory Judgment asserts that taxpayers are unable to identify the basis for the underpayment penalty. Similarly, there is no showing in the record below that taxpayers are precluded from examining audit records, receiving explanations for assessments, receiving clarification or objecting to the assessments, or requesting a meeting with the Department to discuss the assessments. And, if a taxpayer disagrees with the Department's position on the basis for the assessment, the taxpayer can exercise its statutory remedy to appeal the assessment of the additional tax to the Board of Review or the Tax Appeal Court. See HRS §§ 232-15 and 232-16. Any lingering confusion regarding the basis of the penalty in the assessment can then be fleshed out during discovery and appropriately adjudicated by either the Board of Review or Tax Appeal Court. Decisions from the Tax Appeal Court can then be appealed to the Intermediate Court of Appeals. See HRS § 232-19.

B. Appellant is Unable to Proceed in this Matter Because HRS § 91-7 is not a Separate Source of Subject Matter Jurisdiction to Issue Declaratory Judgments on Administrative Rules in Tax Controversies.

As noted above, Appellant fails to overcome the express prohibition in HRS § 632-1(a) against declaratory relief in any controversy involving taxes. Appellant thus argues that the directive at issue here is actually an administrative rule, and thus, can be challenged under HRS § 91-7. But even if the directive was a rule, there is nothing in HRS § 91-7 that overrides this express jurisdictional bar. "Subject matter jurisdiction defines the court's authority to hear a given type of case." Carlsbad Tech., Inc. v. HIF Bio, Inc., 556 U.S. 635, 639 (2009) (internal quotation marks omitted) (quoting United States v. Morton, 467 U.S. 822, 828 (1984)). "Lack of subject-matter jurisdiction means that a court is without power to decide the merits of a case." Schwartz v. State, 136 Hawaii 258, 262, 361 P.3d 1161, 1165 (2015). Standing, however, concerns "whether the party seeking a forum has alleged a sufficient personal stake in the outcome of a controversy as to justify the exercise of the court's remedial powers on the party's behalf." Tax Foundation, 144 Hawaii at 188, 439 P.3d at 140. In federal courts, standing is a matter of subject matter jurisdiction, however, in Hawaii, standing is a prudential, not jurisdictional concern. Id.

1. HRS § 632-1 Confers Subject Matter Jurisdiction and Standing

Section 632-1, HRS has been in effect since 1945, when it was codified as Section 9971 of the Revised Laws of Hawaii ("RLH") 1945. See Appendix A at 23-27, Section 9971, RLH (1945) provided, in part:

> In cases of actual controversy, courts of record, within the scope of their respective jurisdictions, shall have power to make binding adjudications of right . . . . Controversies involving the interpretation of deeds, wills, other instruments of writing, statutes, municipal ordinance, and other governmental regulations, may be so determined.

Id. at PDF 6 (emphasis added). This section has since been recodified, and the language above is now found in HRS § 632-1. In Tax Foundation, the Court found that this specific subsection discusses *subject matter jurisdiction*. 144 Hawaii at 193, 439 P.3d at 145. In addition to conferring subject matter jurisdiction, RLH § 9971 (now HRS § 632-1) also prescribed standing requirements for those who sought to invoke the Courts' authority. Standing requisites can be tempered or prescribed by statute. Id. at 193, n.23, 439 P.3d at 145, n.23; see also Life of the Land v. Land Use Comm'n of State of Hawaii, 63 Haw. 166, 172, 623 P.2d 431, 438 (1981) ("Life of the Land II"). The Hawaii Supreme Court has held that HRS § 632-1, specifically subsection (b), prescribes such standing requirements.[5] Tax Foundation, 144 Hawaii at 193-94, 439 P.3d 145-46 (in particular notes 23 and 28); Life of the Land II, 63 Haw. at 172 n.5, 623 P.2d at 438 n.5.

2. HRS § 91-7 Expands Standing and Not Subject Matter Jurisdiction

Section 91-7, HRS was enacted in 1961. See Appendix A at 28-34 (Act 103, Session Laws of Hawaii 1961). At the time of enactment, Hawaii courts already possessed subject matter jurisdiction to issue declaratory judgments on government regulations since 1945. It follows that HRS § 91-7 was not intended to convey *subject matter jurisdiction* to issue declaratory judgments on administrative rules because the courts already had the authority to do so. Indeed, even if HRS § 91-7 was never enacted, the court would still have had subject matter jurisdiction to strike down administrative rules that violate HRS Chapter 91.

Instead of conferring subject matter jurisdiction, by enacting HRS § 91-7, "the legislature obviously intended to liberalize standing requirements." Asato v. Procurement Policy Bd.,

[5] Section 632-1(b)'s standing requirements were first codified in 1945 as part of RLH § 9971. See Appendix A at 23-27.

132 Hawaii 333, 344, 322 P.3d 228, 239 (2014) (emphasis added). While under HRS § 632-1(b), only parties who meet multifactor test have standing,[6] HRS § 91-7 expands standing to "[a]ny interested person." An "interested person" is someone who is merely "'affected' by or 'involved' with the validity of an agency rule." Asato, 132 Hawaii at 343, 322 P.3d at 238 (internal quotation marks, citation, and brackets omitted). Insofar as it relates to who may bring a lawsuit to challenge agency rules, HRS § 91-7 clearly relates to standing. See Tax Foundation, 144 Hawaii at 213, 439 P.3d at 165 (Recktenwald, C.J., dissenting).

In contrast, HRS § 91-7 does not evince an intent to expand subject matter jurisdiction beyond that which is already conferred by HRS § 632-1.[7] Section 91-7(b) provides that a circuit court shall declare a rule invalid if it finds that it violates constitutional or statutory provisions, or exceeds an agency's statutory authority, or was adopted without compliance with statutory procedures. However, as established above, courts of record already had the authority to do so under HRS § 632-1. HRS § 91-7(b) does not purport to convey any additional powers. Appellant then is unable to use HRS § 91-7 to provide jurisdiction beyond what is permissible by HRS § 632-1.

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[6] A party has standing under HRS § 632-1(b) in civil cases:

> (1) where antagonistic claims exist between the parties (a) that indicate imminent and inevitable litigation, or (b) where the party seeking declaratory relief has a concrete interest in a legal relation, status, right, or privilege that is challenged or denied by the other party, who has or asserts a concrete interest in the same legal relation, status, right, or privilege; and (2) a declaratory judgment will serve to terminate the uncertainty or controversy giving rise to the proceeding.

Tax Foundation, 144 Hawaii at 200, 439 P.3d at 152.

[7] "[I]n Hawaii state courts, standing is not an issue of subject matter jurisdiction, but arises solely out of justiciability concerns based on prudential concerns of judicial self-governance and is based on 'concern about the proper – and properly limited – role of courts in a democratic society." Tax Foundation 144 Hawaii at 192, 439 P.3d at 144.

Indeed, Costa v. Sunn, 5 Haw. App. 419, 423, 697 P.2d 43, 46 (1985) strongly supports the argument that HRS § 91-7 is not a separate source of subject matter jurisdiction and merely expands standing. In Costa, this Court held that the authority to grant ancillary relief under HRS § 91-7 is "coextensive" with the authority to do so under chapter 632. Id. at 425, 697 P.2d at 48. ""Consequently, the filing of an action under § 91-7 brings into play all the power and authority of the court extant under chapter 632." Id. What we can draw from Costa is that HRS § 632-1 is the source of court's authority to issue declaratory judgments, that the courts' "power and authority" under HRS § 91-7 is merely "coextensive" with what is already authorized in HRS § 632-1, and the only effect of HRS § 91-7 is to expand standing.

As established above, Appellant's Complaint for Declaratory Judgment seeks declaratory relief in a controversy with respect to taxes. If successful, the relief sought by the Appellant "would restrain and interfere with the collection of taxes" in violation of HRS § 632-1. As discussed above, the circuit court undoubtedly lacked subject matter jurisdiction to issue the declaratory judgement sought by the Appellant in this case. Moreover, as explained, HRS § 91-7 does not provide an additional source of subject matter jurisdiction.[8] Thus, without subject matter jurisdiction, this case was properly dismissed by the Circuit Court.

Finally, Appellant argues that the rights of the public may otherwise be denied a hearing in a judicial forum because the Department imposes the negligence penalty without providing details to taxpayers. See ICA Dkt. 17 at 25. Its sole support for this claim is "ROA #68, pp.28 ff," a Notice of Final Assessment of General Excise and/or Use Tax mailed to a taxpayer on

[8] In its 2019 opinion in Tax Foundation, the Court acknowledged that it had not always been clear that standing was not an issue of subject matter jurisdiction, and in fact, earlier cases conflated the two concepts. 144 Hawaii at 190, 192 n.22, 439 P.3d at 142, 144 n.22.

June 10, 2019 in a case that is not before the Court ("June 10, 2019 Assessment").[9] The document does not support its argument that it "is difficult or impossible" to determine the reasons for the negligence penalty, primarily because this document relates to an assessment issued approximately two years before the creation of the AD 2021-01.[10] See ROA Dkt. 65 at 2. As such, the earlier assessment could not have referenced the AD 2021-01 and thus, has no bearing on the matter presently before the Court. Moreover, as the file stamp indicates the document was filed in Tax Appeal Court in Case No. 1CTX-20-0000106, Appellant's argument that taxpayers would be denied access to judicial review is unsupported. See ROA Dkt. 65 at 2.

3. Even if HRS § 91-7 is a Separate Source of Subject Matter Jurisdiction, it Does Not Allow for a Declaratory Judgment in this Case.

a. The plain language of HRS § 632-1 is a limit on all cases which would otherwise, be within a court's jurisdiction.

Should this Court determine that HRS § 91-7 is a separate source of subject matter jurisdiction, the dispositive question then is whether HRS § 91-7 gives the court subject matter jurisdiction over tax controversies, such as the instant case, which would otherwise be precluded by HRS § 632-1. According to legislative intent and common-sense canons of statutory construction, the answer must be "no."

The fundamental starting point for statutory interpretation is the plain language of the statute itself. Carmichael v. Board of Land and Natural Resources, 150 Hawaii 547, 560, 506 P.3d 211, 224 (2022). The plain language of HRS § 632-1(a) states that "declaratory relief *may not be obtained* . . . in *any* controversy with respect to taxes." (Emphasis added). This

[9] The Department objected to the admissibility of this exhibit below as it was not properly authenticated. See ROA Dkt. 81 at 9-10.

[10] AD 2021-01 is dated April 27, 2021.

restriction applies to all courts of record "*within the scope of their respective jurisdictions*." Id. (emphasis added). Thus, even if HRS § 91-7 provides a separate source of subject matter jurisdiction for courts to issue declaratory judgments on the validity of agency rules, the plain language of HRS § 632-1(a) provides an explicit limit on such jurisdiction.

This interpretation aligns with the Fifth Circuit Court of Appeals' analysis of the DJA, which as discussed, is the statute on which the tax matter prohibition in HRS § 632-1 is based. The Fifth Circuit held that the federal tax exception "is an express limitation" to the power of any federal court to issue a declaratory judgment. Rivero v. Fid. Inv., Inc., 1 F.4th 340, 345 (5th Cir. 2021). "[T]he juxtaposition of the DJA's reference to federal courts' jurisdiction and the federal-tax exception indicates that the latter deprives the court of jurisdiction that might *otherwise exist* in cases 'with respect to Federal taxes.'" Id. (emphasis added). Similarly, HRS § 632-1's tax matter prohibition applies to all cases that would otherwise be "within the scope of the[] respective jurisdictions" of the courts.

Furthermore, it is important that the tax matter prohibition in HRS § 632-1 is couched in negative terms which are absolute: "declaratory relief *may not* be obtained . . . "in *any* controversy with respect to taxes." (Emphasis added). The court can draw the conclusion that the tax matter prohibition is absolute. By contrast, the plain language of HRS § 91-7 does not state that it overcomes any other applicable limit of subject matter jurisdiction that might exist in another statute and cannot be read to convey an absolute right to bring an action which trumps other applicable limitations. It is axiomatic that "a statute's general permission to take actions of a certain type must yield to a specific prohibition found elsewhere." Law v. Siegel, 571 U.S. 415, 421 (2014).

Further, if the intent of HRS § 91-7 was to ensure that circuit courts always have subject matter jurisdiction to issue declaratory judgments on agency rules, the legislature could have easily added a clause providing that HRS § 91-7 applies "notwithstanding" other laws to the contrary. See, e.g., State v. Casugay-Badiang, 130 Hawaii 21, 28, 305 P.3d 437, 444 (2013) (recognizing that the use of a "notwithstanding" clause has been interpreted to override conflicting provisions of any other section and to supersede all other laws). The absence of such a clause or other similar language is evidence that the legislature did not intend for HRS § 91-7 to overcome any other applicable limit on a court's authority to issue declaratory judgments. Kienker v. Bauer, 110 Hawaii 97, 109, 129 P.3d 1125, 1137 (2006) (finding that, had the legislature intended for one statute to supersede another, it could have easily and clearly said so by including "notwithstanding" language, especially since such language has been used in other statutes), superseded by statute on other grounds as recognized by Kaho'ohanohano v. Dep't of Human Servs., 117 Hawaii 262, 310, 178 P.3d 538, 586 (2008). Thus, the plain language of HRS §§ 632-1 and 91-7 indicate that even if HRS § 91-7 somehow separately confers subject matter jurisdiction, HRS § 632-1 still bars declaratory judgment when the case is nonetheless a "controversy with respect to taxes."

b. Allowing declaratory judgments on the validity of tax regulations would go against legislative intent and produce an absurd result.

As this Court recently emphasized, "even when strictly construing a statute, [a court's] primary duty in interpreting and applying statutes is to ascertain and give effect to the legislature's intention to the fullest degree." State v. Langdon, 148 Hawaii 264, 271, 472 P.3d 31, 38 (App. 2020) (internal quotation marks omitted) (quoting Bragg v. State Farm Mut. Auto Ins. Co., 81 Hawaii 302, 306, 916 P.2d 1203, 1207 (1996)). As mentioned above, a corollary is that "[t]he legislature is presumed not to intend an absurd result, and legislation will be construed

to avoid, if possible, inconsistency, contradiction, and illogicality." State v. Diaz, 128 Hawaii 215, 224, 286 P.3d 824, 833 (2012) (quoting State v. Haugen, 104 Hawaii 71, 85 P.3d 178 (2004)). Here, allowing the Appellant to obtain declaratory judgment on the validity of an administrative directive, when doing so would affect the assessment and collection of taxes, would absolutely go against the intent of HRS § 632-1, to such an extent that it would produce an absurd result.

As discussed, the tax matter prohibition in HRS § 632-1 is meant to mirror and serve the same purpose as the corresponding exclusion in the federal DJA. Thus, federal cases discussing the DJA are highly persuasive authority in determining the intent of the tax matter prohibition in HRS § 632-1. Tax Foundation, 144 Hawaii at 187-88, 439 P.3d at 139-40 (turning to federal case law to determine whether a particular case fell under the tax matter prohibition). Federal courts have explained that the purpose of the tax matter prohibition in the DJA "is to prevent the disruption which would occur to the federal revenue gathering processes if these processes were subject to judicial interference *prior to* the actual determination, assessment and collection of tax liabilities." Dietrich v. Alexander, 427 F. Supp. 135, 137-38 (E.D. Pa. 1977) (emphasis added); see also McCarthy v. Marshall, 723 F. 2d 1034, 1038 (1st Cir. 1983) (a case which would amount to an advance determination of exemption from a tax falls "squarely within the tax exception to the Declaratory Judgment Act.").

Allowing Appellant to attack the validity and enforceability of a pre-assessment penalty through declaratory judgment actions separate from tax appeals would necessarily subvert the purpose of "permit[ting] the government to assess and collect taxes alleged to be due it without judicial interference." Tax Foundation, 144 Hawaii at 187, 439 P.3d at 139 (internal quotation marks and citation omitted). This is not the same situation as in Tax Foundation, where the

Court found Appellant, as a government financial accountability watchdog, had an interest in "the administration and allocation" of the county surcharge *after* the collection of the tax. See 144 Hawaii at 202-03, 439 P.3d at 154-55. Here, Appellant is contesting the method the Department uses to assess a penalty. Appellant cannot demonstrate how a "government financial accountability watchdog" is affected by the Department's assessment of tax penalties against individual taxpayers. Unlike in Tax Foundation, where plaintiff challenged the retention and allocation of public tax funds, here, the validity of the administrative directive relates to the Department's audit and assessment of taxes. Therefore, Appellant's reading of HRS § 632-1 and HRS § 91-7 would produce an absurd result and directly contradict legislative intent because it would allow the very types of lawsuits HRS § 632-1 is supposed to prevent.

Finally, in Hawaii, the Department is tasked with assessing and collecting taxes and is authorized "[t]o adopt such rules as the department *may* deem proper effectually to carry out the purposes for which the department is constituted and to regulate matters of procedure by or before the department." See HRS § 231-3(9). (Emphasis added). As such, the requirement to adopt rules is discretionary.[11] The Legislature could have mandated that the Department

[11] Appellant's use of Ainoa v. Unemployment Compensation Appeals Division, 62 Haw. 286, 614 P.2d 380 (1980), to equate AD 2021-01 to the statement sheets used by Unemployment Compensation Appeal Division referees in contested cases hearings is misplaced. See ICA Dkt. 17 at 20-21. In Aiona, statement sheets containing the Department of Labor's interpretation of the term "available for work" were used by referees while conducting *de novo* contested hearings in unemployment insurance benefit claim denial appeals. 62 Haw. 286, 614 P.2d 380. These statements were subsequently determined to be rules subject to the Hawaii Administrative Procedures Act ("HAPA"). 62 Haw. at 287, 614 P.2d at 382. Appellant asserts here that AD 2021-01 is not an inter-agency memorandum which is excluded from the definition of a rule under HRS § 91-1, but is more similar to the statement sheets in Ainoa. However, unlike the referees in Ainoa, auditors applying the guidance set forth in AD 2021-01 are not adjudicating contested cases as appellate tribunals. Instead, auditors use AD 2021-01 during a pre-assessment audit to aid in the imposition of penalties for the underpayment of taxes in the form of a potential assessment. Once the assessment is challenged, it is the Board of Review or Tax Appeal Court,

promulgate rules when imposing underpayment penalties as additional taxes pursuant to HRS § 231-39(b)(2)(A), but chose not to. As an example, the Legislature mandated the Department to promulgate rules relating to the imposition of penalties in HRS § 231-10.6. Section 231-10.6, HRS, expressly requires rules, including temporary rules, be implemented explaining the penalties and fines for the following: "(1) the understatement of taxes; (2) promotion of abusive tax shelters, erroneous claims for refund or credit; (3) or substantial understatement or misstatements of tax." Notably, there is no similar statutory requirement to promulgate a rule or a temporary rule explaining the penalties for the underpayment of taxes in HRS § 231-39(b)(2)(A). Instead, the Legislature left the determination of the imposition of a tax penalty for the failure to pay a tax to the discretion of the Director. See HRS § 231-39(b)(2)(A). As noted above, affected taxpayers have a legal remedy to challenge the basis of the imposition of penalties assessed pursuant to HRS § 231-39(b)(2)(A). These challenges must simply be brought as an appeal from a tax assessment.

c. HRS §§ 632-1 and 91-7, and Hawaii Rules of Civil Procedure ("HRCP") Rule 57 must be read together so that HRS § 91-7 is limited by HRS § 632-1 and HRCP 57.

Section 91-7, HRS, cannot be read in isolation from HRS § 632-1. Appellant erroneously argues that HRS § 91-7 should control over HRS § 632-1 simply because it is a more specific statute. See ICA Dkt. 17 at 20-21. Appellant asserts HRS § 91-7 controls because settled law in the State "favor[s] a specific statute over a general one when two statutes cover the same subject." See ICA Dkt. 17 at 22. However, there is no ambiguity in or among these statutory

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and not the auditors, that adjudicate the matter. Accordingly, Ainoa is inapposite to the Court's analysis here and should be disregarded.

provisions when applied in this case. "Laws in pari materia, or upon the same subject matter, shall be construed with reference to each other." HRS § 1-16. Sections 632-1 and 91-7, HRS, address a party's ability to obtain declaratory relief and are therefore *in pari materia*. See Costa v. Sunn, 5 Haw. App. 419, 424, 697 P.2d 43, 47 (1985). "It is well-settled that this court is required to construe laws upon the same subject matter with reference to each other. Bauernfiend v. Aoao Kihei Beach Condominiums, 99 Hawaii 281, 283, 54 P.3d 452, 454 (2002); see also Erlenbaugh v. United States., 409 U.S. 239, 243 (1972) (laws in *pari materia* should be construed as if they were one law). Courts cannot simply ignore overlapping or possibly conflicting statutes; they must try to give effect to both or reconcile them. State v. Yamashita, 151 Hawaii at 397, 390, 515 P.3d 207, 214 (2022).

This Court has already held that HRS § 632-1 and HRS § 91-7 are in *pari materia*. Costa, 5 Haw. App. at 424, 697 P.2d at 47. Here, both statutes should also be read in reference to Rule 57, Hawaii Rules of Civil Procedure, which like HRS § 632-1, provides that "declaratory relief may not be obtained in any controversy with respect to taxes." In construing two or more statutes together, "where there is a plainly irreconcilable conflict between a general and a specific statute concerning the same subject matter, the specific will be favored. However, where as here, the statutes simply overlap in their application, effect will be given to both if possible, as repeal by implication is disfavored." State v. Yamashita, 151 Hawaii 390, 397, 515 P.3d 207, 214 (2022) (quoting Richardson v. City and County of Honolulu, 76 Hawaii 46, 54-55, 868 P.2d 1193, 1201-02 (1994)).

For all the reasons explained, HRS § 632-1, HRS § 91-7, and HRCP 57 do not conflict but can be read together to allow "interested persons" to obtain declaratory judgments under HRS § 91-7, HRS, except when such action would interfere with the assessment or collection of

taxes and thus be precluded as a tax controversy under HRS § 632-1 and HRCP 57. As such, this application of the law undermines Appellant's argument that HRS § 632-1 must yield to HRS § 91-7 in this case. Here, HRS § 632-1 and HRCP 57 provide the more specific guidance, as HRS § 91-7, HRS § 632-1, and HRCP 57 all allow for declaratory judgments in matters regarding the validity of agency regulations, but only HRS § 632-1 and HRCP 57 further prescribe limits on cases involving tax controversies. Thus, they should govern over the more general, permissive language of HRS § 91-7. See Coady v. Vaughn, 251 F.3d 480, 484 (3rd Cir. 2001) ("It is a well-established canon of statutory construction that when two statutes cover the same situation, the more specific statute takes precedence over the more general one."); City of Sparks v. Reno Newspapers, Inc., 399 P.3d 352, 355 (Nev. 2017) ("[I]t is an accepted rule of statutory construction that a provision which specifically applies to a given situation will take precedence over one that applies only generally.") (internal quotation marks and citation omitted); 82 C.J.S. Statutes § 464 ("The statute more specifically directed to the matter at issue prevails as an exception to or qualification of the statute which is more general in nature[.]").

Appellant's argument that HRS § 91-7 is the more specific statute because HRS § 632-1 and HRCP 57 also govern declaratory judgments in matters unrelated to agency regulations is unconvincing. Such an argument makes no sense given that the rationale behind the "general vs. specific" canon is that a general provision should not be applied "when doing so would undermine limitations created by a more specific provision." Vanity Corp. v. Howe, 516 U.S. 489, 511 (1996) (further noting that "[t]o apply a canon properly one must understand its rationale."). Clearly, only HRS § 632-1 and HRCP 57 include limits that would be applicable to the present case. Moreover, it is not dispositive that HRS § 632-1 and HRCP 57 also govern situations outside the ambit of HRS § 91-7: "[w]hen the conduct at issue falls within the scope of

both provisions, the specific presumptively governs, whether or not the specific provision also applies to some conduct that falls outside the general." RadLAX Gateway Hotel, LLC v. Amalgamated Bank, 566 U.S. 639, 648 (2012). Even if HRS § 91-7 were considered more specific, Appellant still has the weaker argument. The "general versus specific" canon is an interpretative tool, but "does not override or undermine otherwise clear legislative intent." State v. Agdinaoay, 150 Hawaii 223, 230, 500 P.3d 408, 415 (2021) (overturned on other grounds by legislative enactment). For the reasons discussed above, the plain language of HRS § 632-1 and HRS § 91-7, the legislative history behind HRS § 632-1, and the opinions of the Hawaii appellate courts regarding the purpose of HRS § 632-1, all support the conclusion that the legislature's intent was that the tax matter prohibition in HRS § 632-1 should apply to all cases involving "tax controversies," even those which involve challenges to agency directives.

Finally, the tax matter prohibition in HRS § 632-1 was added in 1972 and is thus more recent than the addition of HRS § 91-7 in 1961. See Appendix A and Tax Foundation, 144 Hawaii at 187, 439 P.3d at 139. The more recent provision is favored as the latest declaration of the will of the legislature. Chung Mi Ahn v. Liberty Mut. Fire Ins. Co., 126 Hawaii 1, 9, 265 P.3d 470, 478 (2011); In re Castro, 44 Haw. 455, 461, 355 P.2d 46, 50 (1960). Coupled with the fact that the tax matter prohibition is couched in absolute, negative language, with reference to all courts of record within the scope of their respective jurisdiction, this is strong evidence that the legislature would have intended the tax matter prohibition to act as a limit on actions that could otherwise be brought under HRS § 91-7.

In sum, practically every canon of statutory construction favors the dismissal of Appellant's lawsuit because it clearly falls under the "controversy with respect to taxes"

provision of HRS § 632-1. For any of the exhaustive reasons above, this Court should uphold the Circuit Court's judgment.

V. CONCLUSION

For all of the foregoing reasons, the Department respectfully requests that this Court affirm the Circuit Court's granting of the Department's Motion to Dismiss Appellant's Complaint for Declaratory Judgment.

DATED: Honolulu, Hawaii June 6, 2025

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NO. CAAP-25-0000002

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

In re DEPARTMENT OF TAXATION, ADMINISTRATIVE DIRECTIVE NO. 2021-01. TAX FOUNDATION OF HAWAII, a Hawaii nonprofit corporation, Plaintiff-Appellant, vs. DEPARTMENT OF TAXATION, STATE OF HAWAII Defendant-Appellee	Civil No. 1CCV-24-0000661 STATEMENT OF RELATED CASES

STATEMENT OF RELATED CASES

Defendant-Appellee DEPARTMENT OF TAXATION, STATE OF HAWAII is not aware of any related cases pending in the Hawaii courts or agencies.

DATED: Honolulu, Hawaii, June 6, 2025

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DEPARTMENT OF TAXATION
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NO. CAAP-25-0000002

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

In re DEPARTMENT OF TAXATION, ADMINISTRATIVE DIRECTIVE NO. 2021-01. TAX FOUNDATION OF HAWAII, a Hawaii nonprofit corporation, Plaintiff-Appellant, vs. DEPARTMENT OF TAXATION, STATE OF HAWAII Defendant-Appellee	Civil No. 1CCV-24-0000661 CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I hereby certify that on June 6, 2025, two filed copies of the foregoing was duly served on the following parties either electronically through the Hawaii Judiciary Electronic Filing and Service System or via U.S. mail at their last known addresses shown below:

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DEPARTMENT OF TAXATION
STATE OF HAWAII