

TAX FOUNDATION OF HAWAII

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

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September 12, 2017

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

Re: **Comments on Proposed Rules Relating to Practitioner Registration**

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Ladies and Gentlemen:

The amendments made by the proposed rule requires all persons who represent a taxpayer in any capacity before the Department to register in a manner the Department prescribes.

In this rule, the Department is not imposing user fee, continuing education, or other regulatory requirements. It appears to be collecting information that is now furnished on Form N-848 anyway.

Loving v. IRS, 742 F.3d 1013 (D.C. Cir. 2014), held that a statute authorizing the Treasury to regulate the practice of representatives of persons before it, 31 U.S.C. § 330, did not give the IRS authority to require registration of return preparers coupled with competency testing and continuing education. *Steele v. United States*, No. 14-cv-1523-RCL (D.D.C. June 1, 2017), held that although IRC § 6109 gave the IRS the authority to require PTIN numbers for tax preparers, nothing gave it the authority to charge user fees or otherwise implement a regulatory scheme for them. HRS chapter 231 generally empowers the Department to administer Title 14 but the HRS contains no statute comparable to either 31 U.S.C. § 330 or IRC § 6109. Thus, issues may arise in the future if the Department attempts to implement burdensome regulatory requirements.

Thank you for the opportunity to submit comments.

Very truly yours,


Thomas Yamachika
President

TECHNICAL SECTION

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DEPT OF TAXATION