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LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION

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GARY S. SUGANUMA
DIRECTOR

KRISTEN M.R. SAKAMOTO
DEPUTY DIRECTOR

**TESTIMONY OF
GARY S. SUGANUMA, DIRECTOR OF TAXATION**

TESTIMONY ON THE FOLLOWING MEASURE:

H.B. No. 1437, H.D. 1, Relating to General Excise Tax Exemptions

BEFORE THE:

House Committee on Finance

DATE: Thursday, February 20, 2025

TIME: 10:00 a.m.

LOCATION: State Capitol, Room 308

Chair Yamashita, Vice-Chair Takenouchi, and Members of the Committee:

The Department of Taxation (DOTAX) offers the following comments regarding H.B. 1437, H.D. 1, for your consideration.

H.B. 1437, H.D. 1, amends chapter 237, Hawaii Revised Statutes (HRS), to create a general excise tax (GET) exemption for gross proceeds or gross income arising from a sale that benefits a nonprofit school, if the sale is made by a nonprofit school or a nonprofit school-sponsored student activity group.

The nonprofit school must be recognized as a charitable organization organized and operated exclusively for educational purposes and is exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code of 1986 (IRC), as amended. The nonprofit school must also be registered and in good standing with DOTAX and exempt from GET under section 237-23(a)(4).

“Sale that benefits a nonprofit school” is defined as “a sale of a commodity or service from which all proceeds of the sale, less only the actual cost of the commodity or service to the nonprofit school or school-sponsored student activity group, are donated to the nonprofit school and are used exclusively to further the nonprofit school’s tax exempt purpose.”

The bill has a defective effective date of January 1, 3000.

DOTAX requests the following amendment to proposed section 237-___(b)(2) to clarify the “in good standing” requirement:

(2) Registered with and in possession of a tax clearance certificate from the department of taxation and is exempt from the application of this chapter pursuant to section 237-23(a)(4).

With the proposed amendment, DOTAX can administer this measure with an effective date of January 1, 2026.

DOTAX estimates a revenue loss as follows:

General Fund Impact (\$ millions)

FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031
-0.4	-0.9	-0.9	-0.9	-0.9	-1.0

Thank you for the opportunity to provide comments on this measure.

HB-1437-HD-1

Submitted on: 2/18/2025 11:14:37 AM

Testimony for FIN on 2/20/2025 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Stephanie Kirkham	Maui Preparatory Academy	Support	Written Testimony Only

Comments:

As a private institution, we receive no state funding. Some of our largest donors are/were families within the school and utilize events (average 1-2 per year) as their vehicle to give to the school in support of scholarships and financial aid. Please consider passing HB1437 and allowing all monies raised to go towards the support of our students.



IOLANI SCHOOL

HEAD OF SCHOOL

February 12, 2025

Members of the House Committee on Education of the Hawaii State Legislature
Hawaii State Capitol
415 South Beretania Street
Honolulu, HI 96813

Dear Honorable Members of the Committee on Education,

My name is Dr. Timothy Cottrell, and I am the Head of School at 'Iolani School. I am writing to strongly support Hawaii Bill 1437, which proposes general excise tax (GET) exemptions for fundraising activities conducted by private educational institutions.

Private schools in Hawai'i, including 'Iolani School, rely heavily on fundraising efforts to help support ongoing school operations. Proceeds raised from fundraising activities help provide access to private school education through need-based scholarships and financial aid. In addition, 'Iolani School fundraises to support programs such as the 'Aina Informatics Network, which serves students and teachers in the Hawai'i State Department of Education by providing resources and instruction that allow them to offer advanced subjects such as modern genomics. Bill 1437's provision to exempt fundraising efforts from GET will allow private schools to dedicate more resources toward need-based access and community-centered educational programs, thus serving Hawai'i's families and elevating educational programs statewide.

Thank you for considering this important matter and for your continued commitment to supporting education in Hawai'i.

Sincerely,

Dr. Timothy R. Cottrell
Head of School



TO: The Honorable Kyle Yamashita, Chair
The Honorable Jenna Takenouchi, Vice Chair
Committee on Finance

FROM: Philip Bossert, Executive Director
Hawaii Association of Independent Schools

RE: **HB 1437 HD1 – RELATING TO GENERAL EXCISE TAX EXEMPTIONS
In Strong Support**

DATE: Thursday, February 20, 2025; Agenda #1
10:00 a.m.; Conference room 308 & Videoconference

Aloha Chair Yamashita, Vice Chair Takenouchi, and Members of the Committee on Finance:

My name is Philip Bossert, and I am the Executive Director of the Hawaii Association of Independent Schools.

The Hawaii Association of Independent Schools (HAIS) strongly supports HB 1437 HD1.

HAIS is a membership organization that currently represents as its members 100 of Hawaii's independent K-12 schools; and, through its subsidiary, the Hawaii Council of Private Schools (HCPS), licenses all 112 private and parochial K-12 schools in the State.

Private schools in Hawaii currently educate approximately 33,000 students and the parents of these students all pay Hawaii GET and income taxes, a portion of which are used to support Hawaii's public and charter schools. Private education institutions receive no state funding for providing these educational services. The state and federal government currently exempt from taxation the tuition, fees and donations paid to private schools. However, income from the fund-raising activities that private schools undertake, in most cases to support scholarships and financial aid for students, is not tax exempt and the schools must pay GET on any proceeds (profit) from such activities. Fundraising activities undertaken by public and charter schools are not subject to GET.

These school fund-raising activities are, for the most part, events that occur once or perhaps twice each year. They are not long-term retail-type activities. Also, for the most part, the persons attending such events are family members of the students who understand that participation in such events is another type of financial support for or donation to the school. As such, I think the income or profit from such activities that private schools undertake to provide support for their institutions should be considered another type of tax-exempt donation to the school as opposed to a taxable business activity just as they are for Hawaii's public schools.

Thank you for the opportunity to submit testimony.



TO: The Honorable Justin H. Woodson, Chair
The Honorable Trish La Chica, Vice Chair
House Committee on Education

FROM: Nancy Nagramada, Head of School
Island School, Līhu‘e, Kaua‘i, Hawai‘i

RE: **HB 1437 – RELATING TO GENERAL EXCISE TAX EXEMPTIONS
In Strong Support**

DATE: Tuesday, February 18, 2025

Aloha Chair Woodson, Vice Chair La Chica and Members of the Committee.

My name is Nancy Nagramada and I humbly serve as the head of school of Island School on the Garden Isle - Kaua‘i.

Island School strongly supports HB 1437. Our school represents nearly 500 students of over 350 families of Kaua‘i who live across our island.

And while we are a private school, all of our parents and guardians of our students pay Hawaii GET and income taxes, a portion of which are used to support Hawaii’s public and charter schools. Private education institutions receive no state funding for providing these educational services. The state and federal government currently exempt from taxation the tuition, fees, and donations paid to private schools. However, income from the fund-raising activities that private schools undertake which largely supports financial aid and dynamic programming for students, is not tax exempt and our school, just as any other private school, must pay GET on any proceeds (profit) from such activities. And as you know, parallel fundraising activities undertaken by public and charter schools are not subject to GET.

Our school fundraising activities are, for the most part, events that occur once or perhaps twice each year. Separately, when we sell our families school gear, it is to show support for the school as well as provide our school uniform to our families in a convenient fashion – less as a retail store but more as a practical function for the school. And in terms of our fundraising events, most attending such events are family members of our current students or alumni who understand that participation in such events is another type of financial support for or donation to the school. As such, I think the income or profit from such activities that our school undertakes as a private school to provide support for our institution should be considered another type of tax-exempt donation to the school - as opposed to a taxable business activity - just as they are for our public and charter school counterparts in Hawai‘i.

Thank you for the opportunity to submit testimony.

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PUNAHOU SCHOOL

1601 Punahou Street, Honolulu, HI 96822-3336
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Michael E. Latham, Ph.D.
President

TO: The Honorable Justin H. Woodson, Chair
The Honorable Trish La Chica, Vice Chair
House Committee on Education

FROM: Michael E. Latham, President, Punahou School

RE: **HB 1437 – RELATING TO GENERAL EXCISE TAX EXEMPTIONS. In Strong Support**

DATE: Thursday, February 13, 2025
2:00 p.m.; Conference room 309 & Videoconference

Aloha Chair Woodson, Vice Chair La Chica and Members of the Committee.

I write to offer testimony regarding this proposed legislation. **Punahou School strongly supports HB 1437.**

The proposed legislation would address a significant inequity in tax policy with respect to the independent schools in Hawai'i. According to the Hawaii Association of Independent Schools (HAIS), over 15% of Hawai'i's K-12 students attend private educational institutions in the state. Their families all pay state GET and income taxes which help support the state's public education system. This, I believe, is appropriate and reflects their responsibility as citizens even though the schools their own children attend do not receive any state support.

At the present, however, the proceeds from fund-raising activities pursued by the state's non-profit private schools are subject to GET while those from fundraising activities by public and charter schools are exempt from it. These fund-raising activities are not like other forms of commercial or retail activity at for-profit institutions. Instead, these proceeds are commonly used to defray the costs of education for tax paying families. The annual Punahou Carnival is an excellent example. All the proceeds from the Carnival go directly to the schools' annual allocation of financial aid, which helps make a Punahou education accessible to many working and middle-class families. Approximately 22% of our students receive financial aid, and this fundraising contributes strongly to the approximately \$10 million that our school spends each year for this purpose. None of the funds raised by the Carnival go to any other purposes. Other fundraising activities, including athletic team concession or debate club bake sales, for example, also help lower a family's costs for travel to tournaments and contests. They don't generate profits for the school. The people who support these events also commonly do so with the expectation that they are making a charitable donation, not providing revenue.

For those reasons, I believe that it would be reasonable and equitable to treat such income as a form of tax-exempt donation instead of business activity and grant private schools the same GET exemption that public schools currently have for such practices. The proposed legislation would achieve that result.

Thank you very much for your consideration.

TAX FOUNDATION OF HAWAII

735 Bishop Street, Suite 417

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: GENERAL EXCISE; Exemption for Nonprofit Schools

BILL NUMBER: HB 1437 HD 1

INTRODUCED BY: House Committee on Education

EXECUTIVE SUMMARY: Establishes a general excise tax exemption on the gross proceeds or gross income received from sales of commodities or services that benefit nonprofit schools.

SYNOPSIS: Adds section 237-___, HRS, to exclude gross income from a sale that benefits a nonprofit school, if the sale is made by either 1) a nonprofit school; or 2) a school-sponsored student activity group.

“Nonprofit school” means an organization that is 1) recognized by the IRS as a charitable organization organized and operated exclusively for educational purposes and is exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code of 1986 and 2) registered and in good standing with the Department of Taxation and is exempt under section 237-23(a)(4), HRS.

“Sale that benefits a nonprofit school” means a sale of a commodity or service from which all sale proceeds, less the actual cost to the nonprofit school or school-sponsored student activity group, *are donated* to the nonprofit school and are used exclusively to further the nonprofit school’s tax-exempt purpose.

“Nonprofit school-sponsored student activity group” means a group connected to and under the control of a nonprofit school. Includes student government; athletic, math, and debate teams; band, orchestra, choir, drama, and other performing groups; foreign language clubs, honor societies; pep squads; and other student activity groups that come under the control of the nonprofit school.

EFFECTIVE DATE: January 1, 3000.

STAFF COMMENTS: One of the points of frustration that tax practitioners have when working with nonprofit tax-exempt organizations is the different way that federal and state law define income that is subject to tax even for a nonprofit. The federal code uses the concept of “unrelated business taxable income.” State income tax law conforms to that concept. State GET law uses another concept, however, taxing “any activity the primary purpose of which is to produce income even though the income is to be used for or in furtherance of the exempt activities.” Thus, the GET taxes such items as:

- Fundraising dinners
- Golf tournaments
- Sales of fundraising items whether or not donated to the organization

- Benefit concerts or carnivals
- Parking fees at hospitals and medical clinics

The rule that has been in effect for many years is that when a nonprofit sells something for fundraising purposes, the sale is fully taxable the same as if the sale was made by a for-profit entity, even if all net proceeds are donated to the nonprofit.

A legislative effort to change the rule was mounted in 2022 when the legislature passed SB 3021 (2022). However, Governor Ige vetoed the bill, citing the revenue cost and the possibility of unintended consequences. See GM 1405 (2022).

We also question why nonprofit schools should be given treatment unlike that afforded to other nonprofit organizations that are recognized as tax-exempt under HRS section 237-23.

Digested: 2/19/2025



Kauai Christian Academy

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February 18, 2025

TO: The Honorable Kyle T. Yamashita, Chair
The Honorable Jenna Takenouchi, Vice Chair
House Committee on Finance

FROM: Daniel Plunkett, Head of School
Kauai Christian Academy

RE: **HB 1437 – RELATING TO GENERAL EXCISE TAX EXEMPTIONS
In Strong Support**

DATE: Thursday, February 20, 2025
10:00 AM; Conference room 308 & Videoconference

Aloha Chair Yamashita, Vice Chair Takenouchi, and Members of the Committee:

My name is Daniel Plunkett, and I'm the Head of School at Kauai Christian Academy on Kauai's north shore.

As a non-profit private school, our school is exempt from filing GE taxes on basic program income (i.e., tuition), but we do have to do GE tax filings and pay tax on fundraisers, t-shirt sales, sales of tickets to school plays, rentals of our campus for outside groups, and other ancillary things. For our school that usually amounts to several hundred dollars a month, though it varies widely according to events we may hold. Like most non-profits, we work very hard and all of us who work here are paid little, but we stretch to make ends meet because we believe in the value our school offers to our community.

I believe that the money we (and other similar schools) pay each month can't possibly make that much of a difference in the state's budget, but for us that is a lot of money. Further, the whole category of non-profit entities exists to benefit the community rather than any individual, so this would be an easy way for the state to empower non-profits. Getting taxed on the fundraisers and such we put on to help meet our funding needs is a tough pill to swallow.

According to the Hawaii Association of Independent Schools which licenses non-profit schools, there are 112 non-profit schools in the state representing over 33,000 students. When multiplied by the average amount of money per student that the state spends on children in the public school system, one can see that private schools actually save the state hundreds of millions of dollars per year while also providing educational options to families in Hawaii. I believe it is clearly in the interest of our communities and the state to enable private schools to succeed by keeping the funds they raise for the sake of their mission.

While I understand that the Hawaii state constitution does not allow the state to directly fund private schools, this request would not provide taxpayer funds to non-profit schools, it would merely allow us to keep our own funds from our fundraising and similar revenue. Numerous federal court decisions, including some very recently, have consistently concluded that tax

exemptions do not make an institution the recipient of financial aid. For example, the U.S. 4th Circuit Court of Appeals recently ruled in *Buettner-Hartsoe v. Baltimore Lutheran High School Association* that a non-profit high school's tax-exempt status did not constitute federal financial assistance. Looking at legislative history and court precedent, the 4th Circuit found that "Tax exemption is the withholding of a tax burden, rather than the affirmative grant of funds."

I believe having healthy private school options benefits the state and our communities, and I think approving this bill is an easy way to empower them with little impact on the state's coffers. The money that schools save would, of course, be spent in any number of ways which would benefit the school's operations but also go back into the state's economy.

Again, I respectfully urge you to approve this bill. Thank you for the opportunity to submit testimony.

Daniel Plunkett
Head of School
Kauai Christian Academy

HB-1437-HD-1

Submitted on: 2/18/2025 6:15:18 PM

Testimony for FIN on 2/20/2025 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Janice English	Individual	Support	Written Testimony Only

Comments:

Aloha Committee Chair and members,

I support HB 1427 to exempt non-profits from the GE tax.

HB-1437-HD-1

Submitted on: 2/19/2025 4:20:00 AM

Testimony for FIN on 2/20/2025 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Matt Wilson	Individual	Support	Written Testimony Only

Comments:

Aloha,

I volunteer for a non profit board for a private school. I am very much in favor of a GET exemption for private and charter schools. Education should be supported by our government institutions, not paying into government. In addition I think this should be expanded to include after school programs which public or private students attend.

Mahalo

HB-1437-HD-1

Submitted on: 2/19/2025 4:38:52 AM

Testimony for FIN on 2/20/2025 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Timothy Hehemann	Individual	Support	Written Testimony Only

Comments:

I support this bill

Timothy John Hehemann

(808) 740-2828

HB-1437-HD-1

Submitted on: 2/19/2025 1:57:53 PM

Testimony for FIN on 2/20/2025 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Laurel Matsuda	Waimea Country School	Support	Written Testimony Only

Comments:

Dear Committee Chairs and Members,

My name is Laurel Matsuda, and I am currently in my second year as the Head of School and in my 19th year working at Waimea Country School. Previously, I served as Lead Teacher for the grade 4/5 class, as well as Teacher Administrator for the school.

In my time at WCS, I have been involved in fundraising both directly and indirectly. Now that I am Head of School, I have full responsibility for fundraising and am gaining a much deeper understanding of the intricacies involved. As I write this, we are gearing up for our one big fundraising event for the year. The proceeds from this event go almost entirely to support student financial aid, allowing for a diverse student body and ensuring accessibility for students who would not otherwise be able to afford tuition. My team and I are working very hard to ensure that we raise as much as possible to provide for our current and future students. Any GE taxes we must pay necessarily subtract from our bottom line.

I am writing to ask you to support and pass the GE tax exemption for non-profit independent schools in Hawaii. Our fundraising activities should not be subject to taxation, just as they are not for public and charter schools.

Please pass this exemption. It will directly benefit my small school and all the other independent schools in Hawaii, which thereby benefits the keiki of Hawaii.

Mahalo!