DAVID Y. IGE
GOVERNOR

JOSH GREEN M.D.
LT. GOVERNOR

ISAAC W. CHOY
DIRECTOR OF TAXATION

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

To: The Honorable Rosalyn H. Baker, Chair;
The Honorable Stanley Chang, Vice Chair;
and Members of the Senate Committee on Commerce and Consumer Protection

The Honorable Karl Rhoads, Chair;
The Honorable Jarrett Keohokalole, Vice Chair;
and Members of the Senate Committee on Judiciary

From: Isaac W. Choy, Director
Department of Taxation

Date: February 17, 2021
Time: 10:30 A.M.
Place: Via Video Conference, State Capitol

Re: S.B. 1302, Relating to Tax Haven Abuse

The Department of Taxation (Department) offers the following comments regarding S.B. 1302, for your consideration.

S.B. 1302 proposes to include all income from foreign subsidiaries in business income for Hawaii income tax purposes. The bill requires taxpayers to file Internal Revenue Service Form 5471 to report their total income. The bill further deems all income received from a corporation's subsidiaries to be business income apportionable under Hawaii Revised Statutes (HRS) section 235-29.

The preamble of the bill cites to worldwide combined reporting as the gold standard. While the preamble does not explicitly state that the intent of this bill is to adopt worldwide combined reporting, the Department must point out that the result of this bill, if adopted as written, will not be worldwide combined reporting.

First, the Department notes that S.B. 1302 will include the income of foreign subsidiaries in Hawaii taxable income but without including the payroll, property, or sales of those subsidiaries in the calculation of the Hawaii apportionment formula. As a result, S.B. 1302 may be vulnerable to challenge under Article I, Section 8 of the United States Constitution (Commerce Clause). So called "factor representation" is likely a necessary element of a worldwide combined reporting regime. In *Container Corp. of America v. Franchise Tax Bd.*, 463 U.S. 159 (1983), the United States Supreme Court upheld California's worldwide combined reporting regime. California's worldwide combined reporting regime provided factor representation. The attributes of foreign subsidiaries were included in calculating a taxpayer's apportionment formula. Though the specific question in *Container* was not whether factor representation was necessary, it is strongly implied to be necessary by the opinion's discussion of the apportionment formula.

In general, the Department does not oppose worldwide combined reporting, but believes there may be downsides. As pointed out above, worldwide combined reporting comes along with a worldwide apportionment formula. This means that foreign subsidiaries' payroll, property, and sales will be added to the apportionment formula. The formula includes Hawaii payroll, property, and sales in the numerators and worldwide amounts in the denominators.

As foreign subsidiaries are unlikely to have payroll, property, or sales in Hawaii, the factor numerators are unlikely to be affected. However, the foreign subsidiaries' payroll, property, and sales will be included in the denominators of the formula. Thus, while a taxpayer's Hawaii taxable income will increase, the Hawaii apportionment formula may decrease. In some cases, the total effect will be a reduction in Hawaii tax owed.

If it is the intent of the measure to adopt worldwide combined reporting for Hawaii, the Department recommends the bill be amended to repeal HRS section 235-38.5.

Thank you for the opportunity to provide comments.

126 Queen Street, Suite 304 Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Adopt Worldwide Combined Reporting

BILL NUMBER: SB 1302

INTRODUCED BY: ACASIO, CHANG, RHOADS, SAN BUENAVENTURA, Shimabukuro

EXECUTIVE SUMMARY: From the preamble to the bill, the apparent intent is to adopt "worldwide combined reporting," but the contents and title of the bill are not consistent with that intent.

SYNOPSIS: Adds a new section to chapter 235, HRS, requiring every corporation subject to Hawaii net income tax to report all income from foreign subsidiaries by filing a copy of federal Internal Revenue form 5471 with the department of taxation at the same time as such forms must be filed with the Internal Revenue Service. Provides that all income from a corporation's subsidiaries shall be apportioned as business income pursuant to section 235-29.

EFFECTIVE DATE: 1/1/2022.

STAFF COMMENTS: Many large businesses, for good business reasons such as trying to limit liability for their activities in a jurisdiction to the assets and activities conducted within that jurisdiction, operate through groups of entities under common ownership and control. The phrase "multinational corporate group" may come to mind, but not all large businesses operate through corporations. Limited liability partnerships and limited liability companies, for example, are also in common use.

Federal tax law deals with entity groups using the principle of "allocation and separate accounting." That means each entity keeps its own set of books and records, and any entity with a sufficient connection with the United States pays tax based on its income as reflected on those books and records, including a tax on earnings brought back into the United States by a foreign affiliate.

Over the years, tax authorities have continually battled with entities using allocation and separate accounting methodology. Entities, for example, can charge their parent, sister, or cousin entities "transfer prices" for goods and services that do not reflect marketplace realities, and are motivated to do so in order to create more profits in low-tax jurisdictions and fewer profits in higher-tax jurisdictions like the United States. The United States tries to assure fair taxation of a multinational enterprise's net income through IRC section 482, through which the tax authorities can attack the adequacy of a transfer price and adjust it; complicated interest rules such as IRC 163(j); and myriad special and complex rules in Subchapter O and elsewhere, including the rules governing IRS Form 5471 that the bill now refers to.

State taxing authorities have taken a different tack to deal with this problem. Many states, including Hawaii, do not rely on allocation and separate accounting. We use a method called "apportionment," which determines an enterprise's income taxable by Hawaii by multiplying its net business income everywhere by a formula, which in Hawaii is the average of its percentage of property in Hawaii, its percentage of payroll in Hawaii, and percentage of sales in Hawaii. This "equally weighted" formula, formerly in place in numerous states, is now relatively rare because most states have chosen to upweight the sales factor at the expense of the other two, or eliminate consideration of the property and payroll factors entirely.

"Combined reporting," which Hawaii also uses, aims to deal with the problem of entities conducting business in concert. Rather than fuss over transfer prices, the combined reporting method ignores transfer prices altogether. For entities that are in a "unitary business" exhibiting common ownership and control, the combined reporting method treats all of the entities as a single economic unit, and uses property, payroll, and sales factors at the group level to identify that part of a group's net income that is attributable to Hawaii.

There are two kinds of combined reporting. "Worldwide combined reporting," which California tried using, allows the unitary business to include entities anywhere in the world. Use of this method, however, comes with some practical difficulties such as national jurisdiction. Multinational companies can have operations in several countries and be subject to several countries' tax laws, and the United States does not get special treatment. A British company with a subsidiary in Ecuador, for example, does not have to be reported to the United States because there is no connection with the United States. To follow the scope of entities being reported to the United States tax authorities, then, there is a variant of combined reporting called "water's edge combined reporting," which only considers entities that are reportable to the IRS; transactions with pure foreign affiliates are not considered part of the unitary group. Hawaii, by section 235-38.5, HRS, is a water's edge combined reporting state.

With that explanation, we believe there are numerous severe problems with this bill.

First, if the goal is to adopt worldwide combined reporting, section 235-38.5, HRS, must be modified or repealed.

Second, the bill deals only with corporations. It should be expanded to more business entities to achieve its purpose.

Third, subsection (a) of the bill requires that a reporting corporation attach a copy of IRS Form 5471. This can be done administratively because section 235-101, HRS, gives the Director of Taxation authority to require attachment of any or all parts of a taxpayer's federal return. It may have limited utility, however, because the form us used by U.S. persons who are officers, directors, or shareholders in certain foreign corporations. If the form is filed by an individual, this bill would not seem to mandate any type of filing with the Department.

Fourth, subsection (b) of the bill requires all of the income of a corporation's subsidiaries to be apportioned as business income. It is possible for a business entity to have nonbusiness income, and there is a process now in Hawaii's UDITPA — the Uniform Division of Income for Tax Purposes Act — to separate the two. In addition, "requiring all" of the income to be included may create constitutional or jurisdictional problems if the entity whose income is sought to be included has no connection with Hawaii or the United States.

Fifth, the title of the bill is “Relating to Tax Haven Abuse,” which has at best a tangential connection with worldwide combined reporting.

And last but not least, consideration should be given to the practicalities of the Hawaii Department of Taxation enforcing worldwide combined reporting. Hawaii now requires water’s edge combined reporting, and the administrative rule under it, HAR section 18-235-38.5-01, only lets entities off the radar if they do not file a U.S. tax return. How can DOTAX police “tax haven abuse,” as the bill calls it, if the affected entities don’t even file U.S. tax returns, will probably be using foreign currencies when filing their tax returns, and have entity designations such as “Yugen Kaisha,” “Sendirian Berhad,” or “Perseroan Terbatas” that we wouldn’t know the first thing about classifying?

Digested 2/14/2021

Young Progressives Demanding Action
P.O. Box 11105
Honolulu, HI 96828

February 13, 2021

TO: SENATE COMMITTEES ON COMMERCE AND CONSUMER PROTECTION, AND JUDICIARY
RE: Testimony in support of SB1302

Dear Senators,

Young Progressives Demanding Action (YPDA) strongly supports SB1302, which would effectively implement what is commonly called "worldwide combined reporting," closing a loophole that currently allows multinational corporations to avoid their fair share of state taxes through the use of tax havens.

Corporations use complicated schemes to shift earnings to subsidiaries in offshore tax havens to reduce their tax liability by billions of dollars. The result is that large multinationals have an unfair advantage, avoiding taxes that small local competitors must pay.

Worldwide combined reporting requires a corporation to report their total global profits and the portion of their overall business activity in each jurisdiction. So, if a state makes up 2 percent of a company's global business, then 2 percent of their taxable profit would be subject to state tax.

If Hawaiʻi adopted worldwide combined reporting, it would collect an additional $38 million per year from large multinational corporations.

Good tax policy is a cornerstone of a just economic system. Good tax policy strengthens opportunity by letting working families keep more of what they earn, while asking the wealthy and corporations to pay their fair share. Why? Because when workers keep more earnings, they support our economy through spending. And when the wealthy and corporations pay their fair share for the use of the public goods and infrastructure that helped them succeed, they ensure that the next generation can succeed as well.

NOW IS A CRITICAL TIME FOR TAX FAIRNESS

The pandemic-recession caused by COVID-19 has dramatically impacted working families that earn low wages far more than it has impacted the wealthy and even the middle class.

That's extremely bad for our economy because low-wage workers spend most of their earnings here in Hawaiʻi, powering the consumer spending we need to generate tax revenue through the General Excise Tax (GET). At the same time, high unemployment will reduce revenue from income taxes, and public health concerns have reduced revenue from the Transient Accommodations Tax (TAT). Without revenue from these taxes, our state government is facing a $2.3 billion deficit (through fiscal year 2023).

A deficit in the budget means social service contracts and programs could be cut, state workers could be furloughed and lose pay, or even be laid off, unless new revenue is raised to replace the lost revenue. And we must find new revenue, because cuts, furloughs and lay-offs will only serve to further reduce GET and income tax revenue, and further reduce consumer spending in our already-wounded economy. In fact, every dollar of reduced government spending results in as much as $1.50 in lost economic activity.

Fortunately, new revenue streams do exist. Loopholes can be closed. Federal trickle-down tax cuts for the wealthy and corporations can be negated at the state level. In fact, there are enough options available through tax restructuring alone to cover almost half of our entire projected deficit (while the rest could be covered through borrowing, or creating new taxes on products like legal cannabis).

Taken as a whole, these tax revenue generators would cover a significant portion of deficit, helping us to avoid costly cuts and furloughs that will only prolong and deepen the recession. And because none of these proposals are tailored toward low- or moderate-income earners, they actually increase economic power and opportunity for success. That's what tax fairness is all about!

Mahalo for the opportunity to testify,

Will Caron
Board President & Secretary, 2020–2021
action@ypdahawaii.org

Hawaii
Children's Action Network Speaks!
Building a unified voice for Hawaii's children

Hawaiʻi Children's Action Network Speaks! is a nonpartisan 501c4 nonprofit committed to advocating for children and their families. Our core issues are safety, health, and education.

To: Senate Committees on Commerce and Consumer Protection and on Judiciary

Re: **SB 1302 - Relating to tax haven abuse**
Hawaiʻi State Capitol, Room 229
February 17, 2021, 10:30 AM

Dear Chairs Baker and Rhoads, Vice Chairs Chang and Keohokalole, and committee members,

On behalf of Hawaiʻi Children's Action Network Speaks!, I write in SUPPORT of SB 1302, which would require corporations to include the income of all foreign subsidiaries in their reports to the State and apply the State's apportionment formula to determine the share of reported profits subject to the appropriate tax.

As the state legislature is facing large budget shortfalls, it's important to keep in mind that government spending cuts would further harm our already injured economy, as well as hobble social services that have become more and more essential to Hawaiʻi's keiki and their families during this pandemic crisis.

That's why we support a range of progressive revenue options to close the deficit without slashing critical government spending. One of these options is cracking down on offshore tax haven abuse, which is what this bill intends to do. As so many of our working families struggle to make ends meet, it makes sense to ask multinational corporations that are making profits in Hawaiʻi to pay their fair share.

The use of tax havens – countries or jurisdictions with very low or nonexistent taxes – to avoid paying taxes is one of the main obstacles that states face in collecting corporate taxes. Meanwhile, local businesses tend not to hide their profits offshore, but they compete against big corporations that do.

Enacting worldwide combined reporting, which is what this bill aims to do, would even the playing field in addition to generating critical revenue. Worldwide reports eliminate international tax dodging by requiring multinational corporations to report their total global profits as well as the portion of their overall business done in a given jurisdiction. For example, if Hawaiʻi makes up 1 percent of a company's global business, then 1 percent of their taxable profit would be subject to Hawaiʻi tax.

According to the Institute on Taxation and Economic Policy, if Hawaiʻi were to institute worldwide combined reporting, the state would collect an additional $38 million in badly-needed revenues per year.[1]

Mahalo the opportunity to provide testimony in support of this bill. Please pass SB 1302.

Thank you,

Nicole Woo
Director, Research and Economic Policy

[1] https://itep.org/a-simple-fix-for-a-17-billion-loophole/

850 Richards Street, Suite 201 • Honolulu, HI 96813 • 808-531-5502
speaks.hawaii-can.org • speaks@hawaii-can.org

COST
Council On State Taxation

Erica S. Kenney
West Coast Tax Counsel
(202) 484-5221
ekenney@cost.org

February 16, 2021

Senator Rosalyn H. Baker, Chair
Senator Stanley Chang, Vice Chair
Senate Committee on Commerce and Consumer Protection
Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair
Senate Committee on Judiciary
Hawaii General Assembly

Re: In Opposition to Senate Bill 1302

Dear Chair Baker, Chair Rhoads, Vice Chair Chang, Vice Chair Keohokalole and Committee Members:

On behalf of the Council On State Taxation (COST), I am writing in opposition to Senate Bill 1302 (S.B. 1302). This bill would require corporate taxpayers to include the income of foreign subsidiaries in their computation of corporate income tax, effectively imposing taxation on worldwide income. No other state in the U.S. or country in the world currently utilizes mandatory worldwide combined reporting to calculate all corporate income taxes, and Hawaii should reject this approach as well. I also note that the projected revenue impact extrapolated for the State of Hawaii is particularly imprecise and is derived from recent global econometric studies attempting to quantify global profit shifting – admittedly a very uncertain exercise.

About COST

COST is a nonprofit trade association based in Washington, DC. COST was formed in 1969 as an advisory committee to the Council of State Chambers of Commerce and today has an independent membership of over 500 major corporations engaged in interstate and international business. COST's objective is to preserve and promote the equitable and nondiscriminatory state and local taxation of multijurisdictional business entities.

Mandatory Unitary Combined Reporting

Current state apportionment provisions allow taxpayers to elect to file their corporate income tax returns on a water's-edge basis, thereby limiting the determination of income subject to apportionment in the State to the income and apportionment factors of a group of unitary companies operating within the "water's-edge" of the United States. S.B. 1302 would require every corporation subject to the corporate income tax to report all income from foreign subsidiaries and apportion the subsidiaries' income as business income.

Mandatory worldwide combined reporting is not a new concept; nearly a dozen states imposed the filing methodology by the early 1980's. In a series of actions beginning in 1984 and accelerating over the next few years, however, all of those states granted taxpayers the right to file (or elect to file) using the water's-edge methodology, a position that has held fast in the states ever since. Pressure against mandatory worldwide combination had been building through the 1970s and early 1980s among both foreign governments and foreign and domestic multinational business enterprises, threatening to instigate an international tax war. The British and Japanese governments in particular, threatened retaliatory taxing measures against the U.S. to counter the trend toward mandatory worldwide combined filing. Although the U.S. Supreme Court upheld California's imposition of mandatory worldwide combined reporting in 1983, pressure from the international community continued to build, spurring President Ronald Reagan to convene the Worldwide Unitary Taxation Working Group in 1984, led by Treasury Secretary Donald Regan and comprising representatives of the federal government, state governments, and the business community.

Although the Working Group found it difficult to reach an agreement on several issues, it did agree on a set of principles designed to guide the formulation of state tax policy. Among those principles was a recommendation that states only enact "water's-edge" unitary combination for both U.S. and foreign-based companies. As noted, under the water's-edge method, only the income and the apportionment factors derived from operations within the domestic United States (*i.e.*, up to the "water's edge") are used to calculate state corporate income tax liability. That principle has held to the current day. No state has returned to a mandatory combined reporting regime for all business corporations, and even the Multistate Tax Commission's model combined reporting statute includes a water's-edge election.

In addition to the international geopolitical reasons, states have also rejected the worldwide combined reporting approach because of the inequities and imbedded complexities. These include the potential for double taxation of foreign source income; the complexities of determining which foreign entities -- sometimes numbering in the hundreds -- are "unitary" with their U.S. affiliates; and the accounting difficulties resulting from different exchange rates, foreign accounting methodologies and technology platforms utilized by foreign affiliates. Hawaii's existing water's-edge filing regime is consistent with the regimes adopted by other combined reporting states, and there is no rational public policy reason for adopting a different approach for determining the tax base and apportionment factors for Hawaii's corporate income tax.

Global Profit Shifting and State Corporate Tax Revenues

Over the last twenty years, many countries lowered their corporate income tax rates to incentivize businesses to locate and expand there. As the disparity between corporate tax rates imposed by various countries grew, policy makers at the international level became concerned with the increased use of global profit shifting – the artificial shifting of income and activity from high-tax jurisdictions to low-tax jurisdictions. Efforts to combat global profit shifting have been underway at the Organization for Economic Cooperation and Development (OECD) for many years, culminating in its BEPS project recommending measures to address international "base erosion and profit shifting." During its deliberations, the OECD considered and rejected the use of mandatory worldwide combined filing. Similarly, the current OECD Pillar 1 and 2 proposals for reforming international taxation steer clear of any consideration of mandatory worldwide combined filing.[1] Finally, the U.S. Government, which adopted sweeping tax reform with the passage of the Tax Cuts and Jobs Act (TCJA) in 2017, moved away from its prior worldwide tax filing regime to a quasi-territorial tax system that includes a more limited taxation of foreign source income principally through the inclusion in the corporate tax base of 50 percent of global intangible low-taxed income.

---

[1] At the subnational level, only one country other than the U.S. among the world's 49 largest economies imposes a corporate income tax on any portion of foreign source operating income. See "Survey of Subnational Corporate Income Taxes in Major World Economies: Treatment of Foreign Source Income," prepared by PricewaterhouseCoopers LLP for the State Tax Research Institute, November 2019.

Many economic papers have contributed to these efforts by attempting to quantify the global impact of profit shifting. Not surprisingly, the results of these studies vary dramatically, and each study contains disclaimers regarding the complexity, difficulty, and uncertainty of its conclusions. The process is made even more difficult because of the fluid nature of international taxation, with many nations such as the United States making or considering significant changes to their corporate income tax laws relating to global commerce. Nevertheless, a recent report by a partisan think tank seized on the high point of these studies and extrapolated that number to individual states through a series of assumptions and estimates. It then presented those numbers to the states as "money left on the table," and there for the taking if the state would only enact the discredited and still-controversial filing method known as mandatory worldwide combined reporting. These estimates (and the report) should be viewed with great skepticism. Not only does the Institute on Taxation and Economic Policy report (cited in Hawaii by proponents of worldwide combined reporting) rely on highly generalized and problematic global tax data, but it makes no effort to customize its estimate to reflect the laws of particular states or make adjustments to reflect changes in national corporate income tax laws.[2]

Conclusion

Hawaii's water's-edge provision serves not only as a practical limitation on combined reporting that reduces the incidence of double taxation and economic distortion, but it also keeps the State within the conventional norms of business taxation. Mandatory worldwide combined filing is contrary to the approach to taxing corporate profits currently employed by all other states and nations with corporate income taxes. Its adoption would place Hawaii at an almost insurmountable competitive disadvantage among states and would send a warning flag to multinational businesses that the state is a hostile environment for business expansion and relocation. COST respectfully opposes Senate Bill 1302 and urges the Committee to reject the bill.

Respectfully,

Erica Kenney

Erica S. Kenney

cc: COST Board of Directors
Douglas L. Lindholm, COST President & Executive Director

[2] Institute on Taxation and Economic Policy and U.S. PIRG, "A Simple Fix for a $17 Billion Loophole: How States Can Reclaim Revenues Lost to Tax Havens", January 17, 2019, pp 17-18.

SB-1302
Submitted on: 2/15/2021 12:08:44 PM
Testimony for CPN on 2/17/2021 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Laurie Field	Testifying for Planned Parenthood Votes Northwest and Hawaii	Support	No

Comments:

Planned Parenthood Votes Northwest and Hawaii supports SB 1302.

Pono Hawaiʻi Initiative

Monday, February 15, 2021

Relating to Tax Haven Abuse
Testifying in Support

Aloha Chair and members of the committee,

The Pono Hawaiʻi Initiative (PHI) **supports SB1302 Relating to Tax Haven Abuse.** This measure would require corporations to include the income of all foreign subsidiaries to the State and applies the State's apportionment formula to determine the share of reported profits subject to the appropriate tax.

This measure will help to close a loophole that allows corporations to shift their domestic earnings to their subsidiaries outside of the US to avoid paying taxes. For Hawaii to collect the correct amount of taxes it is necessary that we update our laws to close these tax loopholes.

For these reasons we urge the committee to **support SB1302**.

Mahalo for the opportunity to testify,

Gary Hooser
Executive Director
Pono Hawaiʻi Initiative

TESTIMONY IN SUPPORT OF SB 1302

TO: Chair Baker, Vice-Chair Chang, & Members of the
Commerce & Consumer Committee
Chair Rhoads, Vice-Chair Keohokalole, and Judiciary Committee Members

FROM: Nikos Leverenz
Grants, Development & Policy Manager

DATE: February 17, 2021 (10:30 AM)

Hawaiʻi Health & Harm Reduction Center (HHHRC) **supports** SB 1302, which requires corporations to include the income of all foreign subsidiaries to determine the share of profits to be taxed. This policy change is estimated to raise an additional $38 million per year from large multinational corporations.

Current tax law provides an unfair advantage to these global businesses, who can reduce their tax liabilities by billions of dollars by shifting earnings to subsidiaries in offshore tax havens. Worldwide combined reporting would ensure that business activity in this state is subject this state's pertinent corporate tax rates.

Forthcoming budget cuts will most deeply impact those of little or no economic means as well as those who require assistance to maintain their health and well-being. Governor Ige's budget notably includes a 64% reduction in AIDS services. This will force us and our allied organizations on the neighbor islands to dramatically reduce lifesaving and life-affirming care services to some of our state's most medically frail and otherwise vulnerable residents.

Hawaiʻi policymakers should look carefully at available avenues to increase tax revenues. While revenue increases will not entirely cover foreseeable budgetary shortfalls, they will help mitigate the ground-level impact of budget cuts on our state's most vulnerable and underserved populations.

Hawaiʽi should reasonably look to obtain more revenue from those who are able to provide more revenue, particularly during a prolonged economic downturn that has already seen a significant loss of employment, increased housing instability and food insecurity, and an increased exodus of residents unable to make ends meet.

HHHRC's mission is to reduce harm, promote health, create wellness, and fight stigma in Hawaiʽi and the Pacific. We work with many individuals who are impacted by poverty, housing instability, and other social determinants of health. Many have behavioral health problems, including those relating to substance use and underlying mental health conditions. Many of our clients and participants have been deeply impacted by trauma, including histories of physical, sexual, and psychological abuse.

Thank you for the opportunity to testify on this measure.

HSTA
HAWAII STATE TEACHERS ASSOCIATION
Teaching Today for Hawaii's Tomorrow

1200 Ala Kapuna Street ♦ Honolulu, Hawaii 96819
Tel: (808) 833-2711 ♦ Fax: (808) 839-7106 ♦ Web: www.hsta.org

TESTIMONY BEFORE THE SENATE COMMITTEE ON COMMERCE & CONSUMER PROTECTION and THE COMMITTEE ON JUDICIARY

RE: SB 1302 - RELATING TO TAX HAVEN ABUSE

WEDNESDAY, FEBRUARY 17, 2021

COREY ROSENLEE, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION

Chair Baker, Chair Rhoads and Members of the Committees:

The Hawaii State Teachers Association **supports SB 1302**, relating to tax haven abuse. This bill requires corporations to include the income of all foreign subsidiaries to the State. Applies the State's apportionment formula to determine the share of reported profits subject to the appropriate tax. Effective 1/1/2022.

Corporations use complicated schemes to shift earnings to subsidiaries in offshore tax havens in order to reduce their tax liability by billions of dollars. The result is that large multinationals have an unfair advantage, avoiding taxes that small local competitors must pay.

Worldwide combined reporting requires a corporation to report their total global profits and the portion of their overall business activity in a given jurisdiction. So if a state makes up 2 percent of a company's global business, then 2 percent of their taxable profit would be subject to state tax.

If Hawai'i adopted worldwide combined reporting, it would collect an additional $38 million per year from large multinational corporations. Other states have successfully stopped tax haven abuse and collected state taxes, now Hawai'i should as well.

There have been tremendous federal tax breaks given to corporations, giving huge tax breaks already. Our state should be able to fairly collect taxes owed the state, and not let tax haven abuses continue.

These additional funds will help make up for state revenue losses so that the state will be able to maintain much needed services and supports, such as our public schools and our teachers, but other state services as well! We need funding to prevent proposed layoffs, pay cuts, and furloughs!!

To fairly tax corporations, while also ensuring that children of local families in our state have the public schools and other vital state services funded, the Hawaii State Teachers Association asks your committee to **support** this bill.

HAWAI'I
AMERICANS FOR DEMOCRATIC ACTION

OFFICERS	DIRECTORS			MAILING ADDRESS
John Bickel, President	Melodie Aduja	John Miller	Bill South	P.O. Box 23404
Alan Burdick, Vice President	Juliet Begley	Jenny Nomura	Zahava Zaidoff	Honolulu
Dave Nagajji, Treasurer	Stephanie Fitzpatrick	Stephen O'Harrow		Hawaii 96823
Doug Pyle, Secretary	Jan Lubin	Lyn Pyle		

February 14, 2021

TO: Chairs Baker &Rhoads and Members of the CPN & JDC Committees

RE: SB 1302 Relating to Tax Haven Abuse

Support for hearing on Feb. 17

Americans for Democratic Action is an organization founded in the 1950s by leading supporters of the New Deal and led by Patsy Mink in the 1970s. We are devoted to the promotion of progressive public policies.

We support SB 3102 as it would require corporations to include the income of all foreign subsidiaries in their reporting to the State. The bill applies the State's apportionment formula to determine the share of reported profits subject to the appropriate tax.

We note that worldwide combined reporting requires a corporation to report their total global profits and the portion of their overall business activity in a given jurisdiction. Corporations use tax schemes to avoid paying tax to our state. If we adopted worldwide combined reporting, Hawaii would collect an additional $38 million per year from large multinational corporations.

Thank you for your favorable consideration.

Sincerely,
John Bickel, President

ADA

SENATE BILL 1302, RELATING TO TAX HAVEN ABUSE

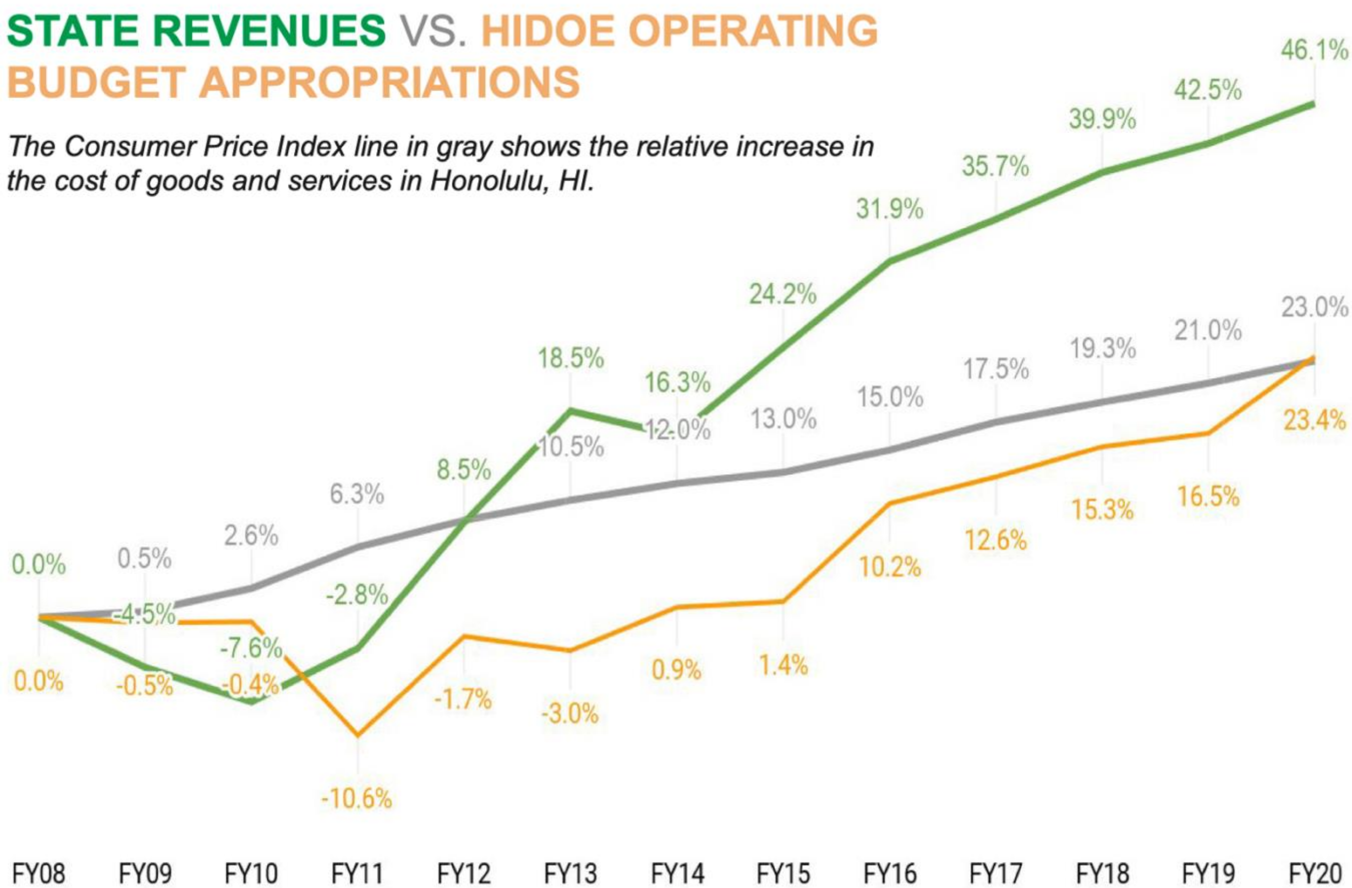
FEBRUARY 17, 2021 · SENATE COMMERCE AND CONSUMER PROTECTION AND JUDICIARY COMMITTEES · CHAIRS. SEN. ROSALYN H. BAKER AND SEN. KARL RHOADS

POSITION: Support.

RATIONALE: The Democratic Party of Hawai'i Education Caucus **supports** SB 1302, relating to tax haven abuse, which requires corporations to include the income of all foreign subsidiaries to the state and applies the state's apportionment formula to determine the share of reported profits subject to the appropriate tax.

We desperately need to increase funding for public education, rather than cut the education programs on which their futures rely. As it has for years, the Aloha State is suffering from a chronic teacher shortage crisis, which could be exacerbated by proposed cuts to the Hawai'i Department of Education's budget amounting to 15 to 21 percent. Additionally, we continue to lose approximately 50 percent of new hires after five years–the number of teachers exiting the teaching profession has spiked by over 80 percent since 2010.

Prior to the pandemic, the Hawai'i Department of Education saw its budget grow at a pace that was much slower than the rate of increase for general fund revenue. From FY2008 to FY2020, the DOE's budget grew by 23.4 percent, keeping pace with the escalation in the state's cost of living. Yet, general fund revenue grew by 46.1 percent, nearly double the growth reflected in the DOE's budget. This proportional disparity must be rectified, so that our schools and students don't lose out on critical resources or learning opportunities. Education must be a priority for our state.



FY08-18 Actual Collections per Department of Taxation; FY19 and FY20 based on Council on Rvenues May 23, 2019 projection.

Accordingly, we strongly support measures to generate revenue in the face of the pandemic-related economic downturn, rather than managing the budget shortfall slashing services. Corporations use complicated schemes to shift earnings to subsidiaries in offshore tax havens in order to reduce their tax liability by billions of dollars. The result is that large multinationals have an unfair financial advantage, avoiding taxes that small local competitors must pay. Worldwide combined reporting requires a corporation to report their total global profits and the portion of their overall business activity in a given jurisdiction. Thus, if a state makes up 2 percent of a company's global business, then 2 percent of their taxable profit would be subject to state tax. If Hawai‘i adopted worldwide combined reporting, it would collect an additional $38 million per year from large multinational corporations. We need to return to fiscal sanity and ask: do we support the privileged class’s or the public’s interest?

We cannot give up the quest for a fully-funded school system. Our keiki’s and our community’s future depends on our resolve.

Kris Coffield · Chairperson, Democratic Party of Hawai’i Education Caucus ·
(808) 679-7454 · kriscoffield@gmail.com

SB 1302, RELATING TO TAX HAVEN ABUSE

FEBRUARY 17, 2021 · SENATE COMMERCE AND CONSUMER PROTECTION AND JUDICIARY COMMITTEES · CHAIRS SEN. ROSALYN H. BAKER AND SEN. KARL RHOADS

POSITION: Support.

RATIONALE: Imua Alliance **supports SB 1302**, relating to tax haven abuse, which requires corporations to include the income of all foreign subsidiaries to the state and applies the state's apportionment formula to determine the share of reported profits subject to the appropriate tax.

We need to raise revenue to manage the economic recession spurred by COVID-19, not slash essential services for vulnerable residents. Imua Alliance is one of the state's largest victim service providers for survivors of sex trafficking. Over the past 10 years, we have provided comprehensive direct intervention (victim rescue) services to 150 victims, successfully emancipating them from slavery and assisting in their restoration, while providing a range of targeted services to over 1,000 victims and individuals at risk of sexual exploitation. **During the pandemic, demand for victim services to our organization has skyrocketed by 330 percent, driven in part by a fivefold increase in direct crisis calls from potential trafficking victims.**

Each of the victims we have assisted has suffered from complex and overlapping trauma, including post-traumatic stress disorder, depression and anxiety, dissociation, parasuicidal behavior, and substance abuse. Trafficking-related trauma can lead to a complete loss of identity. A victim we cared for in 2016, for example, had become so heavily trauma bonded to her pimp that while under his grasp, she couldn't remember her own name. Yet, sadly, many of the victims with whom we work are misidentified as so-called "voluntary prostitutes" and are subsequently arrested and incarcerated, with no financial resources from which to pay for their release.

Sex trafficking is a profoundly violent crime. At least 23 percent of trafficking victims in Hawai'i report being first exploited before turning 18, according to a recent report, with the average age of trafficked keiki's initial exposure to exploitation being 11. Based on regular outreach and monitoring, we estimate that approximately 150 high-risk sex trafficking establishments operate in Hawai'i. In a recent report conducted by the State Commission on the Status of Women, researchers from Arizona State University found that 1 in every 11 adult males living in our state buys sex online. When visitors are also counted, that number worsens to 1 in every 7 men walking the streets of our island home and a daily online sex buyer market of 18,614 for O'ahu and a total sex buyer population for the island of 74,362, including both tourists and residents.

ASU's findings are grim, but not surprising to local organizations that provide services to survivors of sex trafficking. Imua Alliance, for example, has trained volunteers to perform outreach to victims in high-risk locations, like strip clubs, massage parlors, and hostess bars. More than 80 percent of runaway youth report being approached for sexual exploitation while on the run, over 30 percent of whom are targeted within the first 48 hours of leaving home. With regard to mental health, sex trafficking victims are twice as likely to suffer from PTSD as a soldier in a war zone. Greater than 80 percent of victims report being repeatedly raped and 95 percent report being physically assaulted, numbers that are underreported, according to the United States Department of State and numerous trauma specialists, because of the inability of many victims to recognize sexual violence. As one underage survivor told Imua Alliance prior to being rescued, "I can't be raped. Only good girls can be raped. I'm a bad girl. If I *want* to be raped, I have to *earn* it."

Accordingly, we support measures to raise revenue to sustain critical services for survivors of sexual exploitation and sexual violence. Corporations use complicated schemes to shift earnings to subsidiaries in offshore tax havens in order to reduce their tax liability by billions of dollars. The result is that large multinationals have an unfair financial advantage, avoiding taxes that small local competitors must pay. Worldwide combined reporting requires a corporation to report their total global profits and the portion of their overall business activity in a given jurisdiction. Thus, if a state makes up 2 percent of a company's global business, then 2 percent of their taxable profit would be subject to state tax. If Hawai'i adopted worldwide combined reporting, it would collect an additional $38 million per year from large multinational corporations. We need to return to fiscal sanity and ask: do we support the privileged class's or the public's interest?

Kris Coffield · Executive Director, Imua Alliance · (808) 679-7454 · kris@imuaalliance.org

HAWAII APPLESEED
CENTER FOR LAW & ECONOMIC JUSTICE

Testimony of the Hawai‘i Appleseed Center for Law & Economic Justice
In Support of SB 1302 – Relating to Tax Haven Abuse
Senate Committees on Commerce & Consumer Protection and Judiciary
Wednesday, February 17, 2021, 10:30AM, in conference room 229

Dear Chair Baker, Chair Rhoads, and members of the committees:

Thank you for the opportunity to provide testimony in **SUPPORT of SB 1302** which require global corporations doing business in Hawai‘i to pay corporate tax here by adopting "Combined Reporting."

Corporations use complicated schemes to shift earnings to subsidiaries in offshore tax havens — countries with minimal or no taxes—in order to reduce their tax liability. As a result, large multinationals have an unfair advantage, avoiding taxes that small local competitors must pay. Additionally, states lose out on revenue needed to support investments in services and public infrastructure we all depend on to create a thriving community—investments that tax dodging multinational businesses benefit from, but do not contribute toward.

In a Combined Reporting system, companies report their total global profits, including all their subsidiaries, to which the state applies a formula to calculate how much of that profit is attributable to business activities in a given state to determine taxable profits in that state.[1] So, if a state makes up two percent of a company's global business, then two percent of their taxable profit would be subject to state tax. Twenty-eight states and the District of Columbia have enacted Combined Reporting systems.[2]

If Hawai‘i adopted worldwide combined reporting, according to an analysis by the Institute for Taxation and Economic Policy, our state would collect an additional $38 million per year from large multinational corporations. Not only would these funds help support the public investments from which the multinational corporations already benefit, they would help even the playing field for responsible local businesses that already pay corporate income taxes in Hawai‘i.

For the above reasons, we support SB 1302, and ask that you pass the bill. Thank you for your consideration of this testimony.

---

[1] https://itep.org/a-simple-fix-for-a-17-billion-loophole/
[2] http://news.cchgroup.com/2019/06/19/new-mexico-adopts-mandatory-combined-reporting/news/tax-headlines/

SB-1302
Submitted on: 2/13/2021 10:19:42 PM
Testimony for CPN on 2/17/2021 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Raelyn Reyno Yeomans	Individual	Support	No

Comments:

Strong support.

SB-1302
Submitted on: 2/14/2021 11:27:14 AM
Testimony for CPN on 2/17/2021 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Patricia Blair	Individual	Support	No

Comments:

Good idea.

SB-1302
Submitted on: 2/14/2021 11:31:35 AM
Testimony for CPN on 2/17/2021 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Sunny Savage	Individual	Support	No

Comments:

in support

SB-1302
Submitted on: 2/14/2021 12:04:05 PM
Testimony for CPN on 2/17/2021 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Judith Perino	Individual	Support	No

Comments:

I support this bill.

SB-1302
Submitted on: 2/14/2021 12:16:26 PM
Testimony for CPN on 2/17/2021 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Sherry Pollock	Individual	Support	No

Comments:

Dear Legislators,

I'm sure there will be lots of testimony's on fancy letterhead from lawyers and those who are benefiting from their tax haven, telling you why you shouldn't vote for this bill. I don't have their fancy language, but I'm asking you to vote YES on this bill to reduce tax haven abuse.

Mahalo!

Sherry Pollock

SB-1302
Submitted on: 2/14/2021 2:07:44 PM
Testimony for CPN on 2/17/2021 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Thomas Brandt	Individual	Support	No

Comments:

Support

SB-1302
Submitted on: 2/14/2021 3:14:58 PM
Testimony for CPN on 2/17/2021 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Valerie Weiss	Individual	Support	No

Comments:

I am in support of corporations being required to include the income of all foreign subsidiaries to determine taxable profits.

SB-1302
Submitted on: 2/14/2021 4:38:07 PM
Testimony for CPN on 2/17/2021 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Shannon Rudolph	Individual	Support	No

Comments:

Strongly support!

SB-1302
Submitted on: 2/14/2021 7:19:51 PM
Testimony for CPN on 2/17/2021 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Elaine Wender	Individual	Support	No

Comments:

There is no justification for excluding the income of foreign subsidiaries in determining the share of corporate profits to be taxed.

SB-1302
Submitted on: 2/14/2021 10:02:57 PM
Testimony for CPN on 2/17/2021 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
janice palma-glennie	Individual	Support	No

Comments:

aloha,

In a time when the state must find revenue to do all of the things residents need to live a decnt life, it's time to support bills like SB1302 which requires corporations to include the income of all foreign subsidiaries to determine the share of profits to be taxed.

mahalo and sincerely,

janice palma-glennie

SB-1302
Submitted on: 2/15/2021 2:09:20 AM
Testimony for CPN on 2/17/2021 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Christy MacPherson	Individual	Support	No

Comments:

I strongly support SB1302 and holding corporations accountable for the taxes they should definitely be paying.

SB-1302
Submitted on: 2/15/2021 7:07:24 AM
Testimony for CPN on 2/17/2021 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Joan Gannon	Individual	Support	No

Comments:

Joan Gannon here from West Hawaii asking you to pass SB1302. This bill requires corporations to include the income from all foreign subsidiaries to determine the share to be taxed. This is important for our bottom line. State budget

thamk you

Joan Gannon

SB-1302
Submitted on: 2/15/2021 7:39:05 AM
Testimony for CPN on 2/17/2021 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Michal Fentin Stover	Individual	Support	No

Comments:

I support SB1302 as a means of taxing the income of corporations' foreign subsidiaries. Thank you.

SB-1302
Submitted on: 2/15/2021 9:59:02 AM
Testimony for CPN on 2/17/2021 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Forest Frizzell	Individual	Support	No

Comments:

Aloha Committee,

I stand in full support of this bill.

Mahalo,

Forest

SB-1302
Submitted on: 2/15/2021 11:17:12 AM
Testimony for CPN on 2/17/2021 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Barbara L. George	Individual	Support	No

Comments:

SUPPORT!!

SB-1302
Submitted on: 2/15/2021 11:49:38 AM
Testimony for CPN on 2/17/2021 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael deYcaza	Individual	Support	No

Comments:

Close the tax loopholes.

SB-1302
Submitted on: 2/15/2021 12:10:43 PM
Testimony for CPN on 2/17/2021 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Meredith Buck	Individual	Support	No

Comments:

I support SB1302 and agree that corporations should be required to include the income of all foreign subsidiaries to determine the share of profits to be taxed. Please pass SB1302.

SB-1302
Submitted on: 2/15/2021 12:30:02 PM
Testimony for CPN on 2/17/2021 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Maki Morinoue	Individual	Support	No

Comments:

Aloha

I strongly support SB1302
As a local resident I feel any outside entities should be transparent about their business gains here and be taxed appropriately! If they do business here succesfully they need to support our local economic systems.

Thank you

Maki

SB-1302
Submitted on: 2/15/2021 2:25:39 PM
Testimony for CPN on 2/17/2021 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Stacie M Burke	Individual	Support	No

Comments:

I am in full support of SB 1302.

Mahalo for your time

Stacie Burke

SB-1302
Submitted on: 2/15/2021 3:16:14 PM
Testimony for CPN on 2/17/2021 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Setsuko Morinoue	Individual	Support	No

Comments:

Aloha,

I strongly support SB1302.

As a local resident I feel any outside entities should be transparent about their business gains here and be taxed appropriately! If they do business here successfully they need to support our local economic systems. For example; some funds to be contributed to local NPOs (especially Culture & Arts and environment related organizations), public parks and schools to help sustain and vitalize its community and its people's livelyhood.

Thank you.

Setsuko Morinoue

SB-1302
Submitted on: 2/15/2021 7:23:19 PM
Testimony for CPN on 2/17/2021 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Alani Bagcal	Individual	Support	No

Comments:

Dear esteemed members of the Senate committees,

My name is Alani Bagcal and I am writing today in strong support for SB 1302. It is vital to enact tax fairness in Hawai‘i.

Thank you for the opportunity to testify in support of this bill.

Alani Bagcal

96815

SB-1302
Submitted on: 2/15/2021 7:59:44 PM
Testimony for CPN on 2/17/2021 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Shay Chan Hodges	Individual	Support	No

Comments:

- Corporations use complicated schemes to shift earnings to subsidiaries in offshore tax havens in order to reduce their tax liability by billions of dollars. The result is that large multinationals have an unfair advantage, avoiding taxes that small local competitors must pay.
- Worldwide combined reporting requires a corporation to report their total global profits and the portion of their overall business activity in a given jurisdiction. So if a state makes up 2 percent of a company’s global business, then 2 percent of their taxable profit would be subject to state tax.
- If Hawai‘i adopted worldwide combined reporting, it would collect an additional $38 million per year from large multinational corporations.

SB-1302
Submitted on: 2/15/2021 9:43:48 PM
Testimony for CPN on 2/17/2021 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
kelii ho	Individual	Support	No

Comments:

Hawaii needs to pass this bill.

SB-1302
Submitted on: 2/16/2021 9:41:57 AM
Testimony for CPN on 2/17/2021 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Erin ODonnell	Individual	Support	No

Comments:

Aloha,

I support SB1302 because:

- Corporations use complicated schemes to shift earnings to subsidiaries in offshore tax havens in order to reduce their tax liability by billions of dollars. The result is that large multinationals have an unfair advantage, avoiding taxes that small local competitors must pay.
- Worldwide combined reporting requires a corporation to report their total global profits and the portion of their overall business activity in a given jurisdiction. So if a state makes up 2 percent of a company's global business, then 2 percent of their taxable profit would be subject to state tax.
- If Hawai‘i adopted worldwide combined reporting, it would collect an additional $38 million per year from large multinational corporations.

Close this loophold and make these corporations pay their fair share.

SB-1302
Submitted on: 2/16/2021 12:39:03 PM
Testimony for CPN on 2/17/2021 10:30:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Julia Paul	Individual	Support	No

Comments:

All income including foreign funds must be reported and taxed.

LATE

SB-1302
Submitted on: 2/17/2021 8:06:10 AM
Testimony for CPN on 2/17/2021 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Nanea Lo	Individual	Support	No

Comments:

Hello,

My name is Nanea Lo. I'm writing in support of SB1302. I am a Kanaka Maoli (Native Hawaiian) and lifelong resident of my ancestral homelands.

This bill requires corporations to include the income of all foreign subsidiaries to determine the share of profits to be taxed.

I believe that all foreign entities should be taxed far more then anyone else to help provide more for our home.

Please support this bill.

me ke aloha ʻÄ• ina,

Nanea Lo