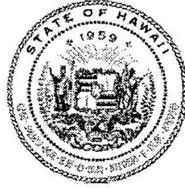
LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR



KURT KAWAFUCHI
DIRECTOR OF TAXATION

SANDRA L. YAHIRO
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809

PHONE NO: (808) 587-1510
FAX NO: (808) 587-1560

HOUSE COMMITTEE ON FINANCE

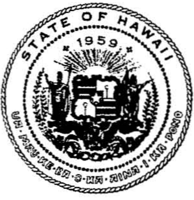
TESTIMONY REGARDING HB 2456 HD 1
RELATING TO TAXATION

TESTIFIER:	**KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)**
DATE:	**FEBRUARY 26, 2008**
TIME:	**11:00AM**
ROOM:	**308**

This legislation amends Hawaii income tax law to exclude from gross income those amounts provided to an employee who is a reciprocal beneficiary, which are in excess of benefits provided to a single employee.

The Department of Taxation (Department) takes **no position** on this legislation.

This legislation will result in a revenue loss of approximately $800,000 for FY2009 and thereafter.



HAWAI'I CIVIL RIGHTS COMMISSION

830 PUNCHBOWL STREET, ROOM 411 • HONOLULU, HI 96813-5095 • PHONE: (808) 586-8636 • FAX: (808) 586-8655 • TDD: (808) 586-8692

February 26, 2008
Rm. 308, 11:00 a.m.

To: The Honorable Marcus R. Oshiro, Chair, and Members of the House Committee on Finance

From: Sara Banks, Acting Chair, and Commissioners of the Hawai`i Civil Rights Commission

Re: H.B. No. 2446, H.D. 1

The Hawai`i Civil Rights Commission (HCRC) has enforcement jurisdiction over state laws prohibiting discrimination in employment, housing, public accommodations, and access to state and state-funded services. The HCRC carries out the Hawai`i constitutional mandate that "no person shall be discriminated against in the exercise of their civil rights because of race, religion, sex or ancestry". Art. I, Sec. 5.

The HCRC supports the intent of H.B. No. 2456, H.D. 1, which excludes from gross income, adjusted gross income, and taxable income the value of health insurance and other direct or indirect benefits provided by an employer to an employee in excess of what the employer provides or would provide to single employees when such benefits are provided to the employee due to the employee's status as a reciprocal beneficiary or a domestic partner.

The HCRC has previously expressed its support for state laws concerning reciprocal beneficiaries, until such time that domestic partnerships are recognized. To the extent that this proposed legislation does not adversely affect current reciprocal beneficiaries and/or domestic partners, the HCRC supports H.B. No. 2456, H.D. 1.

L E G I S L A T I V E

TAXBILLSERVICE

126 Queen Street, Suite 304 TAX FOUNDATION OF HAWAII Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Exclude health insurance of domestic partner

BILL NUMBER: HB 2456, HD-1

2/26 FIN

INTRODUCED BY: House Committee on Judiciary

STAFF COMMENTS: Amends HRS section 235-7(a) to provide that the value of health insurance and other benefits provided by an employer to an employee in excess of what the employer provides to single employees, when such benefits are provided to the employee due to the employee's status as a reciprocal beneficiary as defined in chapter 572C or a domestic partner as defined in the administrative rules of the Hawaii employer-union health benefits trust fund, shall be excluded from income.

EFFECTIVE DATE: Tax years beginning after December 31, 2008

STAFF COMMENTS: Currently neither the state nor the federal tax laws recognize reciprocal beneficiaries or domestic partners for income tax purposes. As a result, employer subsidized health insurance for an employee's reciprocal beneficiary or domestic partner is treated as taxable income. This measure proposes that such benefits provided by an employer for an employee's reciprocal beneficiary or domestic partner shall not be taxable under the state income tax law.

In states that recognize same sex marriages, reciprocal beneficiaries or domestic partners, the taxability of the benefits received by an employee for the reciprocal beneficiary or domestic partner generally is not taxable in those states but remains taxable on the federal level. The adoption of this measure would extend similar tax treatment for Hawaii income tax purposes, although Hawaii does not recognize reciprocal beneficiaries or domestic partners. It's adoption would be contrary to the state's intent to conform to the federal Internal Revenue Code for ease of compliance.

While advocates of this proposal may argue that it is unfair to be taxed on such benefits, they should realize that if this amount is exempt for state tax purposes, thereby reducing the state tab, it will increase the amount of income exposed to federal income tax rates which are substantially higher than the state rates. Thus, what is saved on the state tax return winds up being taxed on the federal return as there is no similar exemption at the federal level. Unless the taxpayer can meet the federal dependency test, the federal law will not recognize such amounts as being excluded.

Digested 2/25/08