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HOUSE COMMITTEE ON FINANCE

**TESTIMONY REGARDING HB 2758 HD 1
RELATING TO HEALTH**

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)

DATE: FEBRUARY 4, 2008

TIME: 3:30PM

ROOM: 308

*****WRITTEN TESTIMONY ONLY*****

The Department is precluded by law from commenting on any matter relating to specific taxpayer returns or return information. Though this bill was amended to apply to private hospitals generally, the Department will not participate in consideration of this measure whatsoever, given the bill's prior history.

L E G I S L A T I V E

TAXBILLSERVICE

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TAX FOUNDATION OF HAWAII

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SUBJECT: GENERAL EXCISE, Deferral of taxes

BILL NUMBER: HB 2758, HD-1

INTRODUCED BY: House Committee on Health

BRIEF SUMMARY: Directs the department of taxation to defer the collection of general excise taxes owed by a qualified hospital group on the gross income and gross proceeds derived from the operation of the group between July 1, 2008, and December 31, _____. The approval of the governor shall not be required for the department to defer the collection of taxes. Defines "qualified hospital group" as a group of private hospitals in a county with a population of over 500,000 that annually provides services for patients of which at least 60% are uninsured, Medicaid, and Medicare patients.

After December 31, _____, the qualified hospital group shall pay to the department of taxation any general excise taxes deferred under this section plus interest imposed in accordance with section 231-39(b)(4)(A), Hawaii Revised Statutes. The qualified hospital group shall make the payment in cash under an installment plan, the terms and conditions of which shall be approved by the department of taxation. In the alternative to installment payments, the qualified hospital group may make a lump sum payment to the department on January 1, _____, of the full amount owed.

Prohibits the qualified hospital group from making any distribution to any members of the limited liability company that owns the qualified hospital group from July 1, 2008, until any general excise tax and interest liability deferred is fully paid to the department of taxation. If any distribution is made contrary to this section, the balance of the deferred general excise taxes owed plus interest shall become immediately due, including a penalty equal to 25% of the total amount due.

For the purpose of this section, "distribution" means the same as defined under section 428-101, Hawaii Revised Statutes. The term shall not mean any salary paid to, or fringe benefit contribution paid for, an officer or employee of a hospital operated by the qualified hospital group.

Delineates conditions when the balance of any deferred taxes and interest owed by the qualified hospital group shall become immediately due, the filing of tax returns, and collection of unpaid deferred general excise taxes and interest.

EFFECTIVE DATE: July 1, 2008

STAFF COMMENTS: The proposed measure requires the department of taxation to defer the collection of general excise taxes from a qualified hospital group between July 1, 2008 and December 31 of an unspecified year. While it appears that the measure proposes a deferral of general excise taxes for a specific taxpayer, it is questionable why a deferral of taxes, as proposed by this measure, is being considered except for the fact it is being undertaken as a favor to a certain hospital.

HB 2758, HD-1 - Continued

That said, while there is no such thing as the deferral of taxes by statute this approach to the problem is much more fair and equitable than adopting a complete exemption from the general excise for a for-profit hospital as contained in HB 2759, HD-1. If serious consideration is given to this proposal, the committee report should cite the extraordinary circumstances that have given rise to allowing a specific taxpayer to defer general excise taxes to prevent any other taxpayer from using this measure as a reason for a request to defer his or her general excise tax liability.

Finally, this measure would apply the deferral of general excise taxes owed on gross income accruing between July 1, 2008 and some future date. One has to ask whether or not this hospital has historical general excise tax liabilities still owing and how will those obligations be met moving forward?

Digested 2/21/08



HAWAII MEDICAL CENTER

House Committee on Finance
Friday, February 22, 2008, 3:30 PM, House Conference Room 308
House Bill No. 2758

Chair Oshiro and Honorable Members of the Committee on Finance:

Aloha kakou! I am Dr. Danelo Canete, Chief Executive Officer of Hawaii Medical Center (HMC). I thank you for the opportunity to testify in favor of House Bill 2758.

This bill would provide a deferment of general excise taxes (GET) for Hawaii Medical Centers' operations from July 1, 2008 to an unspecified date, whereupon at the end of the deferral period, HMC will repay the deferred taxes over a two-year period. HMC is struggling to provide services to a large number of Medicare/Medicaid patients whose government reimbursement does not generally cover the cost of care. Currently, over 70% of HMC's patients are uninsured or on Medicare or Medicaid, compared with about 55% at other local hospitals.

Tax deferment is necessary to help keep HMC solvent during its transition period so that we can continue to provide medical services to this underserved population. In return, HMC will not make distributions during this deferment period, but instead is committed to reinvesting in its facilities, operations and services.

The survival of Hawaii Medical Center is critical, as we service 8,000 in-patients for over 75,000 patient days annually. This does not include the thousands of outpatients that are also served annually and the unique services provided by HMC that other hospitals are not able to absorb. In addition, HMC employs over one thousand employees who contribute hundreds of thousands of dollars in federal and state income taxes that help support the economy of our state.

One year ago, I was one of more than 100 local physicians who came together to not only save the former St. Francis Medical Centers but also to help perpetuate its Catholic values. We know the Sisters' mission was to provide service to the under-served of the State of Hawaii. However, even with its nonprofit and tax-exempt status, St. Francis was in serious financial difficulty due to servicing this patient population.

My colleagues and I took the unusual step of purchasing the hospital because we did not want to see our community lose these important institutions, nor did we want to deprive our patients of affordable health care. In addition, we did not want to see our community lose this organization's unique services that are based on the moral and ethical values of serving the poor and needy that had always been the mission of the Sisters of St. Francis.

When our doctors, acting as Good Samaritans assumed the management of the hospitals, we found they were in even worse financial shape than had been anticipated. HMC was forced to make hard decisions and difficult sacrifices to keep the hospitals going. We have worked long and hard to improve our operations and become more efficient.

I recognize you are faced with many competing demands for limited state resources. HMC is simply requesting this deferral in order for HMC to continue to serve its high percentage of uninsured and needy patients. By extending to Hawaii Medical Center this deferral,

All Hawaii hospitals are struggling financially. But all the other hospitals are tax exempt and HMC serves a higher percentage of government insured patients than they do. I sincerely believe that your support for HMC's efforts to serve these underserved patients would be a wise investment in health care for the people of Hawaii.

If we are going to solve the health care crisis that confronts our state, it is going to take a bold vision, creative innovation and timely investment, both public and private. Please help lead the way by approving reasonable excise tax relief to those Medical Centers that provide medical services to the underserved.

Thank you. I would be happy to answer any questions you may have.