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**HOUSE COMMITTEE ON ECONOMIC REVITALIZATION, BUSINESS &
MILITARY AFFAIRS
TESTIMONY REGARDING HB 82
RELATING TO TAXATION**

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)
DATE: JANUARY 27, 2009
TIME: 8:30AM
ROOM: 312

This measure provides an annual general excise tax (GET) holiday on the sales of certain school supplies, computers, and computer equipment starting at the beginning of the last Friday in July and ending on the last Sunday in July.

The Department of Taxation (Department) **supports the intent** of this measure; however is **concerned with the fiscal impact** of this measure given the current revenue forecast.

I. SUPPORT FOR TAX RELIEF THROUGH A GET HOLIDAY

The Department supports the tax relief intended by this measure. In light of the current economic slowing experienced in Hawaii and nationwide, both state governments and the national government have been actively seeking means to stimulate the economy. This measure serves as an efficient and effective means of stimulating the economy on a short-term basis. How much stimulus would result from this measure is difficult to project; however all tax revenue would remain in the economy. GET holidays will likely encourage people to purchase the targeted goods in higher volume.

Beyond stimulus, this measure also serves the targeted purpose of minimizing the tax impact on the sales of school supplies and expensive computers. As is well known, having access to the necessary school supplies and computer technology greatly enhances the quality of education children experience. For others, access to computers is a necessity in carrying out many daily tasks.

The Department raises the issue of whether school supplies and computers are the only relevant expenditures worthy of a GET holiday. The Department suggests considering uncooked

foods, clothing, and other items that could have a broader impact on consumers as a whole.

II. FISCAL CONCERN

The Department must be cognizant of the biennium budget and financial plan. This measure has not been factored into either. And, given the forecasted decrease in revenue projections, this measure would add to the budget shortfall.

This measure is projected to result in a revenue loss of approximately \$1.3 million per year. There are no impacts on any special funds.

III. TECHNICAL COMMENTS

The Department offers the following technical comments for the committee's consideration—

SOFTWARE DEFINITION—This definition should clarify whether only “canned” or off-the-shelf software qualifies. As currently written, custom software could qualify. The Department suggests that only canned software should qualify.

LIMIT PER PURCHASE—As currently written, the exemption applies to “purchases.” This provision would not preclude people from “stacking” or “structuring” purchases by returning to the retailer later over the weekend. The Department does not object to repeat uses of the exemption and merely points it out.

SUBSECTION (g) CAUSES AUDIT CHALLENGES—The Department suggests ensuring the proper records be required for this GET holiday. The Department appreciates the exemption nature of this legislation because it shifts the administrative burden to the retailer to ensure compliance; however subsection (g) appears to conflict with the end of subsection (f), with one requiring records to be maintained and the other stating that there are no special reporting requirements. Elimination of (g) would eliminate this confusion.

CLARIFY EXCLUSION OF CERTAIN COMPUTERS—This legislation specifies that computers used primarily for “recreational use” are excluded. The Department suggests that this language be defined. Is school use “recreational use?” Non-commercial use may be a better definition.

SPECIAL LICENSE REFERENCE SHOULD BE ELIMINATED—The Department suggests eliminating any reference to not needing a special license. This is confusing and could be interpreted to mean that a GET license is not required. It would be implied that no special license is necessary if not included in the statute.

SUBSECTION (h) SHOULD BE ELIMINATED—The Department finds subsection (h) confusing and contrary to the intent of providing a GET exemption on schools supplies and

computers. It will likely be difficult for businesses to ascertain whether they fall into this category at any one time based upon inventory.

Also, it would be impossible to require sellers to provide a GET refund. The GET is a tax on the business and not on the buyer. The tax is passed on as part of the purchase price only. A seller cannot be forced to provide a "refund" of GET when the amount passed on is technically just part of its price. However, a business can be precluded from passing on any amount as part of the price that represents a recovery of the tax. Subsection (h) should be eliminated and the exemption should apply to all businesses regardless of size.

Carole Hagihara

From: Tina Desuacido [tina500@juno.com]
Sent: Monday, January 26, 2009 2:17 PM
To: EBMtestimony
Subject: Testimony from Tax Foundation of Hawaii
Attachments: h0082-09.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

TRANSMISSION OF TESTIMONY

Date: Monday, January 26, 2009

To: House Committee on Economic Revitalization, Business & Military Affairs

From: Tax Foundation of Hawaii

TOTAL PAGES 2

For: Rep. Angus McKelvey, Chair

Testifier: Lowell L. Kalapa, President - Tax Foundation of Hawaii

(Mr. Kalapa will not appear in person at the hearing)

Date of Hearing: January 27, 2009

Time of Hearing: 8:30 am

HB 82 - Relating to General Excise Tax

Number of Copies: 5

Thank you.

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: GENERAL EXCISE, Tax holiday for school supplies and computers

BILL NUMBER: HB 82

INTRODUCED BY: Evans

BRIEF SUMMARY: Adds a new section to HRS chapter 237 to provide that general excise taxes shall not be imposed on the retail sale of: (1) up to \$50 of school supplies; and (2) personal computers, computer software, and computer supplies provided that the total cost does not exceed \$750. Beginning January 1, 2010, the annual general excise tax exemption shall begin at 12:01 A.M. on the last Friday in July and end at 11:59 P.M. on the following Sunday. Delineates exceptions to the tax holiday.

No permits shall be required to be obtained by retailers nor shall any special reporting procedures be required of retailers.

Stipulates that this exemption shall not be applicable to any retailer when less than two percent of the retailer's merchandise offered for sale qualifies for the annual exemption provided that the retailer shall offer a general excise tax refund of the amounts received as general excise tax in lieu of the annual exemption.

Defines "computer software," "computer supplies," "personal computers," and "school supplies" for purposes of the measure.

EFFECTIVE DATE: July 1, 2009; applicable to tax years beginning after December 31, 2009

STAFF COMMENTS: This measure would grant a tax holiday from the general excise tax on retail sales of up to \$50 of school supplies and up to \$750 in personal computers, computer software, and computer supplies at a certain time of the year.

The idea of "temporary" tax holidays ignores the forces and factors of the market and ignores basic economics of the marketplace. Such temporary holidays tend to skew the normal course of business and people's attitudes and shopping patterns. It creates the "coupon" syndrome of people deciding that they should wait until the store has another "discount period" or another coupon special. Why purchase that item now when it will go on sale next weekend in "another" one of those coupon offerings?

While the 4% or 4.5% is not as great as some of the discounts that have been offered by retailers, it will create that anticipatory attitude that will cause shoppers to delay their purchases until that special weekend.

It must be recognized that with the higher cost of living in Hawaii, families are struggling to make ends meet and have only so much in disposable income. Such a tax holiday, combined with promotions by businesses, will skew sales and therefore cash flow. To a certain degree, sales tax holidays are regressive,

HB 82 - Continued

that is the poor tend to end up paying more in taxes than those in higher income categories because they will be less likely to have the cash or the credit to participate at the time the holiday occurs.

Probably the most important and appropriate question is who is going to pay for this tax holiday? Given that state lawmakers and administration officials have not made a concerted effort to reduce the demand for tax revenues, will the burden of taxes be shifted to other businesses and individuals? Certainly the loss of revenues must be recaptured if the demand for spending those dollars is not reduced or contained. Would lawmakers be just as eager to enact this proposed tax holiday if it contained a provision that state spending had to be automatically reduced by the same dollar amount regardless of program? Probably not. But that is the problem with this and every other "goodie" tax proposal that would grant a tax break, lawmakers are just not willing to make concurrent reductions in state spending.

When and until state policy makers and administrators can get a firm grip on the spending spigot, any and all tax reduction proposals will be disingenuous. It should be remembered that the retail purchases this proposal intends to encourage are only possible if consumers have the resources to spend and have the confidence that there is stability in the economy. That stability in Hawaii is highly dependent, at this time, on the fiscal health of state and county governments.

Digested 1/26/09



Representative Angus McKelvey, Chair
Representative Isaac Choy, Vice Chair
Committee on Economic Revitalization, Business & Military Affairs
State Capitol, Honolulu, Hawaii 96813

HEARING Tuesday, January 27, 2009
 8:30 am
 Conference Room 312

RE: HB 82, Relating to General Excise Tax

Chair McKelvey, Vice Chair Choy, and Members of the Committee:

Retail Merchants of Hawaii (RMH) is a not-for-profit trade organization representing 200 members and over 2,000 storefronts, and is committed to support the retail industry and business in general in Hawaii.

RMH strongly supports HB 82, which creates an exemption from the general excise tax on the purchase of school supplies, computers, computer software, and computer supplies under specified dollar amounts. In previous years, we have supported similar legislation establishing what was then called a "tax holiday."

According to the National Retail Federation, in 2008 sixteen states held tax holidays, six of these held more than one such event for the year. Most of the sales tax holidays are held during the back-to-school season in late summer and most are limited to clothing and/or school supplies, including computers.

The tax exemption proposed in this measure will provide needed cost savings to Hawaii's families, especially during the back-to-school time frame, when there already are considerable budgetary concerns with getting children ready for a new school year. We concur that the items eligible for this exemption, computers, and their related equipment and supplies, ARE as essential as paper and pencils.

We do ask your consideration to include clothing and footwear as well, as keeping growing children in appropriate school attire can be challenging.

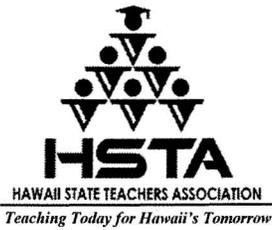
Because the GET is levied on business, we request your further consideration to insert a provision specifying that the retailer must pass the savings on to the consumer. This will clarify that the exemption is for the benefit of our customers and not a boon for business.

We certainly recognize that there is benefit to our industry as well. Nationally, holiday 2008 sales declined 2.6%. Considering that this season accounts for between 25% and 40% of a retailer's annual business, many companies are facing difficult times. We are prepared to work with the legislature and the tax department going forward. Thank you for your consideration and for the opportunity to comment on this measure.

A handwritten signature in cursive script, appearing to read 'Carol Regille'.

President

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REPRESENTATIVE ISAAC W. CHOY

TESTIMONY BEFORE THE HOUSE COMMITTEE ON
ECONOMIC REVITALIZATION, BUSINESS, & MILITARY AFFAIRS

RE: HB 82 – RELATING TO GENERAL EXCISE TAX

January 27, 2009

ROGER TAKABAYASHI, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION

Chair McKelvey and Members of the Committee:

The Hawaii State Teachers Association supports HB 82 which establishes an annual exemption from the general excise tax on the purchase of school supplies of less than \$50 per purchase and computers, computer software, and computer supplies of less than \$750 per purchase made between 12:01 AM on the last Friday in July and 11:59 PM the following Sunday.

This bill will benefit teachers who often need to pay out of pocket for supplies that may not have been possible to purchase with allotted classroom funds.

We urge the committee to pass this bill.

Thank you for the opportunity to testify.