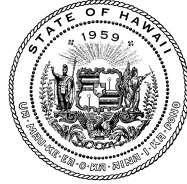


DAVID Y. IGE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR



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

MARIA E. ZIELINSKI
DIRECTOR OF TAXATION

JOSEPH K. KIM
DEPUTY DIRECTOR

To: The Honorable Jill N. Tokuda, Chair
and Members of the Senate Committee on Ways and Means

Date: February 10, 2016

Time: 9:20 A.M.

Place: Conference Room 211, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: S.B. 2927, Relating to General Excise Tax Licenses.

The Department of Taxation (Department) strongly supports S.B. 2927, an Administration measure, and offers the following comments for your consideration.

S.B. 2927 amends section 237-9, Hawaii Revised Statutes, to require that general excise tax (GET) licenses be renewed annually. Taxpayers will still obtain a license for the initial \$20 fee, but will be required to renew the license annually in order for the license to remain valid. There is an unspecified fee for renewal of the license. This measure also allows the Department to require that the renewal be done electronically. The measure is effective January 1, 2016.

First, the Department notes that taxpayers are not currently required to renew GET licenses at any time. This means that the registration information is not up to date. In addition, because many taxpayers do not often cancel their business licenses when they cease doing business, there are many licenses that are active according to the Department's computer system for entities that are no longer in business. Requiring taxpayers to renew annually will provide the Department with updated information that it can use to provide better service to taxpayers and further compliance enforcement.

Second, the permissive language regarding mandatory electronic renewals is intended to allow the Department to phase in this requirement. With the administration of GET scheduled to move to the new computer system in August of 2016, the Department would like to implement a phased in approach to the mandatory electronic renewals that would be efficient, but also provide reasonable exceptions to taxpayers who are unable to renew electronically.

Third, the Department notes that this annual license renewal is not overly burdensome in that all business registered with the Department of Commerce and Consumer Affairs must file a business report annually updating the entity's information.

Finally, the Department requests that this measure be amended to take effect on January 1, 2017, to provide the Department with sufficient time to make the necessary changes to forms and instructions.

Thank you for the opportunity to provide comments.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: GENERAL EXCISE, Annual Payment for Tax License

BILL NUMBER: SB 2927; HB 2398 (Identical)

INTRODUCED BY: SB by Kouchi by request; HB by Souki by request

EXECUTIVE SUMMARY: The Department proposes annual recurring license fees of an unspecified amount. The Department's very efforts eliminated the recurring license fees a quarter century ago, and now it seeks to turn back the clock. At a minimum its purported justification for doing this should be thoroughly scrutinized.

BRIEF SUMMARY: Amends HRS section 237-9, which is the statute governing General Excise Tax licenses. Requires an initial payment of \$20 and an annual recurring payment of \$___ thereafter. Provides that the Department of Taxation may require license renewals to be submitted in electronic form.

EFFECTIVE DATE: Upon approval. Tax licenses in existence upon approval will be renewed for the first time in 2018.

STAFF COMMENTS: This measure was submitted by the Department of Taxation as TAX-07 (16).

The legislature by Act 6, SLH 1989, established the present system of requiring a one-time payment of \$20 to obtain a general excise tax license. Prior to that, general excise tax license holders paid an annual fee of \$2.50 while exempt organizations paid an annual fee of \$1. At the time, the piddling annual fees represented an administrative burden for the Department, and the Department proposed the bill that became Act 6 in TAX-2 (89). The House Finance Committee, which at that time was chaired by Rep. Joe Souki, wrote:

Currently, general excise tax licenses are renewed annually at a modest fee. Your Committee finds that the imposition of this larger one-time fee and removal of the provision requiring yearly renewal will save time in administration for both the State and the business community.

House Stand. Comm. Rep. 1095 (1989).

In the justification sheet accompanying this bill, the Department complains that its records are filled with defunct licenses, and states that it believes a requirement to annually renew a license will lead to an increase in compliance with general excise tax return filing and payment requirements.

The Department already has rules (HAR section 18-231-3-14.22) that permit defunct licenses to be cancelled or revoked because of abandonment. If the Department feels that the procedures

contained there are too burdensome for it, it could amend its rules to provide for automatic revocation after a certain period of time.

With regard to the second point, it is not obvious at all how a small recurring charge would enhance tax compliance. The Department's current position is completely at odds with the stance it took in 1989, so it should be incumbent upon the Department to produce adequate supporting data.

Digested 1/28/2016



DATE: Wednesday, February 10, 2016
TIME: 9:20 AM

TESTIMONY OF LAHAINA DIVERS, INC.

Speaking in Opposition of SB2927 Relating to GET Annual Renewals

My name is Gregory L. Howeth, Owner of Lahaina Divers, Inc. Like mine, there are many other family businesses which are locally owned and operated in the State of Hawaii. Many of us have been in business for several decades and are an important and valued part of our respective communities. My business, in particular, has been in operation since 1978. We employ over 25 local staff, providing year round income and benefits for themselves and their families.

I am speaking in **STRONG OPPOSITION** to Bill SB2927 regarding annual renewals of the GE taxes. This will prove to be overly burdensome to not only the individual businesses, but to the State as well. There is no mention in the bill stating what the proposed fee will be; percentage or straight fee?? Why should businesses that have been in business for decades, or even new businesses for that matter, have the extra burden of renewing each year? What will happen if taxes are paid without the renewal? What will happen when a business does not renew and their number gets passed on to another business? What are the ramifications if the renewal falls through the cracks? This sounds like a possible accounting nightmare.

I strongly urge the powers that be to nix this bill before it goes any further. This is **NOT** the best way to handle the State GE tax revenues.

Sincerely,

Greg Howeth, President Lahaina Divers, Inc.

143 Dickenson Street • Lahaina, Maui, HI 96761
Toll Free: (800) 998-3483 • Phone (808) 667-7496
Fax: (808) 661-5195 • Email: info@lahainadivers.com
www.lahainadivers.com

February 10, 2016

The Honorable Jill N. Tokuda, Chair
Senate Committee on Ways and Means
State Capitol, Room 211
Honolulu, Hawaii 96813

RE: S.B. 2027, Relating to General Excise Tax Licenses

HEARING: Wednesday, February 10, 2016 at 9:20 a.m.

Aloha Chair Tokuda, Vice Chair Dela Cruz, and Members of the Committee:

I am Myoung Oh, Government Affairs Director, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 8,800 members. HAR **strongly opposes** S.B. 2027 which:

1. Requires that any license issued under section 237-9, Hawaii Revised Statutes, be renewed annually;
2. Permits the department to charge a fee for annual renewals; and
3. Permits the department to require annual renewals be applied for online.

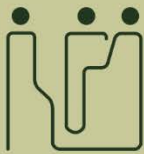
The State of Hawai'i Department of Commerce and Consumer Affairs ("DCCA") Professional and Vocational Licensing Division ("PVL") Geographic Report (current licenses) indicates that there were 150,567 licensees as of as of January 26, 2016, or presumably about 75,000 licensees for each two-year renewal period. Of the total current licenses, 18,423 are Real Estate Commission licensees and branch offices (principally active and inactive real estate brokers, salespersons and offices). Our REALTOR® members are all independent contractors and are subject to GE licenses and their annual renewals as proposed in S.B. 2027.

To put this into a business perspective, for a rental management company, they could manage over 500 properties and provides a service of collecting and remitting taxes on behalf of their clients. They may reconsider providing this service if they would have to renew over 500 GET licenses on top of all the filing that they already provide. The negative trickle-down effect would be home owners not having any idea how to fill out the paperwork and remit taxes.

HAR questions whether DoTax will have the resources to process the initial wave of tens of thousands of GE license applications required under S.B. 2927 so that licensees can renew their licenses online in a timely manner. HAR believes that Hawaii's businesses continuously struggle to keep up with the cost of living and doing business in Hawai'i.

For these reasons, we ask that this measure be deferred.

Mahalo for the opportunity to testify.



Richard Paul McClellan III
LAWYER

(808) 523-0449 (808) 726-2904

@ richard.p.mcclellan@gmail.com

Thomas Square Centre, 846 S. Hotel Street, Suite # 308
Honolulu, HI 96813

February 8, 2016

Senator Honorable Jill N. Tokuda, Chair
Members of the Senate Committee On Ways & Means

Re: S. B. 2927

Hearing Date: 2/10/2016, 9:20 a.m.

Dear Chair Tokuda & Honorable Members:

I recommend that you reject this measure. This measure does not appear to have any likelihood of identifying delinquent filers actually in business. If the objective is to “clear the tax rolls” of inactive businesses, this can be done in a far less burdensome manner.

The starting point should be that compliant license holders should be automatically renewed if they file their taxes on time, without the need for a separate on-line process or an additional fee, now or at any time in the future.

If elimination of inactive licenses no longer in business is the objective, the Director could adopt administrative rules permitting the cancellation upon a certain period of inactivity, say 3 to 5 years of non-filing. Burdening compliant taxpayers with a form and a fee is simply unfair.

If the Legislature determines to proceed with this measure, I suggest that language be inserted to clarify whether the failure to timely renew a license results in the “cancellation” of the license. As written, the measure creates a “grey area” wherein a business has an un-renewed license, which may be very different than never having a license at all.

Sincerely,

Richard McClellan

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: jonkn@hsfcu.com
Subject: Submitted testimony for SB2927 on Feb 10, 2016 09:20AM
Date: Monday, February 08, 2016 10:42:04 AM

SB2927

Submitted on: 2/8/2016

Testimony for WAM on Feb 10, 2016 09:20AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Jon Nakamoto	Individual	Oppose	No

Comments: I oppose SB 2927, to require annual registration of GET licenses and payment of a fee. I am currently the Treasurer of a nonprofit, and also serve with two smaller nonprofits. We are complying with GET requirements and also pay our share of taxes. SB 2927 will punish us with more documents to file, and fees to pay. The justification for SB 2927 does not make sense. If you want to eliminate defunct licenses, why punish those who comply? Why not instead set up procedures to contact those who have not filed for several years, and cancel those licenses if they do not respond. Also if you are concerned with some people not filing and making payments, then why punish those who are filing and making payments? Why not instead send an occasional notice or reminder. Better yet, audit those suspected of not paying their taxes. SB 2927 promotes big government that is insensitive to individuals and small organizations. Please do not pass SB 2927.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: marian243@hawaiiantel.net
Subject: Submitted testimony for SB2927 on Feb 10, 2016 09:20AM
Date: Sunday, February 07, 2016 10:14:35 AM

SB2927

Submitted on: 2/7/2016

Testimony for WAM on Feb 10, 2016 09:20AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Marian Grey	Individual	Oppose	No

Comments: SB2927 is another example of discouraging anyone to start a business in this state. While the initial fee seems fairly priced, why would there need to be another fee every year? There is a blank space in renewal pricing, and it certainly is another area where "tax & spend" people in government will see this as another place to pick the pockets of our citizens trying to earn a living in the private sector. If a fee is required to set up any new business, there should not be a renewal fee. If this is passed you should keep in that proposed deleted line allowing this license to be effective until cancelled. Don't allow annual fees to begin and expand.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: rich@seaparadise.com
Subject: Submitted testimony for SB2927 on Feb 10, 2016 09:20AM
Date: Saturday, February 06, 2016 3:07:43 PM

SB2927

Submitted on: 2/6/2016

Testimony for WAM on Feb 10, 2016 09:20AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Richard Kersten	Individual	Oppose	No

Comments: Clarification on page 2 sentence 13 the space for an applicable fee has been left blank. A specific fee should be introduced prior to passing this bill.

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From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: actionbsns@aol.com
Subject: Submitted testimony for SB2927 on Feb 10, 2016 09:20AM
Date: Saturday, February 06, 2016 12:42:14 PM

SB2927

Submitted on: 2/6/2016

Testimony for WAM on Feb 10, 2016 09:20AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Paula A Wilson	Individual	Oppose	No

Comments: This is an unfair tax on businesses and it is unconscionable that a fee is proposed and ready to be voted on without indicating what that fee is to be. It is also unfair that this bill has been so covertly presented that the general population is unaware of its existence.

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From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: ghbroderson@gmail.com
Subject: Submitted testimony for SB2927 on Feb 10, 2016 09:20AM
Date: Monday, February 08, 2016 9:43:09 AM

SB2927

Submitted on: 2/8/2016

Testimony for WAM on Feb 10, 2016 09:20AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
George Broderson	Individual	Oppose	No

Comments: I Oppose this Bill due to the unnecessary burden it places on the businessman to fund the taxation process. We are already required to be the States tax collector without compensation and this bill is unfair in its nature and intent.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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PETER L. FRITZ

TELEPHONE (SPRINT IP RELAY): (808) 568-0077
E-MAIL: PLFLEGIS@FRITZHQ.COM

THE SENATE THE TWENTY-EIGHTH LEGISLATURE REGULAR SESSION OF 2016

COMMITTEE ON WAYS AND MEANS Testimony on S.B. 2927 Hearing: February 10, 2016

(RELATING TO GENERAL EXCISE TAX LICENSES)

Chair Tokuda, Vice Chair Dela Cruz, and members of the Committee. My name is Peter Fritz. I am an attorney and a former Rules Specialist for the Department of Taxation. I am testifying **in opposition** to this bill.

This bill Requires general excise tax licenses to be renewed annually, permits the Department to charge a fee for annual renewals, and permits the Department to mandate that renewals be done electronically.

It is often said that you should be careful of what you wish for. In this case, the Department of Taxation (“DOTAX” or “Department”) wishes for all General Excise Tax (“GET”) Licenses to be renewed annually. The Department already has difficulty promptly posting tax payment checks and now it desires to process the renewal of several hundred thousand renewals of GET licenses each year. The RFP for the new Tax System Modernization did not include any provisions for a program for annual renewal of GET licenses. Taxpayer Services, already under a strain to answer questions from the public, will be even more burdened as it struggles to answer inquiries from taxpayers that suddenly found out that their license was cancelled and they are assessed penalties for a return is filed with a cancelled GET number. Annual renewal will be a trap for the unwary particularly for business headquartered on the mainland when their GET license who may assume that the GET number is permanent like their EIN or SSN and do not realize that it must be renewed annually. Notwithstanding the additional burden that will be placed on the Department, this bill does not request an appropriation.

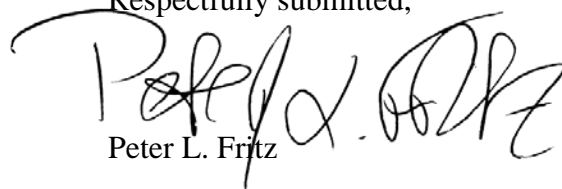
There may be a need to cull GET licenses that have been inactive for years, but to avoid hardship, such culling requires notice and it best done in writing and in phases starting with the oldest. The Special Enforcement Section undertake the task of developing a program for this undertaking that ensures that taxpayers are notified of the need for renewal.

How does the Department intend to notify taxpayers of this new requirement? It no longer sends forms to taxpayers so notice cannot be included in the forms. The Department cannot send email notices because it does not have email address for license holders, some taxpayers do not have email and individuals who are visually disabled may not be able to use email unless it is properly prepared. So how does the Department plan to notify taxpayers of this new requirement in a manner that avoids hardship?

With respect to electronic renewal, the Committee should take notice that several years ago, the Department was notified that many of the online returns are not accessible to visually disabled taxpayers which is a violation of state and federal disability laws. A portal maintained by the Department that allowed taxpayers to register to pay certain taxes electronically was also inaccessible to many disabled taxpayers. This portal was modified by an outside company to be more accessible otherwise it more likely than not would still be inaccessible to the disabled.

The bill should be held until such time as the Department can demonstrate that it can implement a program to annually renew GET licenses without overburdening its already overburdened Taxpayer Services branch and can develop a registration portal that serves all taxpayers.

I respectfully request that the Committee hold this bill.

Respectfully submitted,

Peter L. Fritz

TO: Members of the Committee on Ways and Means

FROM: Natalie Iwasa, CPA, CFE
Honolulu, HI 96825
808-395-3233

HEARING: 9:20 a.m. Wednesday, February 10, 2016

SUBJECT: SB 2927 Relating to General Excise Tax Licenses - **OPPOSED**

Aloha Chair and Senators,

Thank you for allowing me to provide testimony on SB 2927, which would require general excise tax licenses to be renewed annually. I oppose this bill.

Every year fees and paperwork are added to bureaucratic burdens faced by small businesses. This bill would require one more document to be filed and another fee to be paid.

In addition, some entities that currently may have taxable income infrequently may end up just giving up their licenses in order to avoid the extra fee.

Please do not pass this bill.