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To: The Honorable Donovan M. Dela Cruz, Chair
and Members of the Senate Committee on Ways and Means

Date: Monday, January 29, 2018
Time: 10:15 A.M.
Place: Conference Room 211, State Capitol

From: Linda Chu Takayama, Director
Department of Taxation

Re: S.B. 2484, Relating to Estate Taxes

The Department of Taxation (Department) provides the following comments regarding S.B. 2484 for your consideration. S.B. 2484 increases the estate tax rate to 20% for estates valued at over $10 million. The measure is effective upon approval and applies to decedents dying or taxable transfers occurring after December 31, 2017.

First, the Department notes that Section 2 of the measure seems to contain an error. HRS section 236E-6 relates to the applicable exclusion amount while HRS section 236E-8 relates to tax rates applied after reduction of the taxable estate by the appropriate applicable exclusion amount. Since the applicable exclusion amount is not being changed, Section 2 should be deleted and the remaining sections renumbered accordingly.

Second, the referenced base tax amount due for the new tax rate of 20% is incorrect. The rate of 15.7% will apply to estates over $5,000,000, but not more than $10,000,000. The tax due on a Hawaii taxable estate of 10 million is $1,385,000 ($600,000 plus 15.7% of $5,000,000) and the 20% rate should reflect "$1,385,000 plus 20% of the amount by which the Hawaii net taxable estate exceeds $10,000,000." The Department notes that this new rate combined with the maximum federal estate tax rate of 40% will mean that a decedent in the highest tax brackets will have a combined tax rate of 60%.

Third, the Department notes that the stated applicable exclusion amounts noted in the Section 1 preamble are incorrect. For decedents passing away in 2017, the applicable exclusion amount is $5,490,000. For a surviving spouse, the amount is $5,490,000 plus any amount of the applicable exclusion amount not used by the predeceased spouse, but only if portability of that amount was elected by the surviving spouse on the predeceased spouse's estate tax return. In addition, the recently passed federal Public Law No. (PL) 115-97 increased the base federal applicable exclusion amount (originally set as $5,000,000 in 2011) to $10 million.

The base applicable exclusion amounts are indexed to inflation and increase yearly. PL 115-97 changed the method of computing the inflation rate, and the Internal Revenue Service has not yet published the corrected applicable exclusion amount for 2018. However, it is expected to be around $11,180,000. If this amount is correct, a surviving spouse would be entitled to $11,180,000 plus any amount of the applicable exclusion amount not used by the predeceased spouse (determined on the date of death of the predeceased spouse), but only if portability of that amount was elected by the surviving spouse on the predeceased spouse's estate tax return. PL 115-97 provides that these increased exemptions will sunset on January 1, 2026.

Finally, the Department is able to implement the measure with its current effective date. Thank you for the opportunity to provide comments.

TAX FOUNDATION OF HAWAII

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

SUBJECT: ESTATE, Tax hike

BILL NUMBER: SB 2484

INTRODUCED BY: K. RHOADS

EXECUTIVE SUMMARY: Increases estate taxes for Hawaii net taxable estates valued at over $10,000,000.

SYNOPSIS: Amends section 236E-8, Hawaii Revised Statutes, to add a new top tax rate of 20% for taxable estates over $10 million.

A conforming amendment is made to section 236E-6, Hawaii Revised Statutes.

EFFECTIVE DATE: Effective for decedents dying or taxable transfers occurring after December 31, 2017.

STAFF COMMENTS: The bill as drafted appears to be incomplete. The amendment to section 236E-6 of the bill refers to the federal applicable exclusion amount as amended by section 236E-8, but the amendment to section 236E-8 contained in the bill does not alter the federal applicable exclusion amount.

Digested 1/26/2018

HAWAII APPLESEED
CENTER FOR LAW & ECONOMIC JUSTICE

Testimony of Hawaiʻi Appleseed Center for Law and Economic Justice
Supporting SB 2484 – Relating to Estate Taxes
Senate Committee on Ways and Means
Scheduled for hearing Monday, January 29, 2018, at 10:15 am, in Conference Room 211

Dear Chair Dela Cruz, Vice Chair Keith-Agaran, and members of the Committee:

Thank you for the opportunity to testify in SUPPORT of **SB 2484**, which would increase estate taxes for Hawaiʻi net taxable estates valued at over $10,000,000.

If Hawaiʻi were to continue to conform its estate tax exemption amount to the federal level, that would mean that inheritance amounts below $11.2 million for singles and $22 million for couples would be exempted from the estate tax. In that case, SB 2484 would add an extra 4.3 percent of tax on inheritance amounts in Hawaiʻi above $21.2 million for singles and $32 million for couples.

Even before the passage of the federal Tax Cuts and Jobs Act (TCJA), Delaware and Hawaiʻi had the highest estate tax exemption thresholds among the states that have estate taxes, due to their coupling to the federal level. With the TCJA doubling the already-high 2017 exemption amounts (see table below), Hawaii will lose significant estate tax revenue if it continues to conform to the federal law.

Year	Exclusion Amount	Max/Top tax rate
2001	$675,000	55%
2002	$1 million	50%
2003	$1 million	49%
2004	$1.5 million	48%
2005	$1.5 million	47%
2006	$2 million	46%
2007	$2 million	45%
2008	$2 million	45%
2009	$3.5 million	45%
2010	Repealed	
2011	$5 million	35%
2012	$5.12 million	35%
2013	$5.25 million[29]	40%
2014	$5.34 million[30]	40%
2015	$5.43 million[31]	40%
2016	$5.45 million[6]	40%
2017	$5.49 million	40%
2018	$11.2 million	40%

We ask you to consider amending SB 2484 to decouple Hawai‘i from the federal estate tax exemption levels, as several other states already do. Hawai‘i’s exemption levels could be kept where they were in 2017 or decreased further to relatively recent prior levels.

Regardless of whether or not Hawai‘i continues to conform to the federal law, wealthy taxpayers will no longer be required to pay between 18 and 40 percent of their estate values between $5.5 million and $11.2 million for singles (and between $11 million and $22 million for couples) in federal tax. This is a tremendous tax break for literally the richest among us.

Since these taxpayers will be saving significantly at the federal level, they can easily afford to pay more at the state level. Currently Hawai‘i’s top estate tax rate is 15.7 percent. As of 2015, Washington had the highest maximum estate tax rate at 20 percent, and 11 states had a maximum rate of 16 percent.

We ask you to also consider amending SB 2484 to enable Hawai‘i to capture additional revenue by increasing estate tax rates. The top estate tax rate could be increased to 20 percent, to match the highest state tax rate prior to the passage of the TCJA, or be raised higher, since the taxpayers affected will see significant savings at the federal level starting in 2018.

Thank you for your consideration of this testimony.

The Hawai‘i Appleseed Center for Law and Economic Justice is committed to a more socially just Hawai‘i, where everyone has genuine opportunities to achieve economic security and fulfill their potential. We change systems that perpetuate inequality and injustice through policy development, advocacy, and coalition building.

46-063 Emepela Pl. #U101 Kaneohe, HI 96744 · (808) 679-7454 · Kris Coffield · Co-founder/Executive Director

TESTIMONY FOR SENATE BILL 2484, RELATING TO ESTATE TAXES

Senate Committee on Ways and Means
Hon. Donovan M. Dela Cruz, Chair
Hon. Gilbert S.C. Keith-Agaran, Vice Chair

Monday, January 29, 2018, 10:15 AM
State Capitol, Conference Room 211

Honorable Chair Dela Cruz and committee members:

I am Kris Coffield, representing IMUAlliance, a nonpartisan political advocacy organization that currently boasts over 400 members. On behalf of our members, we offer this testimony in strong support of Senate Bill 2484, relating to estate taxes.

In December of 2017, the Republican controlled United States Congress passed the largest tax overhaul in a generation on strictly party-line votes. Situated amidst the $1.5 trillion tax cut is a particularly pernicious provision that's emblematic of the constituency toward which the entire proposal is geared: a doubling of the amount of money that's automatically exempt from the federal estate tax to roughly $11 million for an unmarried individual or $22 million for a married households filing jointly.

Even if the old exemption levels had remained in place at $5.5 million per person ($11 million for a married couple), fewer than 11,500 estates would have had to file an estate tax return in 2018, according to estimates from the Tax Policy Center, of which only roughly 5,500 would have ended up owing any tax at all,. Those numbers drop sharply under the new tax law. Less than 4,000 estates will have to file every year, with fewer than 1,800 paying taxes at the end of the day.

Moreover, as financial writer Jeanne Sahadi has argued, even if the estate tax rules actually *do* revert back to their pre-2018 levels in 2025, when they must be reauthorized by Congress, there's still good news for the heirs of the affluent: the increased exemption can be used for lifetime gifts. A wealthy person may give away money while alive, tax free, up to the amount of the estate tax exemption, with that same amount reducing the applicable tax exemption upon their death. Today's higher exemption levels will even retain their benefit if the estate tax exemption level falls in the future, under the GOP tax plan. So, if you're a rich investor who lives for at least another eight years and gives your kids an $11 million gift in 2018 and the estate tax resets in 2025, much to your lifeless chagrin, you're effectively giving your nestling bluebloods $5.5 million more, tax free, then if you had waited until your untimely passing to bequeath to them the same amount.

Hawaii has an obligation to rectify this giveaway to the rich–which ultimately results in greater governmental austerity–at the state level. Additional estate tax revenue generated by passage of this measure can subsidize services that the federal government will no longer be able (or willing) to provide because of the revenue reduction resulting from the Republicans' sybaritic tax monstrosity, including social services for people in poverty, the provision of a quality education to Hawai'i's children, and access to healthcare for working families.

We must countervail the heartless fiscal policies of corporate America with a devotion to the common good. Mahalo for the opportunity to testify <u>in support</u> of this bill.

Sincerely,
Kris Coffield
Executive Director
IMUAlliance

Life of the Land
P.O. Box 37158, Honolulu, Hawai`i 96837-0158
Phone: 927-0709 henry.lifeoftheland@gmail.com

COMMITTEE ON WAYS AND MEANS
Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

NOTICE OF HEARING

DATE: Monday, January 29, 2018
TIME: 10:15 A.M.
PLACE: Conference Room 211

SB 2484 Relating to Estate Taxes SUPPORT

Aloha Chair Dela Cruz, Vice Chair Keith-Agaran and Members of the Committee,

Life of the Land is Hawai`i's own energy, environmental and community action group advocating for the people and `aina for 47 years. Our mission is to preserve and protect the life of the land through sound energy and land use policies and to promote open government through research, education, advocacy and, when necessary, litigation.

Life of the Land supports SB 2484 which would increase estate taxes for Hawai`i net taxable estates valued at over $10,000,000.

We also support the position of Hawai`i Appleseed to decouple Hawai`i from the federal estate tax exemption levels, as several other states already do. Hawai`i's exemption levels could be kept where they were in 2017 or decreased further to relatively recent prior levels.

Mahalo
Henry Curtis
Executive Director

COMMITTEE ON WAYS AND MEANS

MONDAY, JANUARY 29, 10:15 A.M.,ROOM 211

SB2484 RELATING TO ESTATE TAXES

TESTIMONY

Beppie J. Shapiro, testifying as individual

Chair (Delacruz), Vice-Chair Keith-Agaran and Committee Members:

I support the intent of SB2484 as well as its substance, and suggest strengthening it to fully address its intent. SB2484 proposes to capture money from estates which will not be taxed under the new federal tax law as it has been previously, in order to provide increased funding to the state of Hawaii.

The Estate Tax rightly aims to prevent the concentration of wealth in a limited number of families, by taking part of an estate's value and returning it to government where it will benefit the public. Estate taxes generally increase with the size of an estate as they do in Hawaii under current law.

Hawaii's Estate Tax exemption value has been tied to the federal Estate Tax exemption value for years, which has resulted in more estates being untaxed, or taxed at a lower amount, than any other state except Delaware.

The new tax law raises the federal level of exemption from estate taxation dramatically. Thus many, many estates which previously were subject to federal Estate Taxes will no longer be so taxed.

This provides an opportunity for Hawaii to collect some of this money which is being "left on the table". SB2484 takes advantage of this situation by defining a new level of estate wealth`, corresponding to the new federal exemption threshold, and establishing a new and higher State Estate Tax on these extremely wealthy estates.

However, SB2484 seems to me to miss a significant opportunity to implement its intent. Previously the federal government taxed estates valued at more than $5 million; now it will only tax those valued at more than $10 million. Thus estates in Hawaii between $5 and

$10 million will now not be subject to federal Estate Taxes. SB2484 could increase the taxes on estates with values between $5 million and $10 million to collect some of this newly untaxed wealth. I encourage this committee to amend SB2484 to accomplish this by further amending HRS section 236-8.

Thank you for the opportunity to submit testimony.

SB-2484
Submitted on: 1/26/2018 10:10:52 PM
Testimony for WAM on 1/29/2018 10:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Greg and Pat Farstrup		Support	No

Comments:

January 28, 2018

Dear Chair Dela Cruz, Vice Chair Keith-Agaran, and members of the Committee:

I am testifying in SUPPORT of SB 2484, and seeking consideration of two minor modifications.

Please consider amending SB 2484 to decouple Hawaiʻi from the federal estate tax exemption levels. Hawaiʻi's exemption levels could be decreased to relatively recent levels, prior to 2017. Due to recent changes in federal tax law, wealthy taxpayers will no longer be required to pay between 18 and 40 percent of their estate values between $5.5 million and $11.2 million for singles (and between $11 million and $22 million for couples) in federal tax. This is a tremendous tax break for the wealthiest among us. As these taxpayers will be saving significantly at the federal level, they should be able afford to pay more at the state level.

Please also consider amending SB 2484 to enable Hawaiʻi to capture additional revenue by increasing estate tax rates. The top estate tax rate could be increased to 20 percent, to match the highest state tax rate prior to the passage of the TCJA, or be raised higher, since the taxpayers affected will see significant savings at the federal level starting in 2018. These modifications are politically palatable, even in an election year, and will make our tax system slightly more fair.

Mahalo,

Amy Perruso
Teacher, Mililani High School
Common Good Coalition

Bart Dame
710 West Hind Drive, Honolulu, HI

COMMITTEE ON WAYS AND MEANS

Senator Donovan Dela Cruz, Chair
Senator Gilbert Keith-Agaron, Vice-Chair
Date: Monday, January 29, 2018 10:15 a.m.
Place: Conference room 211

SB2484, RELATING TO ESTATE TAXES

SUPPORT THE INTENT, with comments

Good morning, Chair Dela Cruz, Vice-Chair Keith-Agaran and members of WAM.

My name is Bart Dame and I am testifying today as an individual in support of the intent of SB2484 and with some comments.

One of the major changes to the federal tax code pushed through late last year by the Republican controlled Congress was to double the size of estates before they are subject to taxation. Hawaii's tax law, for most features, conforms to federal tax policy in order to simplify the filing of taxes. But we are not obliged to conform.

It is unlikely Hawaii's legislators, on their own, would have agreed to give such a generous tax cut to only the very richest families in the state and I suggest this change is so contrary to our state's commitment to the principle of tax fairness, as well as so costly to the treasury of our state that this should provoke consideration of de-coupling this portion of the state tax code from that of the federal government.

SB2484 attempts to re-capture some of the lost revenue by increasing the tax rate on estates over $22 million. While I support the intent of such a move, I think we should reject the radical approach pushed through by the Republicans last year and retain our current estate tax threshold.

SB2484 may be a convenient vehicle for accomplishing this goal. Thank you for this opportunity to testify.