

**JOSH GREEN M.D.**  
GOVERNOR

**SYLVIA LUKE**  
LT. GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF TAXATION**

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**GARY S. SUGANUMA**  
DIRECTOR

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DEPUTY DIRECTOR

**TESTIMONY OF  
GARY S. SUGANUMA, DIRECTOR OF TAXATION**

**TESTIMONY ON THE FOLLOWING MEASURE:**

S.B. No. 2857, Relating to an Aircraft Service and Maintenance Tax Credit.

**BEFORE THE:**

Senate Committee on Transportation and Culture and the Arts

**DATE:** Tuesday, February 06, 2024

**TIME:** 3:01 p.m.

**LOCATION:** State Capitol, Room 224

Chair Lee, Vice-Chair Inouye, and Members of the Committee:

The Department of Taxation ("Department") offers the following comments regarding S.B. 2857 for your consideration.

S.B. 2857 amends chapter 235, Hawaii Revised Statutes (HRS), to create a new income tax credit for costs that were necessary and directly incurred by a taxpayer for aircraft service and maintenance during wildfire relief efforts in the wake of the August 2023 Maui wildfires. The bill defines aircraft as "a device that is used or intended to be used for flight in the air and not more than 12,000 pounds maximum certificated take-off weight. The aircraft service and maintenance must have been performed at an aircraft service and maintenance facility within the State, and it must have been subject to the general excise tax (GET) under chapter 237, HRS. The amount of the credit would be equal to the amount of GET that was paid on those incurred costs. S.B. 2857 applies to taxable years beginning after December 31, 2024, and repeals on December 31, 2029.

The Department notes that amounts received from the service and maintenance of aircraft in an aircraft service and maintenance facility within the State are exempt from GET pursuant to section 237-24.9, HRS. The definitions of "aircraft service and maintenance," "aircraft service and maintenance facility," and "maintenance" in the bill are identical to the definitions of those same terms in section 237-24.9, HRS. The definition of "aircraft," however, differs. The bill defines "aircraft" as a device that is

used or intended to be used for flight in the air and not more than 12,000 pounds maximum certificated take-off weight, while section 237-24.9, HRS defines "aircraft" as any craft or artificial contrivance of whatever description engaged in intrastate, interstate, or international scheduled commercial use as defined in chapter 263, that operates with two or more jet engines. Accordingly, it appears that this bill will provide a tax credit relating to the service and maintenance of aircrafts that are outside the scope of the GET exemption under section 237-24.9, such as aircrafts with only one jet engine.

The Department suggests that the term "wildfire relief efforts" be defined, as it is unclear which types of activities would qualify.

Additionally, the Department suggests adding a definition for "qualified taxpayer" to clarify whether the credit may be claimed by an owner or operator of an aircraft (who incurs expenses to maintain the aircraft) or by the person providing the service and maintenance work (who pays GET for the service and maintenance and who incurs expenses to provide the maintenance work). Because the credit is based on GET paid on qualified expenses, and because GET is imposed on the gross income or gross proceeds of a taxpayer, as opposed to being imposed on the expenses incurred by a taxpayer, it is unclear who would qualify for the credit.

Similarly, if the intent of the bill is for the credit to apply to the owner or operator, the Department suggests that subsection (b), which provides that the amount of the credit shall be equal to the amount of GET paid on the qualified expenses, be amended to clarify that the credit shall be equal to the amount of GET passed on and paid by the taxpayer for qualified expenses.

Thank you for the opportunity to provide testimony on this measure.



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
KA 'OIHANA O KA LOIO KUHINA  
THIRTY-SECOND LEGISLATURE, 2024**

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 2857, RELATING TO AN AIRCRAFT SERVICE AND MAINTENANCE TAX CREDIT.

**BEFORE THE:**

SENATE COMMITTEE ON TRANSPORTATION AND CULTURE AND THE ARTS

**DATE:** Tuesday, February 6, 2024      **TIME:** 3:01 p.m.

**LOCATION:** State Capitol, Room 224 and Videoconference

**TESTIFIER(S):** Anne E. Lopez, Attorney General, or  
Winston I. Wong, Deputy Attorney General

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Chair Lee and Members of the Committee:

The Department of the Attorney General provides the following comments regarding this bill.

This bill proposes to establish an income tax credit for general excise tax paid on airline service and maintenance expenses following the August 2023 Maui wildfires. However, the bill presents issues as to who may qualify for the credit and how the credit may be claimed.

First, it is unclear who qualifies for the credit, as “each qualified taxpayer” on page 3, line 8, is undefined. The bill’s focus on “supporting and enhancing the State’s aviation maintenance and repair workforce and retaining the economic activity of aviation servicing for the general aviation industry[,]” on page 2, lines 16-19, indicates that aviation maintenance and service providers are the taxpayers intended to claim this credit. The Department suggests that the ambiguity may be best addressed by adding a definition for “qualified taxpayer” as an “aircraft service and maintenance provider who performs and provides aircraft service and maintenance at an aircraft service and maintenance facility.”

Second, it is unclear how the credit may be claimed. As written, the credit may be claimed “equal to the amount of general excise taxes paid on the qualified expenses of the taxpayer,” as set forth on page 3, lines 14-16. “Qualified expenses” means “costs

that are necessary and directly incurred by the taxpayer for aircraft service and maintenance . . . performed at an aircraft service and maintenance facility within the State that are subject to the general excise tax under chapter 237.” Page 5, lines 16-21. However, pursuant to section 237-13, Hawaii Revised Statutes, the general excise tax is imposed on gross income collected by businesses for services performed in the State, not expenses incurred. Businesses are ultimately responsible for paying general excise tax to the State Department of Taxation, regardless of whether general excise tax owed is passed on (i.e., collected from customers and then remitted to the State). When general excise taxes are paid on transactions involving aircraft service and maintenance, the businesses providing those services are the entities liable for those taxes. Because a credit for expenses or costs is inapposite with the general excise tax, which is assessed on gross income, the Department suggests that subsection (b) of the new chapter 235 section to be added by section 2 of the bill, on page 3, lines 14-16, be revised to read as follows:

(b) The amount of the tax credit shall be equal to the amount of general excise taxes paid on the qualified gross income of a qualified aircraft service and maintenance provider received in the taxable year; provided that said aircraft service and maintenance shall be completed at a qualifying aircraft service and maintenance facility.

The definition of “qualified expenses” on page 5, lines 16-21, should be deleted and a definition for “qualified gross income” added as follows:

“Qualified gross income” means gross income received in compensation for aircraft service and maintenance as part of wildfire relief efforts regarding the August 2023 Maui wildfires, performed at an aircraft service and maintenance facility within the State that is subject to the general excise tax under chapter 237.

These changes would resolve the Department’s concerns.

# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: GENERAL EXCISE, INCOME TAX; Tax Credit for Aircraft Service and Maintenance; General Excise Taxes Paid; Qualified Expenses

BILL NUMBER: SB 2857

INTRODUCED BY: MCKELVEY

EXECUTIVE SUMMARY: Establishes a five-year income tax credit for general excise taxes paid on qualified aircraft service and maintenance expenses of a qualified taxpayer. Sunsets 12/31/2029.

SYNOPSIS: Adds a new section to chapter 235, HRS, providing a qualified taxpayer an aircraft service and maintenance income tax credit. The credit shall be equal to the amount of GET paid on “Qualified Expenses” incurred at a qualifying aircraft and maintenance facility.

Defines “Aircraft” as a device that is used or intended to be used for flight in the air and not more than 12,000 pounds maximum certificated take-off weight.

“Aircraft service and maintenance” means all scheduled and unscheduled tasks performed within an aircraft service and maintenance facility for the inspection, modification, maintenance, and repair of aircraft and related components including engines, hydraulic and electrical systems, and all other components that are an integral part of an aircraft.

“Aircraft service and maintenance facility” means a facility for aircraft service and maintenance that is not less than thirty thousand square feet in area.

“Maintenance” means the upkeep of aircraft engines, hydraulic and electrical systems, and all other components that are an integral part of an aircraft, but does not include refueling, janitorial services or cleaning, restocking of aircraft and passenger supplies, or loading or unloading of cargo and passenger baggage.

“Qualifying Expenses” means costs that are necessary and directly incurred by the taxpayer for aircraft service and maintenance *during wildfire relief efforts* in the wake of the August 2023 Maui wildfires, performed at an aircraft service and maintenance facility within the State that is subject to the general excise tax under chapter 237.

EFFECTIVE DATE: Upon approval; applicable to taxable years beginning after December 31, 2024; repealed on December 31, 2029.

STAFF COMMENTS: The bill appears to be targeting relief for small aircraft assisting in the Maui wildfire relief efforts. While the actions of the aircraft operators were praiseworthy, there are several concerns with the bill as drafted.

Refunds of GET paid on aircraft service and maintenance expenses is proposed via an income tax credit. The bill does not indicate if the income tax credit would be refundable or nonrefundable. If the credit is refundable, the taxpayer would need to wait until the income tax return is filed to receive the GET refund. If nonrefundable, again the taxpayer would need to wait until sufficient income tax liability exists. More immediate cash flow relief is achievable through a GET exemption, similar to HRS section 237-24.9.

HRS section 237-24.9 provides a GET exemption for serving and maintenance of commercial jet aircraft with two or more engines. The bill proposes similar relief for small aircraft such as helicopters “during the wildfire relief efforts” but through the additional hoop of filing an income tax return and waiting for the refund.

“During the wildfire relief efforts” is not clearly defined, but as drafted, the benefit is to sunset on 12-31-2029. Is “during the wildfire relief efforts” any and all service and maintenance during the 5 year period? It also is not clear if the intent is to provide credits for service and maintenance during the period the aircraft is *not* used for wildfire relief, if other carriers are providing wildfire relief efforts at the time.

Digested: 2/4/2024



February 5, 2024

Honorable Chris Lee  
Senate Committee on Transportation and Culture and the Arts, Chairman  
415 South Beretania St., Room 219  
Honolulu, HI 96813

**TRANSMITTED BY ELECTRONIC SUBMISSION**

**RE: SB 2857 (McKelvey)– SUPPORT**

Dear Chairman Lee:

As the leading general aviation membership organization in the United States and the largest international vertical flight association, the Aircraft Owners and Pilots Association (AOPA) and the Helicopter Association International (HAI) are pleased to support SB 2857. This legislation is aligned with the interests of our pilots and aircraft owners in Hawaii.

Ensuring a safe and viable aviation fleet depends in large part on the ability of aircraft owners and operators to access aircraft parts and maintenance facilities. Aircraft maintenance, no matter the type, is expensive and can force aircraft owners and operators to either defer maintenance issues or not fly. In Hawaii, the cost of finding suitable mechanics to work on certain aircraft with experienced aircraft mechanics can be scarce. Providing a meaningful tax incentive to ensure aircraft are operating safely ensures safety is never compromised due to cost.

SB 2857 illustrates to aircraft owners that maintenance is critical to the health and safe operation of general aviation. The Lahaina Fire showcased the important role general aviation plays in Hawaii and its uses as a critical lifeline during emergencies. Our members on the islands are always ready to support the local needs of their communities and understand the important roles they may play during natural disasters.

We hope you and your committee will look favorably on this measure and please do not hesitate to contact me for any additional information.

Respectfully,

**JARED YOSHIKI**  
*Western Pacific Regional Manager - AOPA*

**KATIA VERAZA**  
*Manager of Government Affairs - HAI*

CC: Members, Senate Transportation and Culture and the Arts Committee  
Senator Agnus McKelvey

AIRCRAFT OWNERS AND PILOTS ASSOCIATION