



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

ON THE FOLLOWING MEASURE:

S.B. NO. 2279, S.D. 1, RELATING TO TAXATION.

BEFORE THE:

SENATE COMMITTEE ON WAYS AND MEANS

DATE: Wednesday, February 28, 2024 **TIME:** 10:02 a.m.

LOCATION: State Capitol, Room 211 and Videoconference

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Mary Bahng Yokota, Deputy Attorney General

Chair Dela Cruz and Members of the Committee:

The Department of the Attorney General provides the following comments:

The stated purpose of this bill is to (1) "[r]equire any qualified tuition reduction for graduate assistants enrolled in graduate level coursework to be considered taxable income"; and (2) "[r]estrict the qualified tuition reduction for graduate assistants enrolled in graduate level coursework to be equal to an amount not more than a certain percentage of the resident tuition fee." Page 1, line 17, through page 2, line 7 (emphases added).

The bill provides that the term "'qualified tuition reduction' shall have the same meaning as defined in section 117(d)(2) of the Internal Revenue Code." Page 2, lines 20-21, and page 3, lines 16-17 (emphasis added). Section 117(d) of the Internal Revenue Code (I.R.C.) provides in parts:

(d) Qualified tuition reduction.

- (1) In general.**—Gross income shall not include any qualified tuition reduction.
- (2) Qualified tuition reduction.**—For purposes of this subsection, the term "qualified tuition reduction" means the amount of any reduction in tuition provided to an employee of an organization described in section 170(b)(1)(A)(ii) for the education (below the graduate level) at such organization (or another organization described in section 170(b)(1)(A)(ii) of—
 - (A)** such employee, or

- (B) any person treated as an employee (or whose use is treated as an employee use) under the rules of section 132(h).

* * *

(5) Special rules for teaching and research assistants.—In the case of the education of an individual who is a graduate student at an educational organization described in section 170(b)(1)(A)(ii) and who is engaged in teaching or research activities for such organization, paragraph (2) shall be applied as if it did not contain the phrase “(below the graduate level)”. [Emphases added.]

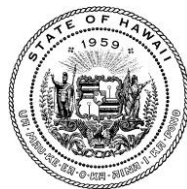
The definition of "qualified tuition reduction" in the bill only incorporates paragraph (2) of section 117(d), I.R.C., and is limited to tuition reductions for education "below the graduate level." To capture the full definition of "qualified tuition reduction," as modified by the "special rules for teaching and research assistants," we recommend amending the definition on page 2, lines 20-21, and page 3, lines 16-17, to read as follows:

“Qualified tuition reduction” shall have the same meaning as defined in section 117(d) of the Internal Revenue Code.

Thank you for the opportunity to provide comments on this bill.

JOSH GREEN M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION

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

TESTIMONY ON THE FOLLOWING MEASURE:

S.B. No. 2279, S.D. 1, Relating to Taxation

BEFORE THE:

Senate Committee on Ways and Means

DATE: Wednesday, February 28, 2024

TIME: 10:02 a.m.

LOCATION: State Capitol, Room 211

Chair Dela Cruz, Vice-Chair Moriwaki, and Members of the Committee:

The Department of Taxation ("Department") offers the following comments regarding S.B. 2279, S.D. 1 for your consideration.

S.B. 2279, S.D. 1 adds two new sections to chapter 304A, Hawaii Revised Statutes (HRS), to (1) require that any qualified tuition reduction for graduate assistants enrolled in graduate level coursework shall be considered taxable income and (2) restrict the amount of qualified tuition reduction for graduate assistants enrolled in graduate level coursework based on a percentage of the resident tuition fee. The term "graduate assistant" is defined as a student in a renewable, part-time academic appointment with responsibilities of teaching and research in their unit of hire, and have roles as professionals, albeit of an apprentice nature, in the university community. The term "qualified tuition reduction" has the same meaning as defined in section 117(d)(2) of the Internal Revenue Code (IRC). The measure applies for taxable years beginning after December 31, 2024.

The Department notes that IRC section 117(d)(2) defines "qualified tuition reduction" as a tuition reduction provided to non-graduate students:

For purposes of this subsection, the term "qualified tuition reduction" means the amount of any reduction in tuition provided to an employee of an organization described in section 170(b)(1)(A)(ii) for the education (below the graduate level) at such organization (or another organization described in section 170(b)(1)(A)(ii)) of—

- (A) such employee, or
- (B) any person treated as an employee (or whose use is treated as an employee use) under the rules of section 132(h).

The bill, however, provides that qualified tuition reduction for *graduate* assistants shall be taxable under chapter 235, HRS. To avoid ambiguity, the Department suggests amending the definition of "qualified tuition reduction" as detailed below.

Additionally, because the State conforms to IRC section 117(d), which excludes from gross income qualified tuition reduction for graduate and non-graduate students, the Department recommends that section 235-2.4, HRS, be amended to explicitly state that IRC section 117(d) is not operative with respect to qualified tuition reductions provided to graduate assistants. Specifically, the Department recommends amending section 235-2.4, HRS, by adding a new subsection to read as follows:

Section 117(d) (with respect to qualified tuition reduction) of the Internal Revenue Code shall be operative; provided that qualified tuition reduction, as defined in this subsection, for graduate assistants enrolled in graduate level coursework shall be subject to income tax under this chapter.

For purposes of this subsection:

"Graduate assistant" means a student in a renewable, part-time academic appointment with responsibilities of teaching and research in their unit of hire, and have roles as professionals, albeit of an apprentice nature, in the university community.

"Qualified tuition reduction" means the amount of any reduction in tuition provided to an employee who is a graduate student at an organization described in section 170(b)(1)(A)(ii) of the Internal Revenue Code for the education at such organization (or another organization described in section 170(b)(1)(A)(ii)) of

such employee, or any person treated as an employee (or whose use is treated as an employee use) under the rules of section 132(h).

If the suggested amendments are adopted, the Department can administer the tax law changes in this measure with the current effective date.

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



UNIVERSITY OF HAWAII SYSTEM

‘ŌNAEHANA KULANUI O HAWAII

Legislative Testimony

Hō'ike Mana'o I Mua O Ka 'Aha'ōlelo

Testimony Presented Before the
Senate Committee on Ways and Means
Wednesday, February 28, 2024, at 10:02 a.m.

By

Debora Halbert, Vice President for Academic Strategy
University of Hawai'i System

SB 2279 SD1 – RELATING TO TAXATION

Chair Dela Cruz, Vice Chair Moriwaki, and Members of the Committee:

The University of Hawai'i (UH) appreciates the opportunity to offer comments on Senate Bill 2279 SD1 regarding the taxation of tuition waivers for graduate assistants (GAs) enrolled in graduate-level coursework.

SB 2279 SD1 acknowledges the significance of graduate education in preparing individuals for advanced careers in academia or industry. It recognizes that tuition waivers provided by universities to graduate assistants represent a quantifiable benefit as a part of their overall package of compensation for being a graduate assistant. SB 2279 SD1 proposes that tuition waivers would be considered taxable income for state income taxation purposes.

Currently, the determination of the taxability of tuition waivers to graduate assistants is left to the employee. Employed graduate assistants who receive compensation from UH receive appropriate income tax documents (i.e. W-2, 1099's, etc.). However, if this bill is enacted, it would necessitate updates to state payroll processes to include GAs as Wages-in-Kind (WIK). Mechanically, the process would require the Department of Accounting and General Services (DAGS) to create a separate code for GA tuition waivers, specifically for state taxation purposes but still requiring the employee to determine the taxability related to federal taxation. Thus, we defer to DAGS on the implementation of this measure.

In conclusion, UH supports equitable taxation treatment for graduate assistants receiving tuition waivers. We believe that the proposed legislation addresses a matter of statewide concern and promotes fairness in the taxation of educational benefits. However, we recommend further consideration of the potential administrative and logistical challenges associated with implementation.

Thank you for considering our testimony on this important matter.

JOSH GREEN, M.D.
GOVERNOR OF HAWAII
KE KIA'ĀINA O KA MOKU'ĀINA 'O HAWAII



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**Testimony in SUPPORT of SB 2280 SD1
RELATING TO FINANCING**

SENATOR DONOVAN M. DELA CRUZ, CHAIR
SENATE COMMITTEE ON WAYS AND MEANS

Wednesday, February 28, 2024, 10:02AM, Room 211

1 **Department Position:** The Department is in strong support of item #10 of this measure.

2 **Department Testimony:** The Behavioral Health Administration (BHA) provides the following
3 testimony on behalf of the Department.

4 Item #10 of this measure would appropriate \$2.5M, provided that funding shall be
5 through a public private partnership, for a capital improvement project to design, plan, and
6 construct kauhale style locked facility for patients awaiting court evaluation at the Hawaii State
7 Hospital (HSH).

8 Housing individuals in this style of facility would allow HSH to provide the appropriate
9 level of care for individuals who are awaiting court evaluation. These individuals generally do
10 not need a hospital level of care and would be better served outside of the hospital
11 environment.

12 Thank you for the opportunity to testify in support of this measure.

TAX FOUNDATION OF HAWAII

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SUBJECT: INCOME TAX; UH; Graduate Assistants; Qualified Tuition Reduction; Tuition Fee; Taxable Income

BILL NUMBER: SB 2279 SD 1

INTRODUCED BY: Senate Committee on Ways and Means

EXECUTIVE SUMMARY: Requires qualified tuition reduction for graduate assistants enrolled in graduate level coursework to be considered taxable income. Restricts the qualified tuition reduction for graduate assistants enrolled in graduate level coursework to be equal to a certain percentage of the resident tuition fee.

SYNOPSIS: Adds two new sections to chapter 304A, HRS. The first states that any qualified tuition reduction for graduate assistants enrolled in graduate level coursework shall be considered taxable income under chapter 235. It then adds two new definitions:

"Graduate assistant" means a student in a renewable, part-time academic appointment with responsibilities of teaching and research in their unit of hire, and have roles as professionals, albeit of an apprentice nature, in the university community.

"Qualified tuition reduction" shall have the same meaning as defined in section 117(d)(2) of the Internal Revenue Code.

The second new section duplicates the prior two definitions and then says that any qualified tuition reduction for graduate assistants enrolled in graduate level coursework shall be equal to (1) if the student qualifies for resident tuition fees, an amount not more than ___% of the resident tuition fee; and (2) For a graduate assistant who qualifies for nonresident tuition fees, an amount not more than ___% more than the resident tuition fee.

EFFECTIVE DATE: Upon approval, shall apply to taxable years beginning after December 31, 2024.

STAFF COMMENTS: This bill is a short form bill that was reactivated by the Ways & Means Committee.

There are technical problems with the bill as it is now drafted.

First, the bill adheres to the federal definition of "qualified tuition reduction" in section 117(d)(2) of the Internal Revenue Code. But that definition applies to *undergraduate* tuition waivers only, and thus is meaningless in the context in which the bill puts it.

Section 117 of the Internal Revenue Code, not surprisingly, provides that undergraduate tuition waivers are excluded from taxable income. Section 117(d)(5) provides that such waivers are

excluded from the taxable income of graduate students if they are engaged in teaching or research activities for the school.

Current Hawaii tax law conforms to section 117 of the Internal Revenue Code. If the bill is seeking to alter this treatment, it should be amending section 235-2.3 or 235-2.4, HRS. If a provision meant to alter tax treatment is placed outside of the tax law, it becomes much more difficult for normal people to find the law and for even the Department of Taxation to realize that the tax law has been altered.

Digested: 2/25/2024