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TESTIMONY OF GARY S. SUGANUMA, DIRECTOR OF TAXATION

TESTIMONY ON THE FOLLOWING MEASURE:
S.B. No. 2738, Relating to Tax Haven Abuse

BEFORE THE:
Senate Committees on Commerce and Consumer Protection, and Judiciary

DATE: Tuesday, February 17, 2026
TIME: 9:45 a.m.
LOCATION: State Capitol, Conference Room 229

Chairs Keohokalole and Rhoads, Vice-Chairs Fukunaga and Gabbard, and Members of the Committees:

The Department of Taxation (DOTAX) offers the following comments regarding S.B. 2738 for your consideration.

The intent of S.B. 2738 is to ensure transparency of corporations conducting business in the State by: (1) changing the manner in which corporate tax is determined to a more fair and effective form of calculating corporate tax liability; and (2) requiring corporations to report all profits, losses, revenues, and inter-company transactions made, and all taxes paid in other states.

Part I, Section 2, of the bill amends Chapter 235, Hawaii Revised Statutes (HRS), by adding two new sections, as follows:

- Section 235-A (Corporation income reporting; foreign subsidiaries) requires every corporation subject to Hawai'i income tax to report all income from their foreign subsidiaries by filing a copy of federal

Internal Revenue Service (IRS) Form 5471 with DOTAX at the same time such forms are filed with the IRS. All income from a corporation's foreign subsidiaries is to be apportioned as business income pursuant to section 235-29, HRS, and all revenue generated will be deposited into the general fund.

- Section 235-B (Corporation income; state-by-state reporting) requires every corporation subject to Hawai'i income tax to report all profits, losses, revenues, and inter-company transactions made, and all taxes paid in other states, at the same time as the forms required under section 235-A are filed with the IRS.

Part III, Section 3, of the bill establishes within DOTAX a "Corporate Tax Law Task Force" to annually review Hawaii's corporate tax laws and recommend updates to close tax loopholes. The task force will be comprised of the Director of Taxation or the director's designee, the Chairperson of the Council on Revenues or the chairperson's designee, and any other appropriate person invited by the task force. Members of the task force will serve without compensation. The task force will:

(1) determine what income generated by a corporation may be taxed in accordance with Hawai'i corporate tax law;
(2) review federal corporate tax laws and make recommendations to amend state corporate tax laws to align with federal corporate tax laws; and
(3) submit a report of its findings and recommendations, including proposed legislation, to the legislature no later than 20 days prior to the convening of each regular session, beginning with Legislative Session 2027.

The bill is effective upon approval, with section 2 effective on January 1, 2027.

First, DOTAX notes that there may be existing provisions in chapter 235, HRS, that will conflict with this bill or that may create ambiguity in application if this bill is passed. For example, under current law, corporations that are engaged in a unitary business as part of a unitary group doing business in the State are required to file a combined income tax return that reflects the income of the unitary business. Foreign corporations are not included in the unitary group pursuant to section 235-38.5, HRS, which prohibits DOTAX from using the worldwide method of unitary taxation.

This bill would require that corporate taxpayers include the income of foreign subsidiaries in business income. A foreign subsidiary may be a part of a corporation's unitary group, but is not subject to tax pursuant to section 235-38.5, HRS. Accordingly, DOTAX recommends inserting “notwithstanding any law to the contrary” at the beginning of section 235-A(b).

Second, DOTAX notes that sections 235-A and 235-B do not impose any penalties for failing to file Form 5471 or failing to report profits, losses, revenues, inter-company transactions, and taxes paid in other states, which will make enforcement of these provisions challenging. DOTAX therefore recommends that penalty provisions be added to both sections.

Third, DOTAX notes that the requirement in the new section 235-B to report “all profits, losses, revenues, and inter-company transactions made, and all taxes paid in other states,” is somewhat ambiguous as it is not clear what information must be reported. For example, “all taxes paid” may include income taxes, as well as other types of taxes paid by the corporation. It could also refer to taxes paid in a given taxable year or other years, or to taxes assessed on the taxpayer, taxes collected on the taxpayer, or to some other amount.

Fourth, DOTAX notes that the proposed Corporate Tax Law Task Force in Part II of the bill would be dealing with complex international, federal, and state law subject matter that will require specific expertise and additional resources to develop, coordinate, and analyze how these laws apply and interact. DOTAX does not have sufficient resources, including staff and funding, to properly accomplish these tasks. DOTAX notes, however, that a review of Hawaii’s corporate tax system would fall within the purview of the Tax Review Commission, which, in accordance with Article VII, section 3 of the State Constitution, meets every five years to evaluate the State’s tax structure and provide recommendations on “revenue and tax policy.” The Legislature may request that the Tax Review Commission identify and analyze corporate tax loopholes as provided in this bill. Accordingly, DOTAX requests that Part II of the bill be deleted.

Finally, DOTAX requests that the effective date be amended to apply to taxable years beginning after December 31, 2027, to allow sufficient time for the promulgation of administrative rules, form and instruction changes, department training, and system changes.

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

LEGISLATIVE TAX BILL SERVICE

TAX FOUNDATION OF HAWAII

735 Bishop Street, Suite 417 Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: ADMINISTRATION, INCOME, Adopt Worldwide Combined Reporting, Create Corporate Law Task Force

BILL NUMBER: SB 2738; HB 2149

INTRODUCED BY: SB by RHOADS; HB by PERRUSO, AMATO, BELATTI, GRANDINETTI, IWAMOTO, POEPOE

EXECUTIVE SUMMARY: Part I: Effective 1/1/2027, requires corporations to include in their income the income of all foreign subsidiaries to the State; applies the State's apportionment formula to determine the share of reported profits subject to the appropriate tax, which shall be deposited into the state general fund; and requires corporations to report all profits, losses, revenues, and inter-company transactions made and all taxes paid in other states. Part II: Establishes within DOTAX a Corporate Tax Law Task Force to annually review the State's corporate tax laws and recommend updates to close tax loopholes.

SYNOPSIS: Adds a new section to chapter 235, HRS, requiring every corporation subject to Hawaii net income tax to report all income from foreign subsidiaries by filing a copy of federal Internal Revenue form 5471 with the department of taxation at the same time as such forms must be filed with the Internal Revenue Service. Provides that all income from a corporation's subsidiaries shall be apportioned as business income pursuant to section 235-29.

Adds a second new section to chapter 235, HRS, requiring every corporation to file with its return a report on all profits, losses, revenues, and inter-company transactions made and all taxes paid in other states.

Adds a new section to chapter 231, HRS, establishing a corporate law task force to annually review the State's corporate tax laws and recommend updates to close corporate tax loopholes. Members of the task force shall be uncompensated. Directs the task force to (1) Determine what income generated by a corporation, regardless of the corporation's physical presence in the State, may be taxed in accordance with state corporate tax laws; and (2) Review new or amended federal corporate tax laws and make recommendations to amend state corporate tax laws to align with federal laws. The task force's report, including proposed legislation, is due to the legislature 20 days before each regular legislative session starting with the 2027 session.

EFFECTIVE DATE: Upon approval; new income tax provisions take effect on January 1, 2027.

STAFF COMMENTS: Many large businesses, for good business reasons such as trying to limit liability for their activities in a jurisdiction to the assets and activities conducted within that jurisdiction, operate through groups of entities under common ownership and control. The phrase "multinational corporate group" may come to mind, but not all large businesses operate through corporations. Limited liability partnerships and limited liability companies, for example, are also in common use.

Federal tax law deals with entity groups using the principle of "allocation and separate accounting." That means each entity keeps its own set of books and records, and any entity with a sufficient connection with the United States pays tax based on its income as reflected on those books and records, including a tax on earnings brought back into the United States by a foreign affiliate.

Over the years, tax authorities have continually battled with entities using allocation and separate accounting methodology. Entities, for example, can charge their parent, sister, or cousin entities "transfer prices" for goods and services that do not reflect marketplace realities, and are motivated to do so in order to create more profits in low-tax jurisdictions and fewer profits in higher-tax jurisdictions like the United States. The United States tries to assure fair taxation of a multinational enterprise's net income through IRC section 482, through which the tax authorities can attack the adequacy of a transfer price and adjust it; complicated interest rules such as IRC 163(j); and myriad special and complex rules in Subchapter O and elsewhere, including the rules governing IRS Form 5471 that the bill now refers to.

State taxing authorities have taken a different tack to deal with this problem. Many states, including Hawaii, do not rely on allocation and separate accounting. We use a method called "apportionment," which determines an enterprise's income taxable by Hawaii by multiplying its net business income everywhere by a formula, which in Hawaii is the average of its percentage of property in Hawaii, its percentage of payroll in Hawaii, and percentage of sales in Hawaii. This "equally weighted" formula, formerly in place in numerous states, is now relatively rare because most states have chosen to upweight the sales factor at the expense of the other two, or eliminate consideration of the property and payroll factors entirely.

"Combined reporting," which Hawaii also uses, aims to deal with the problem of entities conducting business in concert. Rather than fuss over transfer prices, the combined reporting method ignores transfer prices altogether. For entities that are in a "unitary business" exhibiting common ownership and control, the combined reporting method treats all of the entities as a single economic unit, and uses property, payroll, and sales factors at the group level to identify that part of a group's net income that is attributable to Hawaii.

There are two kinds of combined reporting. "Worldwide combined reporting," which California tried using, allows the unitary business to include entities anywhere in the world. Use of this method, however, comes with some practical difficulties such as national jurisdiction. Multinational companies can have operations in several countries and be subject to several countries' tax laws, and the United States does not get special treatment. A British company with a subsidiary in Ecuador, for example, does not have to be reported to the United States because there is no connection with the United States. To follow the scope of entities being reported to the United States tax authorities, then, there is a variant of combined reporting called "water's edge combined reporting," which only considers entities that are reportable to the IRS; transactions with pure foreign affiliates are not considered part of the unitary group. Hawaii, by section 235-38.5, HRS, is a water's edge combined reporting state.

With that explanation, we believe there are numerous severe problems with this bill.

- If the goal is to adopt worldwide combined reporting, section 235-38.5, HRS, must be modified or repealed.
- The bill deals only with corporations. It should be expanded to more business entities to achieve its purpose.
- Subsection 235-A(a) of the bill requires that a reporting corporation attach a copy of IRS Form 5471. This can be done administratively because section 235-101, HRS, gives the Director of Taxation authority to require attachment of any or all parts of a taxpayer's federal return. It may have limited utility, however, because the form is used by U.S. persons who are officers, directors, or shareholders in certain foreign corporations. If the form is filed by an individual, this bill would not seem to mandate any type of filing with the Department.
- Subsection 235-A(b) of the bill requires all of the income of a corporation's subsidiaries to be apportioned as business income. It is possible for a business entity to have nonbusiness income, and there is a process now in Hawaii's UDITPA — the Uniform Division of Income for Tax Purposes Act — to separate the two. In addition, "requiring all" of the income to be included may create constitutional or jurisdictional problems if the entity whose income is sought to be included has no connection with Hawaii or the United States.
- Section 235-B of the bill requires a corporation to, essentially, submit copies of all returns it files with any other states and/or a "51-state breakdown" of its income. This information is commonly requested upon audit of a multistate enterprise, so there is no need to demand it when filing every corporate return.
- The title of the bill is "Relating to Tax Haven Abuse," which has at best a tangential connection with worldwide combined reporting.
- Consideration should be given to the practicalities of the Hawaii Department of Taxation enforcing worldwide combined reporting. Hawaii now requires water's edge combined reporting, and the administrative rule under it, HAR section 18-235-38.5-01, only lets entities off the radar if they do not file a U.S. tax return. How can DOTAX police "tax haven abuse," as the bill calls it, if the affected entities don't even file U.S. tax returns, will probably be using foreign currencies when filing their tax returns, and have entity designations such as "Yugen Kaisha," "Sendirian Berhad," or "Perseroan Terbatas" that we wouldn't know the first thing about classifying?

Maybe the corporate tax task force can make sense of it – but by making all of its members work for free, the Legislature runs the risk of getting what it has paid for.

Digested: 2/13/2026

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February 15, 2026

Via Email

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
Senate Committee on Commerce and Consumer Protection
Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair
Senate Committee on Judiciary

Re: Opposition to worldwide combined and 50 state reporting in SB 2738

Dear Chair Keohokalole, Chair Rhoads, and Committee members:

On behalf of the Council On State Taxation (COST) we are providing comments in opposition to SB 2738 implementing mandatory worldwide combined reporting (MWWCR) and the requirement to file with the Department of Revenue a state by state report.[1] With one very limited exception, no other state or country currently imposes MWWCR.[2] Moreover, no state requires the filing of state by state reports for the income, expenses, intercompany transactions between affiliates, and taxes paid by state. MWWCR, coupled with the requirement to file a state-by-state report, would not only have an unpredictable (and potentially negative) impact on the state of Hawaii's revenue,[3] but it would also impose significant administrative burdens on both businesses and the Hawaii Department of Taxation and would place the state at a significant competitive disadvantage among the other states. The proposed legislation should be rejected.

About COST

COST is a non-profit trade association based in Washington, DC. COST was formed in 1969 as an advisory committee to the Council of State Chambers of Commerce and today has an independent membership of approximately 500 major corporations engaged in interstate and international business. COST's objective is to preserve and

[1] The proposal requires every corporation to submit to the Department of Taxation a report on all profits, losses, revenues, and inter-company transactions made and all taxes paid to other states. The report is filed at the same time the Federal Forms 5471 are filed with the Internal Revenue Service.
[2] Alaska is the only state that mandates a limited form of worldwide combined reporting that applies solely to oil companies that either explore, produce, or own a pipeline interest in the State.
[3] The State's revenue estimates are based on the 2019 report published by Institute on Taxation and Economic Policy. (ITEP). ITEP issued an updated report in February 2025 revising the revenue estimates because of changes in the underlying economic studies. The revised revenue estimate for Hawaii was reduced to approximately $25 million. Additionally, the 2025 ITEP Report recognizes that in the short terms the revenue impact may be smaller than projected.

promote the equitable and non-discriminatory state and local taxation of multijurisdictional business entities.

The Rationale for Adoption of WWCR Ignores Global Tax Reform

The legislation's rationale is to address corporate profit shifting to low tax foreign jurisdictions, but it does not take into account the significant progress made over the past decade by the United States and other leading economic nations to implement fundamental international tax reform to address low-tax rate competition. The Organisation for Economic Development and Co-operation (OECD)/G20 project, commonly referred to as the base erosion and profit-shifting project, is one of the most ambitious international tax projects ever undertaken. The project was initiated in 2013 to address concerns over profit shifting and to limit the capacity of large multinational companies to move intangible assets around the world to take advantage of more-favorable income tax rates and rules in low-tax jurisdictions. Most recently, 137 of the 141 countries and jurisdictions participating in the OECD/G20 project, including the United States adopted a side-by-side agreement, implementing a global minimum tax of 15%, based largely on the U.S. Global Intangible Low Taxed Income (GILTI) legislation, with the goal of eliminating or drastically reducing profit shifting and global low-tax rate competition.

Hawaii Would be an Outlier with the Adoption of Mandatory Worldwide Combined Reporting

Six states have recently rejected MWWCR legislation. In 2017, Indiana decided to forego MWWCR, observing that though it might increase tax revenues in the short term, those gains were almost certainly fleeting and would result in no net long-term gain.[4] A 2023 Minnesota bill to adopt MWWCR passed the House but died in the Senate without a hearing or discussion by the Senate. In 2023, the New Hampshire Commission on Worldwide Combined Reporting for Unitary Businesses Under the Business Profits Tax forcefully rejected MWWCR, stating that "[MWWCR] is a grossly overbroad remedy for concerns that transfer pricing is misused for tax advantage, as it sweeps all foreign profits into the base, regardless of whether any transfer pricing has been used, or its extent, or its alleged misuse."[5] In 2024, Maryland House and Senate bills proposed MWWCR. The bills did not advance beyond the first committees in which they were heard. Additionally, an amendment to impose MWWCR added to the Maryland Budget Reconciliation and Financing Act of 2024 was also rejected in the final version of the bill. In 2024 there was also a legislative proposal in Nebraska which was rejected. Maine, in January of this year, rejected a proposal to adopt mandatory worldwide combined reporting.[6]

Practical Problems with Mandatory Worldwide Combined Reporting

States have also rejected MWWCR because of the inherent compliance complexities and

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[4] Office of Fiscal and Management Analysis, Indiana Legislative Services Agency, A Study of Practices Relating to and the Potential Impact of Combined Reporting, Oct. 1, 2016.
[5] Final Report of the Commission on Worldwide Combined Reporting for Unitary Businesses Under the Business Profits Tax RSA 77-A:23-b (HB 102, Chapter 12, Laws of 2022).
[6] Nebraska LB40 and Maine LD1939/HP1298.

costs. Compliance burdens vary from taxpayer group to taxpayer group depending on several specific factors, such as the composition of the unitary group, location of the foreign subsidiaries, merger and acquisition activity, company financial reporting systems, and the nature of the income-producing activities. For many multinational corporate groups, often comprising hundreds of subsidiaries, the compliance requirements are expensive and extremely burdensome. A similarly costly burden would be placed on the Hawaii Department of Taxation that is required to audit the multinational businesses.

A fundamental requirement of a MWWCR is a determination of the composition of the unitary group. A unitary relationship must be established between the members of the group to avoid running afoul of the fair apportionment requirements of the Commerce Clause. This determination requires intensive fact analysis for each affiliate to not only establish unity of ownership but also unity of use and operation. Merely filing a copy of Federal Form 5471 is not a substitute for the unitary analysis as the criteria for filing a Federal Form 5471 is based solely on ownership of the foreign affiliate. Additional complications include the computation of the state apportionment formula, which entails both policy choices and reasonable estimation methods that can be second-guessed by audit teams. The failure to include the apportionment factors of the foreign affiliates in the apportionment formula also runs afoul of the Commerce Clause.

Worldwide Unitary Combined Reporting: Historical Context

MWWCR is not a new concept; nearly a dozen states imposed this filing methodology until the mid-1980's. In a series of actions beginning in 1984 and accelerating over the next ten years, all those states moved away from MWWCR, granting taxpayers the right to file (or elect to file) using the water's-edge methodology. This position has held fast in the states over the last 40 years.

Pressure against MWWCR started building in the 1970s and early 1980s from both foreign governments and foreign and domestic multinational business enterprises. Some foreign governments threatened to instigate an international tax war. In particular, the British and Japanese governments threatened retaliatory tax measures against the U.S. to counter the trend toward MWWCR.

Although the U.S. Supreme Court upheld the constitutionality of California's imposition of MWWCR in 1983, pressure from the international community continued to build, spurring President Ronald Reagan to convene the Worldwide Unitary Taxation Working Group in 1984. The Working Group, led by Treasury Secretary Donald Regan, included representatives of the federal government, state governments, and the business community. Although the Working Group found it difficult to reach an agreement on several issues, it did agree on a set of principles designed to guide the formulation of state tax policy. Among those principles was a recommendation that states only enact "water's-edge" unitary combined reporting for both U.S. and foreign-based companies. That principle has held to the current day. No state has returned to the MWWCR regime for all business corporations, and even the Multistate Tax Commission's model for combined reporting includes a

water's-edge election.[7] Hawaii has adopted the water's-edge filing method.

A State-by-State Report is Unduly Burdensome and Unnecessary

The requirement to annually file a report on all profits, losses, revenues, and inter-company transactions made and all taxes paid in other states is not only unduly burdensome but unnecessary. Hawaii requires taxpayers to file their corporate income tax return on a water's-edge basis. The returns and the supporting documentation schedules contain the requested information. Thus, the information requested for the report is duplicative. Requiring a second filing is not only burdensome but totally unnecessary. The information required in the report is readily available to the Department.

Conclusion

COST respectfully requests that this Committee reject SB 2738.

Sincerely,

Marilyn A. Wethekam and Dylan Waits

cc: COST Board of Directors
Patrick J. Reynolds, COST President & Executive Director

[7] The international competitiveness concerns with MWUCR are even greater now than they were in the 1980s. The United States (with GILTI/NCTI) and a large number of other economically advanced nations (with the OECD's Pillar 2 solutions) have enacted generally comparable global minimum taxes to address the problem of low-taxed foreign source income. If states impose additional taxes on foreign source income, they will place U.S. multinational businesses at a competitive disadvantage with foreign multinationals that have no similar subnational tax on such income. See: Karl A. Frieden and Douglas L. Lindholm, "Revisiting the Debate Over State Taxation of Foreign-Source Income," *Tax Notes State,* June 23, 2025; Douglas L. Lindholm and Marilyn A. Wethekam, "Mandatory Worldwide Combined Reporting: Elegant in Theory but Harmful in Implementation," (March 2024), COST/STRI. Need links to the articles and to the MTC model statute

FEBRUARY 17, 2026

SENATE BILL 2738

CURRENT REFERRAL: CPN/JDC

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POSITION: SUPPORT

Imua Alliance supports SB 2738, relating to tax haven abuse, which takes a practical, transparency-forward approach to closing offshore tax-haven loopholes and protecting Hawai‘i’s revenue base by (1) requiring corporations to report foreign-subsidiary income to the Department of Taxation (including filing federal Form 5471), (2) apportioning that income under Hawai‘i’s business-income rules, and (3) requiring state-by-state reporting of profits, losses, revenues, intercompany transactions, and taxes paid.

Imua Alliance is a Hawai‘i-based organization dedicated to ending sexual exploitation and gender violence, and combating all forms of systemic exploitation in our society. The survivors we serve rely on a robust continuum of care and resilient social safety net, both of which are currently being threatened by severe funding shortfalls.

Tax-haven abuse is not a niche problem. It is a documented, large-scale revenue drain. Congress’ nonpartisan research arm has summarized estimates that corporate profit shifting costs the federal government tens of billions of dollars annually, with estimates commonly ranging from about $50 billion to more than $100 billion in lost revenue (and one post-TCJA estimate around $77 billion). This isn’t abstract: state budgets also lose substantial revenue when profits are booked in low- or no-tax jurisdictions, rather than where economic activity actually occurs.

This proposal notes that a 2019 report by the Institute on Taxation and Economic Policy estimated Hawai‘i is losing about $38 million per year by not updating tax laws to mandate more comprehensive reporting/combined approaches to corporate income, money that could otherwise support core services. While any single estimate may vary depending on methodology, the direction is clear: when corporate profits are shifted offshore on paper, Hawai‘i’s general fund loses real dollars.

This is especially urgent in the context of looming federal budget pressure. Hawai‘i’s own budget discussions have increasingly anticipated

federal reductions and cost shifts, particularly in programs like Medicaid and SNAP, requiring the state to backfill essential services with state dollars. National fiscal analysis has similarly modeled large potential federal reductions that would force states to either reduce services or raise replacement revenue. In that environment, failing to address preventable corporate tax-base erosion effectively asks working families to make up the difference through service cuts and reduced support.

Therefore, this measure is about fairness and transparency. It does not penalize legitimate business activity. It modernizes reporting so that corporations benefiting from Hawai‘i’s workforce, infrastructure, and consumer market pay taxes more consistently with where profits are generated, rather than where paper subsidiaries are incorporated. The bill’s dedicated Corporate Tax Law Task Force also creates a sensible mechanism for Hawai‘i to keep pace with evolving federal law and emerging corporate tax-avoidance strategies.

Closing tax-haven loopholes protects Hawai‘i’s fiscal capacity, especially at a time when federal cuts may increase pressure on the state to fund health, housing, and food security programs with local resources.

With aloha,

Kris Coffield

President, Imua Alliance

SB-2738
Submitted on: 2/13/2026 4:47:21 PM
Testimony for CPN on 2/17/2026 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Johnnie-Mae L. Perry	Individual	Support	Written Testimony Only

Comments:

I, Johnnie-Mae L. Perry, Support

2738 SB RELATING TO TAX HAVEN ABUSE.

SB-2738
Submitted on: 2/16/2026 8:39:02 AM
Testimony for CPN on 2/17/2026 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Theodore Metrose	Individual	Support	Written Testimony Only

Comments:

I am in support of this measure as I am aware organizations that have circumvented taxes through subsiduaries and special claims. Some of the most vulnerable areas are where major exemptions are made available by the State and then exploited. Key areas include, the FTZ, the military bases, low income housing and economic enterprise zones. The military is paying billions of dollars per year for supplies, equipment, and upgrades at military bases.Much of this is exempt from general excise tax, but HRS 237-25. but the value of the goods imported into the State for the US government/military are not exempt from the State's use tax. Many suppliers are not reporting the value of goods imported into the State for the US gov/military and not paying the 0.5% use tax. Although DOTAX has issued opinions indicating the taxes are applicable, and there is in fact exemption from the use tax, that fact should be made more clear by a further clarification directly within HRS 237 -25, something like:

§237-25 Exemptions of sales and gross proceeds of sales to federal government, and credit unions.

(e) Nothing in this section shall be deemed to exempt any person from the excise tax on the use of tangible personal property or intangible personal property set forth by HRS 238 whether the supplier-producer-importer is licencsed or unlicensed in the State.

There are other clarifications in HRS 237 25 of a similar nature which attempt to clarify and limit the scope of the excise tax on the gross proceed from sales to the US government. Even though DOTAX has provided clarifying guidance paragraph (d) which of HRS 237-25 should be further refined than so that the manufacturers tax applies on goods sold to the US military or the manufactures tax does not apply then the use/import tax should apply.

In Dec of 2016 DBEDT issued a report on GET tax for the US gov ed and estimate that $57.8 million dollars was lost because of the exemption exemption of HRS 237-25. However

ever there was no estimate of the amount of use tax, that has been lost, because seller who claim an exemption from the excise tax for the priviledge of selling improperly assumed and simply took the exemption as well for the use tax. Based on DBEDT data the State could collect an addition $ 5 million dollars per year on use tax. I think even that number is understated because DOD spending has increased considerable as concerns over the east are rising and because some companies are not licensed or reporting at all.