



Hawaii Automobile Dealers' Association

Wayne De Luz, President
Dave Rolf, Executive Director

LATE

Testimony in Support of HB1755 Page 1 of 6
Relating to the General Excise Tax
Presented to the Senate Committee on Ways and Means
At the public hearing scheduled for 10:30 a.m., Monday, February 25, 2008
in conference room 211

Submitted by David H. Rolf, for The Hawaii Automobile Dealers Association
Hawaii's franchised new car dealers

Chair Baker and members of the committee:

Hawaii is the only remaining state which imposes a tax on warranty payments to a dealer to fulfill a manufacturer's warranty.

Other taxing jurisdictions like the state of New Mexico, which has a 3% excise tax, have eliminated the tax on warranty payments for their auto dealers, or, in the state of Washington's case, have de-pyramided the tax on warranty payments, to fulfill a manufacturer's warranty, down to the wholesale rate.

Hawaii auto dealers anticipating that ACT 71, Session Laws of Hawaii 1999, would do the same for Hawaii, have held on during recent difficult times. The full de-pyramiding schedule was to have phased down to .5% by January 1, 2006, but the Hawaii State Tax Department has indicated that additional language in the law needed to be added. HB 1755 will add this language. Calculations based on average costs show de-pyramiding to the wholesale rate creates a \$1.3 million difference.

With Hawaii being the only remaining state which has not repaired the situation, and with the current downturn in automobile sales, the tax has become a thorn in the foot of auto dealers. Now, with the auto recession having started here in late 2006, the situation has hobbled dealers at a very difficult time. Three auto dealerships have already closed.

HADA respectfully requests that legislators fast-track the solution (HB1755) by quickly hearing and passing the measure in the 2008 legislative session.

Respectfully submitted,
David H. Rolf
For the members of the Hawaii Automobile Dealers Association
Tel: 808 593-0031 Cell: 808 223-6015 Fax: 808 593-0569

Enclosures: Overview of ACT 71, Letter 1/04/08, Letter 1/08/08, Letter 1/09/08, Letter 1/23/08, Closed Dealerships, New Mexico Statute.

Overview Statement on ACT 71
Session Laws of Hawaii (1999)

Re: De-pyramiding GET to Wholesale Tax Rate on Business-to-Business
Transactions

“Act 71 reduces the effect of the “pyramiding” of the general excise tax on certain sales of tangible personal property or services by treating those transactions similar to the wholesale sales of tangible personal property. The phase-in of the “wholesale” rate over seven years until a .5% rate is applicable on January 1, 2006.”

From Hawaii State Department of Taxation Form G-81

HADA's January 4, 2008 Letter to Senators Fukunaga and Baker

January 4, 2008

The Honorable Carol Fukunaga
Chair, Senate Economic Development and Taxation Committee
Room 216 Hawaii State Capitol
Honolulu, Hawaii 96813

The Honorable Rosalyn H. Baker
Chair, Senate Ways and Means Committee
Room 210 Hawaii State Capitol
Honolulu, Hawaii 96813

Subj: Today's news in the *Wall Street Journal* bodes ill for the Hawaii auto industry too

Dear Senator Fukunaga and Senator Baker:

Today's *Wall Street Journal* story foretells a 1 million vehicle reduction in U.S. auto sales in 2008--a drop from 16.5 million vehicles sold in 2007 to a forecasted 15.5 million in 2008.

That coming 6.25% downturn compares to Hawaii's downturn this past year which has been even worse, with sales off about 12%. Only Maui, for the moment, has escaped the radical downturn, with sales flat at a -0.2%. Oahu dealers are down 15.1% so far in 2007 (data only available through the third quarter).

Auto dealers, hoping to survive next year, are asking for your assistance in quickly passing HB1755 – which de-pyramids the tax on warranty, bringing Hawaii into alignment with the taxing laws in all other states.

The tax fairness is urgently needed by an ailing retail auto industry. As I indicated in an earlier correspondence the total difference in the de-pyramided tax is approximately \$1.3 million. While this may seem a small amount compared to the more than \$150 million the auto industry directs to state taxes, it still is an amount significant enough to save jobs in the industry and preserve the economic viability of some challenged businesses.

An early hearing and passage of HB1755 will do much to preserve this fragile industry.

Please do not hesitate to call if you have any questions.

Best Regards,

David H. Rolf
For Members of The Hawaii Automobile Dealers Association
Encl: Wall Street Journal Story

HADA's January 8, 2008 Letter to Senators Fukunaga and Baker

January 8, 2008

The Honorable Carol Fukunaga
Chair, Senate Economic Development and Taxation Committee
Room 216 Hawaii State Capitol
Honolulu, Hawaii 96813

The Honorable Rosalyn H. Baker
Chair, Senate Ways and Means Committee
Room 210 Hawaii State Capitol
Honolulu, Hawaii 96813

Subj: De-pyramiding tax on warranty / request to fast-track HB 1755

Dear Senator Fukunaga and Senator Baker:

We've expressed our deep concerns about the fragile economy and the possibility of the loss of jobs if changes are not made in the tax code relating to the de-pyramiding of the tax on warranty payments.

Already one Chevrolet dealership has closed on Maui and one large Chrysler dealership has closed on Oahu. A dealer on the Big Island reported yesterday that he was being forced to lay off employees.

The potential to avoid more layoffs lies in HB1755 which has passed the House and awaits approval in both your Senate committees.

HADA respectfully requests that you fast-track the legislation.

Please do not hesitate to call me at any time.

Best Regards
The Hawaii Automobile Dealers Association

David H. Rolf

HADA's January 9, 2008 Letter to Senators Fukunaga and Baker

January 9, 2008

The Honorable Carol Fukunaga
Chair, Senate Economic Development and Taxation Committee
Room 216 Hawaii State Capitol
Honolulu, Hawaii 96813

The Honorable Rosalyn H. Baker
Chair, Senate Ways and Means Committee
Room 210 Hawaii State Capitol
Honolulu, Hawaii 96813

Subj: Taxes on non-auto manufacturer warranties, we believe, are negligible

Dear Senator Fukunaga and Senator Baker:

The taxes on warranty payments to fulfill auto manufacturer warranties are approximately \$1.3 million. Other taxes on new product warranties are negligible.

Most non-car manufacturer product warranties (copiers, computers, tv sets, etc) are extended service warranties and are not included in the language of HB1755—which only applies to warranties provided by the manufacturer of a new product. The small amount of tax on non-car products may not even total several hundred thousand dollars.

HB1755 is specific and only includes a de-pyramiding of the tax on “a dealer's furnishing of goods or services to the purchaser of tangible personal property to fulfill a warranty obligation of the manufacturer of the property;

Other taxing jurisdictions around the country with tax similar to Hawaii's GET, like New Mexico's GET and Washington State's Business and Operations tax, have eliminated the GET tax on warranties to fulfill a warranty obligation by the manufacturer, or have reduced the tax to the wholesale rate, thus removing or ameliorating the anomaly that is such a painful thorn, for auto dealers in particular.

We respectfully request you fast-track hearing the legislation and pass it through early in the session. Please do not hesitate to call me at any time.

Best Regards,
The Hawaii Automobile Dealers Association

David H. Rolf

HADA's January 23, 2008 Letter to Senators Fukunaga and Baker

January 23, 2008

The Honorable Carol Fukunaga
Chair, Senate Economic Development
and Taxation Committee
Room 216 Hawaii State Capitol
Honolulu, Hawaii 96813

The Honorable Rosalyn H. Baker
Chair, Senate Ways and Means
Committee
Room 210, Hawaii State Capitol
Honolulu, Hawaii 96813

Subj: Deepening situation

Dear Senator Fukunaga and Senator Baker:

The situation is worsening. At Dealer Day at the Capitol last Thursday I heard several dealers on the rail outside room 325 discussing the difficult lay offs they've had to make the last few weeks. Orchid Isle Auto Center on the Big Island has laid off 9 employees, cutting back from 89 to 80. Aloha Kia, with dealerships on three islands, has laid off 20 employees, cutting back from 136 to 116. Servco officials said they have instituted a freeze on hiring.

Certainly something needs to be done to give some hope to businesses and shore up their operations. Quick action on the de-pyramiding of the tax on warranty will send a positive

signal at a very difficult time for all of Hawaii's dealerships and will provide that hope that government is acting quickly.

Hawaii remains the only state in which legislators have not repaired the situation. We anticipated that Act 71, Session Laws of Hawaii 1999, with its phased reduction of the taxes to the wholesale rate by January 1, 2006, would have applied equally to the de-pyramiding of the tax on warranty payments, but, as you know, the Hawaii State Tax Department has now said that it will not act until additional language is added. HB1755, which has passed the House, and is a carry-over from the last session, needs quick action.

Senator Baker, I will bring additional data on the rapidly deteriorating situation for the auto industry and present it at our meeting at 2 p.m. today (Wed. January 23, 2008).

The industry needs your help and Senator Fukunaga's help with quick action on this problem right away. Auto sale numbers for 2007 will be released January 31. It is important that there be some hope.

Sincerely,
The Hawaii Automobile Dealers Association
Hawaii's franchised new car dealers

David H. Rolf

New Mexico's Reg. 7-9-78 Deduction; gross receipts tax;
warranty obligations

"Receipts of a dealer from furnishing goods or services to the purchaser of tangible personal property to fulfill a warranty obligation of the manufacturer may be deducted from gross receipts."

NOTE:

Washington State's regulations reduce the B&O tax on receipts from furnishing goods and services to a dealer to fulfill a manufacturers warranty ...to the wholesale rate.

DEALER/GM MEMBERS OF THE HAWAII AUTOMOBILE DEALERS ASSOCIATION

Name of Dealer	Dealer/GM	Tel. #	Fax	Address
Aloha Auto Group	Bill Van den Hurk	833-9000	833-3444	2841 N. Nimitz Hwy. Honolulu, HI 96819
Aloha Hyundai Nimitz	Howard Finley	833-9000	833-3444	2841 N. Nimitz Hwy. Honolulu, HI 96819
Aloha Kia Hilo	Howard Finley	808-935-3500	808-935-3539	226 Kanoelehua Ave Hilo, HI 96720
Aloha Kia Maui	Howard Finley	808-877-4545	808-877-7771	89 East Wakea Kahului, HI 96732
Aloha Kia Kona	Howard Finley	808-329-2276	808-329-2218	74-5035 Queen Kaahumanu Highway Kailua
Aloha Kia Waipahu	Dawe Glover	677-4500	678-3144	94-081 Farrington Hwy. Waipahu, HI 96797
Audi of Hawaii	Brad Nicolai	585-6600	585-6611	1069 S. Beretania St. Honolulu, HI 96814
Big Island Honda Hilo	Jerry Cousin	808-961-5505	808-969-6865	124 Wwoole St. Hilo, HI 96720
Big Island Honda Kona	Jerry Cousin	808-329-8101	808-329-1285	75-5608 Kuakini Hwy. Kailua-Kona, HI 96740
Big Island Toyota Hilo	Calvin Koga	808-329-8517	808-329-9610	175 Wwoole St. Hilo, HI 96720
Big Island Toyota Kona	Paul Graffe	808-329-8517	808-329-9610	74-5504 Kaiwi St. Kailua-Kona, HI 96740
BMW of Honolulu	Dennis Short	597-1225	592-0285	777 Kapiolani Blvd. Honolulu, HI 96813
BMW of Maui	Andrew Trumbo	808-877-4269	808-877-2696	410 Koloa Street Kahului, HI 96732
Cutter Management Co.	Nick Cutter	529-2000	529-2010	1100 Alakea St. PH2 Honolulu, HI 96813
Cutter Ala Moana Volkswagen/Mazda	Ron Wright	564-9100	564-9140	800 Ala Moana Blvd. Honolulu, HI 96813
Cutter Automotive Team	Clarence Ng	529-2816	529-2312	1100 Alakea St. PH2 Honolulu, HI 96813
Cutter Chevrolet	Brad Eisen	564-9050	564-9052	711 Ala Moana Blvd. Honolulu, HI 96813
Cutter Dodge (Dillingham)	Ben Afuna	564-9310	564-9311	735 Dillingham Blvd. Honolulu, HI 96817
Cutter Dodge (Pearl City)	Doug Sandlin	564-9640	564-9661	905 Kamehameha Hwy. Pearl City, HI 96782
Cutter Dodge/Jeep/Chrysler Waipahu	James Clark	564-9900	564-9920	94-149 Farrington Hwy. Waipahu, HI 96797
Cutter Ford/Isuzu Aiea	Patrick Ah You	564-9210	564-9212	98-015 Kamehameha Hwy. Aiea, HI 96701
Cutter Ford Waipahu	Patrick Ah You	564-9740	564-9212	94-177 Farrington Hwy Waipahu, HI 96797
Cutter Management Co.	Herman Jones	529-2000	529-2010	1100 Alakea St. PH2 Honolulu, HI 96813
Cutter of Maui	Gary Cline	808-442-9600	808-442-9620	25 S. Kahului Beach Rd. Kahului, HI 96732
Cutter Mazda of Waipahu	Melfred Ramos	564-9501	564-9520	94-135 Farrington Hwy. Waipahu, HI 96797
Cutter Pontiac, Buick, GMC	Melfred Ramos	564-9500	564-9520	94-119 Farrington Hwy. Waipahu, HI 96797
Ferrari of Hawaii	Brad Nicolai	585-6600	585-6611	1069 S. Beretania St. Honolulu, HI 96814
Hawaii Automotive Group	Fletcher Jones III	592-5600	592-5619	818 Kapiolani Blvd. Honolulu, HI 96813
Hawaii Automotive Retailing Group	Inder Dosanjh	836-7007	834-6234	2901 N. Nimitz Hwy. Honolulu, HI 96819
Hawaii Mitsubishi	Andrew Lee	488-0610	485-2679	98-075 Kam Hwy. Aiea, HI 96701
Hilo (Kona) Mazda Subaru	Wayne De Luz	808-961-4411	808-961-0018	1 Keaa St. Hilo, HI 96720
Honda Windward	Morrie Stoebner	247-8544	247-5840	45-671 Kamehameha Hwy. Kaneohe, HI 96744
Honolulu Ford	Dave Chun	532-1700	532-1411	1370 N. King St. Honolulu, HI 96817
Island Chevrolet - Hilo	John Schute	808-933-4600	808-933-4607	1177 Kilauea Ave. Hilo, HI 96720
Island Chevrolet - Kona	Alan Clark/John Schute	808-933-4610	808-933-4617	75-5570 Kuakini Hwy. Kailua-Kona, HI 96740
Island Dodge	Roy Kitagawa	808-877-0031	808-871-7805	110 S. Hana Hwy. Kahului, HI 96732
Island Honda	Anne Oishi	808-873-8081	808-873-6777	110 S. Hana Hwy. Kahului, HI 96732
Jackson Auto Group	Jack Jackson	836-2441	839-6153/440-1578	2945 N. Nimitz Hwy. Honolulu, HI 96819
Jackson Volvo	Russell Wong	521-5151	834-5413	704 Ala Moana Blvd. Honolulu, HI 96813
Jaguar of Honolulu	Garry Brechin	592-5100	592-5111	818 Kapiolani Blvd. Honolulu, HI 96813
JN Automotive Group	Joe Nicolai	831-2500	831-2594	2999 N. Nimitz Hwy. Honolulu, HI 96819
JN Lotus	Joe Nicolai	831-2500	831-2594	2999 N. Nimitz Hwy. Honolulu, HI 96819
Kamaaina Motors	Brian Kitagawa	808-935-3741	808-969-1712	P.O. Box 4789 Hilo, HI 96720
Kauai Toyota	Todd Grant	564-1900	808-245-7831	4337 Rice Street Kahului, HI 96766
King Auto Center	Charlie King	808-245-4788	808-245-6722	4330 Kukui Grove St. Lihue, HI 96766
King Infiniti of Honolulu	Robert Ramirez	836-0848	836-5532	2845 Kilihau St. Honolulu, HI 96819
King Windward Nissan	Ron Hansen	235-6433	247-6548	45-568 Kamehameha Hwy. Kaneohe, HI 96744
Kitagawa & Company (Nissan)	Brian Kitagawa	808-935-3741		400 East Kawili St. Hilo, HI 96740
Kona Auto Center	John Kitagawa	808-329-4408	808-329-7499	76-6353 Kuakini Hwy. Kailua-Kona, HI 96740
Kona Mazda Subaru	Wayne De Luz	808-329-5274	808-334-0014	75-5793 Kuakini Hwy. Kailua-Kona, HI 96740
Kona Volkswagen & Hyundai	Hessy Ahokovi	808-334-0004	808-331-2476	75-5633 Palani Rd. Kailua-Kona, HI 96740
Kuhio Motors	Dan Mackey p./Mike Keppel gm.	808-245-6731	808-245-8436	3033 Aukele St. Kahului, HI 96766
Lamborghini of Hawaii	Brad Nicolai	585-6600	585-6611	1069 S. Beretania St. Honolulu, HI 96814
Lotus of Hawaii	Brad Nicolai	585-6600	585-6611	1069 S. Beretania St. Honolulu, HI 96814
Land Rover of Honolulu	Garry Brechin	592-7400	592-5111	730 Ala Moana Blvd. Honolulu, HI 96813
Maserati of Hawaii	Brad Nicolai	585-6600	585-6611	1069 S. Beretania St. Honolulu, HI 96814
Maui Scion	Damien Farias	808-877-2781	808-873-0484	320 Hana Hwy. Kahului, HI 96732
Maui Toyota Scion	Damien Farias	808-877-2781	808-871-2851	320 Hana Hwy. Kahului, HI 96732

closed.

closed

Mercedes Benz of Honolulu	Fletcher Jones III	592-5600	592-5619	818 Kapiolani Blvd. Honolulu, HI 96813
Mini of Hawaii	Dennis Short	597-1225	592-0285	777 Kapiolani Blvd. Honolulu, HI 96813
Mid-Pac Auto Center	James Hanley	808-245-3673	808-246-1040	3050 Hoolako St. Lihue, HI 96766
New City Nissan	John Uekawa	524-9111	540-3292	900 Ala Moana Blvd. Honolulu, HI 96814
Orchid Isle Auto Center	Joe Hanley	808-935-1191	808-935-5960	1030 Kanoelehua Ave. Hilo, HI 96720
Pflueger Acura	Owen Phillips	942-4555	941-7203	1450 S. Beretania St. Honolulu, HI 96814
Pflueger Auto Group	Alan Pflueger/Charlie Wor	592-4500	592-4411	1234 S. Beretania St. Honolulu, HI 96814
Pflueger Honda	Kevin Kempel/Alan Pflueg	528-7200	536-2820	777 Ala Moana Blvd. Honolulu, HI 96814
Pflueger Subaru	Dante Buan	671-5115	676-1915	94-223 Farrington Hwy. Waipahu, HI 96797
Porche of Hawaii	Garry Brechin	591-1911	592-5111	730 Ala Moana Blvd. Honolulu, HI 96813
Saab Hawaii	Johanna Mason	735-2488	734-1083	3030 Waiialae Ave. Honolulu, HI 96816
Saturn of Honolulu	Ernest Guajardo	836-7007	834-6234	2901 N. Nimitz Hwy. Honolulu, HI 96819
Servco Auto Honolulu	Dennis Tengan	564-1100	564-2847	2850 Pukoloa St. Ste 200 Honolulu, HI 96819
Servco Auto Windward	Roderick Saunders	564-1400	564-1487	45-655 Kam. Hwy. Kaneohe, HI 96744
Servco Lexus Honolulu	Alan Young	564-1201	521-5302	650 Kapiolani Blvd. Honolulu, HI 96813
Servco Lexus Maui	John Kakazu	808-877-4411	808-877-3457	445 Kele St. Kahului, HI 96732
Servco Pacific Inc.	Eric Fukunaga	564-2332	564-2830	2850-A Pukoloa St. Honolulu, HI 96819
Servco Scion	Dan Hirota	564-2400	564-2423	2850 Pukoloa St. Ste 101 Honolulu, HI 96819
Servco Subaru	Dan Hirota	687-7600	687-7609	2850 Pukoloa St. Ste 104 Honolulu, HI 96819
Tony Group	Stan Masamitsu	680-7190(5)	483-5443	94-1299 Ka Uka Blvd. Waipahu, HI 96797
Tony Honda	Steve Schaper	680-7385	488-8803	94-1299 Ka Uka Blvd. Waipahu, HI 96797
Tony Hyundai	Allan Cappela - Sales if no	679-3417	483-5443	94-1299 Ka Uka Blvd. Waipahu, HI 96797
Tony Nissan	Larry Moody	680-7150 ext 71	676-1915	94-1299 Ka Uka Blvd. Waipahu, HI 96797
Tony Volkswagen	Wesley Amor	680-7170	483-8655	94-1299 Ka Uka Blvd. Waipahu, HI 96797
Valley Isle Motors	Jim Falk	808-877-3673	808-877-0320	221 Puunene Ave. Kahului, HI 96732
Servco Auto Leeward	Keith Nakamura	564-1000	564-1037	94-729 Farrington Hwy Waipahu, HI 96797
Windward Dodge/Crysler/Jeep	Trey VeDova/Don Mann	233-6000	233-6070	46-177 Kahuhipa St. Kaneohe, HI 96744
Windward Ford	Mike McKenna/Mark Caliri	266-7000	262-4413	725 Kailua Rd. Kailua, HI 96734
Windward Mazda	Mike McKenna/Mark Caliri	266-8000	266-8021/262-7289	749 Kailua Rd. Kailua, HI 96734

closed.

L E G I S L A T I V E

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: GENERAL EXCISE, Reduced rate for warranty obligations

BILL NUMBER: HB 1755, SD-1 SB1976

INTRODUCED BY: Senate Committee on Economic Development and Taxation

BRIEF SUMMARY: Amends HRS section 237-4 to provide that the furnishing of goods or services to the purchaser of tangible personal property to fulfill a warranty obligation of the manufacturer of the property shall be taxed at the 0.5% rate.

EFFECTIVE DATE: July 1, 2008

STAFF COMMENTS: This measure proposes to provide that the 0.5% general excise tax rate shall be applicable to dealers who furnish goods or services to the purchaser of tangible personal property to fulfill the manufacturer's warranty obligations.

If, in fact, the dealer is providing goods and services as part of a manufacturer's warranty obligation to the purchaser of the tangible personal property, one must ask the question: to whom then are the goods and services being sold, for example, in the case of the warranty work done on an automobile such as replacing a faulty brake mounting. The dealer takes a part from his stock which was originally purchased from the manufacturer and installs the brake mounting in Mr. Aloha's car which was purchased from the dealer. The part used in the warranty work was originally purchased by the dealer to fix any car whether or not under warranty and was taxed at the 0.5% rate because it was assumed that it was to be sold to a customer. But in this case it was used in warranty-covered work and is reimbursed by the manufacturer, so that is a wash. However, the services to install the brake mounting are sold not to the customer but to the manufacturer. The manufacturer is billed for that service but the manufacturer does not "resell" that service as that was the promise made under the warranty. Thus, the services are provided to the manufacturer, who in this case is the consumer, for which a 4% (4.5%) general excise tax is due. The idea of depyramiding was to avoid having the same transaction taxed twice at the 4% rate. In this case, there is no resale of the service as the manufacturer is not "reselling" the service of installing the brake mounting to Mr. Aloha.

While the testimony provided by the department of taxation estimated that the adoption of this measure would result in a reduction in revenues by \$2.8 million, it is questionable if that estimate includes both the goods and the services or just covers the services provided as opposed to the replacement parts. One would assume that the parts are those that are manufactured by the manufacturer and are not being purchased from a third part vendor. If, in fact, the replacement part is being purchased from a third party vendor, then the purchase by the dealer making the warranty repair should be tax at 0.5% and then the entire charge by the dealer to the manufacturer should be taxed at the 4%.

Digested 2/25/08

L E G I S L A T I V E

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: ADMINISTRATION, Integrated tax services and management special fund; electronic filing required

BILL NUMBER: SB 3115, SD-1

INTRODUCED BY: Senate Committee on Economic Development and Taxation

BRIEF COMMENTS: Adds a new section to HRS chapter 231 to establish an integrated tax services and management special fund into which shall be deposited tax revenues provided by HRS chapters 235, 237, and 238. Moneys in the fund may be used to pay for integrated tax services and management systems performance-based contracts as well as administrative and operating expenses of the management systems. Allows the department of taxation to expend \$ _____ annually to improve the tax collection capabilities and achieve the operational efficiencies that are the department's responsibilities.

Amends HRS 235-119, 237-31 and 238-114 relating to the remittance of the income, general excise and use tax, respectively, to provide that a sum of the receipts necessary to meet the obligations of the integrated tax information management systems performance-based contract may be retained and deposited to the credit of this special fund and the amount shall be limited to the amounts appropriated by the legislature for this project.

Requires the department of taxation to execute the performance-based contracts and work assignments authorized in a timely manner provided the integrated tax services and management systems enhancements and services authorized by this measure shall be executed by October 1, 2008. The department of taxation shall utilize performance-based contracts to enhance and/or acquire automated tax systems including computer hardware and software to assist in the administration of the tax laws.

Defines "performance-based contract" for the purposes of the proposal.

Requires the director of taxation to report to the legislature annually beginning with the 2009 legislature with respect to the status of the performance-based contract including an accounting of all moneys appropriated.

Appropriates an unspecified sum of general funds to be deposited into the integrated tax services and management special fund for fiscal year 2009. Appropriates an unspecified sum out of the integrated tax services and management special fund for fiscal 2009 for purposes of the integrated management systems special fund.

Amends HRS section 231-8.5 to allow the department of taxation to require, by rule adopted pursuant to HRS chapter 91, that taxpayers required to file their taxes with the Internal Revenue Service electronically, shall be required to file their state taxes electronically. Directs the department of taxation to increase voluntary electronic filing through integrated tax services and management, free software, and software upgrades at no cost provided further that the emphasis of voluntary electronic filing shall be on

SB 3115, SD-1 - Continued

withholding taxes, general excise taxes, use taxes and transient accommodations taxes.

Appropriates \$ _____ in general funds for fiscal 2009 to assist the department of taxation in upgrading its operations, workforce, or skills of its employees.

The amendments made by this act to HRS section 237-31 shall not be repealed when section 2 of Act 304, SLH 2006, is repealed.

EFFECTIVE DATE: July 1, 2008

STAFF COMMENTS This was an administration measure submitted by the department of taxation TAX-10(08). The proposed measure provides for the creation of the integrated tax services and management special fund, similar to the special fund that had been set up for the initial integrated tax information management contract that was to integrate the information reported on the gross income tax or general excise tax return with the information reported on the net income tax return. That performance-based contract has proven to be highly successful. Apparently, the department has learned of other initiatives implemented in other states that have also yielded very good results and wishes to embark on a second phase to update the department's technology.

Given the successful track record of the department's first project, lawmakers should give serious consideration to further modernizing the department's integrated tax information management systems.

This measure also proposes to require taxpayers who are required to file electronically with the Internal Revenue Service to file their taxes electronically with the state. The legislature by Act 176, SLH 1997, permitted the department of taxation to allow taxpayers to electronically file any tax return, application, report, or other required document. Further, Act 121, SLH 1995, authorized the department to require taxpayers with tax liability of \$100,000 or more to pay or remit the taxes due by electronic funds transfer.

While section 14 of the measure states that in the next decade a majority, if not all, tax filings will be done electronically and so the department would eventually require all returns and information to be filed electronically, it makes the assumption that all taxpayers have the resources to file a tax return electronically. While the proposed measure does not require the electronic filing by all taxpayers, it requires the department of taxation to increase voluntary electronic filing through various avenues.

Although most of society is moving into the digital and paperless age, consideration should be given to allow taxpayers to also file their tax returns in the traditional method, by snail mail. At least taxpayers have the satisfaction that their tax return information was "physically" sent rather than lost in cyberspace. Setting a requirement where noncompliance may incur penalties without recognizing the capabilities of the taxpayer is arrogant.

Digested 2/25/08

LATE

testimony

From: Kristin Anderson [kristin@hawaiiidealer.com]
Sent: Monday, February 25, 2008 9:05 AM
To: testimony
Subject: FW: HADA testimony in Support of HB1755 to be heard in WAM 10:30 a.m. 2-25-08

Testimony in Support of HB1755
Relating to the General Excise Tax
Presented to the Senate Committee on Ways and Means
At the public hearing scheduled for 10:30 a.m., Monday, February 25, 2008
in conference room 211

Submitted by David H. Rolf, for The Hawaii Automobile Dealers Association
Hawaii's franchised new car dealers

Chair Baker and members of the committee:

Hawaii is the only remaining state which imposes a tax on warranty payments to a dealer to fulfill a manufacturer's warranty.

Other taxing jurisdictions like the state of New Mexico, which has a 3% excise tax, have eliminated the tax on warranty payments for their auto dealers, or, in the state of Washington's case, have de-pyramided the tax on warranty payments, to fulfill a manufacturer's warranty, down to the wholesale rate.

Hawaii auto dealers anticipating that ACT 71, Session Laws of Hawaii 1999, would do the same for Hawaii, have held on during recent difficult times. The full de-pyramiding schedule was to have phased down to .5% by January 1 2006, but the Hawaii State Tax Department has indicated that additional language in the law needed to be added. HB 1755 will add this language. Calculations based on average costs show de-pyramiding to the wholesale rate creates a \$1.3 million difference.

With Hawaii being the only remaining state which has not repaired the situation, and with the current downturn in automobile sales, the tax has become a thorn in the foot of auto dealers. Now, with the auto recession having started here in late 2006, the situation has hobbled dealers at a very difficult time. Three auto dealerships have already closed.

HADA respectfully requests that legislators fast-track the solution (HB1755) by quickly hearing and passing the measure in the 2008 legislative session.

Respectfully submitted,
David H. Rolf
For the members of the Hawaii Automobile Dealers Association
Tel: 808 593-0031 Cell: 808 223-6015 Fax: 808 593-0569

Enclosures: Overview of ACT 71, Letter 1/04/08, Letter 1/08/08, Letter 1/09/08, Letter 1/23/08, Closed Dealerships, New Mexico Statute.

2/25/2008

LATE

Overview Statement on ACT 71
Session Laws of Hawaii (1999)

Re: De-pyramiding GET to Wholesale Tax Rate on Business-to-Business Transactions

“Act 71 reduces the effect of the “pyramiding” of the general excise tax on certain sales of tangible personal property or services by treating those transactions similar to the wholesale sales of tangible personal property. The phase-in of the “wholesale” rate over seven years until a .5% rate is applicable on January 1, 2006.”

From Hawaii State Department of Taxation Form G-81

HADA’s January 4, 2008 Letter to Senators Fukunaga and Baker

January 4, 2008

The Honorable Carol Fukunaga
Chair, Senate Economic Development and Taxation Committee
Room 216 Hawaii State Capitol
Honolulu, Hawaii 96813

The Honorable Rosalyn H. Baker
Chair, Senate Ways and Means Committee
Room 210 Hawaii State Capitol
Honolulu, Hawaii 96813

Subj: Today’s news in the *Wall Street Journal* bodes ill for the Hawaii auto industry too

Dear Senator Fukunaga and Senator Baker:

Today’s *Wall Street Journal* story foretells a 1 million vehicle reduction in U.S. auto sales in 2008--a drop from 16.5 million vehicles sold in 2007 to a forecasted 15.5 million in 2008.

That coming 6.25% downturn compares to Hawaii’s downturn this past year which has been even worse, with sales off about 12%. Only Maui, for the moment, has escaped the radical downturn, with sales flat at a -0.2%. Oahu dealers are down 15.1% so far in 2007 (data only available through the third quarter).

Auto dealers, hoping to survive next year, are asking for your assistance in quickly passing HB1755 – which de-pyramids the tax on warranty, bringing Hawaii into alignment with the taxing laws in all other states.

The tax fairness is urgently needed by an ailing retail auto industry. As I indicated in an earlier correspondence the total difference in the de-pyramided tax is approximately \$1.3 million. While this

may seem a small amount compared to the more than \$150 million the auto industry directs to state taxes, it still is an amount significant enough to save jobs in the industry and preserve the economic viability of some challenged businesses.

An early hearing and passage of HB1755 will do much to preserve this fragile industry.

Please do not hesitate to call if you have any questions.

Best Regards,

David H. Rolf
For Members of The Hawaii Automobile Dealers Association
Encl: Wall Street Journal Story

HADA's January 8, 2008 Letter to Senators Fukunaga and Baker

January 8, 2008

The Honorable Carol Fukunaga
Chair, Senate Economic Development and Taxation Committee
Room 216 Hawaii State Capitol
Honolulu, Hawaii 96813

The Honorable Rosalyn H. Baker
Chair, Senate Ways and Means Committee
Room 210 Hawaii State Capitol
Honolulu, Hawaii 96813

Subj: De-pyramiding tax on warranty / request to fast-track HB 1755

Dear Senator Fukunaga and Senator Baker:

We've expressed our deep concerns about the fragile economy and the possibility of the loss of jobs if changes are not made in the tax code relating to the de-pyramiding of the tax on warranty payments.

Already one Chevrolet dealership has closed on Maui and one large Chrysler dealership has closed on Oahu. A dealer on the Big Island reported yesterday that he was being forced to lay off employees.

The potential to avoid more layoffs lies in HB1755 which has passed the House and awaits approval in both your Senate committees.

HADA respectfully requests that you fast-track the legislation.

Please do not hesitate to call me at any time.

Best Regards
The Hawaii Automobile Dealers Association

2/25/2008

David H. Rolf

HADA's January 9, 2008 Letter to Senators Fukunaga and Baker

January 9, 2008

The Honorable Carol Fukunaga
Chair, Senate Economic Development and Taxation Committee
Room 216 Hawaii State Capitol
Honolulu, Hawaii 96813

The Honorable Rosalyn H. Baker
Chair, Senate Ways and Means Committee
Room 210 Hawaii State Capitol
Honolulu, Hawaii 96813

Subj: Taxes on non-auto manufacturer warranties, we believe, are negligible

Dear Senator Fukunaga and Senator Baker:

The taxes on warranty payments to fulfill auto manufacturer warranties are approximately \$1.3 million. Other taxes on new product warranties are negligible.

Most non-car manufacturer product warranties (copiers, computers, tv sets, etc) are extended service warranties and are not included in the language of HB1755—which only applies to warranties provided by the manufacturer of a new product. The small amount of tax on non-car products may not even total several hundred thousand dollars.

HB1755 is specific and only includes a de-pyramiding of the tax on “a dealer's furnishing of goods or services to the purchaser of tangible personal property to fulfill a warranty obligation of the manufacturer of the property;

Other taxing jurisdictions around the country with tax similar to Hawaii's GET, like New Mexico's GET and Washington State's Business and Operations tax, have eliminated the GET tax on warranties to fulfill a warranty obligation by the manufacturer, or have reduced the tax to the wholesale rate, thus removing or ameliorating the anomaly that is such a painful thorn, for auto dealers in particular.

We respectfully request you fast-track hearing the legislation and pass it through early in the session. Please do not hesitate to call me at any time.

Best Regards,
The Hawaii Automobile Dealers Association

David H. Rolf

2/25/2008

-
-
-
-
-

HADA's January 23, 2008 Letter to Senators Fukunaga and Baker

January 23, 2008

The Honorable Carol Fukunaga
Chair, Senate Economic Development
and Taxation Committee
Room 216 Hawaii State Capitol
Honolulu, Hawaii 96813

The Honorable Rosalyn H. Baker
Chair, Senate Ways and Means
Committee
Room 210, Hawaii State Capitol
Honolulu, Hawaii 96813

Subj: Deepening situation

Dear Senator Fukunaga and Senator Baker:

The situation is worsening. At Dealer Day at the Capitol last Thursday I heard several dealers on the rail outside room 325 discussing the difficult lay offs they've had to make the last few weeks. Orchid Isle Auto Center on the Big Island has laid off 9 employees, cutting back from 89 to 80. Aloha Kia, with dealerships on three islands, has laid off 20 employees, cutting back from 136 to 116. Servco officials said they have instituted a freeze on hiring.

Certainly something needs to be done to give some hope to businesses and shore up their operations. Quick action on the de-pyramiding of the tax on warranty will send a positive signal at a very difficult time for all of Hawaii's dealerships and will provide that hope that government is acting quickly.

Hawaii remains the only state in which legislators have not repaired the situation. We anticipated that Act 71, Session Laws of Hawaii 1999, with its phased reduction of the taxes to the wholesale rate by January 1, 2006, would have applied equally to the de-pyramiding of the tax on warranty payments, but, as you know, the Hawaii State Tax Department has now said that it will not act until additional language is added. HB1755, which has passed the House, and is a carry-over from the last session, needs quick action.

Senator Baker, I will bring additional data on the rapidly deteriorating situation for the auto industry and present it at our meeting at 2 p.m. today (Wed. January 23, 2008).

The industry needs your help and Senator Fukunaga's help with quick action on this problem right away. Auto sale numbers for 2007 will be released January 31. It is important that there be some hope.

Sincerely,
The Hawaii Automobile Dealers Association
Hawaii's franchised new car dealers

David H. Rolf

-
-
-

2/25/2008

New Mexico's Reg. 7-9-78 Deduction; gross receipts tax; warranty obligations

“Receipts of a dealer from furnishing goods or services to the purchaser of tangible personal property to fulfill a warranty obligation of the manufacturer may be deducted from gross receipts.”

NOTE:

Washington State's regulations reduce the B&O tax on receipts from furnishing goods and services to a dealer to fulfill a manufacturers warranty ...to the wholesale rate.