

L E G I S L A T I V E

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SUBJECT: INCOME, Activated Hawaii national guard member tax credit

BILL NUMBER: HB 2988

INTRODUCED BY: Yamane, Ito, Yamashita and 1 Democrat

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to allow taxpayers to claim an activated Hawaii national guard member tax credit if the taxpayer: (1) is a member in good standing of the Hawaii national guard; (2) has been ordered into federal active duty for not less than 180 consecutive days, including service of at least 30 days in a combat zone or qualified hazardous duty area to which the combat zone income exclusion under IRC section 112 applies; and (3) is in compliance with all applicable federal, state, and county statutes, rules, and regulations.

The tax credit shall be \$1,000 per taxpayer provided the credit is claimed during the year of the return of the Hawaii national guard member from the combat zone or qualified hazardous duty area.

Any credits in excess of tax liability shall be refunded to the taxpayer provided such amounts are in excess of \$1. Claims, including any amended claims, are to be filed on or before the end of the twelfth month following the taxable year for which the credit may be claimed. Requires the director of taxation to prepare the necessary forms to claim the credit, requires the taxpayer to furnish information to validate a claim for the credit, and adopts rules pursuant to HRS chapter 91.

EFFECTIVE DATE: Tax years beginning after December 31, 2007

STAFF COMMENTS: The proposed measure would permit taxpayers who are Hawaii national guard members who are on active duty for at least 180 days including at least 30 days in a combat zone or qualified hazardous duty area, to claim a tax credit of \$1,000.

While the proposed measure would offer additional income tax relief to Hawaii national guard members, this proposal would grant these taxpayers a tax benefit regardless of the taxpayer's need for tax relief. Hawaii already recognizes the exemption of combat pay as allowed under Section 112 of the Internal Revenue Code which excludes active duty pay earned in any month served in designated combat zones for those who are serving in a combat zone. This means that pay received for that service is not taxable under the state income tax law. Thus, it is questionable why state taxpayers should be asked to provide an additional tax benefit to those in the National Guard. Unless lawmakers can demonstrate a true economic hardship imposed by state taxes, this credit has no validity. These are funds which may be required for other needs of those returning from a combat zone.

It should be remembered that the legislature by Act 197, SLH 2004, changed the state income tax exclusion for Hawaii National Guard and reservist pay from \$1,750 to a formula according to military pay rates. If the argument is that these taxpayers are not utilizing state services while stationed outside the state, it should be remembered that once they return to the state, as residents, they will enjoy all of the

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facilities paid for by other taxpayers yet would have had no responsibility to pay for them while they were outside the state.

If the intent of this proposal is to subsidize or supplement the compensation of a Hawaii resident who is on active duty, then the subsidy should come from all taxpayers across the country for whom the active duty personnel is performing services, not just from Hawaii taxpayers.

Digested 2/13/08

STATE OF HAWAII
DEPARTMENT OF DEFENSE

TESTIMONY ON HOUSE BILL 2988
A BILL FOR AN ACT RELATING TO TAX CREDITS

PRESENTATION TO THE
HOUSE COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS

BY

MAJOR GENERAL ROBERT G. F. LEE
ADJUTANT GENERAL
February 14, 2008

Chair Evans, Vice-Chair Har, and Members of the Committee:

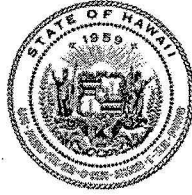
I am Major General Robert G. F. Lee, State Adjutant General. I am testifying on House Bill 2988. This bill provides a tax credit of \$1,000 to Hawaii National Guard members who have served in a combat zone or qualified hazardous duty area.

We support the intent of House Bill 2988 so long as it does not replace or adversely impact priorities as indicated in the Executive Supplemental Budget Request. Additionally, members of the military are tax exempt from Federal and Hawaii State income tax for the period they serve in a combat or hostile fire zone.

Chair Evans, thank you for the opportunity to provide this testimony. Are there any questions?

LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR



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**HOUSE COMMITTEE ON PUBLIC SAFETY & MILITAR AFFAIRS
TESTIMONY REGARDING HB 2988
RELATING TO TAX CREDITS**

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)
DATE: FEBRUARY 14, 2008
TIME: 9:15AM
ROOM: 309

This legislation provides a refundable income tax credit of \$1,000 for activated National Guard members that are ordered into a combat zone for at least 180 days.

The Department of Taxation (Department) **strongly supports** this legislation and encourages the Committee to pass this measure.

I. THE DEPARTMENT AND LINGLE-AIONA ADMINISTRATION STRONGLY SUPPORT THE NATIONAL GUARD MEMBERS

This legislation provides for a much deserved tax credit for National Guard members that are ordered into combat zones and executing the military operations of this country. Members of the National Guard who protect this country are entitled to this credit. National Guard members, when activated, can be pulled away from ordinary civilian positions that many times pay much more than their military service counterpart. This legislation serves as the State's contribution to their brave service by minimizing the financial impact of active combat duty away from home for an extended period of time.

II. TECHNICAL SUGGESTIONS

COMPLIANCE WITH ALL RULES AND REGULATIONS—The Department suggests eliminating paragraph (3) of subsection (b). This section effectively precludes a National Guard member from receiving the credit if they get a speeding ticket or parking ticket. The Department doubts that effect is the legislative intent behind this provision. In addition, this provision is practically impossible to enforce.

SUBSECTION (c)—The Department suggests that subsection (c) be rewritten as follows—
(c) The tax credit shall be \$1,000 per taxpayer that qualifies

under subsection (a). The tax credit shall be claimed for the taxable year that the Hawaii national guard member has begun their duty in a combat zone or qualified hazardous duty area.

III. REVENUE ESTIMATE

This legislation will result in an indeterminate revenue loss due to no hard data on the number of qualified national guards. However, if it was assumed there were 2,500 qualified National Guard members annually, annual revenue loss would be \$2.5 million in FY 2009 and thereafter.