

SB 1304

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Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: GENERAL EXCISE, Deferment of certain hospitals

BILL NUMBER: SB 1304; HB 1522 (Identical)

INTRODUCED BY: SB by Hanabusa by request; HB by Cabanilla and 4 Democrats

BRIEF SUMMARY: Adds a new section to HRS to provide that the gross income received by a hospital in the state shall be deferred from the general excise tax for four years if 60% or more of the patient population treated annually by the hospital consists of uninsured, Medicaid, and other Medicare patients.

This act shall be repealed on June 30, 2013.

EFFECTIVE DATE: Upon approval

STAFF COMMENTS: This measure proposes a preferential tax treatment in the form of a four-year general excise tax exemption to encourage hospitals to provide services to patients who are without insurance, on Medicaid or Medicare. It should be remembered that using the tax system to achieve social goals, as this measure proposes, is an inefficient means of accomplishing such goals. This credit would merely grant preferential tax treatment to these hospitals regardless of their need for tax relief.

It should be remembered that the general excise tax - unlike the retail sales tax found on the mainland - is a tax imposed for the privilege of doing business in the state. Generally, most hospitals are established as not-for-profit organizations which the general excise tax law recognizes by granting an exemption. In this case, the proposal would temporarily extend similar tax treatment to for-profit hospitals where more than 60% of the annual patient population treated by the hospitals are uninsured, Medicaid or Medicare patients. The question is why should a for-profit institution be exempt just because it is taking a certain type of patient? If the intent is to compensate a for-profit hospital for taking poor and indigent patients, lawmakers should not use the tax law to accomplish this outcome. If it is the intent of the legislature to encourage such for-profit institutions to serve this underprivileged population by making them "whole," then a direct appropriation would be much more transparent and accountable. Taxpayers would know who is receiving the subsidy and how much is being spent to provide these health care services.

This measure is a reflection of the lack of understanding on the part of lawmakers about the state's tax system, its purpose, functions and limitations. If adopted, this measure would result in a lack of accountability as there is no way to determine the cost of this tax break to the state's revenue resources and will open the door for preferential treatment by medical care providers, dentists, etc. Indeed, approval of this measure would set a very bad precedent and open the door to other worthy taxpayers who cannot meet their general excise tax obligations.

Digested 2/9/09

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**THE SENATE
THE TWENTY-FIFTH LEGISLATURE
REGULAR SESSION OF 2009**

COMMITTEE ON HUMAN SERVICES

And

COMMITTEE ON HEALTH

**Hearing date: February 10, 2009
Testimony on SB 1304
(Relating to General Excise Tax)**

Chairs Chun Oakland and Ige, Vice-Chairs Ihara and Green, members of the Committees, I am an attorney focusing on tax law and a former Administrative Rules Specialist under directors Kamikawa, Okamura and Kawafuchi.

This bill provides for a "deferral" of general excise tax for any gross income received from Medicaid or Medicare payments for any for-profit hospital group that provides services for patients, of which sixty percent or more are uninsured, or recipients of Medicaid or Medicare.

I oppose this bailout bill for the following reasons:

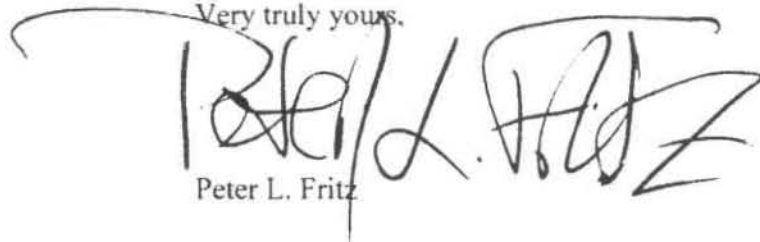
- For profit medical groups are not subject to the same restrictions as nonprofit hospitals. Nonprofit hospitals have restrictions on how money must be spent. Corporate assets cannot inure to the benefit of officers, directors or members. There is nothing in this bill to prevent the amount of deferred tax from benefiting corporate insiders.
- The bill is ambiguous. While Section 1 of this bill states that the purpose of the act is to provide for a four year deferral of general excise tax payments, Section 2 provides for a deferral of the GET without any sunset date.
- The bill fails to provide for any repayment of the deferred taxes. To protect taxpayers, the provision for repayment should impose personal liability upon the officers, directors, and shareholders of the for-profit hospital group.

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- This bill fails to address the situation when the for-profit group fails to provide services for a patient population which consists of more than 60% who are uninsured, or recipients of Medicaid or Medicare. Does the for-profit hospital lose its deferral? Is it responsible to immediately repay any deferred taxes?
- It may be less expensive to the taxpayers of the state of Hawaii to provide direct assistance or take over the hospital instead of bailing out the for-profit corporation by deferring the general excise tax

Thank you for the opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to read "Peter L. Fritz". The signature is stylized with a large, sweeping initial "P" and a long horizontal line extending to the right. Below the signature, the name "Peter L. Fritz" is printed in a standard font.

Peter L. Fritz