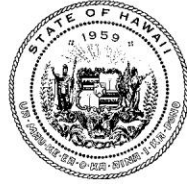


**NEIL ABERCROMBIE**  
GOVERNOR

**SHAN TSUTSUI**  
LT. GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF TAXATION**  
P.O. BOX 259  
HONOLULU, HAWAII 96809  
PHONE NO: (808) 587-1540  
FAX NO: (808) 587-1560

**FREDERICK D. PABLO**  
DIRECTOR OF TAXATION

**JOSHUA WISCH**  
DEPUTY DIRECTOR

To: The Honorable Sylvia Luke, Chair  
and Members of the House Committee on Finance

Date: Friday, February 22, 2013  
Time: 11:00 a.m.  
Place: Conference Room 308, State Capitol

From: Frederick D. Pablo, Director  
Department of Taxation

Re: H.B. 503, H.D.1 Relating to General Excise Tax

The Department appreciates the intent of H.B. 503, H.D.1 and provides the following information and comments for your consideration.

H.B. 503, H.D.1 creates a general excise tax exemption for amounts received by farmers for the sale of fresh farm produce intended to be consumed in Hawaii. As amended the exemption applies to gross income received after December 31, 2050.

The exemption raises a possible constitutional issue. Due to the potential for discriminatory impact on sellers of produce sourced from outside Hawaii, from where it is unlikely a farmer could sell his produce here and reap the exemption, there is a possibility the exemption runs afoul of United States Supreme Court commerce clause jurisprudence. The Department defers to the Department of the Attorney General for further guidance as to constitutionality.

The Department notes that there is no effect in the budget window due to defective start date, however, if made effective, annual revenue loss is estimated to be \$8 million.

Thank you for the opportunity to provide comments.

# TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: GENERAL EXCISE, Exempt fresh produce

BILL NUMBER: HB 503, HD-1

INTRODUCED BY: House Committee on Agriculture

BRIEF SUMMARY: Amends HRS section 237-24 to exempt from the general excise tax, the amounts received by farmers for the sale of fresh farm produce that is intended for human consumption within the state; provided that the farmers register with the department of taxation and pay a fee of \$\_\_\_ annually and the department of taxation approves the exemption.

Defines “farmer” and “fresh farm produce” for purposes of the measure.

EFFECTIVE DATE: Gross income or gross proceeds received after December 31, 2050

STAFF COMMENTS: It appears that the general excise tax exemption proposed in the measure is to encourage the farming and purchasing of locally grown produce. It should be remembered that the use of the tax system for such purposes is an inefficient means to accomplish such goals. Exemptions from the excise tax recognize that the imposition of the tax would impose an unusual burden or would otherwise cause the taxpayer to do business in an inefficient manner just to circumvent the tax. Exemptions from the general excise tax are also granted because the entity is a nonprofit or if the tax imposed would have a severe economic impact on the state’s economy. The proposed exemption from the general excise tax meets none of these criteria.

It should be noted that farmers are considered “producers” for the purpose of the general excise tax as the tax assumes that the farmer is selling his produce to a wholesaler or retailer. Inasmuch as those are sales for resale, the tax rate imposed is 0.5%. However, when the farmer’s produce is sold at retail, such as at the farmers’ markets, to customers who will be consuming the produce, that sale is taxed at the 4% rate. Thus, unless the farmer is selling at retail, the burden of the general excise tax is 0.5% or 50 cents on a \$100 sale. Thus, it is not the cost of the tax that adds to the price of locally grown products as much as it is the external factors such as the cost of land, labor, and regulatory compliance. Granting a general excise tax exemption to the farmer will not significantly reduce the cost of the produce.

Lawmakers need to take a good look and see that, on one hand they are scrounging for money attempting to raise new funds with everything from user fees to taxes on specific groups of people and, on the other hand, introduce measures like this one. If all of the tax give-aways that have no rational basis were adopted, they would probably bankrupt the treasury. It should be repeated over and over again that the tax system is not designed to provide some sort of lure to attract the taxpayer into doing or acting in some sort of unusual way, but the tax system exists to raise the funds necessary to operate government. Lawmakers may want to propose various tax breaks for their constituents while continuing to squander the tax resources on more public programs and personnel. However, doing so raises the question of whether or not elected officials have any clue about what their fiduciary responsibility is. This is indeed

sad as the voting public has entrusted these elected officials with their hard-earned tax dollars. Instead of attempting to give away the state treasury with such myopic tax breaks, lawmakers need to pay more attention to the overall economic climate of the state which currently suffers from a continuing burden of taxes and regulations. Lawmakers should remember, giving a tax break to one type of activity comes at a cost to all other taxpayers not so favored unless they are willing to effect a commensurate decrease in state spending. So one has to ask what is the unusual burden of taxes borne by this particular industry or activity or is this proposal nothing more than pandering to the fad industry of the day? There is literally no justification for this proposal.

Digested 2/20/13



**Hawaii Farm Bureau**  
F E D E R A T I O N

2343 Rose Street • Honolulu, Hawaii 96819  
Phone: (808) 848-2074 • Neighbor-Islands: (800) 482-1272  
Fax: (808) 848-1921 • Email: [info@hfbf.org](mailto:info@hfbf.org)  
[www.hfbf.org](http://www.hfbf.org)

February 22, 2013  
HOUSE COMMITTEE ON FINANCE

TESTIMONY ON HB 503HD1

RELATING TO GENERAL EXCISE TAX

Room 308  
11:00 AM

Aloha Chair Luke, Vice Chairs Nishimoto and Johanson, and Members of the Committee:

I am Dean Okimoto, President of the Hawaii Farm Bureau Federation (HFBF). Organized since 1948, the HFBF is comprised of 1,950 farm family members statewide, and serves as Hawaii's voice of agriculture to protect, advocate, and advance the social, economic and educational interests of our diverse agricultural community.

HFBF supports the intent of HB503 HD1 in that the measure seeks to lower costs for some locally produced foodstuffs. Generally, HFBF supports any measure that safely reduces the cost of production so that locally produced goods can compete with their mainland counterparts, strengthening our local economy.

HFBF would like to see this concept more broadly applied to include all locally produced agricultural products.

Thank you for this opportunity to provide our opinion on this important matter.

## FINTestimony

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 21, 2013 6:30 AM  
**To:** FINTestimony  
**Cc:** nredfeather@kohalacenter.org  
**Subject:** Submitted testimony for HB503 on Feb 22, 2013 11:00AM

### **HB503**

Submitted on: 2/21/2013

Testimony for FIN on Feb 22, 2013 11:00AM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Nancy Redfeather	The Kohala Center - HISGN	Support	No

Comments: Providing incentives to grow, purchase, and consume locally grown fruits and vegetables is critical to connecting the people, their health, building an agricultural economy, and growing the next healthy generation. If we really want this, this would be one way to move.

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## **FINTestimony**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 21, 2013 9:39 AM  
**To:** FINTestimony  
**Cc:** namaka@interpac.net  
**Subject:** \*Submitted testimony for HB503 on Feb 22, 2013 11:00AM\*

### **HB503**

Submitted on: 2/21/2013

Testimony for FIN on Feb 22, 2013 11:00AM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Joan Lander	Individual	Support	No

#### Comments:

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## FINTestimony

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**Sent:** Thursday, February 21, 2013 6:39 AM  
**To:** FINTestimony  
**Cc:** kula96712@gmail.com  
**Subject:** \*Submitted testimony for HB503 on Feb 22, 2013 11:00AM\*

### **HB503**

Submitted on: 2/21/2013

Testimony for FIN on Feb 22, 2013 11:00AM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
kirsten garrabrant	Individual	Support	No

#### Comments:

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## **FINTestimony**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 20, 2013 9:44 PM  
**To:** FINTestimony  
**Cc:** maliadamon@gmail.com  
**Subject:** \*Submitted testimony for HB503 on Feb 22, 2013 11:00AM\*

### **HB503**

Submitted on: 2/20/2013

Testimony for FIN on Feb 22, 2013 11:00AM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Malia Damon	Individual	Support	No

#### Comments:

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**Sent:** Wednesday, February 20, 2013 9:40 PM  
**To:** FINTestimony  
**Cc:** kmt.amos@gmail.com  
**Subject:** \*Submitted testimony for HB503 on Feb 22, 2013 11:00AM\*

### **HB503**

Submitted on: 2/20/2013

Testimony for FIN on Feb 22, 2013 11:00AM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kelsey Amos	Individual	Support	No

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## **FINTestimony**

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**Sent:** Wednesday, February 20, 2013 9:33 PM  
**To:** FINTestimony  
**Cc:** cravegreens@gmail.com  
**Subject:** \*Submitted testimony for HB503 on Feb 22, 2013 11:00AM\*

### **HB503**

Submitted on: 2/20/2013

Testimony for FIN on Feb 22, 2013 11:00AM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Crystal Thornburg-Homcy	Individual	Support	No

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**Sent:** Wednesday, February 20, 2013 9:06 PM  
**To:** FINTestimony  
**Cc:** jcbanna@hawaii.edu  
**Subject:** \*Submitted testimony for HB503 on Feb 22, 2013 11:00AM\*

### **HB503**

Submitted on: 2/20/2013

Testimony for FIN on Feb 22, 2013 11:00AM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jinan Banna	Individual	Support	No

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**Sent:** Wednesday, February 20, 2013 9:02 PM  
**To:** FINTestimony  
**Cc:** brimohi@msn.com  
**Subject:** \*Submitted testimony for HB503 on Feb 22, 2013 11:00AM\*

### **HB503**

Submitted on: 2/20/2013

Testimony for FIN on Feb 22, 2013 11:00AM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Brian Emmons	Individual	Support	No

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## FINTestimony

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**Sent:** Thursday, February 21, 2013 1:11 PM  
**To:** FINTestimony  
**Cc:** nsgurl@hotmail.com  
**Subject:** \*Submitted testimony for HB503 on Feb 22, 2013 11:00AM\*

### **HB503**

Submitted on: 2/21/2013

Testimony for FIN on Feb 22, 2013 11:00AM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Melani Spielman	Individual	Support	No

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## **FINTestimony**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 21, 2013 12:39 PM  
**To:** FINTestimony  
**Cc:** dc25@hawaii.edu  
**Subject:** \*Submitted testimony for HB503 on Feb 22, 2013 11:00AM\*

### **HB503**

Submitted on: 2/21/2013

Testimony for FIN on Feb 22, 2013 11:00AM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Danielle Vassalotti	Individual	Support	No

#### Comments:

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Committee on Finance  
Fri. 2/22/2013 11:00am  
Room 308  
RE: Support of HB503 relating to General Excise Tax.

Aloha Representatives,

I am writing to testify in strong support of HB503, HD1 which provides a GET exemption on amounts received by farmers for the sale of fresh farm produce intended for consumption within the State.

I work on Waihuena Farm, a small organic farm on the North Shore of Oahu. We have a small customer base, but virtually exist as a non-profit – because it is next to impossible to make a profit selling local produce to local people! HB503 will help local farms like us to break even and maybe profit enough to expand food growing operations.

Please pass HB503 HD1 to boost our economy and locally grown food production.

Mahalo,  
Angela Breene

[angelavideotron@gmail.com](mailto:angelavideotron@gmail.com)

Halewia, HI 96712

## FINTestimony

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 21, 2013 5:06 PM  
**To:** FINTestimony  
**Cc:** tabraham08@gmail.com  
**Subject:** \*Submitted testimony for HB503 on Feb 22, 2013 11:00AM\*

### **HB503**

Submitted on: 2/21/2013

Testimony for FIN on Feb 22, 2013 11:00AM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Troy Abraham	Individual	Support	No

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