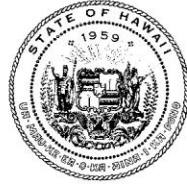


NEIL ABERCROMBIE  
GOVERNOR

SHAN TSUTSUI  
LT. GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF TAXATION**  
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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: Monday, February 25, 2013  
Time: 11:00 A.M.  
Place: Conference Room 308, State Capitol

From: Frederick D. Pablo, Director  
Department of Taxation

Re: H.B. 96 H.D. 1, Relating to Farms

The Department of Taxation (Department) offers the following information and comments on H.B. 96 H.D. 1 for your consideration.

This bill exempts from the Hawaii State Income Tax the first \$50,000 of income received by a family farm, family farm community, or family farm cooperative.

The Department notes the difficulty in verifying compliance with the terms as defined. First, it is not clear whether an individual, or a family that is organized as a business (such as a limited liability company) can qualify for the tax credit, if the individual or entity owns or leases the farm. Second, the Department is not capable of determining whether food sold was for consumption within the State; once the products are sold to a wholesaler, the final consumption location will be very difficult to determine. Third, it is not clear who may claim the tax credit and under what filing circumstances. For example, if a husband and wife own a family farm but file separately, and the husband handles the local sales and the wife handles the out of State sales, can the farm be divided so that the husband can claim the credit? These issues may lead to improper claiming of the credit and opens up the potential for abuse.

The Department estimates that this bill will result in a revenue loss of \$3.9 million in income taxes.

Thank you for the opportunity to provide comments.

# TAXBILLSERVICE

SUBJECT: INCOME, Exclusion of income received by family farm or cooperative

BILL NUMBER: HB 96, HD-1

INTRODUCED BY: House Committee on Agriculture

BRIEF SUMMARY: Adds a new paragraph to HRS section 235-7 to exclude the first \$50,000 of income received by a family farm, family farm community, or family farm cooperative from state income taxation.

Defines “family farm” as a farm owned or leased by an individual or family receiving more than 75% of its annual gross income from food production sold for consumption in the state. Also defines “family farm community” and “family farm cooperative” for purposes of the measure.

The amendments made to HRS section 235-7(a) of this measure shall not be repealed when that section is reenacted on January 1, 2018, pursuant to Act 220, SLH 2012, (which provided a temporary exemption of capital gains realized from the conversion of residential leasehold interest to fee simple ownership).

EFFECTIVE DATE: Tax years beginning after December 31, 2020

STAFF COMMENTS: This measure proposes to grant preferential treatment in the form of an income tax exclusion refundable to a select group of taxpayers. If the contention is that taxes imposed on these select taxpayers/businesses in Hawaii are too high, then the overall business tax climate needs to be addressed. Rather than granting a limited tax preference, as proposed, lawmakers need to take another look at the business and tax climate in Hawaii and find ways to improve that climate for all businesses.

To the extent that this select group of taxpayers would enjoy the preferential tax treatment, they would still need the services provided by state government. As a result, the burden of paying for those services will be shifted to another group of taxpayers who cannot avail themselves of this proposed exemption. Thus, existing businesses that are not so blessed with a similar exclusion must pick up the additional cost either in higher taxes or lower quality of service. Finally, it should be remembered that tax relief is provided to those who do not have the ability to carry their share of the tax burden. There is no indication that these particular taxpayers do not have the ability to pay their fair share of the state tax burden. The only criteria to access this tax benefit is that the farm be “family owned” and receive 75% of its income from food production sold for consumption in the state.

It is amusing to note that the benefit must accrue to a “family owned” farm, “family farm community” or “family farm cooperative” as it is doubtful there are truly that many “family” owned businesses today. Given the liability exposure, most businesses “incorporate” as a corporate entity to shield themselves from liability exposure. Further, how does one certify that the 75% of the annual gross income was from food produced on the farm and consumed in the state? Unless the farmer sells his or

HB 96, HD-1 - Continued

her produce to a final consumer, there is no way the farmer can ascertain that the food the farm produced was consumed in the state. Once the produce is sold to a food wholesaler, the farmer will never know if the food was sold for consumption in the state or sold to an airline catering kitchen or even a cruise ship traversing the Pacific Ocean. This proposed exemption would be difficult to administer and audit to insure compliance with these requirements.

Digested 2/23/13



**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  
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[www.hfbf.org](http://www.hfbf.org)

February 25, 2013

HEARING BEFORE THE  
HOUSE COMMITTEE ON FINANCE

TESTIMONY ON HB 96, HD1  
RELATING TO FARMS

Room 308  
11:00 AM

Chair Luke, Vice Chair Nishimoto, Vice Chair 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 interest of our diverse agricultural community

HFBF supports the intent of HB 96, HD1 which creates an income tax exemption on the first \$50,000 of income for family farms, family farm communities, and family farm cooperatives.

HFBF is supports any initiative that support Hawaii's small farmers and encourages new farming businesses.

We do recommend a broader definition of "Family farms" to include small farms that are incorporated.

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

## **FINTestimony**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, February 23, 2013 12:38 AM  
**To:** FINTestimony  
**Cc:** shannonkona@gmail.com  
**Subject:** \*Submitted testimony for HB96 on Feb 25, 2013 11:00AM\*

### **HB96**

Submitted on: 2/23/2013

Testimony for FIN on Feb 25, 2013 11:00AM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Shannon Rudolph	Individual	Support	No

#### Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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## **FINTestimony**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 22, 2013 10:50 PM  
**To:** FINTestimony  
**Cc:** tabraham08@gmail.com  
**Subject:** \*Submitted testimony for HB96 on Feb 25, 2013 11:00AM\*

### **HB96**

Submitted on: 2/22/2013

Testimony for FIN on Feb 25, 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

#### Comments:

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## FINTestimony

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, February 23, 2013 11:47 PM  
**To:** FINTestimony  
**Cc:** kauaisimon@gmail.com  
**Subject:** Submitted testimony for HB96 on Feb 25, 2013 11:00AM

### **HB96**

Submitted on: 2/23/2013

Testimony for FIN on Feb 25, 2013 11:00AM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Simon Russell	Individual	Support	No

Comments: This legislation will increase our food security, Thank you Legislators, Respectfully Submitted, Simon Russell Farmer Haiku, Maui

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