

# **SB 363**

## Testimony

NEIL ABERCROMBIE  
Governor



RUSSELL S. KOKUBUN  
Chairperson, Board of Agriculture

SCOTT E. ENRIGHT  
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State of Hawaii  
DEPARTMENT OF AGRICULTURE  
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TESTIMONY OF RUSSELL KOKUBUN  
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE SENATE COMMITTEE ON AGRICULTURE  
Tuesday, January 29, 2013  
Room 229  
2:45 p.m.

SENATE BILL NO. 363  
RELATING TO FARMS

Chairperson Nishihara, Vice Chair Kouchi and Members of the Committee:

Thank you for the opportunity to provide testimony on Senate Bill No. 524. Unfortunately, I will not be able to represent the Department of Agriculture at the hearing today. This is due to my responsibilities as Chair of the Board of Agriculture to convene the Board of Agriculture meeting which has been planned for many weeks to address several important issues that require board action.

The purpose of this measure is to encourage and support the growth of new, small, and diversified farming businesses by creating a tax exemption on the first \$50,000 of income for qualified family farms, family farm communities, and family farm cooperatives. This exemption is not to be repealed on January 1, 2018, pursuant to Section 5 of Act 220 SLH 2012. The Department supports the general intent of supporting the growth of new, small, and diversified family farms, however the conditions under which a family farm may qualify for the tax exemption raises concerns.

This measure does not apply to family farms who sell their crops to food brokers/wholesalers other than a "family farm cooperative", an organization that can only be found within a "family farm community" which is a large parcel of 500 to 5,000



acres and containing subdivided lots. Family farms who are unable to spend the time selling their products directly to consumers, perhaps from a roadside stand and farmer's markets, will be forced to sell their products through the "family farm cooperative" in order to qualify for the partial exemption from income tax.

Existing farmers who are not located within "family farm communities" cannot have their crops processed or marketed through the "family farm cooperative".

New farmers may be able to meet the 75 percent of annual gross income from crops sold from the farm but the total income may be insufficient to pay for land rent and living expenses. According to the measure (page 7, lines 2 – 7) the "family farm" is not required to grow on their farm lot the food production they sell for consumption within the State.

We defer to the Department of Taxation on taxation matters contained in this bill that are under their jurisdiction. We also defer to the Department of Budget and Finance regarding fiscal impacts of any tax exemption.

Thank you for this opportunity to present our testimony.

NEIL ABERCROMBIE  
GOVERNOR

SHAN TSUTSUI  
LT. GOVERNOR



FREDERICK D. PABLO  
DIRECTOR OF TAXATION

JOSHUA WISCH  
DEPUTY DIRECTOR

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

To: The Honorable Clarence K. Nishihara, Chair,  
and Members of the Senate Committee on Agriculture

Date: Tuesday, January 29, 2013

Time: 2:45 P.M.

Place: Conference Room 229, State Capitol

From: Frederick D. Pablo, Director  
Department of Taxation

Re: S.B. 363, Relating to Farms

The Department of Taxation (Department) appreciates the intent of S.B. 363 and provides the information and comments 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 that it is not sufficiently staffed to administer and oversee compliance required under the provisions of this bill. The Department would not be able to determine what farms qualify as family farms and to determine how much income family farms receive from the sale of farm products, or to determine where those farm products are eventually consumed. Lacking sufficient resources and expertise in the subject matter substantially increases the possibility that exemptions are wrongfully claimed and for taxpayer noncompliance.

Aside from the compliance issues, the Department's substantial technological challenges and the lack of staffing to develop to the modifications will make it difficult for the Department to implement these requirements. The exemption of income will require substantial modification to the tax forms and instructions.

Thank you for the opportunity to provide comments.

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**SB363**

Submitted on: 1/28/2013

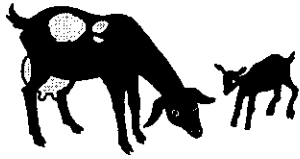
Testimony for AGL on Jan 29, 2013 14:45PM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Ronald Weidenbach	Hawaii Aquaculture & Aquaponics Association	Support	No

Comments: This legislation would be very helpful to small and beginning farmers, and to other farmers who may have had a difficult financial year due to one or more of the many economic challenges facing the local farming community.

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*Kauai Kunana Dairy*  
**4552 Kapuna Road - Kilauea, Kaua'i, Hawai'i 96754**  
**(808) 828-0095**

January 27, 2012

Senate Agriculture Committee  
Conference Room 229  
Hawaii State Capitol  
Honolulu, HI

RE: Senate Bill 363

To Hon. Senators:

Our family is writing in strong support of this legislation to support small family farms in the state. We feel this is an important step for supporting food security in Hawaii since it is our smaller farms which are actually producing food. Providing some relief in the form of taxes will be returned in the farmer's ability to produce even more food by having more monetary resources to use in expansion, production, and development of the farm operation.

We hope you will support this Bill 363 for our local farmers and ranchers.

Sincerely yours,

*M. Louise Wooton*

Louisa Wooton on behalf of  
Bob Wooton  
Ryan Wooton  
Sarah Wooton  
Kauai Kunana Dairy



# Recycle Hawai'i

P.O. Box 4847 • Hilo, Hawai'i • 96720  
Office Tel: 808.969.2012 • Fax: 808.969.2014  
www.recyclehawaii.org • info@recyclehawaii.org

FEIN: 99-0293381

To: Senator Clarence K. Nishihara, Chair  
Senator Ronald D. Kouchi, Vice Chair  
Other Honorable Members of the Senate Committee on Agriculture

Date: January 24, 2013

Aloha,

Recycle Hawaii is a 501(c) 3 educational organization incorporated in 1992 and active as a grassroots effort since 1989. Our mission is to promote resource management and recycling throughout the state by educating and informing the people of Hawaii about environmentally sound resource management and recycling opportunities.

We support SB363 and the intention behind it, which is to provide incentives for more Hawaii residents to take up the practice of farming. Local farms are a critical component of any sound resource management plan and here is why:

1. Farms are places where significant volumes of organics diverted from the landfill can be sent for composting at little or no cost. Recycle Hawaii is actively involved in planning and managing zero waste events and the last stage of these events is always delivery of the diverted compostables to a farm for processing into soil.
2. Food that comes from farms can be sold without packaging. Local food production is a huge waste prevention scheme that can also bring reusable containers like glass bottles back into the market place.
3. Farmers who raise pigs divert food scraps from the landfill. These putrescibles are a particularly difficult component of the waste stream to deal with.

Passing this measure is a sure way to help close a critical gap in the all important process of turning waste into resources.

Sincerely,

Paul J. Buklarewicz  
Executive Director  
Recycle Hawai'i

# TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

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

**BILL NUMBER:** SB 363; HB 96 (Identical)

**INTRODUCED BY:** SB by Ruderman, English, Espero, Gabbard, Keith-Agaran, 4 Democrats and 1 Republican; HB by Hanohano, Evans, Lowen, Nakashima & Tsuji

**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, 2012

**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 her produce to a



SB 363; HB 96 - Continued

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 1/25/13

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**SB363**

Submitted on: 1/23/2013

Testimony for AGL on Jan 29, 2013 14:45PM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Choon James	Individual	Support	Yes

Comments: SUPPORT SB 363 Aloha Senators: I support the following intents and premises of SB 363. It takes a significant amount of capital and hard work to invest in a small farm start-ups. It's very easy for a farmer to go into the red because there are many facets of farming that a small owner cannot control, like the weather or challenges like "bunchy tops" in bananas. This is a good gesture and encouragement for small farmers and a policy in the right direction for our island's food security goals. Mahalo! Choon James 56-1081 Kam Kahuku, Hawaii 96731 Reference: SB 363 Economic Diversification; Agriculture; Family Farm; Family Farm Community; Family Farm Cooperative; Tax Exemption Description: Creates an income tax exemption on the first \$50,000 of income for family farms, family farm communities, and family farm cooperatives.

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**SB363**

Submitted on: 1/23/2013

Testimony for AGL on Jan 29, 2013 14:45PM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Edith Hall	Individual	Support	No

Comments: Please help small farmers be able to stand a fighting chance against big Agra farms. Help pass SB363. I am a small farmer in Kalapana and this issue matters to me. Mahalo, Edith Hall Kalapana, Hawaii

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**SB363**

Submitted on: 1/23/2013

Testimony for AGL on Jan 29, 2013 14:45PM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Ethan Swift	Individual	Support	No

Comments: This will not only support small farms financial viability but also food sovereignty in Hawaii.

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**SB363**

Submitted on: 1/28/2013

Testimony for AGL on Jan 29, 2013 14:45PM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Sarah Townsend	Individual	Support	No

Comments: Please pass this and all bills that will make it easier for farmers in our state to stay in business. Hawaii's isolation and the cost of shipping make this type of financial support very important.

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TO: Hawaii State Senate:  
COMMITTEE ON AGRICULTURE  
Senator Clarence K. Nishihara, Chair  
Senator Ronald D. Kouchi, Vice Chair

Members:

As a resident of Puna, I support this measure that would exempt farmers from taxation on the first \$50,000 of income. This is just what Puna needs to support local small organic farmers.

Sincerely,

Scott Stoddard  
Orchidland Estates,  
Hawaii County, Hawaii

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**SB363**

Submitted on: 1/23/2013

Testimony for AGL on Jan 29, 2013 14:45PM in Conference Room 229

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

Comments:

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