
A BILL FOR AN ACT

RELATING TO TAXATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that Hawaii is often
2 rated last, or near the bottom, in surveys measuring the
3 friendliness of a state's business climate.

4 The legislature believes that exempting small businesses
5 with annual gross incomes of \$50,000 or less would help to
6 promote entrepreneurship in the State and stimulate the local
7 economy. According the department of taxation, such an
8 exemption is projected to result in a loss of \$60,000,000 in tax
9 revenues. However, this loss would be offset by the increased
10 economic activity produced by the exemption and possibly result
11 in a revenue gain.

12 The purpose of this Act is to establish a general excise
13 tax exemption for small businesses with an annual gross income
14 of no more than \$50,000.

15 SECTION 2. Chapter 237, Hawaii Revised Statutes, is
16 amended by adding a new section to be appropriately designated
17 and to read as follows:



1 "§237- Exemption; small businesses. (a) This chapter
 2 shall not apply to a qualified small business; provided that the
 3 gross income of the qualified small business does not exceed
 4 \$50,000 for the taxable year the exemption is claimed.

5 (b) A qualified small business claiming an exemption under
 6 this section shall not pass on the taxes imposed by this chapter
 7 to its customers for the taxable year the exemption is claimed.

8 (c) For the purposes of this section, "qualified small
 9 business" means a corporation, partnership, sole proprietorship,
 10 or other legal entity that:

- 11 (1) Is domiciled in this State;
- 12 (2) Is formed to make a profit;
- 13 (3) Is independently owned and operated;
- 14 (4) Employs fewer than one hundred full-time employees;
- 15 and
- 16 (5) Has been issued a certificate of tax clearance from
 17 the department of taxation verifying that the small
 18 business has filed all required returns and paid all
 19 required taxes, penalties, and interest for the
 20 taxable year the exemption is claimed.



1 (d) The director of taxation shall adopt rules in
2 accordance with chapter 91 to implement this section."

3 SECTION 3. New statutory material is underscored.

4 SECTION 4. This Act shall take effect on January 1, 2017.

5

<p><u>AA</u></p> <p><u>[Signature]</u></p> <p><u>Felix Pouch</u></p> <p><u>[Signature]</u></p> <p><u>Lyn DeCrite</u></p>	<p>INTRODUCED BY:</p>	<p><u>James S. King</u></p> <p><u>[Signature]</u></p> <p><u>[Signature]</u></p> <p><u>Ridley</u></p> <p><u>Cindy Evans</u></p> <p><u>A. Jopola</u></p> <p><u>[Signature]</u></p> <p><u>Mark J. Hall</u></p>
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H.B. NO. 1913

Report Title:

General Excise Tax Exemption; Small Businesses

Description:

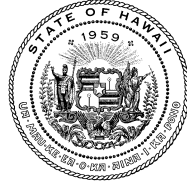
Exempts qualified small businesses from the general excise tax.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



DAVID Y. IGE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
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MARIA E. ZIELINSKI
DIRECTOR OF TAXATION

JOSEPH K. KIM
DEPUTY DIRECTOR

To: The Honorable Derek S.K. Kawakami
and Members of the House Committee on Economic Development and Business

Date: February 5, 2016
Time: 9:01 A.M.
Place: Conference Room 312, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: H.B. 1913, Relating to Taxation.

The Department of Taxation (Department) appreciates the intent of H.B.1913, and offers the following comments for your consideration.

H.B. 1913 provides a general excise tax exemption for qualified small businesses with gross income of \$50,000 or less for the taxable year. H.B. 1913 is effective January 1, 2017.

The Department notes that this measure may be unconstitutional. In order to be a "qualified small business," a business must be domiciled in this State. This would effectively apply discriminatory tax rates to taxpayers based on their domicile. The Department defers to the Department of the Attorney General for a more thorough analysis of the constitutional implications of this provision.

The Department also notes that the requirement under paragraph (c)(3) that the small business be "independently owned and operated" should be clarified. The intent of the provision is unclear and cannot be enforced as written.

Finally, as currently drafted, the Department has no way to enforce requirements to be a "qualified small business". The Department suggests that another government agency be required to certify that the requirements are met before allowing a taxpayer to claim the exemption provided by this measure.

Thank you for the opportunity to provide comments.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: GENERAL EXCISE, Exemption for Qualified Small Businesses

BILL NUMBER: HB 1913

INTRODUCED BY: KONG, AQUINO, CREAGAN, DECOITE, EVANS, FUKUMOTO CHANG, HASHEM, KAWAKAMI, MCDERMOTT, MCKELVEY, POUHA, WARD, Tupola

EXECUTIVE SUMMARY: Under this bill a small business with \$50,000 in gross income or less would pay no GET. A technical amendment may be necessary in the definition of small business to be sure the business can be legally exempt as it is reporting.

BRIEF SUMMARY: Adds a new section to HRS chapter 237 to allow a full exemption to a qualified small business. Requires the qualified small business not to pass on the tax imposed for the taxable year the exemption is claimed. Defines a “qualified small business” as a corporation, partnership, sole proprietorship, or other legal entity that: (1) is domiciled in Hawaii; (2) is formed to make a profit; (3) is independently owned and operated; (4) employs fewer than one hundred full-time employees; and (5) has been issued a certificate of tax clearance from the department of taxation verifying that the small business has filed all required returns and paid all required taxes, penalties, and interest for the taxable year the exemption is claimed. Requires the department of taxation to adopt rules under chapter 91.

EFFECTIVE DATE: January 1, 2017.

STAFF COMMENTS: This bill proposes an exemption for a business that will not be paying more than \$2,000 in tax (not counting surcharge) for the year in question. The bill of course will have a revenue cost (the recitals of the bill refer to a previous estimate of \$60 million); however, it may have countervailing benefits to the State in addition to anticipated increases in economic activity, by reducing administrative costs to process what are now quarterly and semiannual returns, and by getting very small taxpayers off the tax system.

If it is decided to move this bill forward, a technical change to the tax clearance requirement should be considered.

A tax clearance is a certification by the department of taxation that all required returns have been filed, and all assessed taxes have been paid, from the beginning of time through the date of the clearance. As written, the business would be unable to get a clearance “for the taxable year the exemption is claimed” because such a clearance does not now exist; and if it did, the clearance would need to be obtained in the next taxable year, presumably after the returns are due for the taxable year the exemption is claimed. Thus, the business would not be able to know whether it qualifies until the following year; yet, it is required not to pass on any tax for the year the exemption is claimed. This problem can be fixed by changing proposed section (c)(5) to:

- (5) Has been issued a certificate of tax clearance from the department of taxation during the taxable year for which the exemption is claimed.”

That would ensure compliance for all prior years.

Digested 2/3/2016



**Testimony to the House Committee on Economic Development & Business
Friday, February 5, 2016 at 9:01 A.M.
Conference Room 312, State Capitol**

RE: HOUSE BILL 1913 RELATING TO TAXATION

Chair Kawakami, Vice Chair Kong, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") **supports the intent** of HB 1913, which exempts qualified small businesses from the general excise tax.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

As the Chamber we appreciate any bill to help small business as overall business climates requires improvement, however, we do have the following concerns and questions with HB 1913:

1. Limit the length of time the exemptions would be good for or be available. Either the first year or maybe first two years?
2. Does this include the rail surtax of 1/2%? This needs to be clarified.
3. Is the \$50,000 gross income consistent with the GET reports where it is defined as gross proceeds or gross income, as opposed to net income after expenses?
4. Gross Income or proceeds of \$50,000 is very small and would usually result in having maybe one owner and maybe one or two part-time employees. Having just 50 employees means gross income per employee would be only \$1,000 each.

Thank you for the opportunity to testify.



February 5, 2016
9:01 AM
Conference Room 312

To: House Committee on Economic Development & Business
Rep. Derek S.K. Kawakami, Chair
Rep. Sam Satoru Kong, Vice Chair

From: Grassroot Institute of Hawaii
President Keli'i Akina, Ph.D.

RE: HB 1913 -- RELATING TO TAXATION
Comments Only

Dear Chair and Committee Members:

The Grassroot Institute of Hawaii would like to offer its comments on HB 1913, which would exempt small businesses with an annual gross income of less than \$50,000 from the general excise tax (GET).

The intent of this bill is to help promote small business and entrepreneurship in the state—an important principle in a wider strategy to improve the state's economy as a whole. By targeting the GET, the legislation is well-tailored to address one of the most significant barriers to business in the state.

The most recent edition of the ALEC-Laffer State Economic Competitive Index¹ ranks Hawaii last among all states for its sales tax burden, a rating that significantly contributes to a mediocre economic outlook ranking. In a similar way, the Small Business Policy Index², which compares state policies and costs related to small business and entrepreneurship puts Hawaii at a dismal 47th, thanks largely to our high consumption taxes. In the same survey, Hawaii was ranked 50th in a ranking of states by sales, gross receipts, and excise taxes.

¹ Available at http://www.alec.org/app/uploads/2015/10/RSPS_8th_Edition-Final.pdf.

² Available at <http://www.sbecouncil.org/wp-content/uploads/2014/12/SBPI2014Final.pdf>.

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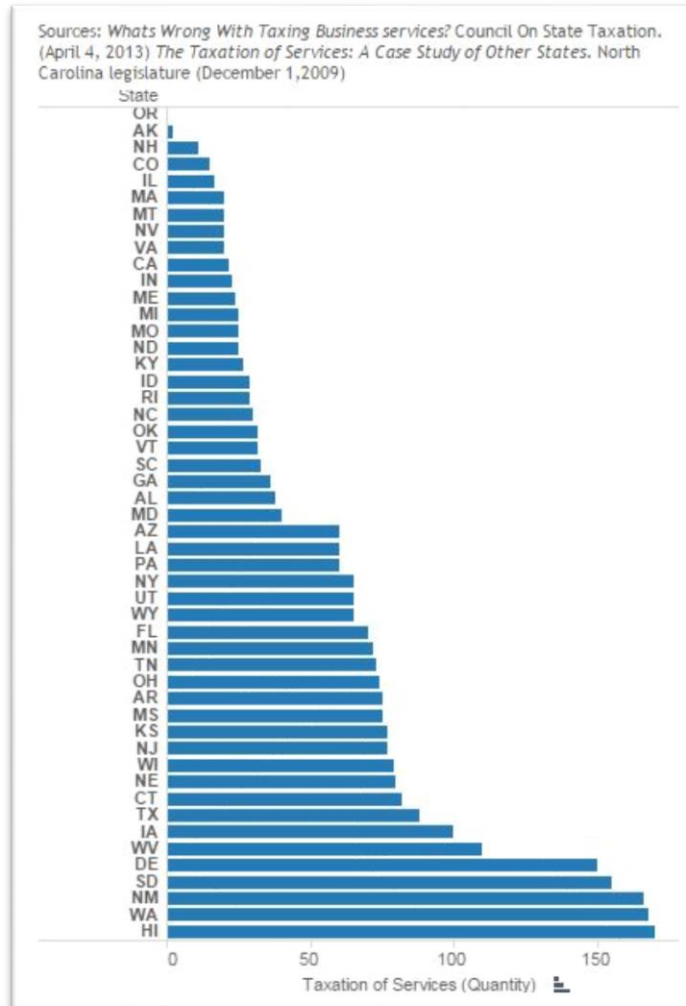
Gilbert Collins

Robert W. "Bill" Hastings II

Robin Tijoe

LATE

The broad reach of the GET has had a negative effect on our local businesses, saddling them with a burden that they would not face in other states. Some estimates place the cost of the GET on Hawaii business as high as \$1 billion.



Will it work? The language of the bill states that the loss in tax revenues should be offset by the increased economic activity spurred by the bill. In fact, that statement is backed up by available data on states with the highest levels of economic growth:

“Real economic growth from 2010 to 2013 among the top 25 states ranked on the 2014 “Small Business Policy Index” averaged 2.4 percent, which was 33 percent faster than the 1.8 percent average rate for the bottom 25 states. The 2.4 percent rate also was notably faster (20 percent faster) than the 2.0 percent rate for the nation as a whole”³

³ Keating, Raymond J. “Small Business Policy Index 2014.” Small Business and Entrepreneurship Council. (December 2014). Available at: <http://www.sbpcouncil.org/wp-content/uploads/2014/12/SBPI2014Final.pdf>

This bill is an important step towards improving the state business climate. As part of a broader approach that considers the regulatory and tax barriers that inhibit economic growth in Hawaii, it can make a real difference in the state's economic outlook and the happiness and prosperity of the state as a whole.

Thank you for the opportunity to submit our comments.

Sincerely,

Keli'i Akina, Ph.D.

President, Grassroot Institute of Hawaii