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To: The Honorable John M. Mizuno, Chair  
and Members of the House Committee on Health & Human Services

Date: Wednesday, January 31, 2018  
Time: 9:30 A.M.  
Place: Conference Room 329, State Capitol

From: Linda Chu Takayama, Director  
Department of Taxation

Re: H.B. 1921, Relating to Health

The Department of Taxation (Department) offers the following comments on H.B. 1921 for the Committee's consideration.

H.B. 1921 amends the general excise tax exemption for amounts received by hospitals, medical practitioners, etc., for the sale of prescription drugs and prosthetic devices to individuals under Hawaii Revised Statutes section 237-24.3(6). This measure expands and clarifies the exemption by providing an exemption specifically for eight types of medical items and including amended and additional definitions for those items. The bill is effective July 1, 2018.

The Department notes that Sections 2 and 3 of this measure appear to be the same. If the Committee wishes to correct this, it may do so by deleting Section 3 and amending Section 5 to contain a single effective date.

The Department is able to administer the changes in this measure, but requests that any change to the general excise tax be made effective January 1, 2019 to allow the Department to make the necessary form and computer system changes.

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, Expand drugs and prosthetics exemption

BILL NUMBER: HB 1921

INTRODUCED BY: MIZUNO

EXECUTIVE SUMMARY: Provides a GET exemption for sales of mobility enhancement equipment, durable medical equipment, diabetic supplies, medical oxygen, and other items relating to medical care. The proposed expansion of the exemption does seem to be in line with the original intent of the exemption as enacted in 1986.

SYNOPSIS: Modifies the current exemption for prescription drugs and prosthetic devices in HRS section 237-24.3(6), so as to exempt gross proceeds from the sales of the following for human use: (A) Prescription drugs sold pursuant to a doctor's prescription; (B) Diabetic supplies; (C) Prosthetic devices; (D) Medical oxygen; (E) Human blood and its derivatives; (F) Durable medical equipment for home use; (G) Mobility enhancing equipment sold by prescription; and (H) Repair and replacement parts for any of the foregoing exempt devices and equipment.

Defines "durable medical equipment" as in title 42 Code of Federal Regulations section 414.202 and includes repair and replacement parts; provided that the term includes bath and shower chairs, bed pans, and raised toilet seats but excludes mobility enhancing equipment.

Defines "mobility enhancing equipment" as equipment, including repair and replacement parts, other than durable medical equipment, that is: (A) Primarily and customarily used to provide or increase the ability to move from one place to another; (B) Appropriate for use either at home or in a motor vehicle, except as provided in (D); (C) Not generally used by persons with normal mobility; and (C) Not a motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.

Redefines "prosthetic device" as a replacement, corrective, or supportive device including repair and replacement parts for same worn on or in the body in order to: (A) Artificially replace a missing portion of the body; (B) Prevent or correct a physical deformity or malfunction; or (C) Support a weak or deformed portion of the body; provided that "prosthetic device" shall not mean any ophthalmic, dental, or ocular device or appliance, instrument, apparatus, or contrivance. Examples of prosthetic devices are heart valves, hearing aids, pacemakers, and artificial limbs.

Amends the definition of "prescription drugs" to delete the proviso excluding cannabis or manufactured cannabis products. That would make sales of cannabis or cannabis products eligible for this exemption.

EFFECTIVE DATE: July 1, 2018.

STAFF COMMENTS: Under the Hawaii GET law as it now exists, revenue for selling prescription drugs and prosthetic devices (including replacement parts) is exempt when received by a hospital, medical clinic, health care facility, pharmacy, or licensed health care practitioner for selling the drugs or devices to an individual. The Department of Taxation has carefully interpreted this exemption in Tax Information Release 86-4.

Under TIR 86-4, the following medical devices do not qualify for exemption: bandages, thermometers, hypodermic needles, diaphragm syringes, gauze, orthopedic support, inhalation extender devices, food products/supplements, dietary supplements, prophylactics, contact lens preparations, wheelchairs, crutches, canes, quad canes, and walkers. The expanded definitions in the bill would make a good portion of the above exempt, and appear to be consistent with the policy justification for the original exemption.

Digested 1/30/2018



## HAWAII CHAPTER - AMERICAN PHYSICAL THERAPY ASSOCIATION

(800) 554-5569 x13 • [www.hapta.org](http://www.hapta.org) • [info@hapta.org](mailto:info@hapta.org)

**HB1921, Relating to Health  
HHS Committee Hearing  
Wednesday, Jan 31, 2018 – 9:30 am  
Room 329  
Position: Support**

Chair Mizuno and Members of the HHS Committee:

I am Gregg Pacilio, PT and Board President of the Hawaii Chapter of the American Physical Therapy Association (HAPTA), a non-profit professional organization serving more than 300 member Physical Therapists and Physical Therapist Assistants. Our members are employed in hospitals and health care facilities, the Department of Education school system, and private practice. We are movement specialists and are part of the spectrum of care for Hawaii, and provide rehabilitative services for infants and children, youth, adults and the elderly. Rehabilitative services are a vital part of restoring optimum functioning from neuromusculoskeletal injuries and impairments.

HAPTA **supports** that the sale of mobility enhancing equipment, durable medical equipment, and prosthetic devices, sold pursuant to a doctor's prescription, be exempt from the general excise tax.

Physical Therapists recommend and order equipment for patients daily, based on thorough evaluation of individual medical need. The patients that require mobility devices are those injured or with disability, and tend to be hospitalized, homebound, on a fixed income, or unable to work at that time. Commonly, patients and families are unable to afford the medically necessary equipment such as Bedside Commodes, Shower Chairs, or Rollator Walkers. A high cervical spinal cord injury may require a shower chair that costs \$3500 + shipping, and excise tax around \$150. Insurances only cover some equipment costs, but do not usually cover the excise tax.

Your support of HB1921 is appreciated. Thank you for the opportunity to testify. Please feel free to contact Abi Leddy, HAPTA's Aging Adults Issue Lead at (214) 883-8329 for further information.

# PETER L. FRITZ

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## THE SENATE THE TWENTY-NINTH LEGISLATURE REGULAR SESSION OF 2018

### COMMITTEE ON HEALTH & HUMAN SERVICES

Testimony on H.B. 1921  
Hearing: January 31, 2018

#### Relating To Health

Chair Mizuno, Vice Chair Kobayashi and members of the Committee. My name is Peter Fritz. I am an individual with a hearing disability and a tax attorney. I am testifying today in **strong support** of H.B. 1921.

This bill would amend Hawaii's General Excise Tax law ("GET") to exempt gross receipts from the sale of mobility enhancing equipment, durable medical equipment and hearing aids.

Presently, a seller often visibly passes on the GET to the consumer which increases the cost of the item. By exempting these items, this bill will benefit Hawaii's kupuna who may have a fixed income and the disabled. Most states provide exemptions (see attachment) for medical equipment, hearing aids and mobility enhancing equipment which may be necessities for daily living.

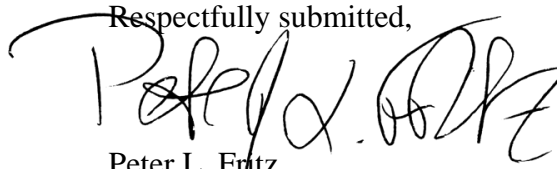
This bill adds a definition for mobility enhancing equipment, including repair and replacement parts, that is primarily and customarily used to provide or increase the ability to move from one place to another and is not generally used by persons with normal mobility. Some examples of mobility enhancing equipment are wheelchairs, canes, crutches, chair lifts, shower stools, and walkers.

This bill adds a definition durable medical equipment, including the repair of such equipment. Durable medical equipment is equipment that can stand repeated use; is primarily use to serve a medical purpose; is generally not useful to a person in the absence of an illness or injury and is not worn on the body. Examples of durable medical equipment alternating pressure pads, bed pans, compression sleeves, speech aids and chair lifts.

For many people, these items are necessities for daily living. Because many states current exempt these items from taxation, considerable guidance is available to the Department of Taxation to help administer the changes that will be made by this bill.

I respectfully ask for your support of this bill.

Respectfully submitted,



Peter L. Fritz

The following states generally exempt medical devices from tax when they are sold on a written order (prescription) provided by an individual who is required to hold, and actively holds, a state license (physician, therapist, etc.):

Arizona, Arkansas, California, Colorado, District of Columbia, Florida, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, North Carolina, Oklahoma, South Carolina, South Dakota, Texas, Utah, West Virginia.

Specific state treatments of medical devices are provided below:

- **Alabama:** medical devices are subject to tax unless the item is used for the treatment of illness or injury or to replace all or part of a limb or internal body part, purchased by or on behalf of an individual pursuant to a valid prescription, and covered by and billed to Medicare, Medicaid, or a health benefit plan. The exemption includes, but is not limited to, any of the following: durable medical equipment, including repair parts and the disposable or single patient use supplies required for the use of the equipment; medical oxygen and related equipment and supplies; prosthetic and orthotic devices; and medical supplies, as defined and covered under the Medicare program, including, but not limited to, items such as catheters, catheter supplies, ostomy bags and supplies related to ostomy care, specialized wound care products, and similar items that are covered by and billed to Medicare, Medicaid, or a health benefit plan.
- **Connecticut:** medical devices are generally exempt with or without a prescription.
- **Georgia:** exemptions apply to the sale or use of any durable medical equipment or prosthetic device sold or used pursuant to a prescription, and to the sale or use of all mobility enhancing equipment prescribed by a physician.
- **Illinois:** medical devices are taxed at a 1% reduced rate.
- **Maine:** medical devices are generally exempt with or without a prescription.
- **Minnesota:** durable medical equipment is generally subject to tax unless it's sold for home use or is paid for or reimbursed by Medicare or Medicaid, regardless of whether sold for home use.
- **Mississippi:** exemptions allowed for: home medical equipment/supplies, prosthetics, orthotics, hearing aids, hearing devices, prescription eyeglasses, oxygen and oxygen equipment if prescribed and paid for under Medicare/Medicaid; durable medical equipment and home medical supplies if prescribed.
- **Missouri:** medical devices are generally exempt with or without a prescription.
- **Nebraska:** for mobility enhancing equipment, a prescription is required. For durable medical equipment, home medical supplies, oxygen equipment, and prosthetic devices, a prescription is required and they must be of the type eligible for coverage under the medical assistance program established pursuant to the Medical Assistance Act.
- **Nevada:** medical devices are generally exempt with or without a prescription.
- **New Jersey:** medical devices are generally exempt with or without a prescription.
- **New Mexico:** medical devices are exempt only if delivered by a licensed practitioner incidental to the provision of a service and the value of the device is included in the cost of the service.
- **New York:** medical devices are generally exempt with or without a prescription.

- **North Dakota:** medical devices are generally exempt with or without a prescription.
- **Ohio:** prescription is required for exemption unless the item is medical oxygen and medical oxygen-dispensing equipment, not sold for home use, and is purchased by hospitals, nursing homes, or other medical facilities.
- **Pennsylvania:** medical devices are generally exempt with or without a prescription.
- **Rhode Island:** medical devices are generally exempt with or without a prescription.
- **South Carolina:** medical devices are generally subject to tax unless the item is paid directly by funds of South Carolina or the United States under the Medicaid or Medicare programs, state or federal law or regulation authorizing the payment prohibits payment of the sales or use tax, and the equipment is sold by a provider who holds a South Carolina retail sales license and whose principal place of business is located in the state.
- **Tennessee:** medical devices are generally exempt with or without a prescription.
- **Vermont:** medical devices are generally exempt with or without a prescription.
- **Virginia:** medical devices are generally exempt with or without a prescription.
- **Washington:** medical devices are generally subject to tax unless they are ostomic items, prosthetic devices that are prescribed, furnished or fitted by a person licensed to do so, or medically prescribed oxygen components or systems.
- **Wisconsin:** medical devices are generally exempt with or without a prescription.
- **Wyoming:** medical devices are generally exempt with or without a prescription.

**HB-1921**

Submitted on: 1/29/2018 10:42:18 AM

Testimony for HHS on 1/31/2018 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Melodie Aduja	OCC Legislative Priorities	Support	No

Comments:

**PRESENTATION OF THE  
OAHU COUNTY COMMITTEE ON LEGISLATIVE PRIORITIES**

**DEMOCRATIC PARTY OF HAWAII**

TO THE COMMITTEE ON HEALTH & HUMAN SERVICES

HOUSE OF REPRESENTATIVES

TWENTY-NINTH LEGISLATURE

REGULAR SESSION OF 2018

Wednesday, January 31, 2018

9:30 a.m.

Hawaii State Capitol, Conference Room 329

**RE: Testimony in Support of HB1921, RELATING TO HEALTH**

To the Honorable John M. Mizuno, Chair; the Honorable Bertrand Kobayashi, Vice-Chair and Members of the Committee on Health & Human Services:

Good morning, my name is Melodie Aduja. I serve as Chair of the Oahu County Legislative Priorities Committee of the Democratic Party of Hawaii. Thank you for the opportunity to provide written testimony on House Bill No. 1921, relating to the exemption of general excise tax on diabetic supplies, medical oxygen, human blood and its derivatives, durable medical equipment, mobility enhancing equipment and prosthetic devices worn on the body. The OCC Legislative Priorities Committee is in favor of House Bill No. 1921 and support its passage.



House Bill No. 1921, is in accord with the Platform of the Democratic Party of Hawai'i ("DPH"), 2016, as it assists those suffering from the symptoms of diabetes of which protected class, the State of Hawaii has the highest amount per capita in the Nation. The DPH Platform provides that "[a]ccess to health care is a basic human need. Our citizens and visitors have an inherent right to high quality, high standard healthcare. . . . We support the development of long-term care financing solutions, . . . parity of mental and physical health coverage, and appropriate regulation of health care delivery systems. We also support the development of empirically validated prevention programs targeted at major public health issues." (Platform of the DPH, P. 7, Lines 361-362, 366-369 (2016)).

Given that House Bill No. 1921 exempts gross receipts from the sale of diabetic supplies, medical oxygen, human blood and its derivatives, durable medical equipment, and mobility enhancing equipment from the general excise tax and expands the scope of prosthetic devices exempted from the general excise tax to include devices worn on the body, all of which are designed to help provide in one's healthcare, it is the position of the OCC Legislative Priorities Committee to support this measure.

Thank you very much for your kind consideration.

Sincerely yours,

/s/ **Melodie Aduja**

Melodie Aduja, Chair, OCC Legislative Priorities Committee

Email: [legislativepriorities@gmail.com](mailto:legislativepriorities@gmail.com), Tel.: (808) 258-8889

**LATE**

**HB-1921**

Submitted on: 1/30/2018 6:16:16 PM

Testimony for HHS on 1/31/2018 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Javier Mendez-Alvarez		Support	No

Comments: