

## DISABILITY AND COMMUNICATION ACCESS BOARD

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February 13, 2018

### TESTIMONY TO THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES

#### House Bill 2231 – Relating to Income Tax Credit

The Disability and Communication Access Board (DCAB) supports House Bill 2231 – Relating to Income Tax Credit. The purpose of this bill is to amend Chapter 235, Part III, Hawaii Revised Statutes, to add a tax credit for taxpayers who purchase or retrofit a vehicle for personal, non-commercial use with features designed to make it accessible to a person with a physical disability.

Hawaii imposes a General Excise Tax (GET) in lieu of a sales tax, and it is imposed at several multiple stages of a product's life cycle. It is difficult to totally exempt certain types of services or products from the GET as a result. However, it is possible to give an income tax credit to help offset the GET impact to the consumers. Hawaii has several 'Tax Credits to Promote Social Welfare,' such as the Refundable Food Excise Tax Credit and the Tax Credit for Child Passenger Restraint Systems.

The cost for a wheelchair lift or ramp runs between \$10,000 to \$20,000, while a fully adapted vehicle (automatic wheelchair securement, foot steering, etc.) may cost up to \$80,000 more in comparison to a non-modified vehicle. The GET rate is 4.5 on Oahu and 4.0 percent everywhere else, adding hundreds if not thousands of dollars to the cost of an accessible vehicle.

By providing a credit for purchasing or retrofitting a vehicle to be accessible, the State will encourage people with disabilities and their families to make this purchase. This makes it possible for a person with a disability to be independently mobile, increasing their quality of life. It offers the person with disability a mobility option other than public paratransit services, which are heavily subsidized by the taxpayers. And, it provides a limited amount of financial relief for people who are facing other costs attributable to their disability.

Thank you for the opportunity to provide testimony.

Respectfully submitted,

FRANCINE WAI  
Executive Director



**STATE OF HAWAII  
DEPARTMENT OF TAXATION**

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

Date: Tuesday, February 13, 2018  
Time: 10:15 A.M.  
Place: Conference Room 329, State Capitol

From: Linda Chu Takayama, Director  
Department of Taxation

Re: H.B. 2231, Relating to Income Tax Credit

The Department of Taxation (Department) offers the following comments on H.B. 2231 for the Committee's consideration.

H.B. 2231 establishes a refundable income tax credit for the purchase or modification of a vehicle for use by a person with a disability. A summary of key provisions follows:

- Adds a new section to Hawaii Revised Statutes (HRS) chapter 235, creating a refundable income tax credit for the purchase or modification of a vehicle for use by a person with a disability;
- Sets the amount of the credit for vehicles with an accessibility lift or ramp at \$800;
- Sets the amount of the credit for vehicles that are fully adaptable for use by a person with a disability at \$5,000;
- Authorizes the Director of Taxation to require proof of the claim for the credit and to adopt rules to implement the credit;
- Applies to taxable years beginning after December 31, 2018.

First, the Department notes that the proposed credit is refundable. Generally, the Department prefers nonrefundable credits because refundable credits create a higher potential for improper claims and abuse. The Department therefore recommends that this credit be made non-refundable.

Second, the Department notes that the amount of the credit is a fixed amount and is not dependent on how much the taxpayer spends on the purchase or modification of a vehicle. Therefore, if a vehicle is purchased or modified for less than the amounts listed, the credit will exceed the actual amount spent. The Department recommends changing

the calculation of the credit to equal a percentage of the taxpayers expenses in purchasing or modifying a vehicle for use by a person with a disability and use the maximums currently listed as the cap amount for the credit. This way, the credit will never exceed the amount spent on the purchase or modification.

Third, the Department notes that the operation of the credit is unclear as written. For example, sections (a) and (b) of the credit are redundant and may cause confusion. The Department recommends simplifying the operation of the credit by amending subsections (a) and (b) to read as follows:

(a) Each individual taxpayer, who files an individual income tax return for a taxable year, and who:

(1) Is not claimed or is not otherwise eligible to be claimed as a dependent by another taxpayer for federal or Hawaii state individual income tax purposes, and

(2) Purchases or modifies a personal vehicle as described in subsection (b),  
may claim a refundable motor vehicle tax credit against the taxpayer's individual income tax liability for the taxable year for which the income tax return is being filed.

(b) The refundable motor vehicle tax credit is equal to:

(1) \$800 for the purchase of a vehicle with an accessibility lift or ramp, or the modification of a vehicle to add an accessibility lift or ramp; or

(2) \$5,000 for the purchase of a vehicle that is, or modification of a vehicle to be, fully adaptable for use by a person with a disability;

Provided that taxpayers who are married filing separately can only claim the credit they could have claimed if the taxpayers had filed jointly.

Fourth, the Department notes that many of the operative terms in the credit are not defined. "Person with a disability," "accessibility lift or ramp," and "fully adaptable for use" are not defined. The Department suggests defining these terms to clarify the applicability of the credit.

Finally, the Department notes that it is able to administer this new credit with current effective date of taxable years beginning after December 31, 2018.

Thank you for the opportunity to provide comments.

# TAX FOUNDATION OF HAWAII

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126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

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**SUBJECT:** INCOME, Tax Credit for Vehicle Modification for Disabled Persons

**BILL NUMBER:** HB 2231; SB 2713 (Identical)

**INTRODUCED BY:** HB by TAKAYAMA, GATES; SB by GALUTERIA, KIDANI, Baker, Harimoto, Inouye, K. Kahele, Kim, Nishihara, Shimabukuro, Taniguchi, Tokuda, Wakai

**EXECUTIVE SUMMARY:** Provides an income tax credit to a taxpayer who purchases or modifies a personal vehicle for use by a person with a disability.

**SYNOPSIS:** Adds a new section to chapter 235, HRS, to provide a refundable income tax credit for an individual who purchases or modifies a personal vehicle designed to allow use by a person with a disability.

The amount of the tax credit is: \$800 for the purchase of a or modification of a vehicle with an accessibility lift or ramp; or \$5,000 for the purchase or modification of a vehicle to be fully adaptable for use by a person with a disability.

**EFFECTIVE DATE:** Applies to taxable years beginning after December 31, 2018.

**STAFF COMMENTS:** The recitals in section 1 of the bill state that “when a taxpayer modifies a personal vehicle to allow a disabled person to enter, exit, or operate the vehicle, they have to pay the general excise tax for costs related to those modifications.” If that is the problem that requires tax relief, then why not address the problem directly by providing for a general excise tax exemption that then can be claimed by the dealer or mechanic? The advantage of the general excise tax exemption is that the amount of relief is a percentage of the cost, as opposed to flat amounts that can lead to disputes over where the line is drawn between classifications.

Digested 2/12/2018

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. 2231  
Hearing: February 13, 2018

Relating To Income Tax Credit

Chair Mizuno, Vice Chair Kobayashi and members of the Committee. My name is Peter Fritz. I am an individual with a disability and a tax attorney. I am testifying today **in opposition to H.B. 2231 as drafted**. The approach used in S.B. 2202, H.B. 1931 or H.B. 2424 that excludes certain mobility equipment from Hawaii's General Excise Tax law will prevent potential abuses.

This bill provides an income tax credit to a taxpayer that modifies a personal vehicle for use by a person with a disability.

As currently drafted, this bill would allow a vehicle owner to claim a credit of \$800 for modification of a vehicle with an accessibility ramp regardless of the cost of such modification. This credit is equal to the amount of GET on an expenditure of approximately \$16,979. A taxpayer that spends less than this amount would receive a credit that is greater than the GET on the amount spent to modify the vehicle.

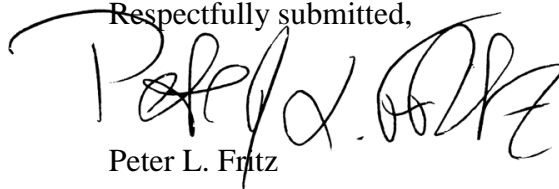
The credit of \$5,000 would cover the GET on an expenditure of approximately \$106,112. I recently inquired about fully accessible vans. I was advised that the purchase price was approximately \$75,000. The amount of the credit may exceed the GET on the cost to purchase or modify a vehicle.

This bill as currently drafted would allow the credit to be claimed more than once. The original purchaser could claim the credit and when the vehicle is sold to another party, that person could claim the credit.

The approach used in S.B. 2202, H.B. 1931 or H.B. 2424 to exclude certain mobility equipment from Hawaii's General Excise Tax law will prevent potential abuses

I respectfully ask for your support of this bill.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter L. Fritz", written over the typed name below.

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.





**LATE**

February 13, 2018

TESTIMONY TO THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES

House Bill 2231- Relating to Income Tax Credit

My name is Charlotte Townsend and I am writing in support of HB2231 which establishes a refundable income tax credit for the purchase or modification of a vehicle for use by a person with a disability.

I am a person with a disability who has purchased a modified vehicle for my personal use. The cost to have a full conversion done to my Chrysler Touring Van was approximately 50% of the total cost of the vehicle. This amounted to \$26,480. A tax credit to offset the cost of the modifications would certainly help people with disabilities, including myself, from the numerous and costly disincentives that is inherent in trying to achieve independence and self-sufficiency in transportation.

Paratransit services are costly and heavily subsidized by government. It is more cost effective to support incentives for persons with disabilities to purchase their own accessible vehicles than to depend on public transit with its increasing costs and accessibility challenges.

Thank you for the opportunity to testify.

Respectfully submitted,



CHARLOTTE L. TOWNSEND