

DAVID Y. IGE  
GOVERNOR

SHAN TSUTSUI  
LT. GOVERNOR



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

MARIA E. ZIELINSKI  
DIRECTOR OF TAXATION

DAMIEN A. ELEFANTE  
DEPUTY DIRECTOR

To: The Honorable Tom Brower, Chair  
and Members of the House Committee on Housing

Date: Thursday, February 9, 2017

Time: 9:00 A.M.

Place: Conference Room 423, State Capitol

From: Maria E. Zielinski, Director  
Department of Taxation

Re: H.B. 652, Relating to Affordable Housing

The Department of Taxation (Department) appreciates the intent of H.B.652 to make more affordable housing rentals available by providing an income tax credit to landlords who lease housing units to certain low-income tenants. The Department raises the following concerns on H.B. 652 for your consideration.

H.B. 652 provides an income tax credit equal to an unspecified amount for each housing unit that a taxpayer rents to an eligible tenant. The measure defines eligible tenant as a family or an individual whose income from all sources is less than 100% of the area median income as determined by the U.S. Department of Housing and Urban Development, and who has filed state income tax returns for the State of Hawaii for the past ten consecutive taxable years. The measure is effective upon approval and applies to taxable years beginning after December 31, 2016.

The Department first notes that many taxpayers may not keep ten years of tax return records. Therefore, requiring a proof of filing State of Hawaii income tax returns for the past ten consecutive tax years will create a burden that is impossible for both the landlord and the tenant to meet to be eligible for the credit. In addition, the ten year residency requirement may create a constitutional issue. The Department defers to the Department of the Attorney General on this issue.

Second, the U.S. Department of Housing and Urban Development periodically updates the area median income figures. This may cause confusion regarding eligibility. If the Committee wishes to advance this measure, the Department suggests that a specific date be set to determine the tenant's income eligibility for each taxable year.

Third, it is unclear how long a landlord must rent a unit to an eligible tenant in order to qualify for the credit. As currently drafted, the landlord could rent a unit to an eligible tenant for only one month and qualify for the credit.

Finally, the Department is currently in the midst of its Tax System Modernization Program. Because income taxes will not be completely migrated, the Department is unable to implement this new credit as set forth in section 4. If the Committee wishes to advance this measure, the Department requests that the credit apply to taxable years beginning after December 31, 2017.

Thank you for the opportunity to provide comments.

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# 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, Affordable Housing Tax Credit

**BILL NUMBER:** SB 377; HB 652 (Identical)

**INTRODUCED BY:** SB by BAKER; HB by MCKELVEY, BROWER

**EXECUTIVE SUMMARY:** This measure enacts a new credit for taxpayers who lease housing to certain low-income tenants.

**BRIEF SUMMARY:** Adds a new section to HRS chapter 235 to allow an affordable rental housing income tax credit.

The amount of the credit is \$\_\_\_\_\_ per housing unit that the taxpayer rents to an eligible tenant. The credit is nonrefundable but may be carried forward until exhausted.

Defines “eligible tenant” as a family or individual (1) whose income from all sources is less than 100% of the area median income as determined by the U.S. Department of Housing and Urban Development, and (2) who has filed Hawaii state income tax returns for the past ten consecutive taxable years.

**EFFECTIVE DATE:** Upon approval, applies to taxable years beginning after December 31, 2016.

**STAFF COMMENTS:** If the idea is for the credit to be used as a rent subsidy, it may be more efficient to have the subsidy amount appropriated and then distributed to the tenant as opposed to the landlord by way of the tax system. A credit distributed by way of the tax system will not be as valuable to a landlord because it will be received perhaps one year after the rental transaction takes place. In addition, a subsidy from appropriated funds would assure that the funding goes through the scrutiny and transparency associated with the appropriation process.

If the credit model is preferred, what is to happen if a tenant stays three months under landlord A, three months under landlord B, and six months under landlord C? Do all three landlords get the same amount of credit? At present the credit amount appears to be earned each year, but there is no provision for proration of the credit if the tenant moves around to different units during the year.

Digested 1/28/2017