

**SB 1196**

DAVID Y. IGE  
Governor

SHAN S. TSUTSUI  
Lt. Governor



State of Hawaii  
**DEPARTMENT OF AGRICULTURE**  
1428 South King Street  
Honolulu, Hawaii 96814-2512  
Phone: (808) 973-9600 FAX: (808) 973-9613

SCOTT E. ENRIGHT  
Chairperson, Board of Agriculture

PHYLLIS SHIMABUKURO-GEISER  
Deputy to the Chairperson

**TESTIMONY OF SCOTT E. ENRIGHT  
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE SENATE COMMITTEE ON AGRICULTURE & ENVIRONMENT**

**FEBRUARY 13, 2017  
1:15 P.M.  
CONFERENCE ROOM 224**

**SENATE BILL NO. 1196  
RELATING TO TAXATION**

Chairperson Gabbard and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill No. 1196. This bill seeks to expand the definition of “qualified taxpayer” for the organic foods production tax credit (Section 235-110.94). The amendment allows certain “small market gardeners and hobbyists” (Bill, page 2, lines 13-16) to qualify for the tax credit if they have an annual gross income from organic sales equal to or less than \$5,000 which exempts them from the standards and requirements of the federal Organic Foods Production Act. The Department of Agriculture offers comments.

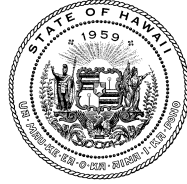
We understand that small organic farms that are exempt the federal Organic Foods Production Act can maintain their exemption status by being in compliance with applicable organic production, handling, and labeling requirements (Bill, page 2, lines 7-9). We recommend an annual letter from the appropriate federal agency that confirms that the exempt organic farming operation seeking to establish or maintain qualification for the tax credit is in good standing with respect to their exempt status and in full compliance with applicable organic production and handling requirements and labeling requirements

Thank you for the opportunity to comment on this measure.



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 Mike Gabbard, Chair  
and Members of the Senate Committee on Agriculture and Environment

Date: Monday, February 13, 2017  
Time: 1:15 P.M.  
Place: Conference Room 224, State Capitol

From: Maria E. Zielinski, Director  
Department of Taxation

Re: S.B. 1196, Relating to Taxation

The Department of Taxation (Department) appreciates the intent of S.B. 1196 and provides the following comments for your consideration.

S.B. 1196 makes amendments to the organic foods production tax credit in section 235-110.94, Hawaii Revised Statutes (HRS). The measure amends the credit to apply to taxpayers described as small farmers under federal certification law and to apply to those exempt from certification as small farmers under federal law. The measure is effective on approval.

The Department notes that claims for this tax credit are certified by the Department of Agriculture (DOA); the Department defers to DOA regarding its ability to certify the tax credit with these changes.

Finally, the Department requests that the measure be made effective for taxable years beginning after December 31, 2016 to allow sufficient time to amend the relevant forms and instructions.

Thank you for the opportunity to provide comments.

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, January 30, 2017 5:15 PM  
**To:** AEN Testimony  
**Cc:** mendezj@hawaii.edu  
**Subject:** \*Submitted testimony for SB1196 on Feb 13, 2017 13:15PM\*

**SB1196**

Submitted on: 1/30/2017

Testimony for AEN on Feb 13, 2017 13:15PM in Conference Room 224

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

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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PO Box 534  
Waimanalo, Hawai'i 96795

Senate Committee on Agriculture and Environment  
Monday, February 13, 2017 1:15 pm  
**Testimony in SUPPORT of SB 1196 – Relating to Taxation**

Chair Gabbard, Vice Chair Riviere and Members of the Committee:

My name is Tom Grande. My wife and I grow tropical fruits and flowers in Waimanalo.

The purpose of this bill is to include small farmers under Act 258 (2016) which established a tax credit for farmers, ranchers, and producers seeking to obtain organic certification.

Under the National Organic Foods Production Act (NOPA), small farmers whose gross annual organic sales are less than \$5,000, may market products as "organic" if they comply with all regulations as outlined in 7 CFR §§ 205.200-205.299 of the USDA organic standards. 7 CFR §205.101(a); 7 CFR § 205.102. "The exemption is primarily designed for those producers who market their product directly to consumers. It will also permit such producers to market their products direct to retail food establishments for resale to consumers... [USDA anticipated that the] exemption will be used primarily by small market gardeners ... who grow and process produce and other agricultural products for sale at farmers markets and roadside stands to consumers within their communities." 80552 Federal Register/Vol. 65, No. 246/Thursday, December 21, 2000/Rules and Regulations.

The Hawai'i Organic Farmers Association has Small Farmer Exemption registration process that requires compliance with Organic Food Production Act practices. (<http://hawaiianorganic.org>). In addition, certifying agents have the authority to verify whether agricultural products marketed as organic are truly organic and may contact a farm to verify that the farm is meeting the exemption requirements and is complying with the organic standards. Small farmers are also subject to the civil penalties provisions of the Organic Food Production Act. 7 U.S.C. § 6519.

Thank you very much.

Thomas R. Grande

**TAX FOUNDATION OF HAWAII**

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

**SUBJECT:** INCOME, Applies Organic Foods Production Credit to Exempt Small Farmers

**BILL NUMBER:** SB 1196

**INTRODUCED BY:** GABBARD, HARIMOTO, RUDERMAN, Kim, Nishihara, Riviere

**EXECUTIVE SUMMARY:** Provides a technical correction to the organic foods production credit enacted in 2016.

**SYNOPSIS:** Amends HRS section 235-110.94 to include within the definition of a “qualified taxpayer” persons described in the small farmers’ exemption under 7 USC section 6505(d).

**EFFECTIVE DATE:** Upon approval.

**STAFF COMMENTS:** The Organic Foods Production Act of 1990 (OFPA) (codified at 7 U.S.C. sections 6501 et seq.) authorizes a National Organic Program to be administered by USDA's Agricultural Marketing Service. The program is based on federal regulations that define standard organic farming practices and on a National List of acceptable organic production inputs. Private and state certifiers will visit producers, processors, and handlers to certify that their operations abide by the standards. Once certified, these operations may affix a label on their product stating that it “Meets USDA Organic Requirements.” It is illegal for anyone to use the word “organic” on a product if it does not meet the standards set in the law and regulations. The regulations under the OFPA are intended to set uniform minimum standards for organic production. However, states may adopt additional requirements after review and approval by USDA. AMS will re-accredit certifying agents every 5 years, maintain federal oversight to assure truth in labeling, and provide assurance that imported organic products have been produced under standards that are equivalent to the U.S. standards.

The organic certification process makes sure that growers and handlers that claim to be organic are abiding by strict laws and regulations set by the Organic Foods Production Act. It focuses on the methods and materials used by producers. Everyone, from producers to handlers of organic products, must be certified to sell products labeled as “organic”. There are two exceptions to this rule. Growers whose gross income is less than \$5,000 and retailers are excused from certification.

This measure amends the organic foods production credit, in HRS section 235-110.94, to make it clear that small organic farmers meeting the exemption for gross income less than \$5,000 annually also qualify for the credit.

Digested 2/10/2017