



HAWAII CHAPTER - AMERICAN PHYSICAL THERAPY ASSOCIATION

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**SB 222sd2, Relating to General Excise Tax
House HHS Committee Hearing
Wednesday, March 21, 2018 – 8:30 am
Room 329
Position: Support**

Chair Mizuno, Vice Chair Kobayashi, and Members of the Hse 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 340 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 SB 222sd2 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.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: GENERAL EXCISE, Exempt mobility enhancing and durable medical equipment

BILL NUMBER: SB 222, SD-2

INTRODUCED BY: Senate Committee on Ways & Means

EXECUTIVE SUMMARY: Expands the current exemption for prescription drugs and prosthetic devices to include more items specific to health care. The expanded list of items appears to be consistent with the policy justification for the original exemption. In addition, some of the changes in this bill would rectify an anomaly that exists under current law.

BRIEF SUMMARY: Modifies the current exemption for prescription drugs and prosthetic devices in HRS §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” with reference to 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: (A) Is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either at home or in a motor vehicle; (B) Is not generally used by persons with normal mobility; and (C) Does not include any 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.

EFFECTIVE DATE: January 1, 2019; applies to taxable years beginning after December 31, 2018.

STAFF COMMENTS: Under the Hawaii GET law as it now exists, prescription drugs and prosthetic devices (including replacement parts) are 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.

The bill proposes to expand the exemption without regard to who is selling the articles. This may help to correct an anomaly that now exists in the law. Compare the following situations:

1. Drug manufacturer M sells a drug to retail pharmacy R who sells it to patient P. The sale from R to P is exempt and the sale from M to R is a wholesale sale taxed at 0.5%. Total tax: 0.5%.
2. Drug manufacturer M sells a drug to GET-exempt hospital H who sells it to patient P. The sale from H to P is exempt because H is a tax-exempt organization. The sale from M to H does not qualify as a wholesale sale because an exempt organization is not a “licensed seller” and the exemption doesn’t apply because the sale is not to a patient. The sale is a retail sale taxed at 4%. Total tax: 4%.

Businesses providing similar, if not identical, goods or services should be treated equally as the tax is on the business and not on the customer. The law now discriminates against tax-exempt hospitals, infirmaries, and sanitarium (HRS §237-23(a)(6)).

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

Date: Wednesday, March 21, 2018
Time: 8:30 A.M.
Place: Conference Room 329, State Capitol

From: Linda Chu Takayama, Director
Department of Taxation

Re: S.B. 222, S.D. 2, Relating to the General Excise Tax

The Department of Taxation (Department) offers the following comments on S.B. 222, S.D. 2, for the Committee's consideration.

S.B. 222, S.D. 2, 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 has an effective date of January 1, 2019, and applies to taxable years beginning after December 31, 2018.

The Department is able to administer the changes in this measure as currently drafted. Thank you for the opportunity to provide comments.

PETER L. FRITZ

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HOUSE OF REPRESENTATIVES
THE TWENTY-NINTH LEGISLATURE
REGULAR SESSION OF 2018

COMMITTEE ON HEALTH & HUMAN SERVICES

Testimony on S.B. 222 S.D 2

Hearing: March 21, 2018

Relating To The General Excise Tax

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 S.B. 222.

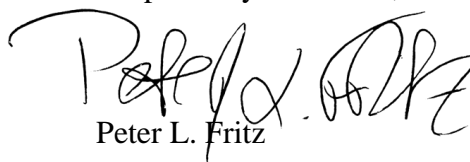
This bill would amend Hawaii's General Excise Tax law ("GET") to exempt gross receipts from the sale of mobility enhancing equipment such as wheelchairs, canes, crutches, and walkers; amend the definition of prosthetic devices to include items such as hearing aids and add a definition for durable medical equipment such as alternating pressure pads, bed pans, speech aids and chair lifts.

For many people, these items are necessities for daily living and the cost of these essential items is increased by the GET whether passed on visibly or included in the price to the customer.

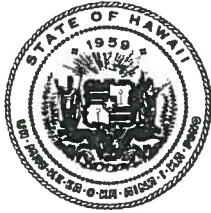
Exempting these items will benefit individuals with disabilities and senior citizens who live on a fixed income.

I respectfully ask for your support of this bill.

Respectfully submitted,



Peter L. Fritz



DISABILITY AND COMMUNICATION ACCESS BOARD

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March 21, 2018

TESTIMONY TO THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES

Senate Bill 222, SD2 - Relating to the General Excise Tax

The Disability and Communication Access Board (DCAB) supports Senate Bill 222, SD2 that exempts gross receipts from the sale of mobility enhancing equipment, durable medical equipment, prosthetic devices, prescription drugs sold pursuant to a doctor's prescription, diabetic supplies, medical oxygen, and human blood and its derivatives from the general excise tax. Amends the definition of "prosthetic device" to include devices worn on the body. Amends the definition of "prescription drugs". Effective 1/1/2019. Applies to taxable years beginning after 12/31/2018.

An exemption from the general excise tax on mobility enhancing equipment, medical equipment, prescription drugs with a doctor's prescription, diabetic supplies, medical oxygen, and human blood will assist people with disabilities as well as people who are elderly and on fixed incomes.

In addition, parents on fixed income may also have children with disabilities who need this type of equipment, medical devices or diabetic supplies. The exemption from the general excise tax will have a positive impact these families as well.

Thank you for the opportunity to testify.

Respectfully submitted,

FRANCINE WAI
Executive Director

SB-222-SD-2

Submitted on: 3/20/2018 11:27:26 PM

Testimony for HHS on 3/21/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Oahu County Committee on Legislative Priorities of the Democratic Party of Hawai'i	Support	No

Comments:

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 Committee ("OCC") Legislative Priorities Committee of the Democratic Party of Hawaii. Thank you for the opportunity to provide written testimony on **SB222 SD2** relating to General Excise Tax; Medical Devices; and an Exemption.

The OCC Legislative Priorities Committee is in favor of **SB222 SD2** and supports its passage.

SB222 SD2 is in accord with the Platform of the Democratic Party of Hawai'i ("DPH"), 2016, as it exempts gross receipts from the sale of mobility enhancing equipment, durable medical equipment, prosthetic devices, prescription drugs sold pursuant to a doctor's prescription, diabetic supplies, medical oxygen, and human blood and its derivatives from the general excise tax; amends the definition of "prosthetic device" to include devices worn on the body; amends the definition of "prescription drugs," effective 1/1/2019; and applies to taxable years beginning after 12/31/2018.

The DPH Platform states that "[a]ccess to health care is a basic human need. Our citizens and visitors have an inherent right to high quality, high standard health care. The state legislature and the federal government should take all appropriate steps to create and support a health care system of public, for-profit, and nonprofit hospitals and other medical facilities that follow best practices to enhance and protect and preserve life. (Platform of the DPH, P.7, Lines 361-364 (2016)).

Given that **SB222 SD2** exempts gross receipts from the sale of mobility enhancing equipment, durable medical equipment, prosthetic devices, prescription drugs sold pursuant to a doctor's prescription, diabetic supplies, medical oxygen, and human blood and its derivatives from the general excise tax; amends the definition of "prosthetic device" to include devices worn on the body; amends the definition of "prescription drugs," effective 1/1/2019; and applies to taxable years beginning after 12/31/2018, 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, Text/Tel.: (808) 258-8889