



**STATE OF HAWAII**  
**DEPARTMENT OF TAXATION**  
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To: The Honorable Donovan Dela Cruz, Chair  
and Members of the Senate Committee on Ways & Means

Date: Wednesday, February 28, 2018  
Time: 10:45 A.M.  
Place: Conference Room 211, State Capitol

From: Linda Chu Takayama, Director  
Department of Taxation

Re: S.B. 2565, S.D. 1, Relating to Tax Exemption.

The Department of Taxation (Department) appreciates the intent of S.B. 2565, S.D. 1, and offers the following comments for your consideration.

S.B. 2565, S.D. 1, amends the general excise tax (GET) by adding an exemption for the gross proceeds arising from the sale of farm equipment to a low-income producer. A summary of key provisions are as follows:

- Adds a section to chapter 237, Hawaii Revised Statutes (HRS), exempting from the GET the gross proceeds arising from the sale of farm equipment to a producer, as long as the producer's gross income does not exceed \$200,000;
- Defines "farm equipment and machinery" as any implement, tool, machine, equipment, appliance, device, or apparatus used in the conduct of agricultural operations, except for:
  - Property used for administration, management, and marketing;
  - Certain supply items and articles of clothing; and
  - Items purchased for the purpose of resale.
- Authorizes the Director of Taxation (Director) to determine the time limitation for the new exemption;
- Effective date of July 1, 2019; and
- Applies to taxable years beginning after December 31, 2019.

Section 237-5, HRS, defines "producer" as "any person engaged in the business of raising and producing agricultural products in their natural state, or in producing natural resource products, or engaged in the business of fishing or aquaculture, for sale, or for shipment or transportation out of the State, of the agricultural or aquaculture products in their natural or processed state, or butchered and dressed, or the natural resource products, or fish."

First, the Department notes that the Committee on Agriculture and Environment amended

this measure to clarify that items purchased for the purpose of resale should be excluded from the definition of “farm equipment and machinery” in this measure. That Committee also amended the measure to apply to tax years beginning after December 31, 2019.

Second, the Department notes that a sunset of a tax benefit, such as a GET exemption, should probably be put into the statute itself or in the session law. As currently written, the bill seems to allow the Department the ability to sunset the exemption through administrative rules.

Third, the Department suggests clarifying how the \$200,000 gross income threshold should be enforced. If the intent of the measure is to base qualification on the previous year’s income tax return that should be specified.

Finally, if the Committee wishes to advance this measure, the Department notes that it is able to implement S.B. 2565, S.D. 1, with current application to taxable years beginning after December 31, 2019. This will allow the Department sufficient time to make the necessary form and computer system changes.

Thank you for the opportunity to provide comments.

DAVID Y. IGE  
Governor

DOUGLAS S. CHIN  
Lt. Governor



State of Hawaii  
**DEPARTMENT OF AGRICULTURE**  
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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 WAYS & MEANS**

**FEBRUARY 28, 2018  
10:45 A.M.  
CONFERENCE ROOM 211**

**SENATE BILL NO. 2565 SD1  
RELATING TO TAX EXEMPTION**

Chairperson Dela Cruz and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill No. 2565 SD1 that seeks to exempt from the general excise tax, the purchase of farm equipment and machinery used in the conduct of agricultural operations for producers with gross incomes not exceeding \$200,000. The Department of Agriculture supports the intent of this measure and otherwise defers to the Department of Taxation.

Of the 7,000 farming operations in Hawaii, about 900 farms had value of sales in excess of \$200,000 (2012 Census of Agriculture – Hawaii State Data, Table 2, page 9). Therefore, about 87 percent of Hawaii's farmers may benefit from the tax exemption proposed in this measure.

Thank you for the opportunity to comment on this measure.



# TAX FOUNDATION OF HAWAII

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126 Queen Street, Suite 304

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**SUBJECT:** GENERAL EXCISE, Exemption for Farm Equipment Purchased by a Producer

**BILL NUMBER:** SB 2565, SD-1

**INTRODUCED BY:** Senate Committee on Agriculture & Environment

**SYNOPSIS:** Adds a new section to HRS chapter 237 which would exempt from the GET all gross proceeds arising from the sale of farm equipment and machinery to a producer, provided that the producer's gross income does not exceed \$200,000.

Defines "farm equipment and machinery" as any implement, tool, machine, equipment, appliance, device, or apparatus used in the conduct of agricultural operations, except: (1) property used for administration, management, or marketing of an agricultural operation; (2) supply items such as shop towels, cleaning agents such as hand cleaners and solvents, and agricultural chemicals; (3) articles of clothing, except for clothing designed to protect an agricultural product or that is required by law when applying chemicals; and (4) items purchased for the purpose of resale.

Directs the department of taxation to adopt rules under HRS chapter 91 to implement this section, including any time limitation for the exemptions.

**EFFECTIVE DATE:** This Act shall take effect on July 1, 2019, and shall apply to taxable years beginning after December 31, 2019

**STAFF COMMENTS:** Farm equipment as defined in the bill appears to be depreciable tangible personal property. If so, the taxpayer may already avail itself of the capital goods excise tax credit under HRS section 235-110.7, which effectively refunds the GET on purchases of such property through a refundable credit delivered through the income tax system. The proposed incentive, if enacted, would stop the GET imposed upon purchase, making the property ineligible for the capital goods excise tax credit, which results in the taxpayer in the same economic position as under current law. The exemption thus does not appear to be necessary.

Digested 2/26/2018



February 23, 2018

Senator Donovan M. Dela Cruz, Chair  
Senator Gilbert S.C. Keith-Agaran, Vice Chair  
Senate Committee on Ways and Means

**Testimony in Support of SB 2565, S.D. 1, Relating to General Excise Tax; Exemption; Agriculture (Exempts sales of farm equipment and machinery to certain producers of agricultural products from the general excise tax. Takes effect on 7/1/2019 and applies to taxable years beginning after 12/31/2019.)**

**Wednesday, February 28, 2018, 10:45 a.m., in Conference Room 211**

The Land Use Research Foundation of Hawaii (LURF) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. LURF's mission is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources, and public health and safety.

LURF appreciates the opportunity to express its **support of SB 2565, S.D. 1** and of the various agricultural stakeholder groups who defend the goals of viable agricultural operations and the conservation and protection of agriculture, including important agricultural lands (IAL) in Hawaii.

**SB 2565, S.D. 1.** This bill proposes to exempt from the general excise tax, sales of farm equipment and machinery to certain producers of agricultural products, statewide.

**LURF's Position.** LURF members include farmers and ranchers who own, maintain, and engage in agricultural enterprises, and who consider such incentives and assistance very helpful, if not critical to the conduct of their operations and to help sustain their businesses.

As this Committee is aware, the unsustainable costs cast upon land owners and agricultural stakeholders by various safety and security standards, programs and regulations are another serious concern, as the enactment of onerous regulations relating to maintenance and operation of water systems, infrastructure, as well as

growing and processing machinery and facilities are proving to be potentially counterproductive to the long-term objective of sustainable agriculture.

The purpose of this bill is consistent with the underlying intent and objectives of the IAL laws (Hawaii Revised Statutes [HRS], Sections 205-41 to 52), which were enacted to fulfill the mandate in Article XI, Section 3, of the Hawaii State Constitution, “to conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency and assure the availability of agriculturally suitable lands.” The IAL laws established a new paradigm which avoids requirements and mandates, and instead focuses on promoting agricultural viability by providing incentives for farmers and landowners to designate lands as IAL, and to build necessary infrastructure. This bill is thus an effort to expand the existing IAL program by establishing additional incentives for landowners to preserve and maintain IAL.

As noted in HRS Section 205-41, the intent of Act 183 (2005) was to develop agricultural incentive programs to promote agricultural viability, sustained growth of the agricultural industry, and the long-term use and protection of important agricultural lands for agricultural use in Hawaii concurrently with the process of identifying important agricultural lands as required under the Act. Such incentives and programs are identified in HRS 205-41 and include tax credits and/or exemptions that promote investment in agricultural businesses or value-added agricultural development.

LURF appreciates the underlying intent of SB 2565, S.D. 1, which is to support agriculture and aid agriculture-related businesses and strongly believes that passage of the long-awaited IAL legislation would be meaningless without implementation of these incentives which require the cooperation and support of the business and economic community. The establishment of tax incentives for those engaged, or desirous of engaging, in agricultural activities are critically needed to support viable agricultural activity in this State.

By recognizing the significance of, and need to assist the local agriculture industry, and implement incentives which help to support the growth and maintenance of agriculture in the State, this bill significantly helps to promote economically viable agriculture and food self-sufficiency in Hawaii.

Thank you for the opportunity to present testimony in support of this measure.

**SB-2565-SD-1**

Submitted on: 2/26/2018 8:32:22 AM

Testimony for WAM on 2/28/2018 10:45:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Warren Watanabe	Testifying for Maui County Farm Bureau	Support	No

Comments: