

SB 837

SB 235

DAVID Y. IGE
GOVERNOR

JOSH GREEN M.D.
LIEUTENANT GOVERNOR



LINDA CHU TAKAYAMA
DIRECTOR

DAMIEN A. ELEFANTE
DEPUTY DIRECTOR

**STATE OF HAWAII
DEPARTMENT OF TAXATION**

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To: The Honorable Mike Gabbard, Chair
and Members of the Senate Committee on Agriculture & Environment

Date: Friday, February 1, 2019
Time: 1:15 P.M.
Place: Conference Room 224, State Capitol

From: Linda Chu Takayama, Director
Department of Taxation

Re: S.B. 837, Relating to Farms

The Department of Taxation (Department) appreciates the intent of S.B. 837 and offers the following comments on for the Committee's consideration.

S.B. 837 amends section 235-7, Hawaii Revised Statutes (HRS), by excluding from income tax the income earned by a farmer from farming activities, up to fifty-one per cent of the farmer's gross annual income or \$50,000, whichever is less. The bill defines "farmer" as an individual earning more than seventy-five per cent of their annual gross income from farm products sold within the State. The measure is effective upon its approval and applies to taxable years beginning after December 31, 2018.

First, the Department notes that the language used for the exclusion provided for in S.B. 837 is extremely broad. Although "farmer" is defined as an individual earning more than seventy-five percent of their annual gross income from farm products sold within the State, there is no definition to restrict the scope of what might be considered "farm products." Similarly, there is no definition of "farming activities." The Departments suggests defining these terms in detail to prevent any taxpayer confusion.

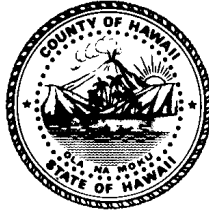
Second, the Department notes that this measure seems to limit the availability of this income tax exclusion to individuals. If this is the case, people who organize themselves as entities such as partnerships or S-corporations would not be able to benefit. If this was not the intent, the Department suggests clarifying which taxpayers may use this income exclusion.

Third, the Department suggests adding a gross income limitation to be eligible for the exclusion. A gross income limitation will help to tailor the income exclusion for the new and upcoming farmers.

Finally, if the Committee wishes to advance this measure, the Department respectfully requests that the effective date be postponed until taxable years beginning after December 31, 2019, to allow the Department to make the necessary form and computer system changes.

Thank you for the opportunity to provide comments.

County of Hawai'i
Council District 9 -
North and South Kohala



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Chair: Committee on Agriculture,
Water, Energy, and Environmental
Management

Vice Chair: Committee on Finance

HERBERT M. "TIM" RICHARDS, III
HAWAI'I COUNTY COUNCIL - DISTRICT 9
25 Aupuni Street, Ste. 1402, Hilo, Hawai'i 96720

January 29, 2019

Senate Committee on Agriculture and Environment
Honorable Senator Mike Gabbard, Chair
Honorable Senator Russel E. Ruderman, Vice Chair
Submission via online testimony

RE: **Support of SB 837**
Hearing Date/Time: February 1, 2019 at 1:15 p.m.

Dear Senators:

As the Chair of the Committee on Agriculture, Water, Energy, and Environmental Management for the Hawai'i County Council, I thank you for the opportunity to submit **testimony in SUPPORT of SB 837**. It is important that an exclusion from income tax is created for the lessor of fifty-one percent of gross annual income or \$50,000 of gross annual income earned by a farmer from farming activities.

Please feel free to contact me should you need to discuss my position and knowledge of this matter further.

Sincerely,

HERBERT M. "TIM" RICHARDS, III
Hawai'i County Council, District 9

DAVID Y. IGE
Governor

JOSH GREEN
Lt. Governor



PHYLLIS SHIMABUKURO-GEISER
Acting Chairperson
Board of Agriculture

State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512
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TESTIMONY OF THE DEPARTMENT OF AGRICULTURE
BEFORE THE SENATE COMMITTEE ON AGRICULTURE & ENVIRONMENT

FEBRUARY 1, 2019
1:15 P.M.
CONFERENCE ROOM 224

SENATE BILL NO. 837
RELATING TO FARMS

Chairperson Gabbard and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill 837 that creates an exclusion from income tax for the lesser of 51 percent of gross annual income or \$50,000 of gross annual income earned by a farmer from farming activities. A farmer is defined as an individual earning more than 75 percent of the individual's annual gross income from farm products sold within the State. The Department of Agriculture supports the intent, offers amendments, and otherwise defers to the Department of Taxation.

As written, the bill would improve the bottom line for start-up, sole-proprietor farming operations that meet the 75 percent gross income threshold. For existing qualified farmers, according to the 2012 Census of Agriculture (Hawaii, Volume 1, Chapter 1: State Level Data, Table 60, page 44), of Hawaii's 7,000 farmers (includes all business entities), approximately 618 (9 percent) earn more than 75 percent of their total household income from farming.

The Department recommends the following amendments to improve the definition of "farmer" and add a new definition of "farm products".



SB 837, page 6, lines 4-10

“(13) The lesser of fifty-one per cent of gross annual income or \$50,000 of gross annual income earned by a farmer from farming activities. For purposes of this paragraph, “farmer” means an individual earning more than seventy-five per cent of the individual’s annual gross income from farm products and value-added farm products grown, raised and value-added by the individual and sold within the State; and “farm products” means production from agricultural activities described in section 205-4.5(a)(1), (2) and (3), and excluding personal use.”

We also note that by limiting the proposed exclusion from income tax to income earned by individuals, this may exclude small partnerships and other forms of business ownership.

Thank you for the opportunity to comment on this measure.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Exclusion from Income for Farmers

BILL NUMBER: SB 837

INTRODUCED BY: KEITH-AGARAN, BAKER, DELA CRUZ, ENGLISH, INOUE,
NISHIHARA, RUDERMAN, Shimabukuro

EXECUTIVE SUMMARY: Creates an exclusion from income tax for the lesser of fifty-one per cent of gross annual income or \$50,000 of gross annual income earned by a farmer from farming activities. A direct appropriation would be preferable as it would provide some accountability for the taxpayer funds being utilized to support this effort. Meaning, we as taxpayers know what we're getting and we know how much we're paying for it.

SYNOPSIS: Amends HRS section 235-7 to add a new paragraph excluding from gross income the lesser of fifty-one per cent of gross annual income or \$50,000 of gross annual income earned by a farmer from farming activities.

Defines "farmer" as an individual earning more than seventy-five per cent of the individual's annual gross income from farm products sold within the State.

EFFECTIVE DATE: Upon approval, shall apply to taxable years beginning after December 31, 2018.

STAFF COMMENTS: The idea of providing a tax credit to encourage investments may have been acceptable when the economy was on a roll and advocates could point to credits like those to encourage the use of or investment in emerging technologies. But what lawmakers and administrators have learned in these past few years is that unbridled tax incentives, where there is no accountability or limits on how much in credits can be claimed, are irresponsible as the cost of these credits goes far beyond what was ever intended.

Instead, lawmakers should consider an appropriation of a specific number of taxpayer dollars. At least lawmakers would have a better idea of what is being funded. A direct appropriation would be preferable to the income exclusion as it would: (1) provide some accountability for the taxpayers' funds being utilized to support this effort; and (2) not be a blank check.

Here, it should be noted that the proposed exclusion is from gross annual income, so it is quite possible for a person claiming to qualify as a farmer to create a net operating loss with this provision. Net operating losses can be carried forward to impact State revenues in one or many subsequent years.

Digested 1/26/2019

SB-837

Submitted on: 1/29/2019 7:02:43 PM

Testimony for AEN on 2/1/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Chris Manfredi	Testifying for Hawaii Coffee Association	Support	No

Comments:

SB-837

Submitted on: 1/29/2019 11:39:08 PM

Testimony for AEN on 2/1/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Joseph Kohn MD	Testifying for We Are One, Inc. - www.WeAreOne.cc - WAO	Support	No

Comments:

Support Small Farmers and Sustainable Agriculture. There is no rational reason to pollute our own environment or destroy ecosystems.

www.WeAreOne.cc

SB-837

Submitted on: 1/31/2019 11:06:06 AM

Testimony for AEN on 2/1/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Testifying for O`ahu County Committee on Legislative Priorities of the Democratic Party of Hawai`i	Support	No

Comments:



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February 1, 2019

HEARING BEFORE THE
SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT

TESTIMONY ON SB 837
RELATING TO FARMS

Room 224
1:15 PM

Aloha Chair Gabbard, Vice Chair Ruderman, and Members of the Committee:

I am Brian Miyamoto, Executive Director of the Hawaii Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,900 farm family members statewide, and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic and educational interests of our diverse agricultural community.

The Hawaii Farm Bureau supports SB 837, which creates an exclusion from income tax for the lesser of fifty-one percent of gross annual income or \$50,000 of gross annual income earned by a farmer from farming activities.

HFB supports this initiative which is an investment in Hawaii's small farmers and encourages new and expanding farming businesses.

Thank you for this opportunity to testify in support of this measure.

SB-837

Submitted on: 1/29/2019 3:38:29 AM

Testimony for AEN on 2/1/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Randy Gonce	Individual	Support	No

Comments:

SB-837

Submitted on: 1/29/2019 7:29:22 PM

Testimony for AEN on 2/1/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Mary Whispering Wind	Individual	Support	No

Comments:

Aloha Senators,

I SUPPORT SB837 - to Help Hawaii's small farmers get a tax break, and to aid the growth of small, diversified farming businesses will add to and diversify Hawaii's economy and help redress the imbalance in agricultural trade.

Mahalo for helping Hawaii's small farmers.

SB-837

Submitted on: 1/29/2019 7:32:00 PM

Testimony for AEN on 2/1/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Brian Murphy	Individual	Support	No

Comments:

Aloha Senators,

I SUPPORT SB837 - to Help Hawaii's small farmers get a tax break, and to aid the growth of small, diversified farming businesses will add to and diversify Hawaii's economy and help redress the imbalance in agricultural trade.

Mahalo for helping Hawaii's small farmers.

SB-837

Submitted on: 1/30/2019 6:31:08 AM

Testimony for AEN on 2/1/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Shane Albritton	Individual	Support	No

Comments:

SB-837

Submitted on: 1/30/2019 9:40:07 AM

Testimony for AEN on 2/1/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Shannon Rudolph	Individual	Support	No

Comments:

Support

SB-837

Submitted on: 1/30/2019 8:16:40 PM

Testimony for AEN on 2/1/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Cory Harden	Individual	Support	No

Comments:

Aloha legislators,

Please support local food security!

But beware of misuse of this tax break by large GMO companies.

Mahalo,

Cory Harden, Hilo