

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**

830 PUNCHBOWL STREET, ROOM 221
HONOLULU, HAWAII 96813

<http://tax.hawaii.gov/>
Phone: (808) 587-1540 / Fax: (808) 587-1560
Email: Tax.Directors.Office@hawaii.gov

To: The Honorable Lorraine R. Inouye, Chair
and Members of the Senate Committee on Transportation

Date: Wednesday, March 13, 2019
Time: 1:00 P.M.
Place: Conference Room 225, State Capitol

From: Linda Chu Takayama, Director
Department of Taxation

Re: H.B. 421, H.D. 2, Relating to the General Excise Tax

The Department of Taxation (Department) offers the following comments regarding H.B. 421, H.D. 2, for the Committee's consideration.

H.B. 421, H.D. 2, establishes a new five-year general excise tax (GET) exemption for amounts received from the servicing and maintenance of helicopters in an aircraft service and maintenance facility, provided that 75% of the helicopters serviced and maintained annually in a facility that services helicopters are equipped with quiet technology. A summary of key provisions are as follows:

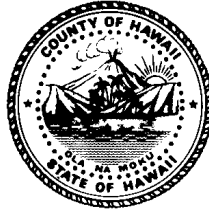
- Amends section 237-24.9, Hawaii Revised Statutes (HRS), to explicitly include helicopters within the definition of "Aircraft";
- Limits the statute's provision on minimum facility size to those facilities servicing and maintaining jet aircraft;
- Adds language to the definition of "aircraft service and maintenance facility" mandating that for a facility that services and maintains helicopters, no less than seventy-five per cent of the helicopters serviced and maintained annually in an aircraft and maintenance facility shall be equipped with quiet technology;
- Defines "quiet technology" as the use of design, technologies, and structure modifications to rotocraft to reduce or redirect the sound generated by the engine exhaust, tail, or the main rotor, and that reduces the craft's total overall noise level by no fewer than an unspecified amount of decibels; and
- Effective January 1, 2020 and will repeal on December 31, 2024.

The Department appreciates the inclusion of a minimum threshold of decibels by which the helicopter's noise level must be lowered for "quiet technology" to qualify for the credit. However, the Department notes that it lacks the subject-matter expertise to verify exactly how any "design, technologies, and structure modifications" are reducing or redirecting helicopter

sound, or if the applicable technology used by Taxpayer has reduced or redirected sound by a sufficient amount to effectuate the purpose of the credit. The Department thus recommends that another agency with relevant subject-matter expertise be responsible for certifying taxpayer compliance. This will help minimize taxpayer confusion, prevent improper claims and abuse of the credit, and avoid unexpected losses in revenue.

Thank you for the opportunity to provide comments.

Harry Kim
Mayor



Wil Okabe
Managing Director

Barbara J. Kossow
Deputy Managing Director

County of Hawai‘i Office of the Mayor

25 Apuni Street, Suite 2603 • Hilo, Hawai‘i 96720 • (808) 961-8211 • Fax (808) 961-6553
KONA: 74-5044 Ane Keohokālole Hwy., Bldg C • Kailua-Kona, Hawai‘i 96740
(808) 323-4444 • Fax (808) 323-4440

March 11, 2019

Senator Lorraine R. Inouye, Chair
Senator Breene Harimoto, Vice Chair
Committee on Transportation

Dear Chair Inouye, Vice Chair Harimoto, and Committee Members:

RE: HB 421, HD2 Relating to the General Excise Tax

Thank you for this opportunity to testify against HB 421, HD2.

Helicopters are a valued component of our tourism industry. They also have been a source of endless complaints from communities that lie in their flight paths, and there should be no doubt that noise can constitute both a nuisance and a health hazard, especially in otherwise tranquil rural areas.

Helicopter companies are asking the Legislature for special treatment (what they argue is “parity” or “equity”) with respect to the general excise tax. There is no suggestion of economic hardship; there is no credible argument (that I know of) that new facilities will be attracted to Hawai‘i; and there is no suggestion that the industry would use its savings to better accommodate those who live in their fly-over country. The exemption will simply add to the companies’ bottom line.

This year’s bill is slightly better than last year’s version, in that it asks for only a five-year general excise tax exemption, and it adds a provision that “75% of the helicopters serviced and maintained annually in the facility are equipped with quiet technology.”

I appreciate that the prior committees have added a definition of “quiet technology.” But I also ask you to recognize the frank testimony of Jack Harter Helicopters that “there is no such thing as a ‘quiet helicopter.’” As far as I can tell, there is no hint as to how effective so-called “quiet technology” is or will be. At a minimum, that needs further clarification.

As you struggle to balance your budget, one must ask whether the added profits for these companies’ owners could be better utilized in meeting the multiple needs that Hawai‘i faces. To me, the answer is that our transportation, education, social service needs, etc., should be higher priorities.

In addition, I don’t think it would be unfair to say that tax giveaways should be reserved for good corporate citizens.

I have met with tour operators and asked them to develop a plan to address noise and safety. They have taken some initial steps, and I commend them for that. Moreover, I am hopeful that tour operators and community members can work together. However, the history laid out in SCR 183 (2018) is eye-opening:

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“In 2000, the National Environmental Policy Act, in conjunction with the National Parks Air Tour Management Act of 2000, required an Air Tour Management Plan to be implemented at various national parks throughout the country... The objective of an Air Tour Management Plan is "to develop acceptable and effective measures to mitigate or prevent the significant adverse impacts, if any, of commercial air tour operations upon the natural and cultural resources, visitor experiences and tribal lands...In 2005, the project was upgraded to an Environmental Impact Statement, and the Federal Aviation Administration published a notice of opportunity for commercial air tour operators granted interim operating authority to review and self-correct annual authorizations. In 2008, Federal Aviation Administration and National Park Service staff met with Hawai'i air tour operators, and acoustic monitoring of three sites at Hawai'i Volcanoes National Park was conducted. In 2011, a preliminary draft Air Tour Management Plan for Hawai'i Volcanoes National Park was published, but...seven years later, in 2018, there [was] still no final Air Tour Management Plan for Hawai'i Volcanoes National Park...In addition, after more than sixteen years, no Air Tour Management Plan for any national park in the nation has been completed...”

How can our residents be asked to tolerate the status quo when it has been over a decade since the Federal Aviation Administration and National Park Service asked for comments on an Air Tour Management Plan Environmental Assessment, and eight years since a preliminary draft Air Tour Management Plan for Hawai'i Volcanoes National Park was published. That is an outrage.

I would urge a No vote on HB 421, HD2, at least until the helicopter industry proves itself to be a better neighbor, it is established that “quiet technology” actually makes a difference, and this Legislature determines that the benefits to the broader community of this tax giveaway outweigh the benefits to the helicopter industry.

If something must be done to help these companies, please consider replacing the contents of HB 421, HD2 with the approach in SB 1069, SD1, which was approved by the Senate last week. SB 1069, SD1 offers a tax credit for installation of “noise canceling technology,” and restricts the hours of helicopter flights. Given the noise complaints that helicopters generate, such legislation might be welcome news, but only if it makes a meaningful difference. Therefore, if this route is taken, I still would ask this Committee to be as stringent as it deems reasonable. Even in return for the benefit of “only” a tax credit, the helicopter industry should be required to become a responsible and considerate corporate member of our community, and it is not there yet.

Respectfully Submitted,



Harry Kim
MAYOR

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: GENERAL EXCISE, Exemption for Helicopter Repair and Maintenance

BILL NUMBER: HB 421, HD-2

INTRODUCED BY: House Committee on Economic Development & Business

EXECUTIVE SUMMARY: The bill seeks to exempt helicopter repair and maintenance from the GET. However, the bill as drafted perpetuates inequity because propeller aircraft would not be so exempted.

SYNOPSIS: Amends the definition of “aircraft” in HRS section 237-24.9 to include a helicopter.

Amends the definition of “aircraft service and maintenance facility” to define it as a facility for aircraft service and maintenance; provided that: (1) a facility that services and maintains jet aircraft shall be not less than thirty thousand square feet in area, which may include ancillary space that is integral to the facility, such as parts and inventory warehouse space, tool rooms, and related administrative and employee space; and (2) for a facility that services and maintains helicopters, no less than seventy-five per cent of the helicopters serviced and maintained annually shall be equipped with quiet technology.

Defines "quiet technology" as the use of design, technologies, and structure modifications to rotocraft [sic] to reduce or redirect the sound generated by the engine exhaust, tail, or the main rotor, and that reduces the craft's total overall noise level by no fewer than _____ decibels.

EFFECTIVE DATE: Takes effect on January 1, 2020, and sunsets on December 31, 2024.

STAFF COMMENTS: Back in 1997, Continental Airlines was considering building a \$24 million jet maintenance hangar close to the Honolulu International Airport. To lure the project away from Guam and Saipan, our lawmakers at the time offered incentives, including a GET exemption. The exemption applied to servicing and maintenance of aircraft, or from the construction of an aircraft service and maintenance facility. But “aircraft,” as used in the exemption statute, was and still is restricted to aircraft with two or more jet engines. Small carriers with propeller planes don’t qualify, raising some questions about whether this exemption helps the industry fairly. Is it simply a reflection of the economic realities – namely that the big planes can fly elsewhere to have the maintenance work done, while smaller aircraft are effectively trapped here? A better approach may be to have the exemption apply (or be repealed) across the board; the current structure leaves the impression that big business skates by where small business is left behind.

In addition, the requirement that 75% of the helicopters serviced and maintained annually be equipped with quiet technology is problematic:

1. The GET is a transaction-based tax, so the facts necessary to apply it need to be known when the transaction happens. Whether the 75% test is met is necessarily unknown until the close of the taxable year.
2. The word “rotorcraft” in the definition of “quiet technology” appears to be misspelled.

Digested 2/17/2019



Maui Hotel & Lodging

ASSOCIATION

Testimony of

Lisa H. Paulson

Executive Director

Maui Hotel & Lodging Association

on

HB 421 HD 2

Relating To The General Excise Tax

COMMITTEE ON TRANSPORTATION

Wednesday, March 13, 2019, 1:00 pm

Conference Room 225

Dear Chair Inouye, Vice Chair Harimoto and Members of the Committee,

The Maui Hotel & Lodging Association (MHLA) is the legislative arm of the visitor industry. Our membership includes 195 property and allied business members in Maui County – all of whom have an interest in the visitor industry. Collectively, MHLA's membership employs over 25,000 residents and represents over 19,000 rooms. The visitor industry is the economic driver for Maui County. We are the largest employer of residents on the Island - directly employing approximately 40% of all residents (indirectly, the percentage increases to 75%).

MHLA is **in support of HB 421 HD2**, which establishes a five-year general excise tax exemption starting January 1, 2020, for amounts received from the servicing and maintenance of helicopters in an aircraft service and maintenance facility or from the construction of a facility that services and maintains helicopters; provided that 75% of the helicopters serviced and maintained annually in the facility are equipped with quiet technology. Sunsets 12/31/2024. (HB421 HD2)

MHLA believes that HB 421 HD2 will provide needed parity in tax treatment for all helicopters with aircraft. Helicopters provide important services in the aviation industry for inter-island travel for tourism, medical needs, and inter-island commerce. We would like to see them share the same GET exemption as other aircraft.

Thank you for the opportunity to testify.

State of Hawaii Senate Committee on Transportation
Wednesday, March 13, 2019; 1:00pm
Support for HB 421 HD2
Testimony comments of Gregg Lundberg, Blue Hawaiian Helicopters



Chair Inouye, Vice Chair Harimoto and members of the Senate Transportation Committee,

Thank you for the opportunity to speak in support of HB 421 HD2, which establishes a five-year general excise tax exemption for amounts received from the servicing and maintenance of helicopters in an aircraft service and maintenance facility or from the construction of a facility that services and maintains helicopters provided that 75% of the helicopters serviced and maintained annually in the facility are equipped with quiet technology. This bill sunsets 12/31/2024.

My name is Gregg Lundberg, president of Blue Hawaiian Helicopters. Blue Hawaiian is Hawaii's first air tour operator, founded in 1985, and is the only air tour operator to offer tours and employ Hawaiian residents on Oahu, Kauai, Maui and the Big Island. We firmly believe that our tours are more than just sightseeing, they function as "flying classrooms" for our passengers to learn about the rich history of Hawaii, its culture, and its diverse geography.

HB 421 HD2 seeks to provide parity for smaller aviation operators and seeks to promote and encourage the use of quiet technology. Our state's remote geography requires a reliance on air transportation of many types, including medical operations, air tours and disaster relief. By modernizing the current tax statute to include the maintenance of helicopters with quiet technology these operators will be included with other aviation operations, all contributing stakeholders in the state's economy. We are here to give you the perspective of an aviation stakeholder who operates aircraft that are currently excluded from the current statute and to ask for your support of this measure.

In serving hundreds of thousands of visitors to Hawaii each year, our operations must be efficient and organized in order to have our state-of-the-art helicopters fully maintained and ready for our passengers each day. There are considerable costs to operating a safe aviation operation that meets FAA regulatory requirements, including thousands of hours of recurrent pilot and mechanic training each year, aircraft parts, tools and equipment, as well as full-time highly-trained mechanics and thousands of maintenance labor hours. We respectfully request that you support HB 421 HD2.

Thank you again for the opportunity to testify.

To: The Honorable Lorraine R. Inouye, Chair
and Members of the Senate Committee on Transportation

Date: Wednesday, 13 March 2019
Time: 1:00 p.m.
Place: Conference Room 225, State Capitol

From: David Bettencourt – Aviation attorney/consultant/pilot.

Re: H.B. 421, H.D. 2, Relating to General Excise Tax

I live in Waimanalo directly under the tour helicopter flight path; I often work on my antique aircrafts on the South Ramp at HNL directly under helicopter flight paths. I know that there is virtually no difference in overflight noise (or the effects of such noise) among the various helicopter manufacturers' designs, regardless of the careful sale pitches and self-proclaimed "Quite Technology" labels manufacturers love to invent. I invite each of you to spend a day at your local heliport listening to the professed "quietness" of those aircraft operators that will enjoy preferences. I'm sure the lobbyists for this legislation who have repeatedly contacted you can make arrangements. Except for the MD-520N/600N NOTAR (primarily Police/Fire), you will not be able to distinguish any professed "quieter" operators from any others.

During the House's hearings several Representatives, in addition to questioning proponents whether H.B. 421's language could ever be fairly and efficiently implemented, sought specific information on the hardware required to achieve any promised "significant" noise reduction, how much real reduction, who would conduct measurements, etc. They and their constituents are still awaiting answers. What was missing throughout the House's hearings was any language stating the decibel reduction required or the expected methodology for measurement and/or accomplishment. These questions remain unanswered. I'm not being overly cynical to predict that further versions of this bill will omit any requirement for a specific noise reduction on currently operated aircraft, or any scientific measurement of any claimed reductions for existing aircraft

H.B. 421, H.D. 2, constitutes a special purpose tax bill that might possibly be of benefit to two or three helicopter tour operators owned and headquartered in Las Vegas and Colorado, allowing them further competitive advantages against smaller, locally-owned companies. In effect, it is a private tax designed to confer substantial tax benefits and competitive advantages on large, U.S. continent-based operations, with absolutely no environmental benefits or reduction in noise impacts below the noise levels that presently exist in Hawaii.

If anything, the history of helicopter tour growth (and of the corresponding noise impacts) has demonstrated that large operators break into markets via the mass-marketing of low marginal-profit flights, drastically increasing total noise impact to gain market share. They now seek tax advantages for their existing helicopter fleets without providing any noise reduction from the high noise levels they have caused by their existing operations.