



**STATE OF HAWAII
DEPARTMENT OF TAXATION**

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

Date: Wednesday, February 6, 2019
Time: 1:15 P.M.
Place: Conference Room 225, State Capitol

From: Linda Chu Takayama, Director
Department of Taxation

Re: S.B. 656, Relating to Taxation

The Department of Taxation (Department) offers the following comments regarding S.B. 656 for the Committee's consideration.

S.B. 656 establishes a new general excise tax (GET) exemption for amounts received from the servicing and maintenance of helicopters in an aircraft service and maintenance facility, provided that for a facility that services helicopters, at least 75% of the helicopters serviced and maintained annually must be equipped with quiet technology. A summary of key provisions are as follows:

- Amends section 237-24.9, Hawaii Revised Statutes (HRS), to delete the definitional requirement that "Aircraft" must operate with two or more jet engines, and to explicitly include helicopters within the definition of "Aircraft";
- Deletes the statute's provision on minimum facility size required to qualify for the exemption;
- Adds language stating that for aircraft service and maintenance facilities that service helicopters, the exemption shall apply only if seventy-five per cent of all helicopters serviced within the facility are equipped with quiet technology; and
- Has an effective date of July 1, 2019.

First, the Department notes that "quiet technology" is not defined. Clarifying this will help minimize taxpayer confusion, prevent improper claims and abuse of the credit, and avoid unexpected losses in revenue.

Second, the Department notes that Section 2 of the measure states that the exemption will only apply to a facility servicing helicopters "if seventy-five per cent of *all* helicopters serviced" within the facility are equipped with quiet technology." (Emphasis added). To avoid taxpayer confusion and facilitate the processing of claims, the Department recommends specifying the

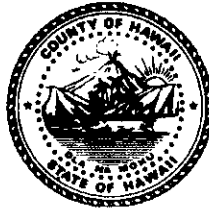
time or tax period during which taxpayers must meet the 75% threshold. The second sentence in Section 2 could be amended to read:

For aircraft service and maintenance facilities that service helicopters, the exemption provided under this section shall apply only if seventy-five per cent of all helicopters serviced within the facility during the taxable year for which the exemption is being claimed are equipped with quiet technology.

Third, the Department recommends amending the effective date to January 1, 2020, to allow sufficient time to make the necessary form and instruction changes.

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

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February 4, 2019

Senator Lorraine R. Inouye, Chair
COMMITTEE ON TRANSPORTATION
Hawai'i State Legislature

Dear Chair Inouye and Committee members:

RE: SB 656, RELATING TO TAXATION (Helicopter servicing and repair)

Thank you for this opportunity to testify against SB 656.

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 now asking the Legislature to reduce their general excise tax obligation. 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 adds a provision that "the exemption provided under this section shall apply only if seventy-five per cent of all helicopters serviced within the aircraft service and maintenance facility are equipped with quiet technology.." But as far as I can tell, there is no definition of "quiet technology" nor a hint as to how effective such technology is. At a minimum, that needs 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 a higher priority.

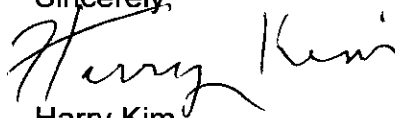
In addition, I don't think it would be unfair to say that tax giveaways should be reserved for good corporate citizens.

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:

“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 15 years 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 SB 656, 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.

Sincerely,

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: SB 656

INTRODUCED BY: INOUYE, K. KAHELE, Kidani, Shimabukuro

EXECUTIVE SUMMARY: The bill seeks to exempt helicopter repair and maintenance from the GET, and to create equity by exempting propeller aircraft as well. However, it may impact those already receiving the benefits of the exemption because it adds another requirement for a facility to qualify.

SYNOPSIS: Amends the definition of “aircraft” in HRS section 237-24.9 to include a helicopter. Requires that for aircraft service and maintenance facilities that service helicopters, the exemption applies only if seventy-five per cent of all helicopters serviced within the aircraft service and maintenance facility are equipped with quiet technology.

Amends the definition of “aircraft service and maintenance facility” to delete the requirement that the facility be not less than 30,000 square feet in area.

EFFECTIVE DATE: July 1, 2019.

STAFF COMMENTS: Before the 1980’s, the State attempted to tax air carriers of all kinds under the public service company tax. However, there is a federal statute (now 49 U.S.C. §40116) preventing States from imposing taxes against the gross income from transportation by air of passengers or cargo. The State contended that it wasn’t prevented from imposing the tax, and the U.S. Supreme Court disagreed in a unanimous opinion. *Aloha Airlines v. Director of Taxation*, 464 U.S. 7 (1983).

Then, the Department of Taxation issued Tax Information Release 89-10, acknowledging that the transportation of persons or cargo by helicopter aircraft, including sightseeing tours, is exempt from the GET.

The provision being amended by this bill relates to another exemption entirely. 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.

The bill addresses this concern by having the exemption apply across the board; the current structure leaves the impression that big business skates by where small business is left behind.

However, 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. There is no clear definition of “quiet technology.”

As drafted, this requirement is an additional requirement for a facility to qualify. Thus, existing qualified facilities may no longer qualify and its existing customers may be unintended casualties.

Digested 2/3/2019

State of Hawaii

Senate Committee on Transportation

Wednesday, February 6, 2019; 1:15 pm

Support for SB656

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 SB 656, which amends the definition of "aircraft" to include helicopters and removes qualification of two or more jet engines, thereby expanding the types of aircraft eligible for the aircraft service and maintenance facility general excise tax exemption and amends the aircraft service and maintenance facility general excise tax exemption to eliminate space requirements and add requirement that seventy-five per cent of helicopters serviced within any aircraft service and maintenance facility are equipped with quiet technology.

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.

SB 656 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 SB 656.

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 6 February 2019
Time: 1:15 P.M.
Place: Conference Room 225, State Capitol

From: Safari Aviation, Inc.

Re: S.B. 656, Relating to the General Excise Tax

Safari Aviation, Inc., is a locally-owned and managed aeronautical commercial operator based in Lihue, Kauai and Hilo, Hawaii, operating both fixed-wing and rotary wing aircraft. While we applaud the intent of S.B. 656 to “create equality among types of aircraft in the State.”, as presently written it, along with the similar H.B. 421, will have the opposite effect, and will primarily benefit large foreign-owned (Outside the state of Hawaii) entities such as Blue Hawaiian Helicopters owned by Air Methods based in Denver, Colorado who the State Department of Transportation have already allowed to dominate if not monopolize the helicopter tour industry. Discriminating in favor of such entities, and against multiple other locally-owned aeronautical entities based upon unstandardized and undefined “equipped with quiet technology” criteria, does nothing to quiet the skies or create equality. In reality, any claim that any existing helicopters truly employ quiet technology is merely a marketing ploy.

Safari notes that during testimony regarding H.B. 421 before the House Committee on Transportation, Blue Hawaiian’s lobbyist was unable to respond to questions from that Committee as to whether any perceptible reduction in noise is claimed to be achievable with what is claimed to be existing quiet technology aircraft. Safari invites the members of this Committee to witness for themselves the comparative operations by the professed quiet aircraft, versus the most popular model helicopter used in tour operations, to determine for itself whether any minor differences in level and quality of sound, if perceived, justify the huge and discriminatory financial reward authorized by S.B. 656 and H.B. 421 to large fleet operators. Safari maintains that any perceived differences in sound are a distinction without a difference.

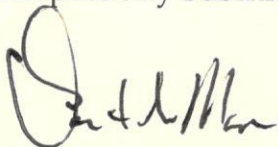
A more serious unintended consequence of S.B. 656 is that it would drastically penalize financially any existing aircraft service and maintenance facility that in the future provided maintenance services for any single helicopter lacking the mythical quiet technology moniker, unless it also provided maintenance for eight other helicopters self-labeled by their manufacturers or operators as quiet technology. This discrimination could lead to serious safety of flight concerns as it would seriously diminish the available maintenance facilities and would impose financial ruin for servicing a single helicopter in those facilities who primarily provide maintenance for fixed-wing aircraft. Aviation safety depends on quality maintenance, but S.B. 656 seeks to impose discriminatory financial hardships on a large portion of the required maintenance facilities of locally-owned operators and will only serve to assist foreign entities in concentrating market share.

S.B. 656 will do almost nothing to reduce helicopter noise impacts, and more likely will increase the total amount of noise impact by allowing large, foreign-owned helicopter fleet operators to again increase the total number of overflights. The massive increase in Big Island helicopter overflights that began several years ago was caused by large operators conducting tours at break-even or below pricing in an attempt to increase their baseline overflight counts for Volcanoes National Park overflight authority. Those same companies who introduced what is now claimed to be a quiet technology aircraft are among the largest contributors of noise by the increase of frequency of flights as compared to other operators. The residents of the Big Island can attest to the fact that this highly-touted quiet technology has not quieted things down. The complete lack of F.A.A. enforcement and/or monitoring of approved overflights would do more for noise reduction on Big Island than would "Quiet Technology" Those companies who claimed large baseline operations as well as those in violation of approved overflights are responsible for the massive increase in the total impact of helicopter noise on Big Island residents, albeit by expanded fleets of helicopters. Safari Aviation, Inc dba Safari Helicopter Tours has never exceeded its original fleet of two (2) helicopters based in Hilo since 1993.

Quiet technology cannot be adequately defined by the State of Hawaii, and the aircraft trumpeted by the large operators who support H.B. 421 and this Bill cannot be so labeled; any perceived reduction in noise energy is countered by a more obnoxious mix as well as an increase of frequency of noise elements. Attempting to apply the

marketing label "quiet technology" to such an aircraft, particularly as a basis for economic discrimination, is unwise and unlawful. Safari has always participated in valid noise reduction initiatives, not programs based on marketing and unproven statistics.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Preston S. Myers". The signature is fluid and cursive, with a large initial "P" and "M".

Preston S. Myers
President
Safari Aviation, Inc.



Activities & Attractions Association of Hawaii
PO Box 598, Makawao, Hawaii 96768
(808)871-7947 Main (808)877-3104 Fax

LATE

Testimony to the
COMMITTEE ON TRANSPORTATION
Senator Lorraine R. Inouye, Chair
Senator Breene Harimoto, Vice Chair

Wednesday, February 6, 2019, 1:15 pm
Conference Room 225

RE: SB656 RELATING TO THE GENERAL EXCISE TAX

Aloha Chair Senator Inouye and Vice Chair Senator Harimoto along with members the committee,

Mahalo for this opportunity to testify, my name is Toni Marie Davis. For the last 20 years it has been my honor to serve the Activity & Attraction industry of Hawaii through my position as the Executive Director of A3H (Activities & Attractions Association of Hawaii). A3H represents nearly 200 businesses statewide. Our members range in size from very large (over 300 employees) to very small (1-2 employees). Helicopter tour businesses which are members include: Air Maui, Blue Hawaiian Helicopters, Jack Harter Helicopters, Magnum Helicopters, Paradise Helicopters, Safari Helicopters and Sunshine Helicopters.

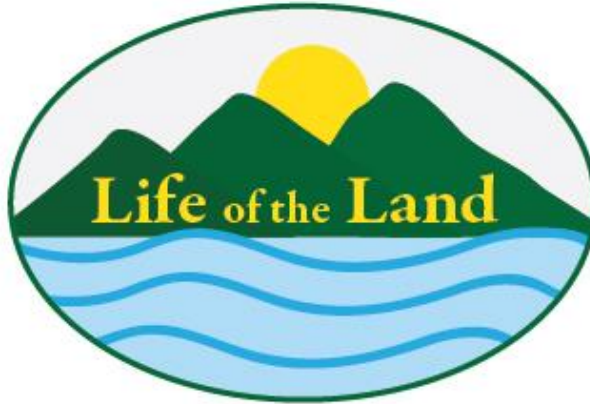
Unfortunately, there is no consensus regarding this Bill, which modifies an already existing aircraft maintenance tax exemption to include Helicopters with requirements related to 75% of their fleet having “quiet technology” and a minimum facility area of 30,000 square feet.

All support the inclusion of Helicopters in the tax exemption, while most oppose the requirements. If the Bill were modified to include Helicopters in this tax exemption along with aircraft, while NOT imposing the ambiguous “quiet technology”, which is not quantified along with eliminating the minimum facility requirements, all would agree to support Senate Bill 656.

Thank you again for the opportunity to testify.

Sincerely,

Toni Marie Davis
Executive Director



P.O. Box 37158, Honolulu, Hawai`i 96837-0158
Phone: 927-0709 henry.lifeoftheland@gmail.com

COMMITTEE ON TRANSPORTATION
Senator Lorraine R. Inouye, Chair
Senator Breene Harimoto, Vice Chair

DATE: Wednesday, February 6, 2019
TIME: 1:15 P.M.
PLACE: Conference Room 225

SB 656 RELATING TO TAXATION

STRONG OPPOSITION

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

Life of the Land is Hawai`i's own energy, environmental and community action group advocating for the people and `aina for 49 years. Our mission is to preserve and protect the life of the land through sound energy and land use policies and to promote open government through research, education, advocacy and, when necessary, litigation.

HB 2007-2018 failed to pass. SB 656 is another bite at the public trough. Tourism has hit six record years in a row. Profits are soaring.

Two Hawai`i helicopter companies (Hawaii Helicopters and Blue Hawaiian Helicopter) are subsidiaries of a company that makes more than \$10 billion per year. Under the recent federal \$1.5 Trillion tax restructuring, the companies will make a lot more in profits.

Since some Hawai`i companies receive GET tax breaks, they want them also, since it *"will provide needed parity in tax treatment."*

Suffering Hawai`i taxpayers would have to make up the difference.

Mahalo,
Henry Curtis
Executive Director

SB-656

Submitted on: 2/5/2019 8:08:06 AM

Testimony for TRS on 2/6/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
jean graham	Individual	Comments	No

Comments:

We applaud the attempt to curtail noise pollution from helicopter overflights. We support this portion of the bill. However, the details are vague and only presented in broad strokes. For those who cannot attend the hearing in person we would ask for clarification and discussion before implementation. We also request transparency through identifying the aircraft and maintenance facilities that will benefit as well as the identities of those who cannot compete.

There are operators who have already started the expensive process of adding quiet technology to their fleets such as Blue Hawaiian. There are others who have done nothing towards this goal. We would be interested to know where these different fleets are serviced and if they have their own maintenance facilities, whether they use a competitor or a third party.

We are also concerned with compliance and standards. Is there a transition period or is the requirement initiated immediately on passage of the bill? Does the quiet technology have to operate under a certain set of endpoint measures such as dB readings at certain altitudes? Is the technology required to address all aspects of helicopter noise including rotor noise and engine noise? Who will be monitoring compliance at the facilities and ensuring the 75% threshold is met?

Part of the rationale for the exemption stems from competition for maintenance from mainland facilities that were not charging excise taxes on services. Hawaii saw several planned maintenance facilities scrapped. In order to be competitive and keep jet aircraft from being serviced on the mainland, the state believed exempting service revenue would keep the industry on the island. As helicopters don't have the option of mainland maintenance, they can be considered a captive consumer of services and the state does not have to offer a tax exemption on their servicing in order to remain competitive. We request you strike this reasoning from the bill. It is inaccurate.

Finally, as the tour helicopter industry is exempt from tHawaii's general excise tax on revenue already, we do not see any inequity between jet aircraft and helicopter aircraft. The intent of the exemption was prevention of double taxation. Certain aircraft must pay into the Federal Airport Improvement fund through taxation on tickets and fuel. Tour helicopters under 6,000 pounds do not pay the federal tax. With an additional exemption from state taxation, it is actually the jet aircraft who are feeling the inequity.

We are encouraged by the initiation of this first step towards making residential areas quieter. The bill is too vague and we ask for some clarification before deciding whether to support it.

SB-656

Submitted on: 2/4/2019 1:21:22 PM

Testimony for TRS on 2/6/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Nicole Albright	Individual	Oppose	No

Comments:

Well, here we are again, another legislative session yet the same bill that was defeated last year, in slightly different clothing. DISGUSTING. It is unconscionable to suggest that helicopter tour companies be included in this tax exempt state, especially as Mayor Kim stated, when tour companies are behaving as such poor corporate citizens. Helicopters are not necessary - unless they are the ONE medical transport vehicle on island. Helicopters cause unbearable living conditions for thousands of Island residents every year, and so this Bill proposes to REWARD THEM?

I pay my Federal, State, AND GE taxes EVERY YEAR. I, like my neighbors am a good citizen. Should we all be given such special treatment by the taxation department?

NO. Neither should the helicopter tour industry. What possible good can come of Hawaii gifting monies that would otherwise have gone toward the community coffers to the very companies that cause so many problems and never offer solutions? I cannot support and special treatment of helicopter companies and ask that you do not either. Please do not support this Bill or any of the other bills which are aimed at making outsider troublemakers more wealthy and which will only contribute to the suffering of a community which already wants for so much.

To the helicopter companies I say - "PAY YOUR TAXES LIKE THE REST OF US, and stop harassing local residents for profit."

Sincerely,

Nicole Albright

Pahoa - Hawaii.

SB-656

Submitted on: 2/4/2019 8:46:06 PM

Testimony for TRS on 2/6/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Vernon Hinsvark	Individual	Oppose	No

Comments:

This is unnecessary

LATE

SB-656

Submitted on: 2/5/2019 8:55:40 PM

Testimony for TRS on 2/6/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Laa Poepoe	Individual	Oppose	No

Comments:

la'a poepoe, molokai resident, submitting written testimony in opposition to sb656

helicopter traffic and noise pollution around molokai from both military and commercial tour helicopter flights around the island negatively impacts the quality of life and rural characteristic of our neighborhoods. the flights produce no added benefit to molokai residents. attempts to file noise complaints to reduce the constant amount of traffic and noise have produced no results, and has possibly lead to an increase in frequency of helicopter flights as retaliation for resident noise complaints.

i am concerned that a tax exemption will allow for increased helicopter flights, thereby increasing the amount of noise pollution and disturbance in traditionally quiet rural neighborhoods, our pristine environment areas, our forest preserves, and our critical habitat areas.

with regard to 237-24.9, the taxes collected are appropriately administered as it exists. this appears to be a creative way to increase personal profit for helicopter companies, depriving the state of tax revenue.