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To: The Honorable Donovan M. Dela Cruz, Chair
and Members of the Senate Committee on Ways and Means

Date: Tuesday, February 12, 2019
Time: 10:00 A.M.
Place: Conference Room 211, State Capitol

From: Linda Chu Takayama, Director
Department of Taxation

Re: S.B. 837, S.D. 1, Relating to Farms

The Department of Taxation (Department) appreciates the intent of S.B. 837, S.D. 1, and offers the following comments on for the Committee's consideration.

S.B. 837, S.D. 1, 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 and value-added farm products grown, raised, and value-added by the individual and sold within the State. "Farm products" means production from agricultural activities as described in section 205-4.5(a)(1) through (3), HRS, excluding personal use. The measure is effective upon approval and applies to taxable years beginning after December 31, 2019.

The Department notes that the Senate Committee on Agriculture and Environment amended the previous version of this measure by amending the definition of "farmer" and adding a definition of "farm products," as well as by postponing the measure's applicability at the Department's request.

First, the Department appreciates the addition of a statutory definition for "farm products" to this measure that is based on existing law regarding permissible activities within agricultural districts. This will help promote efficient tax administration and reduce both Taxpayer confusion and unintended revenue loss to the State. That said, there is still some uncertainty regarding the addition of the term "value-added" to the definition of "farmer." It is unclear how the Department should distinguish farm products from "value-added" farm products, or how the Department should quantify the sale of products that were "value-added by the individual" farmer. Clarifying this new language will help prevent improper claims and abuse of the credit.

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 Legislature's 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 effectuate the preamble's stated goal of encouraging and supporting the growth of new, small, and diversified farming businesses by tailoring the income exclusion for new and upcoming farmers.

Finally, if the Committee wishes to advance this measure, the Department notes that it is able to administer the bill with the current applicable date of taxable years beginning after December 31, 2019. This will allow the Department to make the necessary form and computer system changes.

Thank you for the opportunity to provide comments.

DAVID Y. IGE
Governor

JOSH GREEN
Lt. Governor



PHYLLIS SHIMABUKURO-GEISER
Acting Chairperson
Board of Agriculture

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TESTIMONY OF THE DEPARTMENT OF AGRICULTURE
BEFORE THE SENATE COMMITTEE ON WAYS & MEANS

FEBRUARY 12, 2019
10:00 A.M.
CONFERENCE ROOM 211

SENATE BILL NO. 837 SD1
RELATING TO FARMS

Chairperson Dela Cruz and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill 837 SD1 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 and value-added farm products grown, raised, and sold within the State. "Farm products" is defined as production from agricultural activities as described in Section 205-4.5(a)(1) through (3) and excludes personal use. The Department of Agriculture supports this measure and 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.



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, SD-1

INTRODUCED BY: Senate Committee on Agriculture and Environment

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 and value-added farm products grown, raised, and value-added by the individual and sold within the State.

Defines "farm products" as production from agricultural activities as described in section 205-4.5(a)(1) through (3), HRS, and excludes personal use.

EFFECTIVE DATE: Taxable years beginning after December 31, 2019.

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.

It should also be noted that an income exclusion affects taxpayers differently depending on their tax rate and the amount of net income they otherwise have. For example, a \$50,000 income exclusion would create a maximum \$3,200 tax benefit to a corporation and a maximum \$5,500 tax benefit to an individual. This may be lower if the taxpayer's gross income is less than \$98,000 because the exclusion is 51% of gross annual income or \$50,000.

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.

Digested 2/10/2019



Email: communications@ulupono.com

SENATE COMMITTEE ON WAYS & MEANS
Tuesday, February 12, 2019 — 10:00 a.m. — Room 211

Ulupono Initiative Supports SB 837 SD 1, Relating to Farms

Dear Chair Dela Cruz, Vice Chair Keith-Agaran, and Members of the Committee:

My name is Murray Clay and I am Managing Partner of Ulupono Initiative, a Hawai'i-based impact investment firm that strives to improve the quality of life for the people of Hawai'i by working toward solutions that create more locally produced food; increase affordable, clean, renewable energy; and better manage waste and fresh water resources. Ulupono believes that self-sufficiency is essential to our future prosperity and will help shape a future where economic progress and mission-focused impact can work hand in hand.

Ulupono supports SB 837 SD 1, which 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, because it aligns with our goal to increase local food production.

Hawai'i has many small farmers. According to the 2012 Census of Agriculture, 88 percent (6,171) of Hawai'i's 7,000 farmers made under \$50,000 in farm sales. This policy would help a lot of local farmers grow their business by keeping more of their income. In addition, the average age of a Hawai'i farmer is over 60 years old. Therefore, we need to encourage more young people to view agriculture as an economically viable career path. We believe this modest tax benefit is a reasonable way to support the State's goal to double local food production.

As Hawai'i's local food issues become increasingly complex and challenging, organizations need additional resources and support to address and overcome them. We appreciate these committees' efforts to look at policies that support local food production.

We believe that through collaboration, we can help produce more local food and support an economically robust homegrown agriculture industry, which strengthens our community with fresh, healthy food. Thank you for this opportunity to testify.

Respectfully,

Murray Clay
Managing Partner

Investing in a Sustainable Hawai'i

SB-837-SD-1

Submitted on: 2/11/2019 10:00:01 AM

Testimony for WAM on 2/12/2019 10:00:00 AM

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 12, 2019

HEARING BEFORE THE
SENATE COMMITTEE ON WAYS AND MEANS

TESTIMONY ON SB 837, SD1
RELATING TO AGRICULTURE

Room 211
10:00 AM

Aloha Chair Dela Cruz, Vice Chair Keith-Agaran, 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, SD1, 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.