DAVID Y. IGE
GOVERNOR

CRAIG K. HIRAI
DIRECTOR

ROBERT YU
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE
ON
SENATE BILL NO. 1240, S.D. 1

March 18, 2021
2:00 p.m.
Via Videoconference

RELATING TO TAX CONFORMITY

The Department of Budget and Finance (B&F) offers comments on Senate Bill (S.B.) No. 1240, S.D. 1.

S.B. No. 1240, S.D. 1, requires the State to fully conform to the provisions relating to taxable income and deductible expenses of the Consolidated Appropriations Act of 2021.

B&F is concerned that this measure would decrease revenues to the State general fund and impact the State's share of direct federal aid from the American Rescue Plan Act of 2021 (ARPA). Provisions of the ARPA specifically state:

"A state or territory shall not use the funds provided under this section or transferred pursuant to section 603(c)(4) to either directly or indirectly offset a reduction in the net tax revenue of such state or territory resulting from a change in law, regulation, or administrative interpretation during the covered period that reduces any tax (by providing for a reduction in a rate, a rebate, a deduction, a credit, or otherwise) or delays the imposition of any tax or tax increase."

B&F notes that any reduction in State tax revenues could result in reduced ARPA funding. Hawai‘i’s estimated allocation of ARPA funds is in excess of $1.6 billion and is critical to mitigating the negative financial impacts the COVID-19 pandemic has had on the State budget.

B&F defers to the Department of Taxation regarding the implementation of this bill.

Thank you for your consideration of our comments.

DAVID Y. IGE
GOVERNOR

JOSH GREEN M.D.
LT. GOVERNOR

ISAAC W. CHOY
DIRECTOR OF TAXATION

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

To: The Honorable Aaron Ling Johanson, Chair;
The Honorable Lisa Kitagawa, Vice Chair;
and Members of the House Committee on Consumer Protection & Commerce

From: Isaac W. Choy, Director
Department of Taxation

Date: March 18, 2021
Time: 2:00 P.M.
Place: Via Video Conference, State Capitol

Re: S.B. 1240, S.D. 1, Relating to Tax Conformity

The Department of Taxation (Department) offers the following comments regarding S.B. 1240, S.D. 1, for your consideration.

The Department notes that this bill does not contain the language necessary to maintain conformity to the Internal Revenue Code for income and estate taxes. That language is contained in the Department's conformity bill, H.B. 1041, H.D. 1. S.B. 1240, S.D. 1, merely proposes to conform to the Consolidated Appropriations Act of 2021 (Public Law 116-260). Enactment of S.B. 1240, S.D. 1, without enactment of the Department's conformity bill would greatly hamper the taxpayers' ability to file income taxes.

S.B. 1240, S.D. 1, proposes to fully conform to the taxable income and deductible expenses provisions of the Consolidated Appropriations Act of 2021 (Public Law 116-260). The bill has a defective effective date of July 1, 2050. The following is a list of the tax provisions contained in Public Law 116-260 that this measure proposes to conform to and the Department's recommendation on conformity.

1. Exclude cancellation of indebtedness income from income for new Paycheck Protection Program (PPP) loans that were not covered by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act).

Department Recommendation: Conform. The Department supports conforming to this provision because Hawaii conformed to the exclusion of cancellation of indebtedness income for the original PPP program in the CARES Act. *See* Act 13, Session laws of Hawaii (SLH) 2020.

2. Exclude Economic Injury Disaster Grants (EIDL Grants) from income.

Department Recommendation: Conform. The Department supports excluding EIDL Grants from income because these grants are akin to the PPP loans. EIDL Grants are available for a wider variety of uses, such as working capital, continuing health care benefits, etc.

3. Exclude loan payments made on certain small business loans from income.

Department Recommendation: Conform. The Department supports excluding these payments from income because these are payments directly to the lender for certain small business loans. These payments are akin to EIDL Grants in that the provided monthly payments are essentially grants to the affected businesses.

4. Exclude certain small business grants from taxable income.

Department Recommendation: Conform. The Department supports excluding these grants from income for the reasons provided for the loans and grants provided above. These grants are those provided under Section 324 of the Economic Aid to Hard-Hit Small Businesses, Non-profits, and Venues Act, which are provided to businesses such as live music and entertainment venues and movie theatres.

5. Allow deductions for expenses paid with proceeds of forgiven PPP loans for which the forgiven amounts were excluded from income.

Department Recommendation: Do not conform. The Department does not support allowing these deductions because doing so will allow deductions for expenses paid with proceeds from forgiven loans that were not included in income. This will result in taxpayers receiving a double benefit, as taxpayers that have received funds that neither have to be repaid nor included in income, will be able to deduct expenses paid with those excluded proceeds. As a matter of pure tax policy, the Department believes that allowing such double benefits is inappropriate.

As an example, consider the treatment of Individual Retirement Accounts (IRAs). IRAs allow taxpayers to contribute to a retirement fund and deduct the contributions from current income. However, the amounts withdrawn from the IRA later in life are included in income. Similarly, contributions to a Roth IRA are not deductible from current income, but distributions are tax exempt. Applied to IRAs, this proposal would allow deductions for contributions into an IRA, and then exclude the amounts later distributed as benefits from income as well.

If Hawaii conformed to this provision, the Department estimates the general fund revenue loss as follows:

Expected Losses ($ millions)

FY 2021	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	TOTAL
81.4	86.1	68.9	17.2	-	-	**253.5**

6. Allow deductions for expenses paid with grant proceeds and other forgiven loan amounts that were excluded from income.

Department Recommendation: Do not conform. The Department does not support allowing these deductions for the same reasons stated above. As a matter of pure tax policy, the Department believes that allowing such double benefits is inappropriate.

7. Allow partnerships and S corporations to treat excluded forgiven loan proceeds and grant proceeds as tax exempt income.

Department Recommendation: Do not conform. The Department does not support allowing this treatment of excluded loan proceeds and grant income. Similar to the allowance of deductions above, allowing this treatment would provide partners and S corporation shareholders a double benefit as it would allow excluded forgiven loan proceeds and grants to increase the basis in their partnership interests and S corporation shares.

8. Exclude the second recovery rebates ($600 stimulus checks) from income.

Department Recommendation: Conform. Hawaii conformed to the exclusion from income of the initial recovery rebates in the CARES Act. The Department believes that it is appropriate to similarly exclude the second recovery rebates from income. *See* Act 13, SLH 2020.

9. Exclude emergency financial aid grants received by students from income (does not apply to grants for which teaching, research, or services are required).

Department Recommendation: Conform. These are emergency grants to undergraduate or graduate students for unexpected expenses and unmet financial need as a result of the COVID-19 pandemic. The grants are provided under section 3504 of the CARES Act and the amount is limited to the amount of the Federal Pell Grant for the year.

10. Extend the increase the charitable deduction for food inventory to apply to contributions made through 2021.

Department Recommendation: Conform. Hawaii conformed to the increase to this deduction as provided in the CARES Act. *See* Act 13, SLH 2020. The Department supports conforming to the extension through 2021.

11. Adopt assorted disaster and retirement plan administration changes.

Department Recommendation: Conform. The Department supports conforming to the disaster tax changes, which relax various withdrawal and repayment requirements for qualified retirement plans. In addition, the Department supports conforming to retirement plan changes as they are administrative in nature and Hawaii tightly conforms to federal retirement plan rules.

Finally, the Department notes that P.L. 117-2, commonly known as the American Rescue Plan Act of 2021 (ARPA), provides State Coronavirus Fiscal Recovery Funds with certain limitations. Specifically, Section 9901 of the ARPA prohibits these funds from being used to, "either directly or indirectly offset a reduction in the net tax revenue of such State or territory resulting from a change in law, regulation, or administrative interpretation during the covered period that reduces any tax (by providing for a reduction in a rate, a rebate, a deduction, a credit, or otherwise) or delays the imposition of any tax or tax increase." The "covered period" is defined as beginning on March 3, 2021 and ending on the last day of the state's fiscal year in which the State's stimulus funds are completely expended.

If the State fails to comply with this restriction on use of funds, it is required to repay an amount equal to the lesser of: (1) the amount of the applicable reduction to net tax revenue attributable to such violation; and (2) the amount of funds received by such state under Section 9901 of the ARPA.

The Department cautions that the enactment of any tax measure resulting in a revenue loss during the covered period may result in the State having to repay an amount equal to the projected revenue loss from the State Coronavirus Fiscal Recovery Funds that Hawaii receives.

Thank you for the opportunity to provide testimony on this measure.

TO: Committee on Consumer Protection & Commerce

FROM: Adrian Hong, President of Island Plastic Bags, Inc.

RE: SB 1240 SD1 Relating to Tax Conformity

POSITION: STRONGLY SUPPORT

Thank you for the opportunity to submit testimony in strong support of SB 1240 SD1. My name is Adrian Hong and I am the president of Island Plastic Bags Inc. (IPB), a second-generation, family business in Halawa Valley that manufactures plastic trash liners and food grade bags.

This bill is needed to avoid unintended tax consequences of the Payroll Protection Program (PPP) loans used to help businesses survive the pandemic. Federal legislators have indicated through legislation, that they never meant the debt forgiveness provided by the PPP loan program to be taxable or the related expenses to be non-deductible. This bill will bring us into tax conformity on the treatment of PPP loans on the federal and state level. This will help struggling small businesses by lowering their tax bills.

Should you have any questions or comments about my testimony you can contact me by email at ahong@islandplasticbags.com or by phone at 808-484-4046.

Sincerely,

Adrian K. Hong, CPA*

President

Island Plastic Bags, Inc.

www.islandplasticbags.com

Email: ahong@islandplasticbags.com|Phone: 808-484-4046 |Fax: 808-488-8505

*Not in public practice

Greg Maples, Chairman – Polynesian Cultural Center **Tambara Garrick, Incoming Chair –** Pineapple Place
Tyler Roukema, Secretary –Outrigger Canoe Club
Kahili Soon, Treasurer – Hukilau Marketplace **Tom Jones, Past Chair –** Gyotaku

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Date: March 16, 2021

To: Rep. Aaron Ling Johanson, Chair
Rep. Lisa Kitagawa, Vice Chair
Committee On Consumer Protection & Commerce

From: Victor Lim, Legislative Lead

Subj: SB1240 SD1 Relating to Tax Conformity

The Hawaii Restaurant Association representing over 3,500 restaurants here strongly supports SB 1240 SD 1 requiring the State to conform to provisions of the Consolidated Appropriations Act of 2021 relating to taxable income and deductible expenses.

Congress specifically designed PPP loans as a tax-free emergency lifeline for small businesses struggling to stay open amid the pandemic and the Cares Act enacted on March 27, 2020 excluded the PPP loans from taxable income. Congress also intended that expenses paid using the PPP loans to be deductible expenses but forgot to include this language in the statute. Treasury Department ruled later that expenses paid with PPP loans cannot be expensed. Therefore, on December 27, 2020, Congress passed the Consolidated Appropriations Act for 2021, which was signed into law, the law was amended to specify that expenses paid using PPP funds would indeed be deductible.

Through this Covid-19 pandemic, many restaurants and businesses here in Hawaii were able to use this resource to keep our doors open and keep our employees on the payroll, providing medical insurance, away from being laid off and on the unemployed roll. We have used these funds so that we don't go out of business and at the same time take care of our employees. If you try and tax us and go against Congress's intent, we will have to pay the state with funds we do not have. If you are in our shoes, you will understand our dilemma.

This tax conformity as proposed in SB1240 SD 1 is consistent with many other states in providing relief to small businesses and communities in permitting PPP loans as eligible deduction in state tax returns.

Thank you for this opportunity to share our plea.

**BEFORE THE HOUSE COMMITTEE ON
CONSUMER PROTECTION & COMMERCE**

DATE: March 18, 2021

TIME: 2:00 p.m.

PLACE: Conference Room 329 &
Videoconference

Re: SB 1240 SD1 Relating to Tax Conformity

Aloha Chair Johanson, Vice Chair Kitagawa and members of the committee:

We are testifying on behalf of the National Federation of Independent Business (NFIB) in support of SB 1240 SD1 relating to tax conformity which requires the State to conform to those provisions of the Consolidated Appropriations Act, 2021 relating to taxable income and deductible expenses.

No one has greater incentive, responsibility or ability to lead the economy than Hawaii's small business owners. Small businesses play a major role in the economy, representing 99% of all employer firms, employing about half of private-sector employees and generating 63% to 80% of net new jobs annually. NFIB Hawaii strongly supports providing relief to businesses in permitting federal Payroll Protection Program loans as an eligible deduction in state tax returns.

The National Federation of Independent Business is the largest advocacy organization representing small and independent businesses in Washington, D.C., and all 50 state capitals. In Hawaii, NFIB represents nearly 900 members. NFIB's purpose is to impact public policy at the state and federal level and be a key business resource for small and independent business.

Please support SB 1240 SD1

1099 Alakea Street, Suite 2530, Honolulu, Hawaii 96813 (808) 447-1840

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304 Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Conformity to non-Code Federal tax changes

BILL NUMBER: SB 1240, SD1

INTRODUCED BY: Senate Committee on Ways and Means

EXECUTIVE SUMMARY: Requires the State to conform to those provisions of the Consolidated Appropriations Act of 2021 relating to relating to taxable income and deductible expenses.

SYNOPSIS: Provides that the State shall conform to those provisions of the Consolidated Appropriations Act of 2021, Public Law 116-260, relating to taxable income and deductible expenses. However, no sections of the HRS or of federal law are specified.

EFFECTIVE DATE: 7/1/2050.

STAFF COMMENTS: The Consolidated Appropriations Act of 2021 contained provisions mandating that gross income does not include any amount that would otherwise arise from the forgiveness of a Paycheck Protection Program (PPP) loan. This provision also clarifies that deductions are allowed for otherwise deductible expenses paid with the proceeds of a PPP loan that is forgiven and that the tax basis and other attributes of the borrower's assets will not be reduced as a result of the loan forgiveness. The provision is effective as of the date of enactment of the CARES Act, Pub. L. No. 116-136. The provision provides similar treatment for Second Draw PPP loans, effective for tax years ending after the date of enactment of the provision.

While the CARES Act itself excluded PPP loan forgiveness from gross income, it did not specifically address whether the expenses used to achieve that loan forgiveness would continue to be deductible, even though they would otherwise be deductible. In April, the IRS issued Notice 2020-32, 2020-21 I.R.B. 837, which stated that no deduction would be allowed under the Internal Revenue Code for an expense that is otherwise deductible if the payment of the expense results in forgiveness of a PPP loan because the income associated with the forgiveness is excluded from gross income for purposes of the Code under CARES Act Section 1106(i). This conclusion resulted from section 265 of the Internal Revenue Code (which Hawaii has adopted for state income tax purposes).

In November, the IRS then expanded on this position by issuing Rev. Rul. 2020-27, 2020-50 I.R.B. 1552, which held that a taxpayer computing taxable income on the basis of a calendar year could not deduct eligible expenses in its 2020 tax year if, at the end of the tax year, the taxpayer had a reasonable expectation of reimbursement in the form of loan forgiveness on the basis of eligible expenses paid or incurred during the covered period.

The AICPA disputed this interpretation of the CARES Act loan forgiveness rules, arguing that it was not Congress's intent to disallow the deduction of otherwise deductible expenses.

Because section 276(a) of the Consolidated Appropriations Act of 2021 provided for a result contrary to Notice 2020-32 and Rev. Rul. 2020-27, both were obsoleted by Rev. Rul. 2021-2, 2021-4 I.R.B. 495. Section 276(a) does not change any Internal Revenue Code provisions.

It appears that the intent of this bill is to have Hawaii income tax law conform to section 276(a), among perhaps other provisions.

The American Rescue Plan Act of 2021, signed into law by President Biden on March 11, 2021, contains provisions disqualifying or restricting federal aid that otherwise could be available to the State if new or extended tax incentives are enacted after March 3, 2021. Section 9901 of the Act enacts a new section 602(c)(2)(A) in Title VI of the Social Security Act which states:

> A State or territory shall not use the funds provided under this section or transferred pursuant to section 603(c)(4) to either directly or indirectly offset a reduction in the net tax revenue of such State or territory resulting from a change in law, regulation, or administrative interpretation during the covered period that reduces any tax (by providing for a reduction in a rate, a rebate, a deduction, a credit, or otherwise) or delays the imposition of any tax or tax increase.

Section 602(g)(1) defines the “covered period” as beginning on March 3, 2021 and ending on the last day of the State’s fiscal year in which all federal aid dollars are either spent, returned, or recovered against the State by the Treasury.

The bill overall appears to be a revenue loser and for that reason appears to be problematic because of the language of the American Rescue Plan Act quoted above.

Digested 3/16/2021

Chamber of Commerce HAWAII
The Voice of Business

Testimony to the House Committee on Consumer Protection & Commerce
Thursday, March 18, 2021 at 2:00 P.M.
Via Videoconference

RE: SB 1240, SD 1, RELATING TO TAX CONFORMITY

Chair Johanson, Vice Chair Kitagawa, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") **strongly supports** SB 1240, SD 1 requiring the State to conform to provisions of the Consolidated Appropriations Act of 2021 relating to taxable income and deductible expenses.

The Chamber is Hawaii's leading statewide business advocacy organization, representing 2,000+ businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

On March 27, 2020, the federal government enacted the CARES Act in response to the COVID-19 pandemic which amended the U.S. Small Business Act ("SBA") to create the Paycheck Protection Program ("PPP"). The primary purpose of SBA's PPP is providing an important lifeline to help keep millions of small businesses open and their workers employed during the COVID-19 pandemic.

Subsequently, COVID-related Tax Relief Act of 2020, which was enacted as part of the Consolidated Appropriations Act of 2021, signed into law on Dec. 27, 2020 amended the CARES Act to specify that "no deduction shall be denied, no tax attribute shall be reduced, and no basis increase shall be denied" with respect to PPP. ***In essence, Congress declared that deductions funded by PPP loans are expressly allowed and would better serve the purpose of the whole PPP loan program.***

Ordinarily, a forgiven loan qualifies as income. However, Congress chose to exempt forgiven PPP loans from federal income taxation. If we are going to keep people employed, or get them back on the payroll quickly, we need to do everything possible to make that affordable for struggling businesses. Denying a tax deduction for wages, and other business expenses paid with PPP, would reduce the effectiveness of the PPP loan program.

Recipients of PPP loans are employers who have shouldered the economic burden from the COVID-19 fallout and have done everything possible to keep as many employees as possible on their payrolls. This measure would be consistent with **majority of states**[1] in providing relief to businesses and communities in permitting PPP as an eligible deduction in state tax returns.

This is the intent of Congress and PPP is deliberately designed to allow businesses to keep paying wages to the greatest extent possible and we request your favorable consideration.

Thank you for this opportunity to provide testimony in strong support.

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[1] State Tax Treatment of Forgiven PPP Loans (as of March 16, 2021)
https://taxfoundation.org/state-tax-forgiven-ppp-loans/

Hawaii Automobile Dealers' Association

John Uekawa, President
Dave Rolf, Executive Director

HADA Testimony in STRONG SUPPORT OF SB1240 SD1
RELATING TO TAX CONFORMITY

Presented to the House Committee on Consumer Protection and Commerce
Public Hearing 2 p.m. Thursday, March 18, 2021 in Room 329VIA VIDEO CONFERENCE
Hawaii State Capitol
by David H. Rolf for the members of the Hawaii Automobile Dealers Association

Chair Johanson, Vice Chair Kitagawa, and members of the committee:

Auto dealers support this bill which allows businesses to use all of the funding provided by the federal government to help maintain their business operations and help retain many private sector employees during the COVID crisis.

It is not right for the State to ask for a share of that funding—issued during the emergency and provided to businesses through the federal PPP loan process--by taxing that funding.

The U.S. Congress has already taken steps instructing the IRS that *"no deduction shall be denied or reduced, no tax attribute shall be reduced, and no basis increase shall be denied, by reason of the exclusion from gross income provided by* [the loan forgiveness provision that says forgiven PPP loans will not count as income]."

The COVID crisis brought many businesses to their knees. Many business operations were shut down and are now just beginning to recover. Shutting down a business creates great difficulty for both the business and its employees. No business can operate for long at zero revenue.

Fortunately, the federal government came to the rescue with the issuance of the PPP loan program and now has taken steps so that those funds can be fully used to recover business operations. **State of Hawaii tax policy should mirror the federal policy.**

HADA dealers respectfully ask that the committee pass SB1240 SD1.

Respectfully submitted,
David H. Rolf
For the members of the Hawaii Automobile Dealers Association

68 new car dealerships, 4,383 direct jobs, $5.8 billion total sales, $269 million State Gross Excise Taxes paid

SB-1240-SD-1
Submitted on: 3/17/2021 9:25:55 AM
Testimony for CPC on 3/18/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jason Higa	FCH Enterprises dba Zippy's Restaurants	Support	No

Comments:

Chair Johanson, Vice Chair Kitagawa, and Members of the Committee:

FCH Enterprises dba Zippy's Restaurants **strongly supports** SB 1240, SD 1 requiring the State to conform to provisions of the Consolidated Appropriations Act of 2021 relating to taxable income and deductible expenses.

On March 27, 2020, the federal government enacted the CARES Act in response to the COVID-19 pandemic which amended the U.S. Small Business Act (“SBA”) to create the Paycheck Protection Program (“PPP”). The primary purpose of SBA’s PPP is providing an important lifeline to help keep millions of small businesses open and their workers employed during the COVID-19 pandemic.

Subsequently, COVID-related Tax Relief Act of 2020, which was enacted as part of the Consolidated Appropriations Act of 2021, signed into law on Dec. 27, 2020 amended the CARES Act to specify that “no deduction shall be denied, no tax attribute shall be reduced, and no basis increase shall be denied” with respect to PPP. ***In essence, Congress declared that deductions funded by PPP loans are expressly allowed and would better serve the purpose of the whole PPP loan program.***

A forgiven loan is usually considered income. However, Congress chose to exempt forgiven PPP loans from federal income taxation. If we want to keep people employed and bring them back on the payroll quickly, we need to do everything possible to make that affordable for struggling businesses. Denying a tax deduction for wages, and other business expenses paid with PPP, would reduce the effectiveness of the PPP loan program.

Federal tax treatment of expenses funded with PPP does not flow automatically to Hawaii. Hawaii opted to decouple from the CARES Act via Act 13, SLH 2020. In the absence of specific CARES Act and COVID Tax Relief Act guidance from states in the form of conformity, Hawaii businesses that acquired PPP would now include incur state taxes.

Thank you for this opportunity to provide testimony in strong support.

HFIA
HAWAII FOOD INDUSTRY ASSOCIATION

1050 Bishop St. PMB 235 | Honolulu, HI 96813
P: 808-533-1292 | e: info@hawaiifood.com

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Derek Kurisu, KTA Superstores, *Advisor*
Beau Oshiro, C&S Wholesale Grocers, *Advisor*
Toby Taniguchi, KTA Superstores, *Advisor*

TO:
Committee on Consumer Protection and Commerce
Rep. Aaron Ling Johanson, Chair
Rep. Lisa Kitagawa, Vice Chair

FROM: HAWAII FOOD INDUSTRY ASSOCIATION
Lauren Zirbel, Executive Director

DATE: March 18, 2021
TIME: 2pm
PLACE: Via Videoconference

RE: SB1240 SD1 Relating to Tax Conformity

Position: Support

The Hawaii Food Industry Association is comprised of two hundred member companies representing retailers, suppliers, producers, and distributors of food and beverage related products in the State of Hawaii.

HFIA is in support of this measure. Last year many businesses, including Hawaii businesses, took out Federally guaranteed loans through the Payroll Protection Program (PPP). The PPP was created by the Coronavirus Aid, Relief, and Economic Security (CARES) Act, and as the name suggests, were intended to provide much needed relief to businesses as they work to stay in businesses through the ongoing economic crisis.

To make sure that businesses would not face an added tax burden as a result of participating in the PPP the CARES Act was amended late last year to specify that no deduction would be denied, no tax attribute would be reduced, and no basis increase would be denied by reason of the exclusion from gross income of the forgiveness of an eligible recipient’s covered loan.

This measure would conform Hawaii state law with both the letter and the intent of the CARES Act and related tax relief act. It would also be consistent with measures taken by other states to permit PPP loans to be eligible for deduction in state tax returns. We encourage you to pass this measure and we thank you for the opportunity to testify.

SB-1240-SD-1
Submitted on: 3/17/2021 10:56:49 AM
Testimony for CPC on 3/18/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Dirk Koeppenkastrop	IL Gelato Hawaii	Support	No

Comments:

Date: March 16, 2021

To: Rep. Aaron Ling Johanson, Chair

Rep. Lisa Kitagawa, Vice Chair

Committee On Consumer Protection & Commerce

From: Dirk Koeppenkastrop, Ph.D. Owner of IL Gelato Hawaii

Subj: SB1240 SD1 Relating to Tax Conformity

My name is Dirk Koeppenkastrop. My wife and I own a small gelato business here in Hawaii. We strongly support SB 1240 SD 1 requiring the State to conform to provisions of the Consolidated Appropriations Act of 2021 relating to taxable income and deductible expenses.

Congress specifically designed PPP loans as a tax-free emergency lifeline for small businesses struggling to stay open amid the pandemic and the Cares Act enacted on March 27, 2020 excluded the PPP loans from taxable income. Congress also intended that expenses paid using the PPP loans to be deductible expenses but forgot to include this language in the statute. Treasury Department ruled later that expenses paid with PPP loans cannot be expensed. Therefore, on December 27, 2020, Congress passed the Consolidated Appropriations Act for 2021, which was signed into law, the law was amended to specify that expenses paid using PPP funds would indeed be deductible.

Through this Covid-19 pandemic we were able to use this resource to keep our doors open and keep our employees on the payroll, providing medical insurance, away from being laid off and on the unemployed roll. We have used these funds so that we don’t go out of business and at the same time take care of our employees. If you try and tax us and go against Congress’s intent, we will have to pay the state with funds we do not have.

Thank you for this opportunity to let us share our opinion.

SB-1240-SD-1
Submitted on: 3/17/2021 12:13:41 PM
Testimony for CPC on 3/18/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
John Ferguson	Kalaheo Coffee Co. Inc., dba Kalaheo Cafe	Support	No

Comments:

As this pandemic has impacted many throughout the world, we in the restaurant business have been impacted massively.

Please pass this bill to allow us to survive and start to re-build our businesses in Hawaii.

This tax conformity as proposed in SB1240 SD 1 is consistent with many other states in providing relief to small businesses and communities in permitting PPP loans as eligible deductions in state tax returns. This tax conformity as proposed in SB1240 SD 1 is consistent with many other states in providing relief to small businesses and communities in permitting PPP loans as eligible deductions in state tax returns.

Mahalo for your support!

John Ferguson

SB-1240-SD-1
Submitted on: 3/17/2021 1:21:16 PM
Testimony for CPC on 3/18/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Neil Ishida	ABC Stores	Support	No

Comments:

ABC Stores strongly supports SB 1240 requiring the State to conform to provisions of the Consolidated Appropriations Act of 2021 relating to taxable income and deductible expenses. This tax conformity as proposed in SB 1240 is consistent with many other states in providing relief to small businesses and communities in permitting PPP loans as eligible deduction in state tax returns. Thank you for this opportunity to testify.

HAWAII ASSOCIATION OF PUBLIC ACCOUNTANTS

AFFILIATE OF

Organized August 7, 1943
P.O. BOX 61043
HONOLULU, HAWAII 96839

Committee on Consumer Protection & Commerce

Thursday, March 18, 2021; 2:00 p.m.
Conference Room 329
State Capitol

Re: <u>Strong Support for SB1240, SD1</u> – Relating to Tax Conformity

Chair Rep. Johanson, Vice Chair Kitagawa, and Committee members:

The Hawaii Association of Public Accountants (HAPA) is the only statewide public accounting organization with chapters on Oahu, Maui, Big Island, and Kauai. HAPA has approximately 550 members, consisting primarily of small to mid-sized CPA firm owners and employees. Hawaii consumers rely heavily upon our members to provide financial, tax, and consulting services for their businesses and personal affairs.

HAPA is in strong support of SB1240, SD1 for the following reasons:

1. This bill conforms Hawaii tax treatment to the provisions of the Federal Consolidated Appropriations Act of 2021. There have been extensive Federal tax law changes in 2020 due to the pandemic. This Federal tax legislation was passed at the end of December 2020 and relates to tax treatment of 2020 income and deductions for forgiven Paycheck Protection Program (PPP) loans.

   The 2020 tax season has already begun, and the deadline for certain business entities has already passed (March 15, 2021). Many Hawaii tax practitioners, now preparing 2020 business returns, already have assumed that Hawaii has made or will make conforming state tax law changes to Federal tax laws in order to meet the tax filing deadlines. If this conformity bill is not passed, many Hawaii businesses will find themselves in the situation of having to file amended returns and pay additional taxes later in the year. The vast majority of other U.S. states have conforming state legislation to help small businesses in dire financial straits.

2. Based upon our review of the financial situations of our clients, most Hawaii small businesses have suffered incredible financial losses due to pandemic lockdowns, quarantines, and restrictions affecting the tourism, restaurants, and other industries. In particular, allowing state tax deductions related to forgiven PPP loans will provide needed additional financial help to Hawaii's struggling businesses. Moreover, for the State of Hawaii to deny the deductions specifically allowed by the Federal legislation will defeat the purpose of the Federal capital infusions and will drain the capital lifeblood of Hawaii small businesses.

3. Hawaii small businesses have had to modify operations, restrict customers or business operations to the point where it is impossible to make money. Many small businesses have lost their capital, closed down, incurred significant additional debt, and lost whatever remained of their owners' retirement savings. In order to keep from adding to the unemployment rolls, financial help is needed immediately to support Hawaii's small businesses. Adopting Hawaii tax conformity to the Federal tax laws will help to accomplish this.

   The Payroll Protection Program (PPP) was intended to be a capital infusion to keep Hawaii's small businesses alive. It was not intended to be an indirect transfer of funds from the Federal government to State of Hawaii tax coffers.

Please do not hesitate to contact me with any questions or concerns. Thank you for considering the above.

Respectfully submitted,

Marilyn M. Niwao

Marilyn M. Niwao, M.S.P.H., J.D., CPA, CGMA, ATA
Legislative Committee Chairperson
Hawaii Association of Public Accountants
Telephone (808) 242-4600, ext. 224, niwao@mauicpa.com

MW Group, Ltd.
Real Estate Development

March 17, 2021

Re: SB 1240, SD 1, RELATING TO TAX CONFORMITY

To Chair Johanson, Vice Chair Kitagawa, and Members of the Committee,

Thank you for the opportunity to submit testimony. My name is Brian Wong and I am the Chief Operating Officer for MW Group, Ltd. This letter is in in **SUPPORT** of SB 1240, SD 1 requiring the State to conform to provisions of the Consolidated Appropriations Act of 2021 relating to taxable income and deductible expenses.

On March 27, 2020, the federal government enacted the CARES Act in response to the COVID-19 pandemic which amended the U.S. Small Business Act ("SBA") to create the Paycheck Protection Program ("PPP"). The primary purpose of SBA's PPP is providing an important lifeline to help keep millions of small businesses open and their workers employed during the COVID-19 pandemic.

Subsequently, COVID-related Tax Relief Act of 2020, which was enacted as part of the Consolidated Appropriations Act of 2021, signed into law on Dec. 27, 2020 amended the CARES Act to specify that "no deduction shall be denied, no tax attribute shall be reduced, and no basis increase shall be denied" with respect to PPP. **In essence, Congress declared that deductions funded by PPP loans are expressly allowed and would better serve the purpose of the whole PPP loan program.**

Denying a tax deduction for wages, and other business expenses paid with PPP, would reduce the effectiveness of the PPP loan program.

Thank you again for the opportunity to submit testimony and for all of your efforts to serve the people of Hawaii as our elected leaders.

Brian Wong
Chief Operating Officer
MW Group, Ltd.
bwong@mwgroup.com
Phone Number 808-275-5328

LATE *Testimony submitted late may not be considered by the Committee for decision making purposes.

March 17, 2021

To: Senator Donovan M. Dela Cruz, Senator Gilbert S.C. Keith-Agaran, and Members of the Committee:

From: Markus Staib, President & CEO
Milici Valenti Ng Pack, Inc.

Re: SB 1240 Relating to Tax Conformity

Thank you for the opportunity to submit testimony in strong support of SB 1240. My name is Markus Staib and I am the President & Chief Executive Officer of Milici Valenti Ng Pack, Inc. (MVNP). MVNP is a communications and marketing firm, doing business in Hawaii for over 70 years.

This bill is needed to avoid unintended tax consequences of the Payroll Protection Program (PPP) loans used to help businesses survive the pandemic. Federal legislators have indicated through legislation, that they never meant the debt forgiveness provided by the PPP loan program to be taxable or the related expenses to be non-deductible. This bill will bring us into tax conformity on the treatment of PPP loans on the federal and state level. This will aide businesses during these difficult economic times.

Thank you for your consideration of our testimony and ask that you please pass this bill.

MVNP
745 FORT STREET, SUITE 900
HONOLULU, HAWAII 96813
808.536.0881
MVNP.COM

LATE *Testimony submitted late may not be considered by the Committee for decision making purposes.

Prince Resorts Hawaii

Testimony to the House Committee on Consumer Protection & Commerce
Thursday, March 18, 2021 at 2:00 P.M.

RE: SB 1240, SD 1, RELATING TO TAX CONFORMITY

Chair Johanson, Vice Chair Kitagawa, and Members of the Committee:

Prince Resorts Hawaii, representing three Hawaii hotels, including the Prince Waikiki on Oahu wishes to submit our **strong support** of SB 1240, SD 1 requiring the State to conform to provisions of the Consolidated Appropriations Act of 2021relating to taxable income and deductible expenses.

For more than 30 years, the Prince Waikiki has been a major contributor to the Waikiki community, providing employment and community support to our island home. This past year has been a tremendous struggle, but with your help, it is our hope that we will be able to continue to provide a livelihood for our employees who have become our ohana.

The March 27, 2020 federal government CARES Act, in response to the COVID-19 pandemic which amended the U.S. Small Business Act ("SBA") to create the Paycheck Protection Program ("PPP"), was able to provide our business with the funds we needed to allow us to keep our workers employed as long as possible during the COVID-19 pandemic.

Subsequently, the COVID-related Tax Relief Act of 2020, which was enacted as part of the Consolidated Appropriations Act of 2021, signed into law on Dec. 27, 2020 amended the CARES Act to specify that "no deduction shall be denied, no tax attribute shall be reduced, and no basis increase shall be denied" with respect to PPP. **In essence, Congress declared that deductions funded by PPP loans are expressly allowed and would better serve the purpose of the whole PPP loan program.**

Since Congress chose to exempt forgiven PPP loans from federal income taxation, denying a state tax deduction for wages, and other business expenses paid with PPP, would reduce the effectiveness of the PPP loan program. Remaining consistent with the many other states also providing relief to businesses and communities by permitting PPP as an eligible deduction in state tax returns is very desirable. It is our hope to return operations to full capacity and keep our people employed. Please help us by doing everything possible, including the passage of SB 1240 SD1. Please continue to honor the intent of Congress and the design of PPP to provide relief to businesses and communities by permitting PPP as an eligible deduction in state tax returns.

Thank you for this opportunity to provide testimony in very strong support of SB1240, SD1.

Sincerely,

Kisan Jo
President

LATE *Testimony submitted late may not be considered by the Committee for decision making purposes.

MAUNA KEA
RESORT

Testimony to the House Committee on Consumer Protection & Commerce
Thursday, March 18, 2021 at 2:00 P.M.

RE: SB 1240, SD 1, RELATING TO TAX CONFORMITY

Chair Johanson, Vice Chair Kitagawa, and Members of the Committee:

Mauna Kea Resort LLC and Mauna Kea Resort Services LLC **strongly support** SB 1240, SD 1 requiring the State to conform to provisions of the Consolidated Appropriations Act of 2021 relating to taxable income and deductible expenses.

The Mauna Kea Beach Hotel, The Westin Hapuna Beach Resort, and it's supporting entities have been providing employment and community support for over 50 years on Hawaii Island. It is our hope that we will be able to continue to be a significant economical contributor for many more years to come.

The March 27, 2020 federal government CARES Act, in response to the COVID-19 pandemic which amended the U.S. Small Business Act ("SBA") to create the Paycheck Protection Program ("PPP"), provided our business with a desperately needed lifeline allowing us to keep our workers employed as long as possible during the COVID-19 pandemic.

Subsequently, the COVID-related Tax Relief Act of 2020, which was enacted as part of the Consolidated Appropriations Act of 2021, signed into law on Dec. 27, 2020 amended the CARES Act to specify that "no deduction shall be denied, no tax attribute shall be reduced, and no basis increase shall be denied" with respect to PPP. **In essence, Congress declared that deductions funded by PPP loans are expressly allowed and would better serve the purpose of the whole PPP loan program.**

Since Congress chose to exempt forgiven PPP loans from federal income taxation, denying a state tax deduction for wages, and other business expenses paid with PPP, would reduce the effectiveness of the PPP loan program. It is our desire to return operations to full capacity and keep our people employed. Please help us by doing everything possible, including the passage of SB 1240 SD1. Please continue to honor the intent of Congress and the design of PPP to provide relief to businesses and communities by permitting PPP as an eligible deduction in state tax returns.

Thank you for this opportunity to provide testimony in strong support of SB1240, SD1.

Sincerely,

Kisan Jo
President
Mauna Kea Resort LLC
Mauna Kea Resort Services LLC

LATE *Testimony submitted late may not be considered by the Committee for decision making purposes.

KYD, Inc. dba k. yamada distributors
An independent leader in packaging and wholesale distribution
P.O. BOX 29669, Honolulu, Hawaii 96820 Phone: (808) 836-3221 Fax: (808) 833-8995

TO: House Committee on Consumer Protection & Commerce
Aaron Ling Johanson, Chair
Lisa Kitagawa, Vice Chair
And Members of the Committee

FROM: Dexter Yamada, Chief Executive Officer & President
KYD, Inc.

DATE: March 18, 2021

RE: SB 1240, SD, 1 Relating To Tax Conformity

Position: Support

KYD, Inc. strongly supports SB 1240, SD 1 requiring the State to conform to provisions of the Consolidated Appropriations Act of 2021 relating to taxable income and deductible expenses.

KYD, Inc. is a locally owned and operated distributor that services hundreds of local restaurants, retailers, and other distributors in the food and beverage industry. KYD also services our state and local government agencies. KYD has serviced our local businesses in the restaurant and food and beverage industry and our local government agencies in the State of Hawaii for over 25 years.

On March 27, 2020 the federal government enacted the CARES Act in response to the COVID-19 pandemic which amended the U.S. Small Business Act ("SBA") to create the Paycheck Protection Program ("PPP"). The primary purpose of SBA's PPP is providing an important lifeline to help keep millions of small businesses open and their workers employed during the COVID-19 pandemic.

Subsequently, COVID-related Tax Relief Act of 2020, which was enacted as part of the Consolidated Appropriations Act of 2021, signed into law on Dec. 27, 2020 amended the CARES Act to specify that "no deduction shall be denied, no tax attribute shall be reduced, and no basis increase shall be denied" with respect to PPP. In essence, Congress declared that deductions funded by PPP loans are expressly allowed and would better serve the purpose of the whole PPP loan program.

Ordinarily, a forgiven loan qualifies as income. However, Congress chose to exempt forgiven PPP loans from federal income taxation. If we are going to keep people employed, or get them back on the payroll quickly, we need to do everything possible to make that affordable for

KYD, Inc. dba k. yamada distributors
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struggling businesses. Denying a tax deduction for wages, and other business expenses paid with PPP, would reduce the effectiveness of the PPP loan program.

Federal tax treatment of expenses funded with PPP does not flow automatically to Hawaii. Hawaii opted to decouple from the CARES Act via Act 13, SLH 2020. In the absence of specific CARES Act and COVID Tax Relief Act guidance from states in the form of conformity, Hawaii businesses that acquired PPP would now incur state taxes.

Recipients of PPP loans are employers, including our company, KYD, who have shouldered the economic burden from the COVID-19 fallout and have done everything possible to keep as many employees as possible on their payrolls. This measure would be consistent with **majority of states**[1] in providing relief to businesses and communities in permitting PPP as an eligible deduction in state tax returns.

This is the intent of Congress and PPP is deliberately designed to allow businesses to keep paying wages to the greatest extent possible.

Thank you for this opportunity to provide testimony in strong support.

[1] State Tax Treatment of Forgiven PPP Loans (as of March 2, 2021)
https://taxfoundation.org/state-tax-forgiven-ppp-loans/

WILL CALL, G&A, AND WAREHOUSE OFFICES: 2949 Koapaka Street, Honolulu, Hawaii 96819-1923 Phone: (808) 836-3221 Fax: (808) 833-8995

MANUFACTURING FACILITIES: 747 Umi Street, Honolulu, Hawaii 96819-2394 Phone: (808) 836-3221 Fax: (808) 845-7754

LATE *Testimony submitted late may not be considered by the Committee for decision making purposes.

SB-1240-SD-1
Submitted on: 3/17/2021 4:36:14 PM
Testimony for CPC on 3/18/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Stephen Ueda	Suisan Company, Ltd.	Support	No

Comments:

I support SB 1240 SD 1 requiring the State to conform to provisions of the Consolidated Appropriations Act of 2021 relating to taxable income and deductible expenses.

The funds were used by small business to survive the past year, and to take care of our employees. If these funds are taxed, it will negate the benefit of these funds.

LATE *Testimony submitted late may not be considered by the Committee for decision making purposes.

HAWAI'I LODGING & TOURISM ASSOCIATION

Testimony of
Mufi Hannemann
President & CEO
Hawai‘i Lodging & Tourism Association

House Committee on Consumer Protection & Commerce
Senate Bill 1240, SD1: Relating to Tax Conformity

Chair Johanson and members of the Committee, mahalo for the opportunity to submit testimony on behalf of the Hawai‘i Lodging & Tourism Association, the state's largest private sector visitor industry organization.

The Hawai‘i Lodging & Tourism Association—nearly 700 members strong, representing more than 50,000 hotel rooms and nearly 40,000 lodging workers — strongly supports this measure which would ensure that employers that have utilized federal funds like the Paycheck Protection Program to keep their employees at work throughout the pandemic will not be held accountable for State taxes on these monies. Countless local employers have utilized federal aid to stay afloat during this unprecedented pandemic and economic downturn and are just beginning to get back on their feet. Saddling them with this cost now would be disastrous and would undoubtedly result in further business closures that we do not need and cannot afford.

This measure was proposed solely to bring Hawai ‘i's tax code into conformity with the U.S. tax code as it pertains to this issue. Numerous states around the country have already fallen in line with the federal government and passed similar conformity measures that would protect employers from this unneeded and detrimental cost burden. It is clear that it was the intent of the United States Congress to exempt these funds from State taxes, and SB1240, SD1 would achieve this.

For these reasons, HLTA supports Senate Bill 1240, SD1.

Thank you for the opportunity to offer this testimony.

SB-1240-SD-1
Submitted on: 3/17/2021 4:58:47 PM
Testimony for CPC on 3/18/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Mary Albitz	Aloha Business Bitz, Inc dba Island Art Party	Support	No

Comments:

As a micro business that has pivoted as much as possible, worked hard to keep my employees employed as much as possible, struggled to survive and is over $50K in arrears on our commercial rent even after paying half rent every month since April 2020, any temporary tax break we can get until we can operate at full capacity would be so helpful.

LATE *Testimony submitted late may not be considered by the Committee for decision making purposes.

SB-1240-SD-1
Submitted on: 3/17/2021 5:05:00 PM
Testimony for CPC on 3/18/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Phillips	coconuts fish cafe	Support	No

Comments:

Aloha

please please please pass sb1240

The past year I have worked 7 days a week 14 hours a day to save my business I have kept my employees paid . I am ready to lose everything.This bill passage will give me some working capital.
This bill passage will help 48 employees get paid

Mahalo

mike phillips

ceo

Coconut's Fish Cafe

Maui

LATE *Testimony submitted late may not be considered by the Committee for decision making purposes.

RETAIL MERCHANTS OF HAWAII

TESTIMONY OF TINA YAMAKI, PRESIDENT
RETAIL MERCHANTS OF HAWAII
March 18, 2021
Re: SB 1240 RELATING TO TAX CONFORMITY.

Good morning Chairperson Johanson and members of the House Committee on Consumer Protection and Commerce. I am Tina Yamaki, President of the Retail Merchants of Hawaii and I appreciate this opportunity to testify.

The Retail Merchants of Hawaii was founded in 1901, RMH is a statewide, not for profit trade organization committed to the growth and development of the retail industry in Hawaii. Our membership includes small mom & pop stores, large box stores, resellers, luxury retail, department stores, shopping malls, local, national, and international retailers, chains, and everyone in between.

RMH is in SUPPORT of SB 1240 SD1 Relating to Tax Conformity. This measure requires the State to conform to those provisions of the Consolidated Appropriations Act, 2021 relating to taxable income and deductible expenses; and is effective 7/1/2050.

This pandemic has had many devastating effects on businesses here in Hawaii. Every day we see businesses struggling to survive and many are closing their doors for good. Retailers have seen their income drop 60-70% of what they made pre pandemic. Cost for shipping and products continue to rise. The government shut down of not only industries, but tourism did not help many of the non-essential businesses. And even during the shutdown and downturn in their sales, retailers are still expected to pay rent, utilities, taxes and other operational expenses.

Many of our local retailers took advantage of the Paycheck Protection Program in an effort to keep their businesses alive. This was the lifeline to keep businesses afloat. For some local businesses this was the ONLY help that they received and was qualified for. Businesses felt some relief late last year when the Federal Tax Relief Act was signed and determined that the PPP loans and grants were tax free and exempt as being considered income. We are aware that these types of Federal Laws are not automatically adopted into State law. However, businesses are in dire need of help to continue operating and to keep their employees on the payroll. We are seeing too many businesses especially iconic ones closing their doors as they are not able to survive all due to the pandemic.

In the 3rd Hawaii Commercial Rent Survey that was taken this past December, 1,126 Hawai'i business owners shared their feedback.

- From April through December 2020, 50% of businesses did not pay rent in full.
- Only 5% of businesses have restructured their lease, and only 14% received rent reduction.
- Over half expect to miss at least one full rent payment between January and June 2021.
- More than 80% of businesses saw revenue decline in 2020, and more than 80% expect their annual revenue to decline in 2021.
- 2 in 3 businesses were significantly impacted or closed by government restrictions in 2020. Nearly the same number of businesses do not expect to survive in 2021.

Our economy's recovery and advancement depend on businesses thriving. Businesses need help to continue to survive and help our local economy recover. In many cases where businesses are struggling, not receiving tax relief may be the deciding factor of they remain open or close for good.

Mahalo again for this opportunity to testify.

3610 Waialae Ave • Honolulu, HI 96816 (808) 592-4200 tyamaki@rmhawaii.org

MAUI
CHAMBER OF COMMERCE
VOICE OF BUSINESS

HEARING BEFORE THE HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE HAWAII STATE CAPITOL, HOUSE CONFERENCE ROOM 329 THURSDAY, MARCH 18, 2021 AT 2:00 P.M.

To The Honorable Aaron Ling Johanson, Chair;
The Honorable Lisa Kitagawa, Vice Chair; and
Members of the Committee on Consumer Protection & Commerce,

SUPPORT SB1240 SD1 RELATING TO TAX CONFORMITY

Aloha, my name is Pamela Tumpap. I am the President of the Maui Chamber of Commerce, in the county most impacted by the COVID-19 pandemic in terms of our dependence on the visitor industry and corresponding rate of unemployment. I am writing share our support of SB1240 SD1.

Businesses relied on PPP loans to survive this pandemic and utilized the funding to bring their employees back to work. We support this bill that will conform Hawaii's tax laws to the federal laws and allow businesses to deduct their business expenses from their Hawaii taxes, even if they paid for them using PPP loans. This is another way to help businesses during this difficult time.

Mahalo for your consideration of our testimony and ask that you please pass this bill.

Sincerely,

Pamela Tumpap

Pamela Tumpap
President

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.

95 Mahalani Street, Suite 22A, Wailuku, Hawaii 96793 808-244-0081 info@MauiChamber.com MauiChamber.com

T S Restaurants
HAWAII & CALIFORNIA

LATE *Testimony submitted late may not be considered by the Committee for decision making purposes.

March 17, 2021

To: House Committee on Consumer Protection & Commerce

Fr: Jackie Reed
CEO, T S Restaurants

Re: Testimony Senate Bill 1240, SD1

Chair Johanson and members of the Committee, thank you for the opportunity to submit testimony in favor of Senate Bill 1240, relating to tax conformity.

T S Restaurants was proudly founded in Hawaii in 1977. For the past 44 years, the company has grown and currently operates 13 restaurants; 8 of which are in Hawaii on the islands of Maui, Kauai and Oahu. Prepandemic, our restaurants proudly employed over 1,500 people throughout Hawaii with an additional 900 in California.

The coronavirus pandemic has devastated the restaurant industry. If not for the federal assistance in the form of PPP loans, many would not have made it through. We are grateful for the government efforts that ensure our industry could be viable once again.

By passing SB1240 and ensuring Hawai'i state tax conforms to U.S. tax code for PPP funds, you are further aiding the long recovery of the restaurant industry and many other hospitality-related industries. If those funds became taxable, the aid's impact would be greatly diminished, stalling progress we are finally able to make. The recent clarifications made to US tax code confirm the intent for these funds to be exempt from federal and state taxes. An additional tax burden would be devastating to an industry already on the brink.

For these reasons, T S Restaurants supports Senate Bill 1240, SD1.

Mahalo for your time and consideration.

Jackie Reed
CEO, T S Restaurants

40 Kupuohi Street, Suite 206
Lahaina, Hawaii 96761
T 808.667.4800 · F 808.667.4842
TSRESTAURANTS.COM

LATE *Testimony submitted late may not be considered by the Committee for decision making purposes.

Hawai‘i Island Chamber of Commerce

1321 Kino‘ole Street
Hilo, Hawai‘i 96720
Phone: (808) 935-7178
Fax: (808) 961-4435
E-mail: admin@hicc.biz
www.hicc.biz

Testimony to the House Committee on Consumer Protection & Commerce
Thursday, March 18, 2021 at 2:00 P.M.
Via Videoconference

RE: SB 1240, SD 1, RELATING TO TAX CONFORMITY

Chair Johanson, Vice Chair Kitagawa, and Members of the Committee:

The Hawaii Island Chamber of Commerce ("HICC") **strongly supports** SB 1240, SD 1 requiring the State to conform to provisions of the Consolidated Appropriations Act of 2021 relating to taxable income and deductible expenses.

The HICC is Hawaii Island's leading business advocacy organization, representing 300+ island businesses. The majority of our members are small businesses with less than 20 employees. As the "Voice of Business" on Hawaii Island, we work on behalf of members and the entire business community to improve the island's economic climate and to foster positive action on issues of common concern.

On March 27, 2020, the federal government enacted the CARES Act in response to the COVID-19 pandemic which amended the U.S. Small Business Act ("SBA") to create the Paycheck Protection Program ("PPP"). The primary purpose of SBA's PPP is providing an important lifeline to help keep millions of small businesses open and their workers employed during the COVID-19 pandemic.

Subsequently, COVID-related Tax Relief Act of 2020, which was enacted as part of the Consolidated Appropriations Act of 2021, signed into law on Dec. 27, 2020 amended the CARES Act to specify that "no deduction shall be denied, no tax attribute shall be reduced, and no basis increase shall be denied" with respect to PPP. ***In essence, Congress declared that deductions funded by PPP loans are expressly allowed and would better serve the purpose of the whole PPP loan program.***

Ordinarily, a forgiven loan qualifies as income. However, Congress chose to exempt forgiven PPP loans from federal income taxation. If we are going to keep people employed, or get them back on the payroll quickly, we need to do everything possible to make that affordable for struggling businesses. Denying a tax deduction for wages, and other business expenses paid with PPP, would reduce the effectiveness of the PPP loan program. For businesses who are struggling to stay open, denying tax deductions for these expenses could result in permanent business closure. This would further impact keeping and getting people employed and have a negative impact on the economy of our island and our state.

Hawaiʻi Island
Chamber of Commerce

1321 Kinoʻole Street
Hilo, Hawaiʻi 96720
Phone: (808) 935-7178
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E-mail: admin@hicc.biz
www.hicc.biz

Federal tax treatment of expenses funded with PPP does not flow automatically to Hawaii. Hawaii opted to decouple from the CARES Act via Act 13, SLH 2020. In the absence of specific CARES Act and COVID Tax Relief Act guidance from states in the form of conformity, Hawaii businesses that acquired PPP would now incur state taxes.

Recipients of PPP loans are employers who have shouldered the economic burden from the COVID-19 fallout and have done everything possible to keep as many employees as possible on their payrolls. This measure would be consistent with the **majority of states**[1] in providing relief to businesses and communities in permitting PPP as an eligible deduction in state tax returns.

This is the intent of Congress and PPP is deliberately designed to allow businesses to keep paying wages to the greatest extent possible.

Thank you for this opportunity to provide testimony in strong support.

[1] State Tax Treatment of Forgiven PPP Loans (as of March 2, 2021)
https://taxfoundation.org/state-tax-forgiven-ppp-loans/

LATE *Testimony submitted late may not be considered by the Committee for decision making purposes.

SEAL MASTERS
OF HAWAII

March 18, 2021

Subject: Testimony to the House Committee on Consumer Protection & Commerce

Dear Chair Johanson, Vice Chair Kitagawa, and Members of the Committee:

Seal Masters of Hawaii ("Seal Masters") **strongly supports** SB 1240, SD 1 requiring the State to conform to provisions of the Consolidated Appropriations Act of 2021 relating to taxable income and deductible expenses.

Seal Masters is Hawaii's a locally owned exterior renovation company that has been in Hawaii since 1991. We pride ourselves on supporting the local economy with work that helps to keep Hawaii beautiful.

On March 27, 2020, the federal government enacted the CARES Act in response to the COVID-19 pandemic which amended the U.S. Small Business Act ("SBA") to create the Paycheck Protection Program ("PPP"). The primary purpose of SBA's PPP is providing an important lifeline to help keep millions of small businesses open and their workers employed during the COVID-19 pandemic.

Subsequently, COVID-related Tax Relief Act of 2020, which was enacted as part of the Consolidated Appropriations Act of 2021, signed into law on Dec. 27, 2020 amended the CARES Act to specify that "no deduction shall be denied, no tax attribute shall be reduced, and no basis increase shall be denied" with respect to PPP. ***In essence, Congress declared that deductions funded by PPP loans are expressly allowed and would better serve the purpose of the whole PPP loan program.***

Ordinarily, a forgiven loan qualifies as income. However, Congress chose to exempt forgiven PPP loans from federal income taxation. If we are going to keep people employed, or get them back on the payroll quickly, we need to do everything possible to make that affordable for struggling businesses. Denying a tax deduction for wages, and other business expenses paid with PPP, would reduce the effectiveness of the PPP loan program.

Federal tax treatment of expenses funded with PPP does not flow automatically to Hawaii. Hawaii opted to decouple from the CARES Act via Act 13, SLH 2020. In the absence of specific CARES Act and COVID Tax Relief Act guidance from states in the form of conformity, Hawaii businesses that acquired PPP would now include incur state taxes.

Address: 80 Sand Island Access Road, Suite 103, Honolulu, Hawaii 96819 • Phone: (808) 841-7602 • Fax: (808) 842-6546
E-Mail: smh@sealmastershawaii.com • Website: www.sealmastershawaii.com • License: #C16148

Recipients of PPP loans are employers who have shouldered the economic burden from the COVID-19 fallout and have done everything possible to keep as many employees as possible on their payrolls. This measure would be consistent with **majority of states**[1] in providing relief to businesses and communities in permitting PPP as an eligible deduction in state tax returns.

This is the intent of Congress and PPP is deliberately designed to allow businesses to keep paying wages to the greatest extent possible.

Thank you for this opportunity to provide testimony in strong support.

Should you have any questions or require additional information, please do not hesitate to contact me by e-mail at smh@sealmastershawaii.com or by phone at (808) 841-7602.

Sincerely,

Joe Miller
President
Seal Masters of Hawaii

[1] State Tax Treatment of Forgiven PPP Loans (as of March 2, 2021)
https://taxfoundation.org/state-tax-forgiven-ppp-loans/

Address: 80 Sand Island Access Road, Suite 103, Honolulu, Hawaii 96819 • Phone: (808) 841-7602 • Fax: (808) 842-6546
E-Mail: smh@sealmastershawaii.com • Website: www.sealmastershawaii.com • License: #C16148

LATE *Testimony submitted late may not be considered by the Committee for decision making purposes.

SB-1240-SD-1
Submitted on: 3/18/2021 11:26:15 AM
Testimony for CPC on 3/18/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Ryan Yamasaki	ABC Stores	Support	No

Comments:

To: Representative Aaron Ling Johanson, Chair; Representative Lisa Kitagawa, Vice Chair; and Members of the House Committee on Consumer Protection and Commerce.

Re: SB 1240 Relating to Tax Conformity

The intent of the CARES Act, was to provide emergency assistance to businesses affected by the Covid-19 pandemic. A bipartisan group of senators (Chuck Grassley R-Iowa, John Cornyn R-Texas, Ron Wyden D-Ore, Marco Rubio R-Fla, and Tom Carper D-Del introduced the Small Business Expense Protection Act of 2020, which clarifies and confirms that the intended treatment of covered PPP business expenses was to not deny the expense from deduction. Specifically, it states that "no deduction shall be denied or reduced, no tax attribute shall be reduced, and no basis increase shall be denied, by reason of the exclusion from gross income.

The reasoning behind the Federal exclusion from taxation is consistent with the logic that it shall also be treated the same way for Hawaii purposes. SB 1240 is an appropriate vehicle to ensure that struggling businesses aren't further burdened by additional taxation when they have already done everything possible to keep employees on their payrolls. And it is in line with what the majority of other states are doing to help provide relief to businesses and the local community.

Thank you for this opportunity to testify.

LATE *Testimony submitted late may not be considered by the Committee for decision making purposes.

SB-1240-SD-1
Submitted on: 3/18/2021 10:14:29 AM
Testimony for CPC on 3/18/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jeoffrey Cudiamat	Individual	Support	No

Comments:

Chair Johanson, Vice Chair Kitagawa, and Members of the Committee:

I support SB 1240, SD 1 requiring the State to conform to provisions of the Consolidated Appropriations Act of 2021 relating to taxable income and deductible expenses.