

DAVID Y. IGE
GOVERNOR

JOSH GREEN M.D.
LT. GOVERNOR



ISAAC W. CHOY
DIRECTOR OF TAXATION

STATE OF HAWAII
DEPARTMENT OF TAXATION
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HONOLULU, HAWAII 96809
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To: The Honorable Donovan M. Dela Cruz, Chair;
The Honorable Gilbert S.C. Keith-Agaran, Vice Chair;
and Members of the Senate Committee on Ways and Means

From: Isaac W. Choy, Director
Department of Taxation

Date: Thursday, February 24, 2022
Time: 10:00 A.M.
Place: Via Video Conference, State Capitol

Re: S.B. 2353, Relating to Farms

The Department of Taxation (Department) opposes S.B. 2353 in its current form and offers the following comments for the committee's consideration.

S.B. 2353 amends section 235-7, Hawaii Revised Statutes (HRS), to add a new income tax exclusion for income earned by a farmer from farming activities. The exclusion amount is equal to an unspecified percentage of the farmer's gross annual income or an unspecified dollar cap, whichever is less. The measure is effective on July 1, 2022, and applies to taxable years beginning after December 31, 2021.

S.B. 2353 defines "farmer" as a person earning more than an unspecified percentage of their annual gross income from farm products or value-added farm products grown, raised, and value-added by the person, with "farm products" defined as products not for personal use that are produced from:

- Cultivation of crops, including crops for bioenergy, flowers, vegetables, foliage, fruits, forage, and timber;
- Game and fish propagation; and
- Raising of livestock, including poultry, bees, fish, or other animal or aquatic life that are propagated for economic use.

First, the Department notes that the defining a "farmer" as "a person" would allow all entities that pay income tax, such as corporations, partnerships, and estates and trusts, to qualify for this new exclusion. If this is not the intent of the measure, the Department recommends amending the definition as follows:

"Farmer" means an individual earning more than per cent of the individual's annual gross income from the sale of farm products and value-added farm products grown, raised, and value-added by the individual.

Second, the Department notes that the exclusion is for income "earned by a farmer from farming activities," however, the term "farming activities" is not defined. Thus, it is not clear what income would be exempted.

Third, the Department notes that the definition of "farm products" is very broad. As currently drafted, the definition would basically include all grains, fruits, vegetables, poultry, fish, and meat regardless of whether the farmer actually produced these items. Furthermore, it is unclear how "farm products" fits in into the proposed exclusion for "farming activities." The Department strongly suggests clarifying the connection between the terms.

Fourth, the Department notes that this measure as currently written does not disallow the deduction for ordinary and necessary business expenses associated with the production of income from the exempted business activities. As a result, qualifying farmers will be able to use these deductions to offset other income that is not exempted by this measure. For example, qualifying farmer could also have a part-time job and earn wages. The business deductions could be used to offset the wage income. The Department suggests amending this measure to disallow the deduction for any ordinary and necessary business expenses incurred in producing the income excluded by this measure.

Fifth, the Department suggests replacing the term "gross annual income" with "federal adjusted gross income." The term "gross annual income" is not defined by this measure or under federal/State income tax law. Conversely, "federal adjusted gross income" is defined in detail by the Internal Revenue Code/Treasury Regulations and will therefore not require a definition that is specific to this exclusion.

Finally, notwithstanding the concerns outlined above, the Department is able to administer the measure with its current effective date.

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

DAVID Y. IGE
Governor

JOSH GREEN
Lt. Governor



PHYLLIS SHIMABUKURO-GEISER
Chairperson, Board of Agriculture

MORRIS M. ATTA
Deputy to the Chairperson

State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512
Phone: (808) 973-9600 FAX: (808) 973-9613

**TESTIMONY OF PHYLLIS SHIMABUKURO-GEISER
CHAIRPERSON, BOARD OF AGRICULTURE**

BEFORE THE SENATE COMMITTEE ON WAYS AND MEANS

**THURSDAY, FEBRUARY 24, 2022
10:00 A.M.
VIA VIDEO CONFERENCE**

**SENATE BILL NO. 2353
RELATING TO FARMS**

Chairperson Dela Cruz and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill No. 2353 that creates an exclusion from income tax for a to-be-determined percentage of gross annual income, or a to-be-determined dollar amount of gross annual income earned by a farmer from agricultural activities. A "farmer" is defined as a person earning more than a to-be-determined percentage of the person's annual gross income from farm products and value-added farm products sold, raised, and value-added by the person. "Farm products" is defined as production from agricultural activities enumerated in Section 205-4.5(a)(1) through (3) and excludes farm products for personal use. The Department supports the intent of this measure and otherwise defers to the Department of Taxation.

As written, the bill would improve the bottom line for start-up farming operations that meet the percentage gross income threshold. For qualified farmers, according to the 2012 Census of Agriculture (Hawaii, Volume 1, Chapter 1: State Level Data, Table 60, page 44, Selected Farm Characteristics by Race of Principal Operator: 2012 and 2007), of Hawaii's then-7,000 farmers (includes all business entities), approximately 618



(9 percent) earn more than 75 percent of their total household income from farming. Reducing the qualifying percentage of total household income from farming to more than 50 percent will increase the number of qualifying farmer households to 1,190 or 17 percent of Hawaii's farmers. There is no more recent information on the percentage of total household income from farming as the National Agricultural Statistics Service discontinued the gathering of this particular data set as of 2012.

Thank you for the opportunity to comment on this measure.

DAVID Y. IGE
GOVERNOR



LATE

CRAIG K. HIRAI
DIRECTOR

GLORIA CHANG
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
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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 SENATE COMMITTEE ON WAYS AND MEANS
ON
SENATE BILL NO. 2353

February 24, 2022
10:00 a.m.
Room 211 and Videoconference

RELATING TO FARMS

The Department of Budget and Finance (B&F) offers comments on this bill.

Senate Bill No. 2353 amends Section 235-7, HRS, to exclude from State income tax, the lesser of an unspecified percentage of gross annual income or an unspecified amount of gross annual income earned by a farmer from farming activities.

B&F notes that the federal American Rescue Plan (ARP) Act restricts states from using ARP Coronavirus State Fiscal Recovery Funds (CSFRF) to directly or indirectly offset a reduction in net tax revenue resulting from a change in law, regulation, or administrative interpretation beginning on March 3, 2021, through the last day of the fiscal year in which the CSFRF have been spent. If a state cuts taxes during this period, it must demonstrate how it paid for the tax cuts from sources other than the CSFRF, such as:

- By enacting policies to raise other sources of revenue;
- By cutting spending; or
- Through higher revenue due to economic growth.

If the CSFRF provided have been used to offset tax cuts, the amount used for this purpose must be repaid to the U.S. Treasury.

The U.S. Department of Treasury has issued rules governing how this restriction is to be administered. B&F will be working with the money committees of the Legislature to ensure that the State of Hawai'i complies with this ARP restriction.

Thank you for your consideration of our comments.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Exclusion for Farming Activities

BILL NUMBER: SB 2353, HB 2043

INTRODUCED BY: SB by KEITH-AGARAN, GABBARD, Riviere; HB by SAIKI by request

EXECUTIVE SUMMARY: Creates an exclusion from income tax for the lesser of a percentage of gross annual income or an amount of gross annual income earned by a farmer from farming activities.

SYNOPSIS: Amends section 235-7, HRS, to add an exclusion of the lesser of ___ per cent of gross annual income or \$ _____ of gross annual income earned by a farmer from farming activities.

Defines “farmer” as a person earning more than ___ per cent of the person's annual gross income from the sale of farm products and value-added farm products grown, raised, and value-added by the person.

Defines “farm products” as products produced from: (A) The cultivation of crops, including crops for bioenergy, flowers, vegetables, foliage, fruits, forage, and timber; (B) Game and fish propagation; and (C) The raising of livestock, including poultry, bees, fish, or other animal or aquatic life that are propagated for economic use; provided that "farm products" shall not include products for personal use."

EFFECTIVE DATE: July 1, 2022, applicable to taxable years beginning after December 31, 2021.

STAFF COMMENTS: The idea of providing a tax incentive to encourage investments may have been acceptable when the economy was on a roll and advocates could point to incentives 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 can be claimed, are irresponsible.

It should also be noted that an income exclusion affects taxpayers differently depending on the amount of net income they otherwise have. For example, a \$50,000 income exclusion would create a maximum \$5,500 tax benefit to an individual making over \$200,000 in adjusted gross income, where the same individual with \$35,000 adjusted gross income and \$15,000 net profit would see a benefit of perhaps \$725.

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.

Re: SB 3150
Page 2

Digested: 2/8/2022



COMMITTEE ON WAYS AND MEANS
Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

SB2353
RELATING TO FARMS

Thursday, February 24, 2022, 10:00 AM
VIA VIDEOCONFERENCE

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

The Hawaii Cattlemen's Council (HCC) is the Statewide umbrella organization comprised of the five county level Cattlemen's Associations. Our member ranchers represent over 60,000 head of beef cows; more than 75% of all the beef cows in the State. Ranchers are the stewards of over 750 thousand acres of land in Hawaii, or 20% of the State's total land mass. We represent the interests of Hawaii's cattle producers.

The Hawaii Cattlemen's Council **supports SB2353** to create an exclusion from income tax for the lesser of a percentage of gross annual income or an amount of gross annual income earned by a farmer from farming activities. This bill will encourage expansion of food production and support farmers and ranchers by minimizing tax burdens.

We appreciate the opportunity to testify on this measure.

Nicole Galase
Hawaii Cattlemen's Council
Managing Director





Email: communications@ulupono.com

SENATE COMMITTEE ON WAYS & MEANS
Thursday, February 24, 2022 — 10:00 a.m.

Ulupono Initiative supports SB 2353, Relating to Farms.

Dear Chair Dela Cruz and Members of the Committee:

My name is Micah Munekata, and I am the Director of Government Affairs at Ulupono Initiative. We are a Hawai'i-focused impact investment firm that strives to improve the quality of life throughout the islands by helping our communities become more resilient and self-sufficient through locally produced food; renewable energy and clean transportation; and better management of freshwater and waste.

Ulupono supports SB 2353, which creates an exclusion from income tax for the lesser of a percentage of gross annual income or an amount of gross annual income earned by a farmer from farming activities.

Ulupono supports local food production for local consumption, which we believe will help support our state's food security. A policy such as this may go a long way toward influencing Hawai'i's farmers and ranchers to produce food for our community while also keeping money within the state to support our economy.

Thank you for the opportunity to testify.

Respectfully,

Micah Munekata
Director of Government Affairs

Investing in a Sustainable Hawai'i



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Executive Officers

Charlie Gustafson, Tamura Super Market, *Chair*
Eddie Asato, Pint Size Hawaii, *Vice Chair*
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Lauren Zirbel, HFIA, *Executive Director*
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Stan Brown, Acosta Sales & Marketing, *Advisor*
Paul Kosasa, ABC Stores, *Advisor*
Derek Kurisu, KTA Superstores, *Advisor*
Toby Taniguchi, KTA Superstores, *Advisor*
Joe Carter, Coca-Cola Bottling of Hawaii, *Immediate Past Chair*

TO: Committee on Ways and Means
Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

FROM: HAWAII FOOD INDUSTRY ASSOCIATION
Lauren Zirbel, Executive Director

DATE: February 24, 2022
TIME: 10am
PLACE: Via Videoconference

RE: SB2353 Relating to Farms

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 to create an exclusion from income tax for the lesser of a percentage of gross annual income or an amount of gross annual income earned by a farmer from farming activities. Incentivizing farming is one important aspect of increasing our local food production. An income tax credit is a positive way to encourage potential new farmers to begin working in this field, and make it easier for Hawaii's current farmers to keep growing food for our state. We urge you to vote yes on this measure and we thank you for the opportunity to testify.



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e-mail info@hfbf.org; www.hfbf.org

February 24, 2022

HEARING BEFORE THE
SENATE COMMITTEE ON WAYS AND MEANS

TESTIMONY ON SB 2353
RELATING TO FARMS

Room 211 & Videoconference
10:00 AM

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

I am Brian Miyamoto, Executive Director of the Hawai'i Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,800 farm family members statewide and serves as Hawai'i's voice of agriculture to protect, advocate and advance the social, economic, and educational interests of our diverse agricultural community.

The Hawai'i Farm Bureau supports SB 2353, which creates an exclusion from income tax for the lesser of a percentage of gross annual income or an amount of gross annual income earned by a farmer from farming activities.

Farming is a tough business. High production costs are a major driver of narrow profit margins for Hawai'i's farmers. Land, water, labor, taxes, transportation, utilities, inputs, invasive species, and food safety regulations are all costs of doing business that often results in our farmers just being able to break even. HFB supports any initiative that reduces the cost of production so that locally produced goods can compete with imported products, strengthening our local economy.

Hawai'i Farm Bureau Policy states:

"State tax and monetary policies should be designed to encourage private initiative to help stabilize farm economics in the State of Hawai'i, to promote employment and economic growth, and to distribute the tax burden equitably. Further such policy should be used by the state, when appropriate, to encourage agricultural growth and expansion."

This measure falls in the "encourage agricultural growth and expansion." category.

This measure defines "farmer" as a person which means the exemption is limited to individuals. This definition may exclude other forms of farm ownership. Thank you for this opportunity to testify on this important subject.

SB-2353

Submitted on: 2/21/2022 8:57:50 PM

Testimony for WAM on 2/24/2022 10:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Johnnie-Mae L. Perry	Individual	Support	No

Comments:

SUPPORT SB 2353 RELATING TO FARMS

SB-2353

Submitted on: 2/23/2022 12:14:52 AM

Testimony for WAM on 2/24/2022 10:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Jared Parrish	Individual	Support	No

Comments:

Aloha,

My name is Jare Keawe Parrish. I am a student at the University of Manoa currently working on my bachelor's in social work through the distance education program. I am writing this to submit testimony for SB 2353 RELATING TO FARMS. I always have felt a strong connection to the land and feel it has helped me develop into the person I am today. I live in the rural area of Haiku on the island of Maui and have a background in organic farming. When it comes to our current situation, we here in Hawaii import roughly 85 to 90 percent of our food, and Tourism makes up 21% of the state's economy. During the Covid-19 pandemic and lockdown, many citizens who depended on jobs and resources went without. I feel it is in our best interest to support local industry and self-sustaining businesses here in Hawaii. Local farmers need support to be able to provide for the community. This bill would lift up small businesses and help protect our food security. I support this bill because we need to be prepared if a disaster cuts off supply lines. It is very apparent when looking and the percentage of imports of food that we are vulnerable to natural disasters and global events that might disrupt shipping and the food supply. I also feel this could help our own economy because of our ability to grow crops year-round and in many areas such as Maui, there is a surplus of agricultural land that would be beneficial to the community in many ways if used to produce food. That is my take on the current situation. Thank you for your time, and I hope my testimony can help you come to a decision that benefits the people of the state of Hawaii

Mahalo.

Jared Parrish