



# TAX FOUNDATION OF HAWAII

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2015 Annual Activity Report

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## Mission & Vision Statement

### Mission Statement

To promote and encourage efficiency and economy in Hawaii governments through unbiased, non-political studies and surveys of a factual nature, making available and disseminating such information and data by publications, reports, talks, the radio and television.

### Vision Statement

We envision a government of the State of Hawaii where its public is adequately informed about state and county government finances, and its policymakers about the consequences of their proposals - so that government is efficient and economical, and its tax system is fair and equitable.

### Overview

The primary focus of the Tax Foundation still remains Hawaii's tax and public finance issues and thus much of the staff's time is occupied in dealing with proposed legislation that will shape the financing infrastructure of the state.

## LEGISLATIVE ARENA



It is here that the Foundation puts in much of its efforts to educate and inform. Because lawmakers shape the policies of the state, informing these policymakers of the tenets of good tax policy is key to creating a fair and well-balanced system of taxes and other revenues.

Here are some examples from the 2015 legislative session.

### Caldwell Sought Permanent Rail Sentence for Taxpayers, Gets Five Years

Much of the 2015 session was spent on two bills that sought to extend the life of the 0.5% county surcharge on the General Excise Tax for the purpose of funding the Honolulu rail project.

The problem that caused Mayor Caldwell and Honolulu Area Rapid Transit (HART) CEO Dan Grabauskas to go to the Capitol in the first place was that HART had just started opening bids for construction of the rail stations and the numbers came in lots higher than expected. At that pace, they concluded, they might not even be able to award all of the contracts because the dollars have to be available before contracts can be awarded, and with the surcharge set to expire at the end of 2022 the pool of money was limited.

But between the Mayor's office and the Capitol, these gentlemen figured that if they were going to have a hard fight anyway, they should ask for a few more things. After all, if you don't ask you won't get. So they said, first, we are going to need money to finish what we started. Second, wouldn't it be wonderful if the rail line were extended out to Kapolei in the west and to UH Manoa in the northeast? And, third, it would be even better if the tourists, who pay a large part of this tax, were able to provide an operating subsidy for this project. So, they said, may we please have an extension of the surcharge from 2022 to...forever?

The resulting bills and the changes that were made as they meandered through the legislative process, reflect that lawmakers were sharply divided. Some were not willing to approve any increase. Some were willing to grant a five-year extension so the City could finish what it started, but without any of the add-ons to the City's wish list. Others were willing to pass a 25-year extension so that the rail line could be extended to Kapolei and UH Manoa. But there seems to be very little support for an extension into perpetuity, as there seems to be a lot of concern that the surcharge be used only for capital costs, not for operation and maintenance.

Through all of the fray, the Foundation kept reminding lawmakers that the original deal when the surcharge was passed was that it was supposed to be for capital construction, not operation and maintenance. At the end of the day, the City got the bare minimum it needed to keep the project moving forward – a five-year extension.

### The Magical Appearing Tax!

In 2000 Hawaii enacted a medical use of marijuana law (Act 228, Session Laws of Hawaii 2000). The problem, of course, has been how to get this medical marijuana to those who need it without violating other laws. So the Legislature worked on House Bill 321, to establish standards for and regulation of medical marijuana dispensaries.

The bill started off in the House, and was referred to three committees there: Health, Judiciary, and Finance. It passed all three and went over to the Senate. The Senate referred the bill to four committees, Health, Public Safety, Judiciary and Labor (JDL), and Ways and Means (WAM). After the first two committees, the bill was still a regulatory bill. It then was heard by JDL and WAM jointly, and those committees amended the bill by, among other things, adding two sections. One created a special general excise tax (GET) rate for retail marijuana sales. The rate is 10%. The other imposed a GET surcharge on the same sales. That rate is 15%. So here we have a magical appearing tax. Instead of a cute little rabbit coming out of the hat, we got a new, hefty, twenty-five percent tax.

The committee report by the JDL and WAM committees recited that they changed the effective date of the bill to 2059 in order to "encourage further discussion." But by whom? All of the public comment to date was on a regulatory measure. No public testimony was taken on the idea of slapping a huge tax on these sales, because no one in the public had any clue that a

whopping new tax was in the works. And, because this bombshell was dropped in by the bill's final committees, there didn't seem to be any opportunity for public comment on it.

That's when the Foundation went to the media. Hawaii News Now ran a story on April 21st, pointing out that the Senate approved a bill to impose a 25 percent tax on all marijuana sales; it quoted the Foundation as commenting, "Since 1986, the general excise tax on prescription drugs has been zero. We don't tax the sick who need their medicine. But now this bill proposes to treat the same kind of thing by not only imposing a tax, but imposing it many times the normal rate."

The 25 percent tax mysteriously disappeared from the Conference Draft of the bill.

## IN THE COURTS



In somewhat of a departure from the Foundation's past activities, the Foundation filed suit against the State of Hawaii in October. The State sweeps 10% of all surcharge collections into the general fund, ostensibly to reimburse the State for expenses incurred in collecting the tax for the City. However, the 10% turns out to be a massive amount of money, amounting to around 85% of the Department of Taxation's budget while the surcharge represents perhaps 4% of the total revenue collected. So, when the smoke clears, it looks like the State is pocketing more in general excise tax off Honolulu business than from similar business conducted on other islands. This is, we pointed out, a constitutional problem; the Star-Advertiser, in a January 25, 2015 editorial, agreed and also called for the "skim" to stop.

The filing of the Foundation's lawsuit drew coverage from Hawaii News Now, KHON-TV2, KITV 4, and the Honolulu Star-Advertiser.

The lawsuit was still pending at the end of 2015.

## FOUNDATION ACTIVITIES -2015



The Foundation's mission to improve state and local tax systems and foster a positive Hawaii economic climate is accomplished through participation in the legislative process as a nonpartisan organization and through community groups and organizations. This participation allows the Foundation to disseminate its researched views and also allows the staff to monitor the economic and social pulse of key policymakers in the private sector and in government and the community at large.

### Community Participation (33)

The Foundation maintains membership and plays a direct role in the activities of several community groups and organizations. In other cases, staff attends meetings to gather information and to monitor activities of decision makers in the community.

### Committee Meetings (24)

- Hawaii State Bar Association Tax Section Meeting (5)
- Honolulu Japanese Chamber of Commerce Government Affairs Committee (3)
- The Grassroot Institute of Hawaii - Think Tank on REITs
- The Grassroot Institute of Hawaii Calabash Meetings (2)
- Goodwill (5)
- National Tax Foundation State Working Group (7)
- HANO
- Hawaii Association of Trade Executives (9)

### Public Hearings and Meetings

The Foundation is often called upon to participate in public forums as a means of sharing its research and analyses of current public finance issues as part of its mission to improve equity and efficiency in the tax system. Although some may think otherwise, the Foundation is strictly prohibited by its charter from engaging in lobbying activities on behalf of specific interest groups. The Foundation takes extraordinary steps to convey to the public the information it has gathered so that better decisions can be made.

## State Government

### Legislative Hearings (291)

The Foundation's role in the legislative hearing process is to provide an independent and unbiased viewpoint on tax and other public finance legislation. Given the breadth and reach of state government in Hawaii, much of the Foundation's activity is weighted toward monitoring the state legislature and executive branch. The Foundation is often the only private sector representative at legislative hearings dominated by representatives from government agencies.

County government legislative activities are also monitored by the Foundation. However, with most taxing authority concentrated at the state level and given that Hawaii is an island state, the Foundation has, for the most part, limited its monitoring activity of county governments to real property taxes. The Foundation responds to all requests by county policymakers for its research and viewpoints on local government issues.

Below is the number of tax measures in which the Foundation presented testimony, either in oral and/or written format:

#### State Senate (134)

- Committee on Agriculture (2)
- Commerce & Consumer Protection (7)
- Economic Development & Technology (5)
- Education (3)
- Energy & Environment (13)
- Health (4)
- Human Services & Housing (10)
- Judiciary & Labor (3)
- Public Safety, Intergovernmental & Military Affairs (7)
- Tourism & International Affairs (15)
- Transportation (3)
- Water and Land (4)
- Ways and Means (58)

#### State House of Representatives (157)

- Consumer Protection and Commerce (14)
- Economic Development and Business (10)
- Education (2)
- Energy & Environmental Protection (19)
- Finance (68)
- Health (1)
- Higher Education (2)
- Housing (11)
- Judiciary (3)
- Labor & Public Employment (2)
- Public Safety (1)
- Tourism (15)
- Transportation (3)
- Veterans, Military and International Affairs & Culture and the Arts (3)

## Publications

### Legislative Tax Bill Service

The TAX BILL SERVICE provides summaries of all tax legislation introduced during the legislative session. The Foundation also includes an executive summary and brief comments on the impact each measure may have on the tax system, with the primary focus being on fairness and administrative concerns. The publication is provided to supporting members, subscribers, lawmakers, administrators and the media.

### Weekly Commentary

The Foundation president authors commentaries that highlight issues of current interest within the Hawaii community. Some of the topics covered during the past year were:

- Significant State Policy Issues
  - GEMS: Gets Everyone's Money Swiftly (Dec. 21, 2015)
  - Working on the Fringe (Nov. 26, 2015)
  - Ways to Own a Utility (Oct. 5, 2015)
  - Credits: Heads They Win, Tails You Lose (Sept. 13, 2015)
- Federal Tax Issues with Local Ramifications
  - An Early Christmas Present from IRS to Heald Students (Dec. 14, 2015)
  - The Shaky Future of Bonus Depreciation (Nov. 9, 2015)
  - Taxpayers Also on the Hook for VW Diesel Dupe (Oct. 18, 2015)
  - Can We Save the EITC by Making the Form Tougher? (Sept. 20, 2015)

The commentaries are published weekly by *Civil Beat*, *Hawaii Free Press*, *Maui News*, the *West Hawaii Today*, the *Hawaii Reporter*, and the *Garden Isle News*. They are also made available on the Foundation's web site.

### Media (62)

The Foundation president is an often quoted source in the media, highlighting the Foundation's analysis and knowledge base in tax and public finance issues. The Foundation is often quoted in the Honolulu Star-Advertiser and by the major network radio and television stations. The staff also participated in the form of talk shows or news interviews on the following radio and television program broadcasts: Civil Beat (4); Hawaii News Now (5); KHON-TV (6), KAAH-TV Trinity Broadcasting (2), KITV (7); KHPR Public Radio Interviews (2); Hawaiian Christian Coalition TV Broadcast (1); Honolulu Star Advertiser (17); Hawaii Free Press (2); 808 State Update with Duke Aiona (AM 940) (3); Pew Trust Interview (1); Insights on PBS (1); Pacific Business News (3); Summit Magazine interview (1); Maui News (4); West Hawaii Today (1); KSSK (2).

## Presentations (21)

### Speeches and Talks (14)

- Financial Planning Association of Hawaii
- Hawaii Christian Coalition Pastors' Breakfast
- Hawaii Federal Credit Union Newsletter article
- Hawaii Society of Enrolled Agents
- Hawaii Society of CPAs - Tax Forum
- Hawaii Society of CPAs - Legislative Update
- Hawaii State Bar Association
- Honolulu Japanese Chamber of Commerce Newsletter article
- KHVH - The Connection
- Oahu League of Republican Women
- Tax Executives Institute
- Tax Foundation Press Conference on Rail Tax Suit Filing
- The Grassroot Institute of Hawaii Calabash
- TownSquare on KHPR

### Membership Luncheon (1)

The membership luncheon provides members of the Foundation a chance to gather and hear a speaker of note in the community. During the past year, the Foundation held its annual membership luncheon on September 9 to a sell-out crowd at the Plaza Club in downtown Honolulu. Representative Sylvia Luke, Chair of the House Finance Committee, spoke on "Responsible Budgeting."

### Legislative Workshops (4)

Responding to requests for updates of tax and public finance legislation moving through the legislative maze, the Foundation has been providing educational workshops during the session to keep those who do not have the time to monitor the session up to date. Held at key times during the legislative process, these workshops inform interested individuals about which proposals are progressing through the process. In addition, the Foundation partners with the Hawaii Employers Council to also update participants about key labor related proposals wending their way through the legislature.

### Educational Workshops (2)

The Foundation realized there are many areas of interest to the general public, legislators and their staff personnel. It was decided to focus on a few issues that would offer information of interest to a broad cross section of Hawaii's people and seminars were held assist in helping disseminating knowledge in these specific areas. The Foundation held two such workshop in 2015.

- Turning Fiscal Ideas Into Law: Limits on State Taxing Power
- Special Breakfast Briefing: Rail Tax

# Tax Foundation of Hawaii

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## Executive Committee

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## Staff

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