

TAX FOUNDATION OF HAWAII

2021 Annual Activity Report

Mission & Vision Statement

To promote and encourage efficiency and economy in Hawaii governments through unbiased, non-political studies and surveys of a factual nature. To educate and inform the public and policymakers by disseminating such information and data by publications, reports, talks, the radio, and television as well as online via the Tax Foundation of Hawaii's website and social media pages.

Vision Statement

We envision a government of the State of Hawaii representative of a public who is educated about state and county government finances, whose policymakers are informed of the consequences of their proposals, that is efficient and economical and has a fair and equitable tax system.

Overview

The primary focus of the Tax Foundation of Hawaii is the state's tax and public finance issues. The Foundation staff's work is primarily focused on the proposed legislation that affects the finance infrastructure of the state.

FOUNDATION ACTIVITIES 2021

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

Community Participation

The Foundation participates in several other organizations to network and share information. Participation includes attending meetings and collaborating on media projects to bring awareness to issues facing Hawaii taxpayers. The following organizations are partnered and aligned with the Foundation through membership, fundraising, providing of grants, and networking:

- Hawaii State Bar Association Tax
- Hawaii Society of CPAs
- National Association of Tax Professionals
- The Grassroot Institute of Hawaii
- Tax Foundation (National) State Tax Working Group
- Hawaii Alliance of Nonprofit Organizations
- Aloha United Way
- Hawaii Association of Trade Executives

Public Hearings and Meetings

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

State Government Legislative Hearings

The Foundation's role in the legislative hearing process is to provide an independent and unbiased viewpoint on tax policy and other public finance legislation. Given the scope of state government in Hawaii, much of the Foundation's activity is focused on monitoring the state legislature and executive branch. The Foundation is often the only private sector representative at legislative hearings where typically the only other testimony presented is from government agencies affected by or sponsoring the proposed legislation.

County government legislative activities are also monitored by the Foundation. However, with most taxing authority concentrated at the state level, the Foundation has generally limited its monitoring activity of county governments to real property taxes. The Foundation responds to 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, by committee:

State Senate:

- *Agriculture and Environment: 9*
- *Commerce and Consumer Protection: 12*
- *Education: 3*
- *Energy, Economic Development, and Tourism: 12*
- *Government Operations: 0*
- *Human Services: 0*
- *Housing: 6*
- *Higher Education: 0*
- *Health: 3*
- *Hawaiian Affairs: 2*
- *Judiciary: 11*
- *Labor, Culture, and the Arts: 5*
- *Public Safety, Intergovernmental & Military Affairs: 3*
- *Transportation: 7*
- *Ways and Means: 61*
- *Water & Land: 0*

State House of Representatives:

- *Agriculture: 5*
- *Culture, Arts, & International Affairs: 0*
- *Corrections, Military, & Veterans: 0*
- *Consumer Protection & Commerce: 22*
- *Economic Development: 31*
- *Education: 5*
- *Energy & Environmental Protection: 5*
- *Finance: 40*
- *Government Reform: 0*
- *Higher Education & Technology: 3*
- *Health, Human Services & Homelessness: 1*
- *Housing: 11*
- *Judiciary & Hawaiian Affairs: 8*
- *Labor & Tourism: 3*
- *Legislative Management: 0*
- *Pandemic & Disaster Preparedness: 0*
- *Transportation: 8*
- *Water & Land: 1*

Legislative Tax Bill Service

The TAX BILL SERVICE (LTBS) provides summaries of all tax legislation introduced during the legislative session. The LTBS includes an executive summary and comments on the impact each measure may have on the tax system, with the primary focus being on fairness and administrative implementation. The publication is provided to the Foundation’s LTBS members via the TFH website and to lawmakers, administrators, and the media upon request. At the end of 2021, there were 13 LTBS subscription members. Benefactors and Roy E. Brown Society members also have access to LTBS.

LTBS is directly connected to our testimony before the State Legislature. When any significant testimony is submitted to the Legislature, a copy of it is uploaded to the LTBS website, enabling our higher-level members to have real-time access to the Foundation’s commentary on bills receiving active attention at the Legislature.

Weekly Commentary

The Foundation president authors commentaries that highlight issues within the Hawaii community. The articles are featured on our website and statewide through print and online media outlets such as: **Hawaii Free Press, Maui News, The Hawaii Reporter, The Garden Island, and the West Hawaii Today**. The Weekly Commentary articles are also sent to members and subscribers via MailChimp. At the end of 2021, there were 413 subscribers to the Weekly Commentary.

Below are the ten most popular Weekly Commentary Articles based on the number of unique opens and the open rate from the 2021 MailChimp campaign.

Title	Date	Total Recipients	Unique Opens	Open Rate
TFH Special Report: “Gut and Replace” Unconstitutional	November 4, 2021	413	193	47%
New Content Members Area	June 15, 2021	416	191	46%
TFH Special Alert: Notice of Intent to Veto	June 21, 2021	416	188	45%
The New County TAT Earmarks Aren’t the Real Problem	December 20, 2021	413	184	45%
NOT the End of Gut-n-Replace	November 14, 2021	413	182	44%
TFH Special Alert: Frankenbill	March 28, 2021	370	179	49%
TFH: 2020 Annual Activity Report	June 2, 2021	417	178	43%
Tax Workers’ “Get Out of Jail Free” Card	November 22, 2021	412	177	43%
No, DOE, You’re Not God	October 18, 2021	410	175	43%
Vacant Homes Tax?	September 13, 2021	413	175	42%

Media Appearances

The Tax Foundation was featured in 93 different newscasts, radio shows, articles, and interviews. Additionally, “Hawaii’s tax future now in Gov. David Ige’s hands” an article President Yamachika co-authored with the Grassroot Institute of Hawaii President, Keli’i Akina, was featured in the March 28th edition of the Honolulu Star-Advertiser.

Media outlets regularly featuring the Tax Foundation of Hawaii and President Yamachika in 2021 include:

- Hawaii Business Magazine
- Hawaii Public Radio
- Honolulu Star Advertiser
- KITV-4
- Tax Notes
- ThinkTech Hawaii

ThinkTech Hawaii produces a biweekly series, entitled [“Talking Tax.”](#) which is broadcast at 10:00 a.m. every other Thursday. This series is ongoing. Episodes can be found on the Tax Foundation’s website (In the Media!) and on YouTube or Vimeo.



Amicus Curiae Activity

The Foundation expresses its views before the Hawaii State Judiciary by filing “amicus curiae,” or “friend of the court,” briefs on cases with significant Hawaii tax issues.

In 2021, the following were developments in cases in which the Foundation filed amicus curiae briefs:

“Gut & Replace” Held Unconstitutional: The Hawaii Supreme Court, in a 3-2 decision, held in *League of Women Voters v. State* that a bill that started off as a bill to require annual reporting of recidivism statistics by the State, but then morphed into a bill regarding hurricane shelter space in State buildings, was unconstitutional because it, in its hurricane shelter space incarnation, did not receive the required number of readings in the Senate. The State and the Legislature thought that the bill was justifiable because both versions of the bill related to the bill’s title, “A Bill for an Act Relating to Public Safety.” The court recognized it was stating a new rule and limited its decision to the case before it and future cases only. The Foundation had submitted an amicus curiae brief noting that most of the winners of appellants’ “Rusty Scalpel Award” in the past were tax bills.

In *Kondo v. Investigative Committee*, the House of Representatives established an Investigative Committee, ostensibly to look into financial irregularities in the Department of Land and Natural Resources and the Agribusiness Development Corporation found by the Office of the Auditor. However, it soon became clear that the Committee was considering the Office of the Auditor to be a target of its investigation as well. The Investigative Committee, among other things, issued a subpoena to the Auditor asking for it to produce what the Auditor says are workpapers that are confidential under the laws governing its operations. Our amicus brief argued that the Auditor’s workpapers should have a qualified privilege against forced discovery similar to the privilege that now applies to tax return information. The First Circuit Court rendered its ruling without considering the Foundation’s motion for leave to file its proposed amicus brief, and therefore denied the

Foundation's motion as moot.

In re Parry involved a former official of a defunct company being asked to pay the company's tax. Normally, if the Department and you have a dispute over whether you owe GET, the Department will "assess" the tax, and you have the right to appeal from the assessment either to a Board of Review or to the Hawaii Tax Appeal Court. In this case, however, the Department said that the tax was already assessed against the company, and it doesn't have to assess again when it turns to a responsible person to collect it. According to the Department, the only way to get a court review of "responsible person" liability is to pay the tax in full and then sue for a refund once the State has the money. The Foundation filed a motion for leave to file an amicus brief against the Department's position, but before the First Circuit Court could rule on the motion, the case settled.

As reported last year, the Foundation joined in a "friend of the court" brief of the National Taxpayers Union Foundation in *New Hampshire v. Massachusetts*, No. 220154 in the Supreme Court of the United States. This case was brought because Massachusetts went after New Hampshire residents who previously commuted to Massachusetts but are no longer commuting because they are staying at home because of the pandemic. New Hampshire is, of course, taxing their earnings because the residents work there, but Massachusetts wants to tax them too, saying they used to have nexus with Massachusetts, so they still need to pay Massachusetts. The U.S. Solicitor General urged the Court to decline the case, pointing out that taxpayers aggrieved by Massachusetts' position could still get relief through the appellate process in Massachusetts. In June 2021, the Supreme Court declined to hear the case.

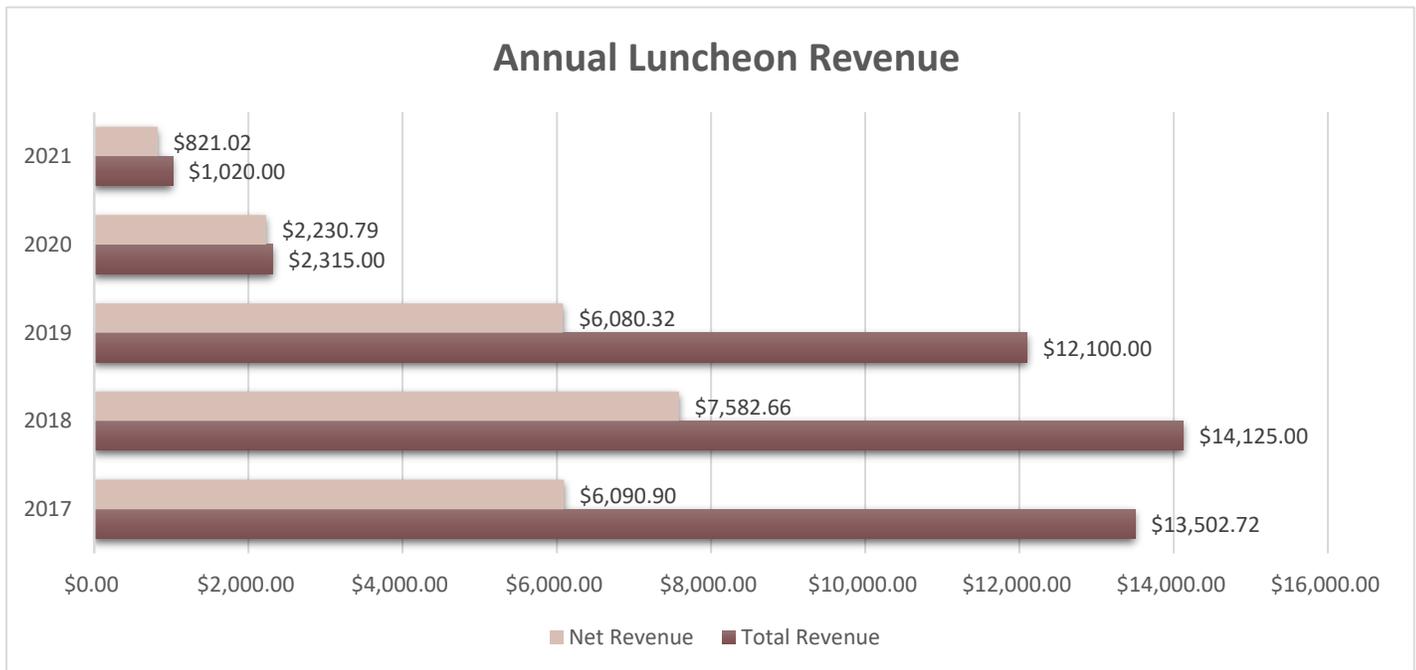
Membership Luncheon

The annual membership luncheon provides members of the Foundation a chance to gather and hear a speaker of note in the community.

In 2021, the COVID-19 pandemic once again prevented the Foundation from holding an in-person luncheon. A membership conference was convened online on September 8th via Zoom with investigative reporters Gina Mangieri of KHON 2 News and Rick Daysog of Hawaii News Now joining President Yamachika as guest panelists.

As the 2021 event was held online, the Foundation requested a donation from registered attendees, although the donation was not required for registration.

Year	Speaker	Total Revenue	Net Revenue
2021	Gina Mangieri, Rick Daysog	\$1,020.00	\$821.02
2020	John Waihe'e III, Neil Abercrombie	\$2,315.00	\$2,230.79
2019	Benjamin Cayetano	\$12,100.00	\$6,080.32
2018	Colbert Matsumoto	\$14,125.00	\$7,583.66
2017	Keli'i Akina, Gavin Thornton	\$13,502.72	\$6,090.90



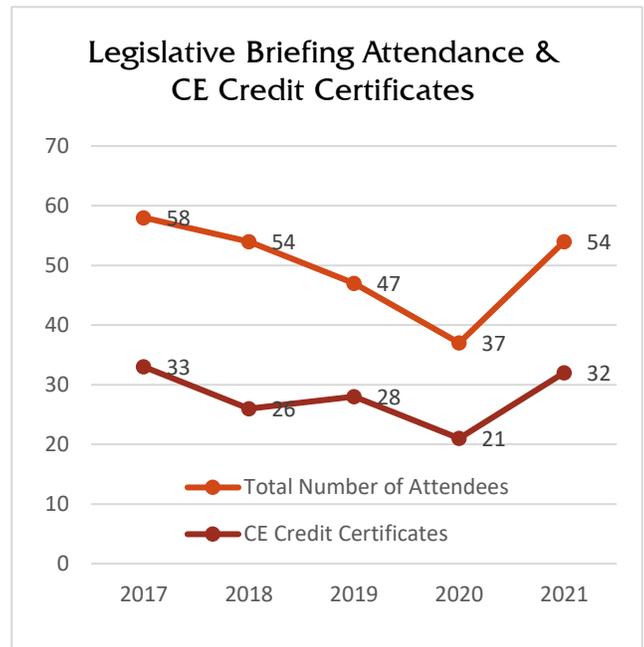
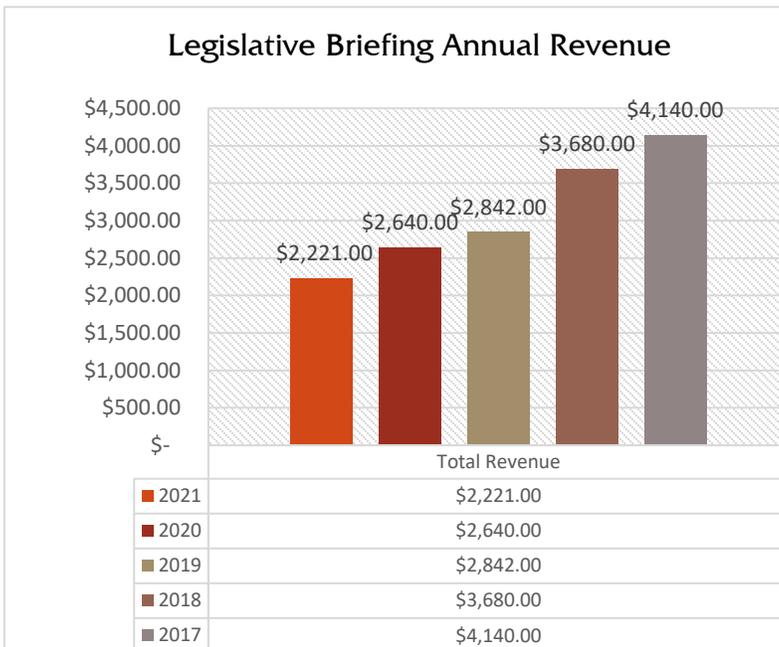
*2020 & 2021 were virtual events due to COVID-19 pandemic restrictions.

Legislative Briefings

In response to requests for updates on tax and public finance bills introduced each Legislative session, the Foundation has been providing legislative briefings to help keep those who do not have the time to monitor the session stay up to date. The Tax Foundation offers Continuing Education credit to certified accountants and CPAs for a fee when registering for the briefing.

Held at key times during the legislative schedule, such as after First Lateral and after Sine Die, the briefings focus on the developments of proposed legislation, from introduction of a bill until the final version of the measure is passed by both Chambers of the Legislature and sent to the Governor. The Hawaii Employers Council has participated as a guest presenter to update workshop attendees on important labor related measures of interest.

Due to the restrictions on gatherings because of the ongoing COVID-19 pandemic, the 2021 Legislative Briefings were held via Zoom on February 23rd, March 16th, April 13th, and May 18th.



Legislative Briefing Revenue and Attendance Summary									
		February (#4)		March (#2)		April (#3)		May (#4)	
	Total Revenue	Number of Attendees	CE Credit						
2021	\$2,221.00	4	3	10	10	22	15	38	26
2020	\$2,640.00	8	7	15	7			14	7
2019	\$2,842.00	8	5	15	7	10	6	14	10
2018	\$3,680.00	12	7	13	7	12	6	17	6
2017	\$4,140.00	14	9	12	7	13	9	19	8

2021
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