

# **APPENDIX I**

## **SUMMARY OF RECOMMENDATIONS MADE BY TAX REVIEW COMMISSIONS**

Tax Research and Planning Office  
Department of Taxation  
State of Hawaii



**SUMMARY OF RECOMMENDATIONS MADE BY TAX REVIEW COMMISSIONS**

<i>Recommendation</i>	<i>Commissions</i>					<i>Implementation and Comments</i>
	1983-1985	1988-1990	1995-1997	2001-2003	2005-2007	
<b>Overall Tax Recommendations</b>						
1. Maintain General Fund composite progressivity	X					Various targeted low-income tax credits have, over time, attempted to mitigate the regressivity of the general excise tax. However, the issue requires further analysis.
2. Eliminate or sunset tax exemptions and credits	X			X		Some tax credits have been enacted with sunset dates and have sunsetted or been repealed. In some cases, the sunset or repealed credit was replaced with an alternative. These credits have included the Individual Development Account Contribution Tax Credit (§235-5.6, HRS; allowed to sunset December 31, 2004), the Energy Conservation Credit (§235-12, HRS; allowed to sunset June 30, 2003), which was partially replaced by the Renewable Energy Technologies Credit (Act 70, SLH 2003), and the Residential Construction and Remodeling Tax Credit (§235-110.45, HRS; allowed to sunset June 30, 2003).  Sunset dates for exemptions are less common. One example is the exemption from the general excise tax (GET) of gross income from the sale of alcohol fuels (§237-27.1, HRS), which is to sunset on December 31, 2006.  For additional information on the history of tax credits, see the <i>Tax Credits Claimed by Hawaii Residents</i> report published annually by the Department of Taxation's Tax Research and Planning Office, which is available on the Department's website at <a href="http://www.hawaii.gov/tax">www.hawaii.gov/tax</a> .
3. Minimize all tax exemptions and credits	X	X	X	X	X	The number of exemptions and credits, in general, have expanded.
4. Establish General Fund Stabilization Fund	X	X	X	X	X	<b>Act 304, SLH 1999:</b> Established the Emergency and Budget Reserve Fund.

<b>Recommendation</b>	<b>Commissions</b>					<b>Implementation and Comments</b>
	1983-1985	1988-1990	1995-1997	2001-2003	2005-2007	
5. Maximize tax "exporting"	X					Hawaii taxes, including the income tax, GET, transient accommodations tax (TAT), and conveyance tax, are all exported to some extent. For more information, see Appendix D, <i>Study on the Progressive or Regressive Nature of Hawaii's Taxes</i> .
6. Provide direct expenditure assistance, not narrowly targeted tax preferences	X				X	Narrowly targeted tax preferences have increased. One consideration may be that such preferences are not expenditures subject to the general fund expenditure ceiling established under Article VII, Section 9, of the Hawaii State Constitution.
7. Lower the overall level of state taxes		X	X		X	Tax rates have generally not been reduced, with the exception of the income tax rates for individuals and also for trusts and estates.  <b>Act 157, SLH 1998:</b> Lowered individual income tax rates as well as the tax rates for trusts and estates, increased the number of tax brackets from 8 to 9, and expanded the tax brackets.  <b>Act 110, SLH 2006:</b> Increased the standard deduction to 40% of the current federal standard deduction and expanded the tax brackets by 20%.
<b>General Excise and Use Tax Recommendations</b>						
1. Maintain the GET structure	X					Structure has been maintained except for marginal changes.
2. Do not use exemptions to achieve vertical equity		X				Vertical equity has not been a major consideration in enacting legislation affecting the GET.
3. Limit exemptions to those needed for horizontal equity		X			X	Horizontal equity has not been a major consideration in enacting legislation affecting the GET.
4. Eliminate or limit exemptions intended to effect social policy such as the following:						

<b>Recommendation</b>	<b>Commissions</b>					<b>Implementation and Comments</b>
	1983-1985	1988-1990	1995-1997	2001-2003	2005-2007	
(a) \$2,000 exemption for blind, deaf, or totally disabled persons		X				Not adopted. The exemption was expanded by Act 110, SLH 2002, to also include general, limited, and limited liability partnerships all of whose partners are blind, deaf, or totally disabled.
(b) Exemption for Hansen's disease patients			X			Not adopted.
(c) Limiting the 0.5% rate for blind, deaf, or totally disabled persons to the first \$30,000 of gross receipts.		X	X			Not adopted.
5. Do not exempt health care services, food, apparel, or shelter from the GET and instead pursue those goals, if desirable, through low-income income tax credits or the appropriation and expenditure process					X	A recommendation of the current Tax Review Commission.
6. Eliminate pyramiding on multiple lease transactions	X					<b>Act 353, SLH 1997:</b> A sublease deduction is allowed sublessors of real property pursuant to a written lease to effect a reduction in (not a total elimination of) the pyramiding effect of the GET on the amount of lease rent paid to the master lessor on the property, or portion of the property, that is being subleased.
7. Eliminate pyramiding on inter-company transactions	X			X		All of the following Acts were enacted after the publication of the 1988-1990 Tax Review Commission report and prior to the publication of the 2001-2003 Tax Review Commission report. While the legislation reduced the pyramiding of the GET on business-to-business transactions, it did not eliminate all pyramiding at the 4% rate, such that the 2001-2003 Tax Review Commission recommended codifying the principle that the 4% rate on consumption be applied only once; this recommendation was not adopted.

<i>Commissions</i>	<i>Recommendation</i>	<i>Implementation and Comments</i>
1983-1985		
1988-1990		
1995-1997		
2001-2003		
2005-2007		

**Act 71, SLH 1999:** Phased-in pyramiding relief to extend wholesale treatment to certain transactions in which the goods, services, amusements, etc., that are identifiable elements of what is resold (i.e., it relaxed the strict no-consumption rule). Qualifying transactions include certain service-to-service, service-to-goods, service-to-contracting, service-to-transient accommodations, goods-to-service, and goods-to-transient accommodations transactions.

**Act 173, SLH 1999:** Allows sales of pre-packaged condiments to eating and drinking retailers to be taxed as a wholesale rather than a retail transaction.

**Act 27, SLH 2000:** Taxes sales of prepaid calling cards as sales of tangible personal property, such that sales to licensed sellers for resale are taxed as wholesale transactions.

**Act 198, SLH 2000:** Expanded Act 71, SLH 1999, to afford phased-in wholesale treatment to amusement-to-service, amusement-to-goods, and amusement-to-transient accommodations transactions. This Act also afforded phased-in wholesale treatment under the public service company (PSC) tax to certain transportation services provided to contractors (see also Act 9, 3rd SpS 2001, below) and to certain sales of telecommunications services by a public utility to an interstate telecommunications provider for resale.

**Act 271, SLH 2000:** Extends wholesale tax treatment to sales by a printer to a publisher of magazines or other printed material containing advertisements when the publisher is contracted by the advertisers to distribute a minimum number of magazines, etc., regardless of whether there is a charge to the persons who actually receive the magazines, etc. (e.g., free tourist magazines).

<b>Recommendation</b>	<b>Commissions</b>					<b>Implementation and Comments</b>
	1983-1985	1988-1990	1995-1997	2001-2003	2005-2007	
8. Eliminate or limit gross receipts splitting			X			<b>Act 9, 3rd SpS 2001:</b> Subjects certain transportation service providers to the GET instead of the PSC tax. Specifies that transportation service providers are service businesses, thus allowing transportation service providers to qualify for the phased-in wholesale rate on transactions other than transportation service-to-contracting transactions.  Not adopted.
9. Subject imported services to the use tax		X	X			<b>Act 70, SLH 1999:</b> Subjects imported services to the use tax.  <b>Act 198, SLH 2000:</b> Subjects imported contracting to the use tax.  Not adopted.
10. Exempt residential rental income		X				<b>Act 286, SLH 1991:</b> Subjects insurance companies to the GET on gross income from the rental of real property and to the TAT on gross rental income from the furnishing of transient accommodations.  <b>Act 106, SLH 1992:</b> Subjects financial institutions to the GET on non-financial services income such as gross income from the rental of real property, parking lot fees, safe deposit fees, tax preparation, payroll services, data processing fees, and seminar fees.  <b>Act 116, SLH 1994:</b> Subjects employee benefit plans to the GET on gross income from the rental of real property.
11. Eliminate blanket exemptions in favor of specific exemptions		X				
12. Eliminate or limit specific exemptions or special rates for:						

<b>Recommendation</b>	<b>Commissions</b>					<b>Implementation and Comments</b>
	1983-1985	1988-1990	1995-1997	2001-2003	2005-2007	
(a) Scientific contracts with the United States		X				Not adopted.
(b) Petroleum products refined in Hawaii		X				Not adopted.
(c) Loading, transporting, and unloading agricultural products		X				Not adopted.
(d) Sugarcane producers		X				Not adopted.
(e) Reimbursements to federal cost-plus contractors and sales of tangible personal property to the federal government		X				Not adopted.
(f) Certain real property rental income received by labor organizations		X				Not adopted.
(g) Sales of locally produced agricultural, meat, or fish products to common carriers in interstate or foreign commerce for consumption out-of-State.		X				Not adopted. Act 135, SLH 2003, amended this provision to remove the limitation to locally produced products. The Hawaii Supreme Court ruled this provision unconstitutional in 1994 ( <i>In Re the Tax Appeal of Hawaiian Flour Mills, Inc.</i> , 76 Haw. 1). The Department issued Tax Information Release No. 93-4 on November 10, 1993, after the Tax Appeal Court determined that the provision was unconstitutional, such that an exemption under this provision could not be claimed although an exemption for fresh food products shipped out of State continued to apply.
(h) Air pollution control facilities		X				Not adopted.



<b>Recommendation</b>	<b>Commissions</b>					<b>Implementation and Comments</b>
	1983-1985	1988-1990	1995-1997	2001-2003	2005-2007	
(i) Solid waste processors (waste-to-energy)		X				Not adopted.
13. Eliminate or minimize all GET exemptions		X			X	Not adopted. Also see Overall Tax Recommendation No. 2.
14. Automatically sunset the following "new industry" development exemptions:		X				The 1995-1997 Tax Review Commission specifically mentioned the 3 tax exemptions listed to the left. Some recent exemptions have automatic sunset dates. These include: (1) exemption for call centers (Act 195, SLH 2000), which will automatically sunset on June 30, 2010; (2) exemption for public Internet data centers (Act 221, SLH 2001), which sunset on December 31, 2005; and (3) sales of net operating losses by a qualified high technology business (Act 221, SLH 2001), which sunset on December 31, 2005.
(a) Motion picture industry		X				This exemption sunset on July 1, 1976. Act 135, SLH 2003, deleted the obsolete provision.
(b) Retail sales of alcohol fuel		X				<b>Act 289, SLH 2000:</b> Amended §237-27.1, HRS, to repeal this exemption on December 31, 2006. (NOTE: The original legislation, Act 274, SLH 1980, would have sunset this exemption on July 1, 1985. Act 179, SLH 1981, extended the sunset date to June 30, 1992. Act 42, SLH 1988 repealed the sunset date.)
(c) Stock exchange		X				Not adopted. A stock exchange has not been established to date.
15. Clarify exemptions for nonprofit organizations for better compliance:						Nonprofit organizations are not automatically tax-exempt and must apply for tax-exempt status. Not all nonprofit organizations, including a number of categories that qualify for income tax exemption, are eligible for exemption from the GET. If granted an exemption, not all of an organization's income may be exempt; only income that qualifies under §237-23(b), HRS, is exempt.
(a) Require GET licenses for nonprofit organizations		X			X	Not adopted.

<b>Recommendation</b>	<b>Commissions</b>	<b>Implementation and Comments</b>
(b) Require nonprofit organizations to file GET returns if they have more than \$30,000 of gross receipts	1983-1985 1988-1990 1995-1997 2001-2003 2005-2007	Not adopted.
16. Extend tax-exemption to skilled nursing facilities and for-profit hospitals, infirmaries, and sanitararia	X	Not adopted.
17. Eliminate the exemption for nonprofit organizations <u>OR</u> establish a maximum exemption amount	X	A recommendation of the current Tax Review Commission. They note, however, that the elimination of this exemption (§237-23, HRS) would not affect the exemption for donations or gifts pursuant to §237-24(4), HRS.
18. Exempt inter-affiliate business transactions from the GET	X	<b>Act 175, SLH 1988:</b> Exempted certain transactions between related entities, including common paymasters. Subsequently amended by Act 178, SLH 1997, Act 165, SLH 1999, and Act 221, SLH 2001.  <b>Act 214, SLH 1998:</b> Exempts certain employee cost reimbursements received by a management company from related entities providing interstate or foreign common carrier telecommunications services.
19. Clarify the intermediary services provision and expand it to include a wholesale services concept	X	Administrative rules clarifying the application of the services rendered for or to an intermediary wholesale rate provision were adopted, effective January 22, 1999.  <b>Act 71, SLH 1999:</b> Phased-in pyramiding relief to extend wholesale treatment to certain transactions in which the goods, services, amusements, etc., are identifiable elements of what is resold (i.e., it relaxed the strict no-consumption rule). Qualifying transactions include certain service-to-service, service-to-goods, service-to-contracting, service-to-transient accommodations, goods-to-service, and goods-to-transient accommodations transactions.

<b>Recommendation</b>	<b>Commissions</b>					<b>Implementation and Comments</b>
	1983-1985	1988-1990	1995-1997	2001-2003	2005-2007	
20. Price paid by the purchaser for a good or service should be the measure of gross receipts	X					<b>Act 198, SLH 2000:</b> Expanded Act 71, SLH 1999, to afford phased-in wholesale treatment to amusement-to-service, amusement-to-goods, and amusement-to-transient accommodations transactions. This Act also afforded phased-in wholesale treatment under the PSC tax to certain transportation services provided to contractors (see also Act 9, 3rd SpS 2001, which subjects certain transportation services to the GET instead of the PSC tax) and to certain sales of telecommunications services by a public utility to an interstate telecommunications provider for resale.
21. Exempt from the GET goods and services shipped out of Hawaii	X	X	X			<b>Act 340, SLH 1986:</b> Enacted a division of income provision (i.e., income splitting) for tourism-related services (§237-18(f), HRS). The definition of "tourism-related services" was later expanded by Act 287, SLH 1991.  <b>Act 239, SLH 1987:</b> Exempts sales of tangible personal property shipped out of Hawaii.  <b>Act 70, SLH 1999:</b> Exempts exported services and contracting.
22. Subject public service companies to the GET and eliminate the PSC tax	X					<b>Act 9, 3rd SpS 2001:</b> Subjects certain transportation service providers to the GET instead of the PSC tax. Specifies that transportation service providers are service businesses.
23. Consider a sales tax or a value added tax to replace the GET	X					Not adopted. For more information, see Appendix C, <i>Hawaii's General Excise Tax: Should the Base Be Changed?</i>
24. Rewrite the GET law to achieve clarity and transparency				X	X	Not adopted.
25. Remain involved in discussions on the Streamlined Sales Tax Project, but do not make a formal commitment at this time.					X	A recommendation of the current Tax Review Commission.

<b>Recommendation</b>	<b>Commissions</b>					<b>Implementation and Comments</b>
	1983-1985	1988-1990	1995-1997	2001-2003	2005-2007	
26. The 3-year statute of limitations on assessment of the GET should start from the filing of the last periodic GET return (Form G-45)		X			X	A recommendation of the current Tax Review Commission.
<b>Income Tax Recommendations</b>						
1. Maintain existing corporate tax burden		X				Not adopted.
2. Eliminate the corporate income tax and study eliminating the individual income tax.					X	A recommendation of the current Tax Review Commission.
3. Provide income tax credits to offset the regressive effects of the GET on food and drugs		X	X			At the time the report of the 1988-1990 Tax Review Commission was issued, sales of food purchased with USDA Food Coupons (i.e., food stamps) and USDA WIC Food Vouchers were exempt from the GET, as were sales of prescription drugs and prosthetic devices and most medical services provided by tax-exempt organizations. A food tax credit had previously been enacted (Act 239, SLH 1987). For additional information about tax credits, see the <i>Tax Credits Claimed by Hawaii Residents</i> report published annually by the Department of Taxation's Tax Research and Planning Office, which is available on the Department's website at <a href="http://www.hawaii.gov/tax">www.hawaii.gov/tax</a> .
						<b>Act 321, SLH 1989:</b> Enacted a new medical services excise tax credit. The 4% medical services excise tax credit part of this credit was repealed by Act 23, SpS 1995, and the remaining nursing facilities excise credit portion sunset on June 30, 1997.

<i>Recommendation</i>	<i>Commissions</i>					<i>Implementation and Comments</i>
	1983-1985	1988-1990	1995-1997	2001-2003	2005-2007	
4. Adjust the general excise tax credit for inflation	X	X	X			<b>Act 187, SLH 1990:</b> Repealed the existing excise tax credit and combined it with an expanded version of the existing food credit to create the food/excise tax credit. The excise tax portion of the credit was repealed by Act 134, SLH 1995. The food credit was repealed by Act 157, SLH 1998.
5. Add back capital gains, dividends, interest, retirement contributions, unemployment and workers compensation payments, public assistance benefits and individual housing account payments to the adjusted gross income base used to determine eligibility for low-income tax credits.	X					<b>Act 157, SLH 1998:</b> Enacted the low-income refundable income tax credit.  Not adopted. Act 187, SLH 1990, repealed the existing excise tax credit and combined it with an expanded version of the existing food credit to create the food/excise tax credit. The excise tax portion of the credit was repealed by Act 134, SLH 1995.  <b>Act 157, SLH 1998:</b> Enacted the low-income refundable income tax credit.  Not adopted.
6. Expand the individual income tax brackets	X	X	X	X	X	<b>Act 239, SLH 1987:</b> Reduced the top individual income tax rate from 11% to 10%, reduced the number of tax brackets from 12 to 8, and phased in an expansion of the new tax brackets through 1988.  <b>Act 321, SLH 1989:</b> Reduced the lowest individual income tax rate from 2.25% to 2% and expanded the tax brackets beginning in 1989.

<i>Recommendation</i>	<i>Commissions</i>					<i>Implementation and Comments</i>
	1983-1985	1988-1990	1995-1997	2001-2003	2005-2007	
7. Increase the standard deduction	X	X	X	X	X	<p><b>Act 157, SLH 1998:</b> Increased the number of individual income tax brackets from 8 to 9; phased in over a 4-year period beginning in 1999 a reduction of the individual income tax rates such that the rates in 2002 were 1.40% to 8.25%; and expanded the tax brackets.</p> <p><b>Act 110, SLH 2006:</b> Expanded the tax brackets by approximately 20% beginning in 2007.</p> <p><b>Act 321, SLH 1989:</b> Increased the standard deduction to the following: single - \$1,500; married filing joint return and qualifying widow(er) with dependent child - \$4,000; married filing a separate return - \$950; and head of household - \$1,650.</p> <p><b>Act 110, SLH 2006:</b> Increased the standard deduction to the following: single and married filing a separate return - \$2,000; married filing joint return and qualifying widow(er) with dependent child - \$4,000; and head of household - \$2,920.</p>
8. Provide double the standard deduction to taxpayers over age 65	X					Not adopted.
9. Reduce top individual income tax rates		X				<p><b>Act 239, SLH 1987:</b> Reduced the top individual income tax rate from 11% to 10%; reduced the number of tax brackets from 12 to 8; and phased in an expansion of the tax brackets through 1988.</p> <p><b>Act 157, SLH 1998:</b> Increased the number of individual income tax brackets from 8 to 9; phased in over a 4-year period, beginning in 1999, a reduction of the individual income tax rates such that the rates in 2002 were 1.40% to 8.25%; and expanded the tax brackets.</p>
10. Increase the personal exemption		X		X	X	Not adopted. The personal exemption was last increased by Act 78, SLH 1985.

<b>Recommendation</b>	<b>Commissions</b>					<b>Implementation and Comments</b>
	1983-1985	1988-1990	1995-1997	2001-2003	2005-2007	
11. Index the individual income tax standard deduction, personal exemption and tax brackets for inflation					X	A recommendation of the current Tax Review Commission.
12. Change the maximum net capital gains tax rate		X				Not adopted.
13. Exempt additional types of pension income		X				Not adopted.
14. Phase in taxation of all pension income		X	X	X		Not adopted. See Recommendation 15 below for the current Tax Review Commission's recommendation.
15. Conform to the federal tax treatment of retirement income, excluding an annual base amount (e.g., \$50,000)					X	A recommendation of the current Tax Review Commission.
16. Revise the taxation of nonresidents to prorate the standard deduction and personal exemption		X				<b>Act 281, SLH 1997:</b> This Act did not directly prorate the standard deduction and personal exemption amounts claimed by nonresident individual taxpayers. However, it changed the method by which the tax liability of nonresidents was computed to one in which the taxpayers' worldwide income was used to compute the nonresident taxpayers' total tax liability and the total tax liability prorated (note that the standard deduction and the personal exemption amounts were therefore deducted from worldwide income in the same manner as Hawaii residents). This was the California model mentioned in the 1995-1997 Tax Review Commission's report. This proved hugely unpopular, with letters coming in from many quarters including from U.S. Senators and Representatives on behalf of their constituents in the military.  <b>Act 253, SLH 1999:</b> Repealed Act 281, SLH 1997, and provided for the apportionment of the standard deduction and personal exemption.

<b>Recommendation</b>	<b>Commissions</b>					<b>Implementation and Comments</b>
	1983-1985	1988-1990	1995-1997	2001-2003	2005-2007	
17. Adopt withholding rules for all nonresident taxpayers involved in pass-through entities such as partnerships, S-corporations, and limited liability companies					X	A recommendation of the current Tax Review Commission.
18. Eliminate military exception for non-recognition of gain from principal residence		X				<b>Act 113, SLH 1998:</b> Conformed Hawaii law to §121, Internal Revenue Code (IRC), to exclude the gain on the sale of a residence. This repealed the former deferral of gain provision that included the exception for military personnel.
19. Limit like-kind exchange tax deferrals to situations where the replacement property is in Hawaii	X		X			Not adopted.
20. Require an exchange facilitator or intermediary of a like-kind exchange to withhold and remit the tax on any shortfall of the amount exchanged at the same rate as sales of real property by nonresidents					X	A recommendation of the current Tax Review Commission.
21. Limit involuntary conversion tax deferrals to situations where the replacement property is in Hawaii			X			Not adopted.
22. Eliminate National Guard and Reserve exclusion, political contribution deduction, individual housing account deduction, and child passenger safety restraint credit				X		Not adopted. The adjustment to income deduction for those serving in the Hawaii National Guard or in the reserves was increased by Act 197, SLH 2004.



<b>Recommendation</b>	<b>Commissions</b>					<b>Implementation and Comments</b>
	1983-1985	1988-1990	1995-1997	2001-2003	2005-2007	
23. Conform to federal requirements for an automatic extension of time to file a tax returns			X			Not adopted.  The 1995-1997 Commission recommended in its discussion "that the 90 percent requirement to receive an automatic extension be eliminated." Section 18-235-98, HAR, was amended effective June 4, 2005, to clarify that the 90% requirement applied to the second two-month extension, which is not automatic, and did not apply to the initial four-month extension, which is automatic. In as much as the Internal Revenue Service currently allows an automatic six-month extension for individual taxpayers, Hawaii law still does not conform to federal extension provisions.
24. Conform to federal filing deadlines			X			Not adopted.
25. Simplify the filing of income tax returns	X					Form N-13EZ was introduced for the 2003 tax year. A short short-form that was roughly equivalent to the federal Form 1040EZ, it was for use by certain Hawaii residents with no dependents and was available for tax years 2003 and 2004. Form N-13EZ was discontinued for the 1995 tax year due to the introduction of the Form N-11 for individuals who were Hawaii residents for the entire year and who filed a federal income tax return using the same filing status as the Hawaii return.
26. Replace the medical services excise tax credit with one included under itemized medical deduction		X				Not adopted. This credit was repealed by Act 134, SLH 1995.
27. Increase the conformity of the State income tax with the federal income tax	X	X		X		Not adopted.

<b>Recommendation</b>	<b>Commissions</b>					<b>Implementation and Comments</b>
	1983-1985	1988-1990	1995-1997	2001-2003	2005-2007	
28. Narrow the gap between taxable income and actual economic income by including portions of pension income and part of social security benefits of high-income taxpayers	X					Not adopted.
29. Conform to federal treatment of capital gains		X				<b>Act 102, SLH 1988:</b> Added §235-55.6(f), HRS, implementing a maximum tax rate of 7.25% on net capital gain income.
30. Adopt a Hawaii Alternative Minimum Tax	X					Not adopted.
31. Do not allow special "check-offs" similar to the Hawaii Election Campaign Fund	X					Additional check-offs have been added. Unlike the Hawaii Election Campaign Fund check-off, however, the new check-offs reduce the individual taxpayer's overpayment of tax, thereby reducing the refund the taxpayer would have been entitled to. The new check-offs are: (1) \$2 check-off for the Hawaii School-Level Minor Repairs and Maintenance Special Fund, Act 311, SLH 2001; (2) \$2 check-off for the State Library Special Fund, Act 193, SLH 2003; and (3) \$5 check-off for the Hawaii Children's Trust Fund, Domestic Violence Prevention Special Fund, and Spouse and Child Abuse Special Account, Act 228, SLH 2004.
32. Adjust corporate income tax brackets to increase progressivity	X					<b>Act 239, SLH 1987:</b> Expanded the number of corporate tax brackets from 2 brackets (5.85% and 6.435%) to 3 brackets (4.4%, 5.4%, and 6.4%), and added an alternative tax rate for capital gain income (3.08% prior to April 1, 1987, and 4% after March 31, 1987). <b>Act 10, SLH 1988:</b> Amended the corporate tax treatment of capital gain income.
33. Partially "de-couple" from the federal accelerated depreciation rules (ACRS) such that ACRS applies to personal property but not to real property	X					Not adopted.

<b>Recommendation</b>	<b>Commissions</b>					<b>Implementation and Comments</b>
	1983-1985	1988-1990	1995-1997	2001-2003	2005-2007	
34. Subject sales of real property by nonresident sellers to withholding						<b>Act 213, SLH 1990:</b> Requires purchasers of real property to withhold 9% of the amount realized from nonresident sellers.
35. Increase the withholding rate on sales of real property by nonresident sellers and impose penalties on withholding agents for noncompliance					X	<b>Act 279, SLH 1991:</b> Reduced the amount to be withheld from 9% to the current 5% rate.  A recommendation of the current Tax Review Commission.
36. Overhaul the business incentives tax credit process						
(a) Overhaul and update the capital goods excise tax credit			X			Not adopted.
(b) Conduct a cost-benefit study prior to enacting or revising a tax credit program				X		Not adopted.
(c) Require periodic evaluations of all tax incentive programs				X	X	Not adopted.
(d) Require beneficiaries of tax incentive programs to file truth and disclosure reports separately and apart from tax returns and make all aspects of the subsidies public				X	X	Not adopted.

<b>Recommendation</b>	<b>Commissions</b>	<b>Implementation and Comments</b>
	1983-1985	
	1988-1990	
	1995-1997	
	2001-2003	
	2005-2007	
(e) Embed tax incentives in strategic plans to leverage scarce State resources	X	Not adopted.
(f) Encourage public participation in and comment on tax incentive use to foster public accountability	X	Incorporated, to some extent, into administrative practices.
(g) Require sunset provisions to ensure that targeted benefits were realized before extending an incentive.	X	Sunset provisions have been incorporated into some tax incentives, such as the high technology business investment tax credit, although study and evaluation requirements have not been specifically legislated.
37. Gain control of the qualified high technology business investment tax credit tax incentive and curb potential abuses by changing it from a tax credit to a program of grants administered by a State agency <u>OR</u> :	X	A recommendation of the current Tax Review Commission.  NOTE: If recommendations (a) through (c) are implemented, the Commission suggests that the Department of Taxation review the continued need for certification.
(a) Require that the reporting of data be mandatory and expand the types of required data to include sales, employment data on compensation, status, and whether the job was full-time, part-time, or seasonal	X	A recommendation of the current Tax Review Commission.
(b) Collect the data by NAICS code and make the data periodically available to the public, but not less than annually	X	A recommendation of the current Tax Review Commission.

<b>Recommendation</b>	<b>Commissions</b>						<b>Implementation and Comments</b>
	1983-1985	1988-1990	1995-1997	2001-2003	2005-2007		
(c) Require a tax confidentiality waiver so that pertinent data can be released to the public					X		A recommendation of the current Tax Review Commission.
(d) Conduct an independent evaluation of the credit prior to enacting any extension of the credit					X		A recommendation of the current Tax Review Commission.
38. Allow an extension for certification for the high technology credit					X		A recommendation of the current Tax Review Commission.
39. Require beneficiaries of tax credits to file truth in disclosure reports in addition to income tax returns					X		A recommendation of the current Tax Review Commission.

**Miscellaneous Recommendations**

1. Ensure that the following special funds are self-supporting							
(a) Highways	X	X					Self-supporting.
(b) Airport	X						Self-supporting.
(c) Harbors	X						Self-supporting.
(d) Parking	X						Self-supporting.
(e) Unemployment Compensation	X						Self-supporting.
(f) Disability Compensation	X						Self-supporting.

<b>Recommendation</b>	<b>Commissions</b>					<b>Implementation and Comments</b>
	1983-1985	1988-1990	1995-1997	2001-2003	2005-2007	
(g) Airport	X					Self-supporting.
2. Establish a TAT without earmarking the resulting revenue	X					<b>Act 340, SLH 1986:</b> Enacted a TAT without earmarking. However, subsequent amendments earmarked revenues as follows:  <b>Act 185, SLH 1990:</b> Earmarked 95% of the TAT collected for the counties.  <b>Act 7, SpS 1993:</b> Earmarked a portion of the TAT collected for the Convention Center Capital and Operating Special Fund (currently the Convention Center Enterprise Special Fund).  <b>Act 156, SLH 1998:</b> Earmarked a portion of the TAT collected for the Tourism Special Fund.  <b>Act 210, SLH 2002:</b> Earmarked a portion of the TAT collected for the State Parks Special Fund, Hawaii Statewide Trail and Access Program (currently the Special Land and Development Fund established for the Hawaii statewide trail and access program), and TAT Trust Fund.
3. Transfer TAT taxing authority to the counties		X				Not adopted.
4. Reconcile the TAT base with the visitor lodging expenditure estimates using data published by the Department of Business, Economic Development and Tourism (DBEDT) and the Hawaii Visitors Bureau		X				This is an ongoing research problem. However, DBEDT has a new tourism research office, which should be able to resolve the problem.
5. Conform to the federal estate tax repeal provisions except the repeal of the state death tax credit				X		Not adopted.

<b>Recommendation</b>	<b>Commissions</b>					<b>Implementation and Comments</b>
	1983-1985	1988-1990	1995-1997	2001-2003	2005-2007	
6. Continue the PSC tax and share receipts with the counties	X					<b>Act 64, SLH 2001:</b> Effectuated an agreement entered into by the State of Hawaii, the City & County of Honolulu, the County of Maui, the County of Kauai, the County of Hawaii, and a number of public service companies to share PSC tax revenues with counties that establish by ordinances an exemption from real property tax for public service companies.
7. Establish a mechanism to tax commercial airlines	X					Not adopted. Federal law preempts state taxes on gross receipts of airlines. See <i>Aloha Airlines, Inc. v. Director of Taxation</i> (464 U.S. 7).
8. Impose fuel and liquor taxes on an <i>ad valorem</i> basis rather than on a per unit basis	X					Not adopted.
9. Consolidate fuel tax at the state level	X					Not adopted.
10. Retain liquor and tobacco taxation at the state level	X					Has not been changed.
11. Liquor and tobacco tax collections should cover government costs resulting from the use of these products	X					Indeterminate. Settlement funds received pursuant to the 1998 Tobacco Master Settlement Agreement in part mitigate government tobacco-related costs.
12. Subject firms taxed under the insurance premiums tax to the GET for rentals and other business receipts.	X					<b>Act 286, SLH 1991:</b> Subjects to the GET and TAT the gross rental income received by taxpayers subject to the insurance premiums tax.

<b>Recommendation</b>	<b>Commissions</b>					<b>Implementation and Comments</b>
	1983-1985	1988-1990	1995-1997	2001-2003	2005-2007	
13. Subject insurance commissions to the 4% GET rate rather than the 0.15% rate, and concurrently review the insurance premiums tax rates			X			Not adopted.
14. Franchise tax:						
(a) Eliminate the in-lieu taxes on financial institutions and insurance companies and integrate the taxation of these types of taxpayers into the regular tax system after a careful evaluation of such a change	X					Not adopted.
(b) Eliminate the federal income tax deduction from the franchise tax		X				<b>Act 106, SLH 1992:</b> Eliminated the deduction for federal income taxes.
(c) Set the franchise tax rate equal to the corporate income tax rate		X				Not adopted.
(d) Conform the franchise tax law to the corporate income tax rules for the allocation and apportionment of income		X				Not adopted.
15. Allow taxpayers to make a deposit against future tax liability to stop continued accrual of interest					X	A recommendation of the current Tax Review Commission.



<b>Recommendation</b>	<b>Commissions</b>					<b>Implementation and Comments</b>
	1983-1985	1988-1990	1995-1997	2001-2003	2005-2007	
16. Adopt §7430, IRC, to require the Tax Appeal Court to award court fees for actual costs where the position of the Department is found to be "not substantially justified," subject to court approval					X	A recommendation of the current Tax Review Commission.
17. Establish an Appeals Office modeled after the Appeals Office of the Internal Revenue Service					X	A recommendation of the current Tax Review Commission.
18. Repeal the part of §232-7, HRS, that states that hearings before the Board of Review are public hearings					X	A recommendation of the current Tax Review Commission.
19. Establish a state lottery	X					Not adopted.
20. Use unrestricted State grants only when necessary to equalize the fiscal capacity of the counties		X				Not adopted.
21. Counties should make better use of their existing revenue authority (property taxes, user fees and charges, and development fees and extractions)		X				Indeterminate.
22. In addition to its statistical studies of the individual and corporate income tax, the Department should conduct annual statistical analyses of GET data	X					Statistics regarding the GET are released, but an analysis is not being conducted due to insufficient resources.

<b>Recommendation</b>	<b>Commissions</b>	<b>Implementation and Comments</b>
23. The Department should compile detailed information on the GET to better identify the source and nature of the gross receipts	1983-1985 1988-1990 1995-1997 2001-2003 2005-2007	This is not being done due to insufficient resources. The reporting of gross income by taxation district was required on a Schedule C pursuant to the 0.5% county surcharge tax enacted in 1990 (Act 184, SLH 1990). However, this reporting requirement was burdensome to taxpayers, and was discontinued after a few years in part because no county passed a surcharge tax. This section, §237-8.5, HRS, was repealed by Act 135, SLH 2003.
24. Give the Department resources to monitor business incentive tax credits	2001-2003 2005-2007	Although a number of revenue-generating positions have been added, there are insufficient positions for providing guidance on and monitoring the business incentive tax credits.
25. Give the Department resources to conduct out-of-state audits	2001-2003 2005-2007	Out-of-state audits are being conducted, but are limited by staffing and funding constraints.
26. Provide adequate resources to the Tax Research and Planning Office for updating or improving economic forecasting and modeling capabilities for: (a) tax incentives (exemptions and credits); (b) auditing activities; (c) nonprofit organizations; (d) conformity with federal tax laws; (e) equity concerns; (f) bracket creep; (g) administrative costs; and (h) State corporate tax revenue trend analysis	1988-1990 2001-2003 2005-2007	Resources are still insufficient. One economist position was transferred from DBEDT in 1997, but one statistician position was abolished.

<b>Recommendation</b>	<b>Commissions</b>	<b>Implementation and Comments</b>										
27. Provide adequate resources to the Tax Research and Planning Office to analyze specific tax credits such as the following: (a) ethanol investment tax credit; (b) high technology business investment tax credit; and (c) energy conservation tax credit	<table border="1"> <tr><td>1983-1985</td><td></td></tr> <tr><td>1988-1990</td><td></td></tr> <tr><td>1995-1997</td><td></td></tr> <tr><td>2001-2003</td><td>X</td></tr> <tr><td>2005-2007</td><td>X</td></tr> </table>	1983-1985		1988-1990		1995-1997		2001-2003	X	2005-2007	X	Resources are still insufficient. One economist position was transferred from DBEDT in 1997, but one statistician position was abolished. Note that ethanol investment tax credit was amended by Act 140, SLH 2004, and renamed the ethanol facility tax credit, and that the energy conservation tax credit sunset on June 30, 2003, and was replaced with the renewable energy technologies income tax credit.
1983-1985												
1988-1990												
1995-1997												
2001-2003	X											
2005-2007	X											
28. Consider the needs of the entire Department, not just revenue-producing positions, for adequate funding as a good investment for the State	<table border="1"> <tr><td>1983-1985</td><td></td></tr> <tr><td>1988-1990</td><td></td></tr> <tr><td>1995-1997</td><td></td></tr> <tr><td>2001-2003</td><td></td></tr> <tr><td>2005-2007</td><td>X</td></tr> </table>	1983-1985		1988-1990		1995-1997		2001-2003		2005-2007	X	A recommendation of the current Tax Review Commission.
1983-1985												
1988-1990												
1995-1997												
2001-2003												
2005-2007	X											

