

## TAX REVIEW COMMISSION

MINUTES OF THE TWENTY-THIRD MEETING OF THE  
TAX REVIEW COMMISSION  
HELD AT 830 PUNCHBOWL STREET, ROOM 221  
IN THE CITY AND COUNTY OF HONOLULU  
STATE OF HAWAII, ON FRIDAY, DECEMBER 1, 2006

The Commissioners of the Tax Review Commission met at the Department of Taxation, Director Conference Room, in the City and County of Honolulu, State of Hawaii, on Friday, December 1, 2006.

**Members Present:** Chairman Isaac Choy, Manoa Consulting Group, LLC CPA's  
Vice-Chairman Ronald Heller, Torkildson Katz Fonseca Moore &  
Hetherington, AAL, ALC  
Christopher Grandy, UH Manoa, Public Administration Program  
Melanie King, Bank of Hawaii  
Lon Okada, Hawaiian Electric Industries, Inc.  
John Roberts, Niwao & Roberts, CPA's

**Members Absent:** Carolyn Ching, Carolyn L. Ching CPA

**Staff:** Tu Duc Pham, Donald Rousslang, Cathleen Tokishi

**Other:** Harry Blanchette, Senate Minority Research Office  
Hayley Callahan, DOTAX  
Diane Erickson, Dept. of Attorney General  
Peter Fritz  
Catherine Morris, Paul T. Morris, M.D.  
Johnnel Nakamura, DOTAX  
Marilyn Niwao, Niwao & Roberts, CPAs; HAPA  
Tom Smyth, DBEDT

### CALL TO ORDER

Chairman Isaac Choy called the meeting to order at 4:05 p.m. with a quorum present.

### APPROVE MINUTES OF MEETINGS OF OCTOBER 25, AND 31

The Chairman called for any corrections or additions to the minutes for the meetings on October 25, 2006, and October 31, 2006; there were none.

It was moved by Ms. King and seconded by Mr. Okada to approve the minutes of October 25, 2006, and October 31, 2006. The motion carried without opposition.

## **ANNOUNCE CORRESPONDENCE RECEIVED**

The Chair noted the receipt of faxed correspondence from Ms. Catherine Morris and invited her to speak to the Commission. Ms. Morris stated that they had a bill introduced in 2006 to exempt medical services from the 0.5% county surcharge tax and planned to have it reintroduced in 2007.

She stated that they felt that a tax credit was not as good as an exemption. Her husband is a surgeon at Queen's and the head of the Cancer Center where 19% of the patients are from the neighbor islands. She was concerned that a credit would not sufficiently benefit the neighbor island taxpayers who do not have the same access to health care and that middle class taxpayers would be unable to afford their health insurance premiums and co-payments because the tax represents a lot of money being siphoned out of health care to pay for transportation.

The Chair asked if there were any questions for Ms. Morris; there were none. He thanked her for her submission and for taking the time to attend the meeting. He explained, however, that the deadline for submitting new topics for consideration and inclusion in the report had long passed, and though they could not consider her suggestion for inclusion, they would enter her comments and correspondence into the record.

The Chair noted the receipt of an e-mail received from Mr. Doug Megla, a CPA and Maui resident, who suggested that the Commission consider recommending that an exemption from the general excise tax be provided for rental transactions between related parties. The Chair called for discussion; there was none and the Chair stated that Mr. Megla's correspondence would be entered into the record.

## **ACCEPT FINAL REVISIONS TO EXTERNAL STUDY #2, "MEASURING THE COSTS AND BENEFITS OF HAWAII'S HIGH TECHNOLOGY BUSINESS INVESTMENT TAX CREDIT"**

Dr. Grandy confirmed that the changes he had wanted with respect to the citations had been completed.

It was moved by Dr. Grandy and seconded by Mr. Heller, that the study, "Measuring the Costs and Benefits of Hawaii's High Technology Business Investment Tax Credit" be accepted. The motion passed with the following votes: 6-Yes.

The Chairman called for the vote:

Isaac Choy	Yes
Ronald Heller	Yes
Christopher Grandy	Yes
Melanie King	Yes
Lon Okada	Yes
John Roberts	Yes

**REVIEW OF ANY COMMENTS ON DRAFT REPORT; APPROVE THE FINAL REPORT OF THE 2005-2007 TAX REVIEW COMMISSION**

The Chair stated that Correctional Industries would be printing 500 copies.

Mr. Heller reiterated that Attachment I had been changed, such that an "X" was added to a number of items indicating the current Commission's agreement with those recommendations although the exact wording of the previous recommendation had not been formally adopted.

Discussion was held on the proper procedures for transmitting the report to the Legislature; whether through the Governor's Office as are some reports from the departments to the Legislature or directly as it had been in the past pursuant to the State Constitution and chapter 232E, Hawaii Revised Statutes. Ms. Tokishi would work with Ms. Erickson to determine the correct procedure.

Ms. Niwao expressed concern about providing copies to the media. Ms. Tokishi stated that she had spoken to Mr. Craig Hirai, Chair of the previous Tax Review Commission, who stated that it had been problematic primarily because of the delay in posting the report onto the website. Ms. Tokishi indicated that the final report would be posted shortly after the copies were provided to the Legislature and that a news release referring to the online copy could be issued.

It was moved by Mr. Heller and seconded by Ms. King, that the final report of the 2005-2007 Tax Review Commission be accepted and approved. The motion passed with the following votes: 6-Yes.

The Chairman called for the vote:

Isaac Choy	Yes
Ronald Heller	Yes
Christopher Grandy	Yes
Melanie King	Yes
Lon Okada	Yes
John Roberts	Yes

## **CLOSING BUSINESS**

The Chair stated that this could be the last formal meeting of the Commission, although Mr. Heller noted that the Commission doesn't dissolve until the Legislature adjourns. Although Mr. Heller had assumed that both he and the Chair would be going to the various hearings, the question was whether the entire Commission would be following up on its report. Ms. Niwao noted that the entire Commission attended the last time. The Chair stated that he and Mr. Heller would certainly attend Legislative hearings, and the entire Commission is encouraged to participate, if available.

Dr. Pham suggested that his staff keep track of any hearings and draft testimony for the Commission as needed. However, the Chair stated that he had already begun drafting his testimony. Ms. Niwao stated that the finance committees notified Mr. Hirai about hearings that took place before the start of the Legislature. Mr. Smyth noted that there was a new committee in the Senate, the Economic Development and Taxation Committee chaired by Senator Carol Fukunaga. The Chair stated that he would follow-up on that. Dr. Pham stated that Ms. Tokishi would also follow-up and could serve as the point person for notifying the entire Commission.

Mr. Roberts stated that everyone should be prepared for calls from the media, including national publications, based on Ms. Niwao's experience the last time. Ms. Niwao added that the legislators were primarily interested in just the high technology business investment tax credit; the Chair stated that he would want to speak about the entire report.

The Chair concluded by thanking all attendees, including the public, for their time and effort.

## **ADJOURNMENT**

It was moved by Dr. Grandy and seconded by Mr. Heller to adjourn the meeting at 4:25 p.m. The motion was carried unanimously.

PAUL T. MORRIS, M.D.  
1380 LUSITANA ST. #507  
HONOLULU, HI 96813  
808-521-4664  
FAX 808-521-4726

FACSIMILE TRANSMITTAL SHEET

TO: Dr. Donald Rousslang FROM: Paul T. Morris, M.D.

COMPANY: Tax Dept. DATE: 11/28/06

FAX NUMBER: 587-4145 TOTAL NO. OF PAGES INCLUDING COVER: 1 pp

PHONE NUMBER: \_\_\_\_\_ SENDER'S REFERENCE NUMBER: \_\_\_\_\_

YOUR REFERENCE NUMBER: \_\_\_\_\_

URGENT FOR REVIEW     PLEASE COMMENT     PLEASE REPLY     PLEASE RECYCLE

*Thank you for reviewing this*

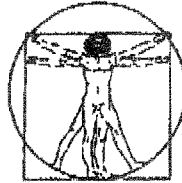
*Cathy*

THE FOLLOWING MAY CONTAIN MEDICAL RECORDS WHICH ARE PRIVILEGED AND CONFIDENTIAL.

IF MISDIRECTED, PROMPTLY CONTACT THIS OFFICE, THANK YOU.



**Paul T. Morris, M.D.**  
General and Thoracic Surgery



The Queen's Physicians Office Building, I  
1380 Lusitana Street, Suite 507  
Honolulu, Hawaii 96813  
Office: (808) 521-4664  
Fax: (808) 521-4726

November 28, 2006

Dr. Donald Rousslang  
Tax Research & Planning Office  
P.O. Box 259  
Honolulu, HI 96809-0259

RE: Public Comments on 5Year Tax Review Report

Dear Dr. Rousslang,

Please find attached a bill that I am re-proposing for the 2007 Legislative Session. This is the same bill which was introduced last year in 2006 to exempt medical services from the ½ of 1 percent increase in the GET for the County Rail Surcharge..

I just found out today that public comments were due on the 2005-2007 Draft Report by the Tax Commission by 11/27/06. I hope it is not too late to submit this letter as a public comment. I apologize for being a day late.

I noticed that the report was missing information on what the effect of the County Rail Surcharge would be on medical services. I believe this should be included in the Report because this is a new tax which will be collected by the State and is in the State tax code, and it was also the subject of the aforementioned bill that was introduced to the Legislature last year.

To paraphrase page 17, Recommendation 2 of the report: the Commission cautions against approving proposals to exempt health care services, and if necessary, to pursue these goals through low-income tax credits.

Our bill, which is widely supported in the medical community and by patients, specifically addresses an exemption only from the County Rail Surcharge. We believe that the health care system in the State can not withstand more pressure on the patient's ability to meet their financial obligations as a result of the costs of their treatment.

In addition, unlike food, clothing and shelter, medical services are primarily used by the people of our State. A tax credit is complicated for most people to apply, and does nothing to help the rest of the hard working people of Hawaii who struggle to pay their

insurance premiums and co-pays. The State should want to support a patient's ability to remain insured, otherwise there will be increased costs for Med/Quest at a time when there is declining federal Medicaid dollars.

The hospitals and providers are dealing with a continual decrease in reimbursements and rising numbers of uninsured patients, the health care system therefore is incapable of shouldering the burden of a transportation project. In addition, a credit will not protect all patients from further increases by Honolulu County to pay for its rail system, making Hawaii the only State in the country to tax its sick for transportation.

There is also an inherent inequity in that neighbor island patients who are forced to get their treatment on Oahu will be paying this County Rail surcharge as well. A tax credit for some of them is not fair to the rest of the neighbor island patients who should not have to pay more on the costs of their treatment for a project only to benefit Oahu.

Please consider addressing our concerns even though I have missed the deadline. I would also like to attend the meeting this Friday afternoon in the Tax Director's Office if possible.

Thank you very much for your attention to this important matter. I have also included a copy of a letter we recently received from the Governor with respect to our proposed legislation.

Sincerely yours,



Catherine Morris

521-4664 office  
927-2821 cell  
emai: pmorris475@aol.com

CC: Isaac Choy, Chair Tax Review Commission



HOUSE OF REPRESENTATIVES  
TWENTY-THIRD LEGISLATURE, 2006  
STATE OF HAWAII

H.B. NO.

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## A BILL FOR AN ACT

RELATING TO HEALTH CARE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1 SECTION 1. The legislature affirms that all residents in  
2 this State should have access to affordable, quality health  
3 care. However, the legislature also finds that the number of  
4 patients who are uninsured because they are unable to pay their  
5 medical premiums is on the rise in this State, as is the number  
6 of families driven into bankruptcy due to medical expenses.

7 Hawaii has always prided itself on its near-universal  
8 health coverage, but that coverage is eroding as more people  
9 either become unable to pay their share of their medical bills,  
10 or are close to being unable to afford their premiums. To these  
11 people, every health care cost increase is critical and  
12 threatens their ability to access medical care.

13 One unavoidable cost is the cost of health care general  
14 excise tax charges, which are almost always passed on to the  
15 patient. Most local insurance plans, including HMSA, UHA, and  
16 HMAA, refuse to cover the general excise tax as a plan benefit  
17 for patients, increasing the financial obligation of the patient  
18 at a time when co-payments and premiums are also on the rise. If

1 patients are forced into bankruptcy, they cannot continue to pay  
2 their premiums and consequently lose their healthcare coverage.

3 The uninsured population is straining our health care  
4 system: in 2002, more than 27,000 uninsured patients were  
5 treated in community health care centers. This figure is up  
6 sixty-seven percent from 1997 and twenty percent from 2001.  
7 Sixteen percent of these uninsured patients admitted to never  
8 paying their bill after visiting their community health centers,  
9 clinics, hospitals, and emergency rooms, putting more stress on  
10 an already overburdened health care system.

11 No other state in the nation taxes medical services to  
12 support transportation, and the majority of states impose no tax  
13 on medical services at all. Increasing the cost of healthcare to  
14 patients in this State by subjecting them to the extra half-  
15 percent will drive more residents into an uninsured status,  
16 ultimately costing the State more in Medicaid benefits and  
17 eroding services to all residents as healthcare providers cannot  
18 keep up with the increased burden of unreimbursed care.

19 The legislature finds that there is an additional inequity  
20 with the only pending county mass transportation tax surcharge,  
21 which is that of Honolulu, as specialists primarily tend to  
22 practice on Oahu, which creates a barrier to care for residents  
23 living on the neighbor islands. Neighbor island residents who  
24 need specialty care must often travel to Oahu for services

1 thereby creating a financial burden as many health insurance  
2 plans exclude airfare, ground transportation, lodging, and meals  
3 from covered benefits, as well as the travel cost for a  
4 caregiver, companion, or parent to accompany patients. Neighbor  
5 island patients who need care on Oahu would be subject to the  
6 City and County of Honolulu's mass transportation tax surcharge  
7 as that is where their services were performed.

8 The purpose of this Act is to maintain the integrity of the  
9 current healthcare system by exempting medical services from any  
10 county mass transportation tax surcharge. By restricting only a  
11 small portion of what the counties are allowed to tax, the State  
12 will experience a much larger gain in the form of lower Medicaid  
13 costs as patients retain their insured status.

14 SECTION 2. Section 237-8.6, Hawaii Revised Statutes, is  
15 amended by amending subsection (d) to read as follows:

16 "(d) No county surcharge on state tax shall be established  
17 on any:

- 18 (1) Gross income or gross proceeds taxable under this  
19 chapter at the one-half per cent tax rate;
- 20 (2) Gross income or gross proceeds taxable under this  
21 chapter at the 0.15 per cent tax rate; ~~[e]~~
- 22 (3) Insurance premium payments for health care, and  
23 patient expenditures for physician services and all  
24 other medical services, including hospital charges,

1           nursing services, rehabilitation, and prescription  
2           drugs; or

3           (4) Transactions, amounts, persons, gross income, or gross  
4           proceeds exempt from tax under this chapter."

5           SECTION 3. Section 238-2.6, Hawaii Revised Statutes,  
6 is amended by amending subsection (c) to read as follows:

7           "(c) No county surcharge on state tax shall be established  
8 upon any use taxable under this chapter at the one-half per cent  
9 tax rate [~~e~~], on any insurance premium payments for health  
10 care, and patient expenditures for physician services and all  
11 other medical services, including hospital charges, nursing  
12 services, rehabilitation, and prescription drugs, or upon any  
13 use that is not subject to taxation or that is exempt from  
14 taxation under this chapter."

15           SECTION 4. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

17           SECTION 5. This Act shall take effect on July 1, 2006.

                  INTRODUCED BY: \_\_\_\_\_

EXECUTIVE CHAMBERS  
HONOLULULINDA LINGLE  
GOVERNOR

November 21, 2006

Dr. Paul T. Morris  
The Queen's Physicians Office Building I  
1380 Lusitana Street, Suite 507  
Honolulu, Hawaii 96813

Dear Dr. Morris:

Thank you for talking to me briefly at the end of my tour of the Queen's Hospital Cancer Center about exempting medical services from the 1/2% county surcharge on the general excise tax. Thank you also for providing me with a well-researched analysis of this issue.

I reviewed the history of the legislation proposed in 2006. As you know, the Hawaii Health Systems Corporation (HHSC) supported the measure, as did other members of the medical community. The Department of Taxation remained neutral, providing cost estimates on the revenue impact. I understand they projected the exemption would reduce county tax revenues by \$9.8 million.

I have long held the position that Hawaii residents should not be taxed for getting sick. That is why I have proposed various forms of tax relief to offset the impacts of the GET tax in Hawaii. I am currently in the process of formulating my Administration's tax relief proposals for 2007 and will consider your proposal as part of our review.

As of now, the anticipated start date for the 1/2% surcharge is January 1, 2007. A proposal is currently pending before the City Council to delay this enactment of the tax until such time as the City decides on a final transit option. However, it is too early to determine whether the surcharge effective date will be revised.

I would appreciate you keeping my staff informed of your plans to reintroduce HB 1996/SB2694. Ms. Linda Smith, who serves as my Senior Policy Advisor, can be reached at 586-5330.

Please share with Mr. Art Ushijima, Ms. Sharlene Tsuda, and the other members of the Queen's Cancer Center team, my appreciation for an informative tour and helpful discussion.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".  
LINDA LINGLE



Tax.Research/TAX/StateHiUS

To Donald J Rousslang/TAX/StateHiUS@StateHiUS


11/29/2006 01:25 PM

cc

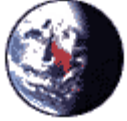
bcc

Subject Fw: draft tax review doug megal 2nd request

History:

 This message has been forwarded.

----- Forwarded by Tax.Research/TAX/StateHiUS on 11/29/2006 01:25 PM -----



WILDCATNOW@aol.com

11/29/2006 06:35 AM

To Tax.Research@hawaii.gov

cc

Subject draft tax review doug megal 2nd request

Subj: **draft report of the tax review**

Date: 11/23/2006 9:06:41 AM Hawaiian Standard Time

From: [WILDCATNOW](mailto:WILDCATNOW@aol.com)

To: [Tax.Research@hawaii.gov](mailto:Tax.Research@hawaii.gov)

Dr. Donald Rousslang.

from doug megl a cpa dn resident maui hi.

Currently i read various exemptions for related part transactions for excise tax that follow the irs code. However, the IRS code includes rental between related parties that the same rules as other exemptions within the irs code. The hi excise tax does not provide any exemption on rental what so ever.

An example would be imputed rental cost on rental sch c of a wife not paid to her husband to record the cost of capital on her business, thus reducing her self employment and following imputed cost rules, the husband reported the rent as imputed on schedule e however no rent money exchanged hands. In hi this related party transaction would impose excise tax.

Another example would be where a business owner of a corp. pays them self, on schedule e , rental from their own business. Weather imputed or paid to record the cost of capital.

Hi. Excise tax exemptions follow the IRS code but leave out rental exemption.

I am writing this note to have the rental exemption considered

doug megl a 808-242-1019