

TAX REVIEW COMMISSION  
MINUTES FOR THE FOURTEENTH MEETING OF THE  
TAX REVIEW COMMISSION  
HELD AT 830 PUNCHBOWL STREET  
DEPARTMENT OF LABOR & INDUSTRIAL RELATIONS ROOM 310-313  
IN THE CITY AND COUNTY OF HONOLULU  
STATE OF HAWAII, ON THURSDAY, AUGUST 10, 2017 AT 1:30 PM

The Commissioners of the Tax Review Commission (TRC) met at the Department of Labor & Industrial Relations Conference Rooms in the City and County of Honolulu, State of Hawaii, on Thursday, August 10, 2017.

**Members Present:** Colleen Takamura, Chair  
Vaughn Cook, Vice-Chair  
John Knox  
Nalani Kaina  
Billy Pieper  
Dawn Lippert  
Raymond Blouin

**Members Absent:** None

**Staff:** Seth Colby, Titin Sakata and Noe Kaawa

**Others:** Randall Nishiyama, Department of the Attorney General  
Randy Bauer, PFM Group Consulting LLC  
Donald Rousslang, Department of Taxation  
Jonathan White, Department of Taxation  
Sean Hao, Office of the Auditor  
Megan Johnson, Office of the Auditor  
Peter Fritz  
Sam Lee, CAN

**CALL TO ORDER:**

Chair Takamura called the meeting to order at 1:33 pm.

**APPROVAL OF MINUTES:**

Chair Takamura said the first item on the agenda was the approval of the minutes from July 6, 2017. She asked if there was any motion to amend or approve the minutes.

Commissioner Pieper moved the motion to approve the minutes from the July 6, 2017 meeting and Commissioner Blouin seconded the motion. The motion carried unanimously.

## **DOTAX PRESENTATION ON TRANSIENT ACCOMMODATIONS TAX AND PROPERTY TAX:**

Dr. Colby said he has been doing a series of presentations, looking at the economic trade-offs and the major tax types in Hawaii. He has already done the GET, which was the largest source of revenue and the individual income tax, which was the second largest source of revenue. It included corporate income tax but didn't talk much about it since Dr. Rousslang has dedicated a study to that.

He said the next two revenue sources which was the transient accommodations tax, basically a room tax and the other, something that was not available at the state level but everyone should be aware of because it does make a large contribution to state and local finances was property tax. One of the things to think about at the state and local level although it was not in the purview of the TRC, but important not to forget that the responsibilities divvied up between the state and local governments were substitutes so the state could take over more roles and the local government could over more roles.

He said one thing seen time and time again here was that the state government took charge of a lot of responsibilities in Hawaii while in other states it was done by local governments. There was trade-offs to that and historical legacies associated for why that was the case, but that's an important case. To ignore property tax because it doesn't belong to the state left the big picture out particularly since Hawaii was the most centralized state in the union. The other tax types like fuel and alcohol taxes, other excise taxes and fees probably make in the range of less than ten percent was another important part of revenue collection and as Mr. Bauer had mentioned, was some of the fastest growing revenue sources in some of the other states because it was more politically feasible to raise those taxes in those jurisdictions.

Mr. Bauer said particularly as it related to excise taxes it has been seen that within the last twenty to thirty years it has become the placed to go when states needed to raise revenue but doesn't want to take on what would generally be considered their largest revenue sources.

Transient Accommodations Tax and Property Tax presentation by Dr. Seth Colby, DoTAX

[https://tax.hawaii.gov/stats/a9\\_2trc](https://tax.hawaii.gov/stats/a9_2trc)

Commissioner Knox asked Dr. Colby for slide 4 was there any data from DoTAX available about the number of visitor units that correspond each to the total tax to date.

Dr. Colby said in about two slides was that information Commissioner Knox asked about.

Commissioner Knox asked Dr. Colby if slide 5 could be done in percentage terms.

Dr. Colby asked Commissioner Knox to email him and he would redo that graph.

Commissioner Kaina asked Dr. Colby if he could footnote that on the slide that Hawaii was one of the only states that imposed the GET on the provision of room service especially if their looking at the presentation later.

Commissioner Blouin asked if there was a slide referencing length of stay and whether or not length of stay dropped as TAT increased.

Dr. Colby said he didn't look at that.

Commissioner Knox said in that regard, actually if one looked at visitor nights as opposed to visitor arrivals, it incorporates the length of stay.

Commissioner Kaina asked Dr. Colby on slide 1, he mentioned there was an exemption for publicly subsidized lodging, what did that mean.

Dr. Colby said his understanding of that was if the government was receiving a subsidy for subsidizing the housing, they don't have to pay the GET or TAT on it.

Commissioner Kaina said she just wanted to know if there was anything in particular that it was used for.

Dr. Colby said he would need to go back and look into that.

Commissioner Knox asked Dr. Colby if he got the information on how much of the TAT were going to dedicated purposes or to more the general fund purposes.

Dr. Colby said it changes, but this year, more of its going to the general fund. He said he could show the breakdown if the TRC wanted.

Commissioner Cook said from the slide 3 with "less than 180 consecutive days", did that TAT apply if you sign a lease for greater than 180 days but end up moving out.

Dr. Colby said if you sign a lease and it was your exclusive residence, this would not apply.

Commissioner Kaina said if you had a permanent home somewhere else, then TAT applies. That would be like a second home or vacation rental.

Chair Takamura said one of PFM's recommendations was to tax resort fees.

Dr. Colby said the position of DoTAX on resort fees if they were compulsory was included in the TAT.

Mr. Bauer said when PFM did that analysis in their draft report the TRC would see that they noted that they now understand better that that was the case so they discounted whatever the amount might be for additional collections related to current collections.

Commissioner Knox said Dr. Colby had the statement of an assumption of a strong correlation between value of property and income, and a lot of political sensitivity here too. Cases and he had not ever seen data on how frequent such cases were. Cases in which long time multi-generational families left behind by the changes in Hawaii, had family property but don't have income and were not aware they had low property taxes compared to the rest of the country. So to them, there was tremendous burden every time there was talk about increasing it. He said he

was curious as to whether there was data about these cases were relatively common or uncommon for Hawaii.

Dr. Colby said he had a chart that would show that homeownership was generally lower for low income individuals versus high income individuals. He said Commissioner Knox made a good point and guessed that it was difficult to know, but you only need twenty cases before that becomes a political routing fire. How frequency from a political point of view was less of a mute point then what could be done now. He said he was about to present a number of different ways other municipalities deal with those issues in other states.

Chair Takamura asked Dr. Colby about slide 21, the no pay column, what did that mean.

Dr. Colby said no pay meant they live in a house and doesn't pay for it, and that could be living at home or work provided housing.

Commissioner Knox said he thought the Big Island had a different and higher rate for resorts and second home situations.

Dr. Colby said there was a whole big thing about "Type A" housing in Honolulu on whether it was legal to tax non-residents more than residents and it was not about whether it was your first or second home. He said if he remembered correctly, it was about if you were a resident or not and if that were discriminatory or not.

He said Vancouver did something similar. They said any foreigner would get charged twenty percent more just to buy the property and it was questionable if that would even be legal or constitutional in the United States.

Commissioner Kaina said to be clear, slide 23 were just examples of tax relief mechanisms and Hawaii used some, not all of them, right?

Dr. Colby said it would be difficult to do since all the counties were different.

Commissioner Cook said he was curious about the deferral programs and asked if Dr. Colby could give some examples from other jurisdictions that were doing that.

Mr. Bauer asked Commissioner Cook what kind of examples he was looking for.

Commissioner Cook wondered about states that have or was using the deferral program and what were the reactions. He could see that in Hawaii, if we suggested this, probably the objection would be we would be making it difficult to pass on property to children if it applies when someone passes away.

Mr. Bauer said the deferral programs were done at the city level and was one of those kinds of trade-offs that maintaining the kind of community integrity of people that has been in their neighborhoods for a long time was really important for a lot of cities so they do enact those kinds of programs. For example Minneapolis was one that has a well established program. He agreed with Dr. Colby that a lot of times the circuit breaker programs were targeted towards seniors, veterans or individuals with disabilities which were fine but there were seniors who in terms of

income kinds of test don't necessarily meet those tests. He said from studying those kinds of programs, you would be better off doing income tests. He said those types of programs were very effective and maybe something Hawaii should look at as well.

Dr. Colby said the whole point was that this would not be a comprehensive study if you really wanted to look at property tax and suggested just looking at a study about how you would ensure you would take care of taxpayers who were long term homeowners. There were plenty of examples from around the country, some were successful and some were terrible.

He said property tax was unpopular because there was ability to pay issues like when the property value does not commensurate with their income. Also, property tax was generally paid in large chunks as opposed to paying GET every day. There were some ways to deal with those kinds issues like using some form of circuit breaker to deal with the income side. There were a lot of locations now going to allow paying the property tax over time. He said there were a lot of good angles to property tax and could mitigate some of the downside.

### **DOTAX PRESENTATION ON ELIMINATING INCOME TAXES FOR THE POOR:**

Eliminating Income Taxes for the Poor presentation by Titin Sakata, DoTAX

[https://tax.hawaii.gov/stats/a9\\_2trc](https://tax.hawaii.gov/stats/a9_2trc)

Commissioner Knox said he thought he saw something a year ago or so about the census bureau doing some kind of adjustment for cost of living so there were different figures for Hawaii under the poverty threshold.

Mrs. Sakata said she could look into it but for this presentation she was using the poverty guidelines.

Commissioner Knox asked Mrs. Sakata why slides 11 and 14 had a bump in numbers from fifty to seventy-five thousand, why was that.

Mrs. Sakata said she wasn't sure but Dr. Colby's suggestion for that which she had no time to for was to segregate the different filing statuses from single, joint and head of household. Her guess was joint returns that were in the median income range.

Commissioner Kaina asked Mrs. Sakata if there was a limit to the number tax credits that could be claimed.

Mrs. Sakata said no, the household size used in her presentation were examples.

Chair Takamura asked Mrs. Sakata if the tax credits were for residents only.

Mrs. Sakata said there were criteria's that needed to be met before a tax credit could be claimed for example, the requirement that a person had to reside in the state for nine months. We cannot discriminate.

Chair Takamura asked Mrs. Sakata if DoTAX matched the lessor's with the GET. She said she knew that a person had to provide the GE number to claim the renter's credit.

Mrs. Sakata said that was a secret.

Chair Takamura asked Mrs. Sakata what would happen if you don't use the EITC within the five years and used it in 2023.

Mrs. Sakata said credit could be used until exhausted and currently there was no sunset date on how long a person could carry it forward.

Chair Takamura said after a person takes credits, they could actually get a refund if not their tax would be zero.

Mrs. Sakata said the group zero to five thousand had a negative liability of two hundred fourteen thousand were getting back two hundred fourteen thousand. She said that was the group that gets back a lot because they had no tax liability to begin with and then with the credits they were getting back a total of sixteen million three hundred thousand, but this group with losses was not the group we're talking about. It was about businesses, businesses that maybe had a bad year.

Dr. Colby said there was a big debate about the EITC and whether to make it refundable or non-refundable but the worry was the refundable credit would cost the state a lot of money because essentially everybody who worked claimed that credit would get it. The concern was the total cost to the State of Hawaii and they thought they couldn't afford it.

Mr. Bauer said PFM made some specific analysis and recommendations related to expanding the refundable food excise tax credit and the standard deduction. Based on the state's information Mrs. Sakata provided would be sensible alternatives related to regressivity.

Commissioner Knox asked about indexing. It seemed strange that Hawaii hasn't done that and he almost wished that the TRC had asked PFM to not just update their previous study but look at that. He asked if that was recommended to the legislature.

Mrs. Sakata said there were several legislative proposals to index standard deduction and personal exemption, but with all the discussion and competing interests on indexing or increasing standard deduction, indexing or increasing personal exemption, increasing the renter's credit, increasing the food credit and having the EITC, all these ideas floating out there. She said she thought at the end of the day, the result the legislators picked was the EITC. The discussion was there. The standard deduction benefits everyone and was not targeted to low income taxpayer although those in the lower income range would use the standard deduction versus the higher income taxpayer who would itemize their deductions.

Commissioner Knox said it would seem what was actually approved was piecemeal. A touch here a touch there whereas an indexing approach would take a structure which was presumably agreed upon to be fair and appropriate, and just maintain it. He said he was puzzled why, was there political resistance to that idea or was there a serious economic reason he was not getting that he thought was automatic, preferred approach.

Mrs. Sakata said as she mentioned, the food credit was targeted and credit was on a sliding scale. It gave more to those people with lower income versus the standard deduction and personal exemption which everybody benefits. Some people look at the food credit as a refund of GET paid on groceries purchased and rather than exempting food from GET which would cost a lot, and the administration thought it would be very complicated, decided the food credit was the alternative.

Mr. Bauer said he agreed that indexing would be a good way to align a structure with pricing for the economy, but it just keeps in place whatever structuring system prior to that. In a couple of areas they highlighted in their report that it probably needs adjustment.

Mrs. Sakata said our standard deduction's latest adjustment was in 2006 and in 2009 standard deduction was to increase by ten percent and won't kick in until a later tax year but they keep delaying it because of the cost.

#### **DOTAX PRESENTATION ON THE PRINCIPLES OF SOUND TAX POLICY:**

Chair Takamura said the presentation on the Principles of Sound Tax Policy was deferred to another meeting.

#### **DISCUSSION AND ACTION REGARDING APPROVAL FOR PFM CONTRACT MODIFICATIONS AND ADDITIONAL FUNDS TO EXPAND THEIR STUDY TO INCLUDE ANNUAL REQUIRED CONTRIBUTIONS FOR EMPLOYEES' RETIREMENT SYSTEM:**

Chair Takamura said at the last meeting we went through the questions related to the report and asked if PFM would give the TRC a price to expand the study on the annual required contribution for the employees' retirement system.

Mr. Bauer said yes but they would need to expand on the analysis done. It was not a major item in terms of providing a written proposal and the cost would be in the range of five thousand to ten thousand dollars at most. His thought would be that it could be part of the next draft to be provided before the final report although they could probably provide it to the TRC within a couple of weeks so the TRC could have an opportunity to respond to it and put that all into writing as well.

Chair Takamura said to add that information for the pension would be between five and ten thousand dollars, was that it?

Mr. Bauer said right.

Chair Takamura said that would be something the TRC would need to vote on because it was not in the high level findings provided.

Mr. Bauer said it wasn't part of the scope so there would be a need to amend the contract.

Chair Takamura said the reason she asked for that was the information the TRC got was only for the unfunded healthcare, but there was also the unfunded pension too.

Mr. Bauer said to look at the outstanding information related to the pension requirement, which was not done because it was not part of the original scope. They would then need to look at funds that related to the things PFM had suggested that the TRC could do and the suggestions that made sense under those set of circumstances.

Chair Takamura said when PFM did the information on the healthcare was that just the state or was it the state and county.

Mr. Bauer said he was not sure. He said when they did the analysis it was based on exactly what was in the scope. Unfortunately Ms. Yocco who did the analysis was not part of the meeting, but could certainly find out and relay that information.

Chair Takamura said the TRC should discuss if having that information was beneficial.

Commissioner Blouin said he thought that would be beneficial.

Commissioner Knox said he was certain Mr. Bauer was interviewed for a newspaper article and didn't know whether he saw the final product and the subsequent editorial attention to it, but it certainly got quite of attention here for a couple of days.

Mr. Bauer said he did see it.

Mr. Bauer said he would provide a written proposal along the lines of what he said and will bill the number of hours as they had done for all the work to date and set a cap not to exceed ten thousand dollars.

Commissioner Knox asked if the TRC could vote on that conceptually.

Mr. Nishiyama said yes.

Chair Takamura said she asked if she could get a motion to go with Mr. Bauer's additional hours not to exceed ten thousand dollars to include the unfunded liabilities for retirement system.

Commissioner Blouin moved the motion to approve the additional hours not to exceed ten thousand dollars to include the unfunded liabilities for the retirement system and Commissioner Knox seconded the motion. All in favor was Commissioner Knox, Commissioner Blouin, Chair Takamura, Commissioner Cook and Commissioner Kaina. Those opposed was none.

## **DISCUSSION AND ACTION REGARDING APPROVAL OF A BUDGET FOR THE REPORT WRITER FOR THE TAX REVIEW COMMISSION:**

Chair Takamura said the TRC had approved Dr. Rousslang to be the writer but did not approve the budget for that writer although it was previously discussed that \$15,000 would be set aside for that task. She asked if there was any discussion on the amount.

Commissioner Blouin asked if the TRC had the funds for that.

Chair Takamura said yes and that Mrs. Sakata had provided the TRC with a breakdown of funds.



Commissioner Blouin questioned where did the suggested \$15,000 amount come from?

Chair Takamura said the last TRC paid the writer \$10,000 and when the TRC was figuring out some budget numbers last year, her recollection was that a budget of \$15,000 would be for a writer, but that was up for discussion.

Commissioner Kaina said it was hard to say not knowing what the report was going to look like or know how much time it was going to take and that's the hard part because the TRC would not know what to be expecting from the writing. However, the TRC did have about \$65,000 of unspent funds.

Commissioner Blouin said for the purpose of the budget, the TRC should allocate the \$15,000.

Chair Takamura asked for a motion to approve the budget amount for the writer of \$15,000.

Commissioner Kaina asked for clarification as to how the writer was being paid, was it hourly or some other form?

Dr. Rousslang said it was an hourly rate.

Commissioner Kaina asked if it was based on his current existing hourly rate.

Commissioner Blouin moved the motion to approve the budget of \$15,000 for the writer of the TRC report and Commissioner Cook seconded the motion. The motion carried unanimously.

#### **DISCUSSION AND ACTION REGARDING APPROVAL FOR TRAVEL EXPENSES OF TAX REVIEW COMMISSION MEMBERS ON RELATED TAX REVIEW COMMISSION BUSINESS:**

Chair Takamura said since the TRC had no quorum, the discussion for approval of travel expenses of TRC members related to TRC business would be deferred to the next meeting.

#### **DISCUSSION AND ACTION ON THE OUTLINE FOR THE DRAFT REPORT OF THE TAX REVIEW COMMISSION:**

Chair Takamura said the committee had been working on the outline for the report and had been circulated to the TRC. She asked for comments and said it was just a general guideline of we're going to have and how the report was going to be structured.

Commissioner Cook said numbers one, two and four were fairly common when looking at past TRC reports as far as the structure. Number three was a little different than in the past and thought that one was probably still evolving, work in progress but the suggestion for that was to talk about and not to overstep the bounds of the TRC in telling the legislature what needs to be done, but did want to point out pressing issues that related to tax. That was part of the thought process behind that.

Commissioner Knox said that was correct and that also was intended to be an educational chapter.

Chair Takamura said there wasn't going to be a recommendation from the TRC. Basically just information and information the TRC had gotten from the studies.

Commissioner Knox said it would be not just from the PFM study but the sorts of things the TRC got from Mrs. Sakata and Dr. Colby. He said he assumed in some point of the introductory section there would be a listing including the things presented to the TRC and all the things that were asked for and received.

Chair Takamura said all that information the TRC got would be appendices in our report.

Commissioner Kaina said what she thought was missing from the outline was really any of the findings and was unclear of where they were thinking of putting some of the findings PFM had that was related to some of the existing status of the current tax types at least in the context shown in the outline. She said there were recommendations in four and if number three was supposed to be setting the context, it's basically as you said, more of a background discussion and not a breakdown of different tax types or their current status. She said it was just missing unless there was an intention of putting it in there.

Chair Takamura said she thought it was going to be part of the recommendations.

Commissioner Kaina said recommendations and current status was two different things. Was it

Chair Takamura's intention to have current status and then recommendations following it? She said it would be a different section in terms of recommendations.

Commissioner Cook asked where current status was. He asked Commissioner Kaina if the TRC should put that in there.

Commissioner Kaina said yes, the information about what was currently happening right now and the TRC was hoping to change, why and what would be the basis for that change. To just make a recommendation with no background didn't make a whole lot of sense.

Commissioner Knox asked Commissioner Kaina what she was asking for that was different from 3.

Commissioner Kaina said the outline had basic information of the tax structure and talk about the progressive nature which was taken clearly from the contract scope and then it jumped into tax types in 4. She said she was trying to figure out where the TRC was putting the update on the current status of the different tax types so that it all connected in terms of the report. She said if she had to read a one hundred page report she wanted something that was quick and not having to run between sections to figure out things like what was the current status, what was the basis, what's happening and this was the recommendation of the TRC.

Commissioner Blouin said maybe there could be an additional section.

Commissioner Kaina said she was just struggling with the way that 3 was set up at least with the description she was hearing so far was more like what's the basis behind it, why are we doing this, here were some things you should look at within the tax structure and the specifics, and maybe it was just re-toiling 4. Maybe re-toiling it similar to the last TRC report that use current and here's what's happening now.

Commissioner Knox asked Commissioner Kaina if it was implicit in part 4A in any way to her.

Commissioner Kaina said no, it's not implicit in 4A. Background discussion to present policy issues to her sounds like something different.

Commissioner Blouin said to address that, how about adding a section between 4 and 5 which kind of gave the TRC a simple chart of status and recommendations, like a summary chart.

Commissioner Kaina said she didn't quite understand from the outline where the intentions of inserting the findings from the PFM draft report which has collected a lot of specific information about current tax types. Where was going to be in the TRC report or if the intent was to blend it into each one of the sections, and thought it may not be as easy to read in the end for people.

Chair Takamura said for example if the TRC gave a recommendation for GET was Commissioner Kaina asking that the current status of what it was now in the discussion.

Commissioner Kaina said probably before would be ideal to include that the GET rate hasn't changed for this long. She said she wanted the outline to be clear of what the TRC was trying to do.

Chair Takamura asked Commissioner Kaina if it should be before 4A.

Commissioner Cook said maybe in 4A.

Commissioner Kaina said yes, maybe in 4A and asked Chair Takamura if the intent was to list them by tax type.

Chair Takamura said that would probably be the easiest way for the reader to know what the TRC was talking about.

Commissioner Kaina said so the intention in 4 was to list the taxes by types. Therefore a, b, c would be for each tax type.

Chair Takamura said yes, maybe within 4 itself.

Commissioner Kaina said it would basically be listing them by tax type, under each tax type would be a discussion of its current status and policy issues, then the TRC's recommendation for each and a detailed analysis from discussion of that recommendation. She said it would be making it clearer to understand as to where that should be in the report.

Chair Takamura said to be included with 4A would be background discussion and current status of each tax type discussed.

## **DISCUSSION ON STATUS REPORT FROM PFM GROUP:**

Chair Takamura said the TRC received the draft report that morning and didn't think the commissioners had a chance to look at it.

Commissioner Knox asked Mr. Bauer if it were possible to get like a regular status report that may summarize significant additions or revisions from the previous memo

Commissioner Knox said because the TRC just got the draft report that morning, in order to be efficient as the TRC looked at it, he was wondering whether they might get just a primer as to what changed substantively or what was added, not just expanded since the previous high level findings.

Mr. Bauer said the high level findings as explained was just that and doesn't draw conclusions. It told you what was going on and the report goes into much greater depth. Probably the area they as a firm decided to step back from related to corporate income tax because the TRC already had an expert for Hawaii advising the TRC. Otherwise most of what they talked about within the high level findings was carried forward into the draft report sent.

## **WRITTEN COMMENTS ON HAWAII'S TAX STRUCTURE OR ITEMS LISTED ON THE AGENDA:**

There were no written comments to the TRC.

## **PUBLIC COMMENTS ON HAWAII'S TAX STRUCTURE OR ITEMS LISTED ON THE AGENDA:**

There were no public comments to the TRC.

## **NEXT MEETING:**

The next meeting was scheduled for Tuesday, September 12, 2017 at 1:00 PM.

## **ADJOURNMENT:**

The meeting was adjourned at 3:40 PM.