DAVID Y. IGE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR

MARIA E. ZIELINSKI
DIRECTOR OF TAXATION

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

To: The Honorable Jill N. Tokuda, Chair
and Members of the Senate Committee on Ways and Means

Date: Wednesday, February 18, 2015
Time: 9:00 A.M.
Place: Conference Room 211, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: S.B. 118, Real Estate Investment Trusts

The Department of Taxation (Department) provides the following comments for your consideration.

S.B. 118 amends the corporation income tax by taxing Real Estate Investment Trusts (REITs) without regard to the federal deduction for dividends paid. The measure would amend Hawaii Revised Statutes (HRS) section 235-71(d) to provide that the state income tax imposed on REITs is computed prior to the adjustments provided by Internal Revenue Code (IRC) section 857(b)(2), such that REITS would be taxed as any other corporation under Hawaii law. The measure would apply to taxable years beginning after December 31, 2015 and is effective upon approval.

To properly understand the taxation of REITs, it is necessary to understand why they came into existence in the first instance. REITs were first created by Congress in 1960 to give all Americans, and not just the affluent, the ability to invest in income-producing real estate. It is similar to how many Americans invest in stocks and bonds through mutual funds. REITs allow anyone to invest in portfolios of large-scale properties as if they were purchasing shares of stock. REITs can own shopping malls, apartment buildings, student housing complexes, homes, medical facilities, office buildings, hotels, cell towers and timberlands. REITs have been formed in every state and contribute millions of dollars in jobs and investment income to the economy each year.

REITs are generally a pool of properties and mortgages bundled together and offered as a security in the form of unit investment trusts. Each unit in an REIT represents a proportionate fraction of ownership in each of the underlying properties. A REIT and its shareholders are taxed in accordance with IRC sections 856 through 860, provided certain requirements are met. A REIT is generally organized as a corporation, trust or association, and generally results in federal income taxes being imposed on a current basis to its members through the form of dividend distributions.

The Department first notes that disallowing the dividend paid deduction would create a double taxation of income, which could cause taxpayers to lose the incentive to invest in Hawaii based REITs. While it is true that ordinary 'C' corporations also impose a double layer of taxation on income earned by the 'C' corporation, such corporations do not have the limitations that are placed upon REITs, and as such, 'C' corporations have benefits which offset such double taxation that REITs do not.

Under this proposed measure, REITs would still be required to follow the same rules as all other unit investment trusts, which means that REITs must be taxed first at the trust level, then to unit holders. REITs must follow the same method of self assessment as corporations; they have the same valuation and accounting rules as corporations, but instead of passing through profits, they pass cash flow directly to unit holders. In order for REITs to be exempt from taxation at the trust level, they must distribute at least 90% of their income to their unit holders, while 'C' corporations are not so required. 'C' corporations have the ability to retain income and would thus escape double taxation, unlike a REIT, which is required to distribute such income. It should be noted that cash flow distributed as a dividend is not necessarily the same as a dividend from profits. For example, a REIT could have no net profits (and thus would owe no income taxes under this measure) but yet still pay out a dividend. This would occur where a REIT has substantial non cash deductions such as depreciation and amortization expenses.

REITs often are involved in owning real property that requires substantial cash infusions, which are made possible by the large number of investors putting their cash into a REIT. For example, the renovation of a hotel complex or shopping center is made possible through a REIT which may otherwise not occur because of the large cash outlays that are required. The Department notes that many such projects in Hawaii may be affected because of the proposed double taxation under this measure, possibly impacting jobs and discouraging investment locally.

It should also be noted that merely subjecting a REIT to the corporate income tax will not guarantee any significant amount of revenue being raised. One of the most prevalent problems facing the states and the Internal Revenue Service is that of "transfer pricing". Simply put, transfer pricing refers to the establishment of the price for goods or services that takes place between two related entities. Because the parties are related, it is not necessary for the entities to set the price at what two unrelated parties would have agreed to. The cost of a product or service sold between two unrelated parties is determined by the market. Factors such as supply and demand, tariffs or political conditions can all affect the final sale price. But when a sale takes place between two related entities, these factors can be set aside and the price set to shift profits from high taxation jurisdictions to low or no tax jurisdictions.

Transfer pricing is highly problematic. According to the Internal Revenue Service's Statistics of Income Division, April 2014, major American corporations have reported that profits earned in Bermuda, the Cayman Islands, the British Virgin Islands, the Bahamas and

Luxembourg by their subsidiaries in 2010 were greater than the entire gross domestic product of those nations in that year. Given the ease of large corporations to move profits to lower tax jurisdictions, it is not clear to the Department that any substantial revenue gain will result from this measure.

The Department also notes that the issue of Hawaii corporations forming “captive” REITs in order to claim both the dividend paid deduction at the REIT level and the dividend received deduction at the parent corporation level, was addressed in Tax Information Release No. 98-6.

While IRC section 243 is inoperative for Hawaii tax purposes (unless otherwise provided) and in lieu of the federal dividend received deduction, Hawaii instead provides a Hawaii corporation with a 100% deduction for dividends received from a national banking association, or dividends received by members of an affiliated group as defined by IRC section 243(b) or a small business investment company or a 70% deduction for dividends received from a corporation that is 95% owned by one or more corporations doing business in Hawaii, a bank or insurance company organized and doing business in Hawaii, or a corporation that can attribute at least 15% of its business to Hawaii, this provision is inapplicable to captive REITs.

Because IRC section 857(c) is currently operative for Hawaii tax purposes and HRS section 235-2.5(a)(2) provides that if a provision in the IRC that is operative in this State refers to an inoperative provision in the IRC that has been codified in chapter 235, HRS, then the reference shall be to the provision in chapter 235, HRS. Therefore, while IRC section 243 is generally inoperative for Hawaii tax purposes, it is codified with modifications under HRS section 235-7(c) and therefore IRC section 857(c) is applicable with reference to section HRS section 235-7(c) instead of IRC section 243. Accordingly, under IRC section 857(c), a dividend paid by a REIT is not considered a “dividend” for purposes of HRS section 235-7(c), and the dividend received deduction is not allowed for Hawaii income tax purposes. Thus, the Hawaii tax treatment of the dividend received deduction as applied to REITs under these circumstances is the same as under federal law.

Thus, the issue of captive REITs and its parent companies avoiding State taxation has already been addressed through the operation of the relevant IRC and HRS sections.

However, if the Legislature believes that some limitation should be applied to prevent "captive" REITs from benefitting from the deduction for dividends paid, the Department recommends that the following language be used, to prevent otherwise legitimate REITS from being unduly penalized, as they would be under the measure as it currently is being proposed:

(e) Section 857 through 858 (with respect to taxation of real estate investment trusts and their beneficiaries) of the Internal Revenue Code shall be operative for purposes of this chapter, subject to the following:

(1) Section 857(b)(2)(B) relating to the deduction for dividends paid shall not apply to a captive real estate investment trust. For purposes of this section, a "captive real estate investment trust" means a real estate investment trust that:

(i) is not regularly traded on an established securities market, and
(ii) 50 percent or more of the voting stock is owned or controlled, directly or indirectly, by a single entity treated as an association taxable as a corporation under the Internal Revenue Code that is not exempt from the federal income tax and is not a real estate investment trust.

(2) The deduction for dividends paid, if any, shall be limited to such amount of dividends as is attributable to income taxable under this chapter.

(3) In addition to any other penalty provided by law, any real estate investment trust whose tax liability for any taxable year is deemed to be increased pursuant to section 860(c)(1) (relating to interest and additions to tax determined with respect to the amount of the deduction for deficiency dividends allowed) of the Internal Revenue Code shall pay a penalty in an amount equal to the amount of interest for which such trust is liable that is attributable solely to such increase. The penalty payable under this subsection with respect to any determination shall not exceed one-half of the amount of the deduction allowed by section 860(a) of the Internal Revenue Code for such taxable year.

Thank you for the opportunity to provide comments.

L E G I S L A T I V E

TAXBILLSERVICE

126 Queen Street, Suite 304 TAX FOUNDATION OF HAWAII Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Real estate investment trusts

BILL NUMBER: SB 118; HB 82 (Identical)

INTRODUCED BY: SB by Kim; HB by Luke

BRIEF SUMMARY: Amends HRS section 2.3(b) to provide that section 857(b)(2)(B) (with respect to the dividends paid deduction for real estate investment trusts) shall not be operative for Hawaii income tax purposes.

Amends HRS section 235-71(d) to provide that for tax years beginning after December 31, 2015, no deduction for dividends paid shall be allowed for real estate investment trusts in the state.

EFFECTIVE DATE: Upon approval

STAFF COMMENTS: Currently under federal and state income tax law, a real estate investment trust (REIT) is allowed a dividend paid deduction, unlike most other corporations, resulting in that dividend being taxed once, to the recipient, rather than to the paying corporation. The proposed measure would make that section of the IRC inoperative for Hawaii income tax purposes for tax years beginning after 12/31/15, meaning that REITs would be subject to double taxation similar to other corporations.

All state income tax systems in the United States, including ours, have a set of rules that are used to figure out which state has the primary right to tax income. For example, most tax systems say that rent from real property is sourced at the location of the property, so if a couple in Florida rents out a property they own on Maui they can expect to pay our GET and our net income tax on that rent. These sourcing rules, which do vary by state but are relatively consistent across state lines, are there to assure consistent and fair treatment between states.

Sourcing rules, however, can yield strange results. Here, there is a Hawaii Supreme Court case saying that when real property is sold on the installment basis under an "agreement of sale," where the seller remains on title until the price is paid (although the buyer can live in the house), then the interest on the deferred payments is Hawaii source income and is subject to our net income tax and our GET. There is also a Hawaii Tax Appeal Court case holding that when the seller instead finances the deal by taking a purchase money mortgage on the property, and does not remain on title, then the mortgage interest is sourced to the residence of the seller, who in that case did not live in Hawaii. In the second case the court applied the rule for income from intangibles such as interest, royalties, and dividends, which says that income is sourced to the residence of the recipient unless you can connect it with some active business that the recipient is conducting somewhere else.

Real estate investment trusts (REITs) are source shifters. For income tax purposes, they take in rent income, which is sourced to the location of the property being rented. They don't pay income tax on that income as long as they distribute the money to their shareholders as dividends. The dividend income of their shareholders, on the other hand, is generally sourced to the residence of the shareholders. So the income that the property states expected to tax is instead taxed in the states in which the shareholders live. And, to the extent that REIT shares are held by tax-exempt entities such as labor unions and retirement funds, passive income such as dividends may not be taxed at all. Source shifting is an issue specific to state taxation.

Apparently the evil sought to be addressed by the bill is that REITs are in Hawaii, but do not get taxed because of the deduction allowed for dividends paid, while many REIT owners who receive the dividend income are either outside of Hawaii and don't get taxed either because they are outside of Hawaii, or are exempt organizations that normally are not taxed on their dividend income. Normally we like to have our income tax law conform to the Internal Revenue Code to make it easier for people and companies to comply with it, but our legislature has departed from conformity when there's a good reason to do so (such as if it is costing us too much money). The issue is whether such a good reason exists here.

REITs do pay general excise and property taxes on rents received and property owned – as do the rest of us who are fortunate enough to have rental income or property to our name.

Digested 2/3/15

HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

RANDY PERREIRA, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

AFSCME
LOCAL 152, AFL-CIO

The Twenty-Eighth Legislature, State of Hawaii
The Senate
Committee on Ways and Means

Testimony by
Hawaii Government Employees Association
February 18, 2015

S.B. 118 – RELATING TO REAL ESTATE INVESTMENT TRUSTS

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO supports the purpose and intent of S.B. 118, which closes a loophole in our state's income tax law allowing mainland corporations to take the net income that they earn in Hawaii out of state without taxation. This loophole has existed for more than 40 years and needs to be closed. Real estate investment trusts (REITs) are major corporations that own and operate the large shopping centers in Hawaii, many of the Waikiki hotels and the Class A office buildings downtown. These REITs operate profitably and pay no Hawaii corporate income tax. Reportedly, there is more REIT-owned property in Hawaii per capita than any other state.

What is especially disturbing is that their shareholders and senior management pay taxes on the REIT dividends in the states where they reside. As a result, other states are receiving the tax revenue earned locally while our residents pay for the infrastructure, emergency and other government services required to support the commercial properties owned by the REITs.

We simply cannot afford to allow this income tax loophole to continue because it causes a loss of millions of tax dollars annually for Hawaii. In addition, the capital gains taxes on the sale of these properties are also not being taxed in Hawaii. This important legislation will ensure that all real estate investors are treated equally while protecting our local tax base. Thank you for the opportunity to testify in support of S.B. 118.

Respectfully submitted,

Randy Perreira
Executive Director

HAWAII STATE AFL-CIO

345 Queen Street, Suite 500 • Honolulu, Hawaii 96813

Randy Perreira
President

Telephone: (808) 597-1441
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The Twenty-Eighth Legislature, State of Hawaii
Hawaii State Senate
Committee on Ways and Means

Testimony by
Hawaii State AFL-CIO
February 18, 2015

S.B. 118 – RELATING TO REAL ESTATE INVESTMENT TRUSTS

The Hawaii State AFL-CIO supports S.B. 118 which disallows dividends paid deduction for Real Estate Investment Trusts.

The Hawaii State AFL-CIO believes everyone should pay their fair share of taxes. In 2013, there were 291 properties owned by Real Estate Investment Trusts (REITs) which paid no federal or state income tax. The 291 properties had a market share exceeding $13 billion dollars which would equate to roughly $60 million in income taxes annually for the State of Hawaii. In addition, many of the properties owned by REITs benefit from local infrastructure such as roads and sewers which are created and maintained from taxes that many of their mainland shareholders and executives don't pay. As a result, the Hawaii State AFL-CIO strongly urges the passage of S.B. 118.

Thank you for the opportunity to testify.

Respectfully submitted,

Randy Perreira
President

UNITE HERE!
LOCAL 5 HAWAII

Eric Gill, Financial Secretary-Treasurer *Hernando Ramos Tan, President* *Godfrey Maeshiro, Senior Vice-President*

Tuesday, February 17, 2015

The Honorable Jill Tokuda, Chair
and Members
Committee on Ways and Means
Hawaii State Senate

TESTIMONY submitted on behalf of UNITE HERE! Local 5
Re: SB 118 relating to real estate investment trusts

Chair Tokuda and Members:

UNITE HERE Local 5 is a local labor organization representing 10,500 hotel, health care and food service workers employed throughout our State. We stand in support of SB 118, relating to real estate investment trusts.

SB 118 simply corrects an existing loophole in our State income tax law that currently allows mainland corporations operating profitably as real estate investment trusts or “REITs” to take the net income they earn here out of state, tax free.

The fact of the matter is that our State can no longer afford to provide this kind of a tax break to real estate speculators and investors. While we recognize the need for balancing out the interests of private enterprise and business, this bill is about first and foremost protecting the State’s financial interests.

Our concerns: the State is already losing tens of millions of dollars each year in GET and TAT revenue that would otherwise be generated from traditional hotel rooms due the growing trend of condominium hotels, hotel to condo conversions, and other individual vacation unit operations. We estimate that the average TAT and GET lost is over $8,000 per unit per year for every unit used as a residence instead of a rental – that’s enough money to educate one of our children for a year in school. To add to this, REITs – a player in our hotel & real estate industries – siphon millions of dollars each year in profits offshore. The idea that our islands are being stripped of all of its value – economic, cultural, etc. – is not some myth. The question is whether the Legislature has the fortitude to address our reality in ways that don’t hurt our local working families by raising our cost of living, but by holding off shore and speculative interests more accountable.

Our reality is such that our people are being pushed off our islands while so many of us can’t afford homes. More and more of our local jobs go to mainland companies while locals struggle to earn a living wage. But Hawaii can be a place for us to continue to work, play and raise our families. Hawaii can support a robust tourism industry with good jobs. Hawaii can be economically sustainable, but we must be willing to hold large banks, developers and REITs accountable to our needs.

We ask for your Committee’s support in adopting SB 118.

Thank you.

1516 South King Street • Honolulu, Hawaii • 96826-1912 • Phone (808) 941-2141 • Fax (808) 941-2166 • www.unitehere5.org

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Gregory Sheehan
2145 Wells Street, #105
Wailuku, HI 96793
(808) 244-2200

Monday, February 16, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

As a life long Hawaii resident, born and raised in the islands, and a business owner, I am concerned about Hawaii's economy and long-term community development. I strongly support S.B. No. 118, Relating to Real Estate Investment Trusts.

This bill corrects a loophole in our state income tax law that allows mainland corporations operating profitably as REITs in Hawaii to take the net income they earn here out of state, tax free. This represents a loss of between $30 to $60 million annually to the state, funds that are desperately needed to supplement the costs of education, social services, and many other state commitments.

There is more REIT-owned property in Hawaii per capita than any other state in the nation, and, with our attractive real estate market, this will only increase in the future. REITs should be taxed the same way as other real estate investors, who are paying state income taxes ranging from 6 to 11 percent.

I urge the committee to pass S.B. No. 118. Thank you for the opportunity to testify.

Sincerely,

Gregory L. Sheehan
Commercial Properties of Maui LLC

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Gayle Long
Long Financial Services, Inc.
395C Dairy Road
Kahului, HI 96732

Monday, February 16, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

As a business person concerned about Hawaii's economy and long-term community development, I strongly support S.B. No. 118, Relating to Real Estate Investment Trusts.

This bill corrects a loophole in our state income tax law that allows mainland corporations operating profitably as REITs in Hawaii to take the net income they earn here out of state, tax free. This represents a loss of between $30 to $60 million annually to the state, funds that are needed to supplement the costs of education, social services, and other state commitments.

There is more REIT-owned property in Hawaii per capita than any other state in the nation, and, with our attractive real estate market, this will only increase in the future. REITs should be taxed the same way as other real estate investors, who are paying state income taxes ranging from 6 to 11 percent.

I urge the committee to pass S.B. No. 118. Thank you for the opportunity to testify.

Gayle Long, AWMA ®

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Matt Levi, President
Matt Levi Investigations
808-537-6777

Wednesday, February 18, 2015

My name is Matt Levi. I am a business owner in Hawaii, and strongly support S.B. No 118, relating to Real Estate Investment Trusts. Passage of this important legislation will close a major loophole in our state's income tax law, which has unfairly resulted in the loss of millions of dollars annually to the State of Hawaii. Once enacted into law, this bill will require owners of major entities which have profited for years as a result of doing business here, to pay their fair share of taxes on the income they have they earned.

Again, I urge you to pass S.B. No. 118. Thank you for the opportunity to testify.

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Peter B. Savio
President
The Savio Group
1451 S. King Street, Suite 504
Honolulu, Hawaii 96814-2509

Wednesday, February 18, 2014

RE: SUPPORT FOR S.B. NO. 118, RELATING TO REAL ESTATE INVESTMENT TRUSTS

Stop giving our tax revenue to mainland States.

The Federal Tax Code exempts REITs from paying federal taxes. Most States have adopted the Federal Tax Code so the States also exempt REITs from state taxes.

The Federal Government does not care since they do not lose the tax revenue. The only difference is the federal taxes are paid not by the REIT, but by individual stockholders through the stockholder's personal federal tax return. The Federal Government waives the tax revenue on the REITs, but receives the tax revenue from the stockholders. The Federal Government does not give up any revenue just has someone else pay it. REITs pay federal taxes through the personal tax returns of their investors.

The States are not as lucky as the Federal Government since they can only tax their residents. In Hawaii's case we do not charge the REITs state taxes.

The REITs pay the money out to the stockholders who then pay the state taxes on their state tax return in the State in which they live. Therefore, state taxes are paid on the money earned in Hawaii just not paid to the State of Hawaii, but to one of the other 49 States.

REITs pay state taxes through their investors and in the State the investors live in. We are giving away our state taxes to other States. This need to stop!

Because of our strong and stable real estate market we are attracting more and more REITs as owners of income producing property.

They are welcome in Hawaii, but should pay state taxes just like everyone else in Hawaii and not pay the state tax on the mainland.

Making a REIT pay its fair share will have little or no impact on Hawaii's real estate market. Every day we hear how the State does not have enough tax revenue yet we give away a minimum of $60-million every year to other States through this REIT exemption.

It is time for our legislature, those of you on this committee and serving in this year's legislature to correct the imbalance and remove the exemption so that REIT will pay state taxes on money earned in Hawaii to the State and the people of Hawaii and not allow our state taxes to be given to mainland states.

Keep our tax revenue in Hawaii.

To:
Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Fr:
Richard C. Wo
Bojim Investments, Inc.
Honolulu, HI 96814

Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

I have been a resident of Hawaii for sixty years, and I am discouraged to continually hear that the State does not have the means to fix our public schools, improve public health services, and pay promised benefits to its retirees, even while my tax bill seems to increase every year. I support S.B. No. 118, Relating to Real Estate Investment Trusts, because it is a way to address this situation.

It is unfair that the owners of the major shopping centers, hotels, and office buildings in Hawaii who have profited from our local and visitor trade have not been paying our State their share of income taxes. They should be required to cover the costs of the infrastructure, emergency, and social services that support their properties, the same way our local businesses and Hawaii residents are. S.B. No. 118 would close the REIT income tax loophole and keep more revenues in Hawaii for the benefit of our community.

We need to protect our tax base. REITs should not be profiting at the expense of Hawaii residents. Level the playing field and make things right. I strongly urge you to pass S.B. No. 118. Thank you.

Sister M. Davilyn Ah Chick, osf
Sisters of St. Francis of the Neumann Communities
91-1010 North Road, Ewa Beach, HI 96706 + Phone (808) 689-0474 + Fax (808) 689-4847
olphschoolewabeachhi.com

Wednesday, February 18, 2015

Senator Jill N. Tokuda, Chairperson
Senate Committee on Ways and Means
Conference Room 211, 9:00 a.m.

TO: SENATOR JILL TOKUDA & SENATE COMMITTEE ON WAYS & MEANS

RE: IN SUPPORT OF S.B. #11, Relating to Real Estate Investment Trusts

Dear Senator Jill Tokuda and Members of the Senate Committee on Ways & Means,

Aloha and the blessings of our Lord!

I am a Sister of St. Francis of the Neumann Communities. I returned to Hawaii in 1985 and am the principal of Our Lady of Perpetual Help School, and the Chairperson of St. Francis Healthcare System Hawaii. As a person extremely concerned about our State of Hawaii's economy, the future of our students and their families, and the long-term community development, I strongly support Senate Bill Number 118, Relating to Real Estate Investment Trusts. This bill will definitely correct a loophole in our State's income tax law that allows mainland corporations operating profitably as REITs in Hawaii to take the net income they earn here out of our State, tax free. This represents a loss of nearly $60,000,000.00 ($60 million dollars) annually to our State, funds that are needed to supplement the costs of education, social services, medical centers, and other state commitments.

As you well know, there is more REIT-owned property in Hawaii per capita than any other state in our nation, and with our very attractive real estate market, this will only increase in the future. REITs need to be taxed the same way as other real estate investors, who are paying state income taxes ranging up to eleven percent (11%). It is with utmost urgency that all of you responsibly, realistically and earnestly pass Senate Bill Number 118, bearing in mind what are truly just and fair to all those who are impacted.

Thank you very much for this great opportunity for me to present this testimony.

Gratefully and prayerfully yours in Christ,

Sister M. Davilyn Ah Chick, osf

Fax: (808) 587-7220
WAMtestimony@capitol.hawaii.gov

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Thomas M Cook
18 Poailani Place
Kihei, HI 96753
(808) 870-2205

Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

I have been a resident of Hawaii for 42 years, and I am discouraged to continually hear that the State does not have the means to fix our public schools, improve public health services, and pay promised benefits to its retirees, even while my tax bill seems to increase every year. I support S.B. No. 118, Relating to Real Estate Investment Trusts, because it is a way to address this situation.

It is unfair that the owners of the major shopping centers, hotels, and office buildings in Hawaii who have profited from our local and visitor trade have not been paying our State their share of income taxes. They should be required to cover the costs of the infrastructure, emergency, and social services that support their properties, the same way our local businesses and Hawaii residents are. S.B. No. 118 would close the REIT income tax loophole and keep more revenues in Hawaii for the benefit of our community.

We need to protect our tax base. I strongly urge you to pass S.B. No. 118. Thank you.

SOFOS REALTY
CORPORATION

Commercial Brokerage + Property Management

February 18, 2015

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Re: Support for S.B. No. 118, Relating to Real Estate Investment Trusts

As a business person concerned about Hawaii's economy and long-term community development, I strongly support S.B. No. 118, Relating to Real Estate Investment Trusts.

This bill corrects a loophole in our state income tax law that allows mainland corporations operating profitably as REITs in Hawaii to take the net income they earn here out of state, tax free. This represents a loss of between $30 to $60 million annually to the state, funds that are needed to supplement the costs of education, social services, and other state commitments.

It is unfair that the owners of the major shopping centers, hotels, and office buildings in Hawaii who have profited from our local and visitor trade have not been paying our State their share of income taxes. They should be required to cover the costs of the infrastructure, emergency, and social services that support their properties, the same way our local businesses and Hawaii residents are. S.B. No. 118 would close the REIT income tax loophole and keep more revenues in Hawaii for the benefit of our community.

There is more REIT-owned property in Hawaii per capita than any other state in the nation, and, with our attractive real estate market, this will only increase in the future. REITs should be taxed the same way as other real estate investors, who are paying state income taxes ranging from 6 to 11 percent.

I urge the committee to pass S.B. No. 118. Thank you for the opportunity to testify.

Sincerely,

S. Steven Sofos, Chairman/CEO
Sofos Realty Corporation

600 KAPIOLANI BOULEVARD, SUITE 200 • HONOLULU, HAWAII 96813 • PHONE: (808) 522-5999 • FAX: (808) 522-5969 • WWW.SOFOSREALTY.COM

Written testimony of:

ASHLEY H. PEEPER,
VP OF TAX

and

JOSEPH T. JOHNSON,
CHIEF FINANCIAL OFFICER

CNL LIFESTYLE PROPERTIES, INC.

BEFORE THE HAWAII LEGISLATURE
REGARDING SB 118
RELATING TO REAL ESTATE INVESTMENT TRUSTS

February 16, 2015

On behalf of our shareholders, we thank you for this opportunity to voice our strong concern and opposition to SB 118. We represent CNL Lifestyle Properties, Inc. ("CLP"), a real estate investment trust, or "REIT", which owns Wet 'N' Wild Hawaii located in Kapolei, Hawaii. CLP is an unlisted publicly owned REIT that invests in lifestyle related properties such as ski resorts, gated attractions, waterparks, marinas, and healthcare facilities. CLP, like most REITs, has a long-term investment focus and is committed to creating sustainable value at its properties. CLP leases many of its properties under long-term leases to operators who are highly qualified in each of their respective industries. For example, we have leased Wet 'N' Wild Hawaii to an affiliate of Premier Parks, LLC which owns and operates several amusement and water parks throughout the United States. Because CLP has a long-term investment objective, we lease our properties on a long-term basis, as we have done here in Hawaii, typically for 20 years with multiple renewal extensions.

Modeled after mutual funds, Congress created REITs in 1960 to allow even the smallest investor to own and benefit from professionally managed, institutional quality, income-producing real estate. CLP currently has approximately 93,000 shareholders which are comprised of mostly individual or family owners, with few or no institutional investors. As with all REITs, CLP must meet many strict and costly requirements in order to maintain its status as a REIT. For example, REITs must distribute at least 90% of their taxable income annually, shares must be transferrable, they cannot be "closely held", they cannot "flip" properties without being subject to a 100% tax on the gain, and they cannot provide more than a small amount of tenant-specific services (like maid service in apartments) without jeopardizing REIT status. For this reason, REITs are not "unfairly" advantaged; they face additional burdens for which they receive the benefit of the dividends paid deduction.

The proposed new tax on REITs would be inconsistent with federal tax rules and the existing rules of virtually all other states with an income based tax system. Additionally, we believe that our investment and the investments by other REITs in Hawaii are beneficial to the state and that such a tax would have the undesirable consequence of discouraging additional investments in the future. We strongly believe the proposed legislation's lack of conformity with the federal tax rules and the tax rules of most other states will diminish competitiveness of Hawaii to attract and to retain capital investments. If Hawaii repeals the dividends paid deduction, Hawaii would no longer be viewed as an attractive place for REIT investments by the market place.

CLP acquired Wet 'N' Wild Hawaii (formerly known as Hawaiian Waters) for $27 million in May 2009. Since that time, we have worked to identify capital improvements and maintenance projects to enhance the park experience and to make the water park even more successful. To that end, we have since invested several million additional dollars in the park to make enhancements and improvements which helps to draw both local residents and vacationers to the park.

CLP believes that its ownership of Wet 'N' Wild Hawaii and its motivation to continue to invest in the waterpark benefits the State of Hawaii in many ways, including:

- JOBS. Wet 'N' Wild Hawaii employs more than 350 employees with payroll and benefits in excess of $1.7 million.

- CAPITAL IMPROVEMENTS. Given the long-term nature of our investment and the structure of our leases, we are motivated (provided we are not subsequently discouraged by state tax law) to make sizeable investments to achieve orderly, sustainable growth at our properties. Waterpark infrastructure is expensive to both acquire and maintain which is a key reason there are so few waterparks in existence. Our principal investment objective is to preserve, protect, and enhance the long-term value of our assets. CLP is positioned to make, and has made, sizeable investments after it purchases waterparks because our REIT business model does not depend on a "quick flip" sale of the resort or high "private equity" level returns to our investors. This is why we have invested more than $3 million to install new rides, including a family friendly raft ride and a state of the art racing slide. We also have plans to make an additional investment of $750,000 to install a new waterslide in during 2015.

- CAPITAL MAINTENANCE. The existing infrastructure of a waterpark is extensive and costly to maintain on an annual basis. Once a property has fallen behind on maintenance, repair, and replacement schedules, a waterpark can begin a downward spiral of its annual business volume. Our REIT business model and structure of our tenant leases ensure we do not neglect this critical obligation. In fact, since it acquired the property in May 2009, CLP has invested more than $1.7 million for repair and maintenance items, including –

    - Refurbishment of pools and slides,
    - New pumps and equipment for rides,
    - New filtration systems for the pools,
    - New restaurant equipment, and
    - Parking lot refurbishment.

- STABILITY. CLP's focus is to create stability for both its shareholders, the State of Hawaii, as well as for the communities and families that depend on the economic contribution provided by Wet 'N' Wild Hawaii. To this end, CLP's stated target leverage ratio is not to exceed 50%. Market demands placed on public REITs have compelled REIT managers to use debt conservatively, which means properties do not have to be managed solely to generate the cash flow required to service high levels of debt. Our low leverage ratio gives us greater control over our assets, complementing and enhancing our investment view. A lower debt versus equity ratio cushions CLP (and other REITs) from the negative effects of fluctuations in the real estate market that have traditionally occurred over time.

- TAXES GENERATED BY WET 'N' WILD HAWAII. CLP's ownership of this prominent Hawaii property produces substantial tax revenue for Hawaii – revenue that will grow if continued investment motivation is not diminished by this ill-advised proposed legislation:

    - Payroll Taxes. Payroll taxes on employee wages totaled $197,208 in 2014.

    - General Excise and Use Tax – Property Operations. The tax revenues in this category totaled $497,060 in 2014.

    - General Excise and Use Tax – Rent. Because CLP is a REIT and must use a lease structure, we are required to pay General Excise Tax on the rent received for both real and personal property. This tax was approximately $127,000 for 2013 and $117,000 for 2014.

    - Gas Taxes. State taxes paid on gasoline purchases by guests traveling to and from the park.

- **Property Taxes.** CLP paid approximately $285,000 in property tax for 2014.

- **Transfer Taxes.** CLP paid a transfer tax of $62,000 when it acquired the waterpark.

- **Taxes on Seller's Gain in Connection with Properties Sold to REITs.**

- **Dividend Taxes Paid by REIT Investors.** REIT investors currently pay tax on their dividend income in their state of residence. The current system allows the State of Hawaii to collect taxes annually from REIT shareholders in Hawaii through personal state income taxes no matter where the REIT does business. <u>By adopting HB 82 / SB 118 and imposing a tax at the corporate REIT level, Hawaii would reduce the amount of cash ultimately available to be paid to Hawaii investors, thus putting them at an economic disadvantage</u>.

In addition, we believe that Wet 'N' Wild Hawaii further benefits the State of Hawaii and the island of Hawaii by creating an attractive amenity that helps draw visitors from the U.S. mainland, Japan and other locations.

In conclusion, we strongly urge that Hawaii not impose double taxation on REITs as the enactment of HB 82 and SB 118 would prescribe. If adopted, this unwise legislation would (i) put Hawaii at a competitive disadvantage compared to virtually all other states, (ii) penalize Hawaii citizens who invest in REITs by reducing their returns, and (iii) discourage REITs from investing in Hawaii properties. Further, this legislation would have a chilling effect on the motivation of REITs, like CLP, which currently own property in Hawaii, to improve these assets and grow their positive economic impact through additional capital investment.

We thank you again for this opportunity to provide testimony against SB 118 and sincerely hope you consider our strong opposition to this proposed legislation.

NATIONAL ASSOCIATION OF
REAL ESTATE INVESTMENT TRUSTS®

WRITTEN TESTIMONY OF

DARA F. BERNSTEIN
SENIOR TAX COUNSEL
NATIONAL ASSOCIATION OF REAL ESTATE INVESTMENT TRUSTS, INC.
IN OPPOSITION TO S.B. 118

BEFORE THE HAWAII SENATE
COMMITTEE ON WAYS AND MEANS

HONORABLE JILL N. TOKUDA, CHAIR
HONORABLE RONALD D. KOUCHI,
VICE CHAIR

HEARING ON S.B. 118

FEBRUARY 18, 2015

1875 I Street, NW, Suite 600, Washington, DC 20006-5413
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The National Association of Real Estate Investment Trusts submits this testimony in opposition to S.B. 118. NAREIT is the world-wide representative voice of real estate investment trusts (REITs) and publicly traded real estate companies in the United States.

S.B. 118 would eliminate what is known as the dividends paid deduction (or DPD) for all real estate investment trusts in Hawaii. Eliminating the DPD would be contrary to the federal income tax rules applying to widely-held REITs in every state with an income-based tax system like Hawaii except for New Hampshire. It is worth noting that although both Hawaii and New Hampshire have roughly equivalent contributions to the nation economy, REIT investment in Hawaii is about four times that of New Hampshire.

While those who support the legislation state that that investment money can be easily replaced, it is worth noting that as of December 2013, and based on filings with the Securities and Exchange Commission, approximately twenty widely-held REITs have invested about six billion dollars in commercial real estate in Hawaii that results in the employment of many Hawaii residents. The Hawaii real estate owned by REITs generates millions of dollars in property taxes and excise taxes. These taxes are on top of the individual income taxes currently generated by REIT dividends paid to Hawaii residents from income earned wherever the distributing REIT resides or does business. In addition, the sales generated by the tenants that conduct business on the premises owned and operated by REITs generate jobs and taxes as well. Replacing a $6 billion investment is not as easy as it looks.

Background of REITs. Congress created REITs in 1960 specifically to enable small investors to invest in professionally managed, income-producing real estate. REITs are corporations that combine capital of many investors to benefit from a diverse portfolio that may include apartments, hotels, healthcare facilities, shopping centers, senior housing, offices, storage facilities and warehouses. Federal law requires REITs to distribute all their taxable income to their shareholders. The billions of dollars distributed are taxable where the REIT shareholders reside. Hawaii residents invest in REITs that own properties in Hawaii and REITs that own no properties in Hawaii but own properties in other states. The income earned by Hawaii residents in Hawaii is taxed here even if the REIT invested in owns properties elsewhere. The workers who have jobs because of REITs pay income taxes in Hawaii, and the State receives the general excise taxes that these incomes generated through the purchase of goods and services.

Just Like Other Taxpayers Are Not Taxed On Mandatory Expenses Like Property Taxes, REITs Should Not Be Taxed on the Taxable Income They Cannot Retain. Hawaii allows taxpayers to deduct certain expenses like property taxes when calculating their taxable income. This is because taxpayers should not be taxed on the cash used to pay these expenses. Unlike other businesses, REITs are required to distribute all their income so this income is taxed at the shareholder level. As a result, REITs should not be taxed on money that they cannot keep.

For example, like other businesses, REITs have to pay property taxes. Thus, if both a REIT and non-REIT businesses have $100 of rental income and $10 of property taxes, they both get a $10 deduction. Then, they are both left with $90 ($100-$10). Unlike the other business, the REIT has to distribute the remaining $90. Thus, it has no cash left. Here, it has distributed $90, and is left with $0 in cash; thus, it pays no tax for federal income tax purposes and for state tax purposes in states with corporate income taxes (other than New Hampshire).

Benefits to Hawaii. REITs, such as General Growth Properties, owner of the Ala Moana Shopping Center, and Taubman Centers Inc. the developer of the International Marketplace, have access to public capital markets to raise the large funds needed for such large development projects. The renovation and expansion of Ala Moana enjoys a commitment of over $500 million while the International Marketplace project shows a commitment to invest over $400 million on the part of Taubman. This redevelopment will result in about one thousand construction jobs and 2,500 permanent jobs and all the taxes that activity will produce. These jobs are put in jeopardy by the tax proposed in S.B. 118.

Hawaii investors also benefit from REITs. Between January 2010 and 2015, almost 11,000 Hawaii investors have invested over $380 million in around 70 SEC-registered, non-listed REITs, some of which have been sold or undergone initial public offerings. These companies have distributed approximately $100 million to these Hawaii investors. In addition to investing in public, non-listed REITs, Hawaii investors invest in publicly traded REITs through mutual funds, particularly mutual funds dedicated to publicly traded REIT stock. In fact, thousands of Hawaii shareholders have invested about $60 million in several dedicated REIT mutual funds sponsored by a single mutual fund company. In 2014 their accounts received income and capital gain distributions totaling $8.5 million. The State is collecting taxes on the millions of dollars distributed to Hawaii investors by these companies and funds that invest in REITs, even though almost all of the properties held by these REITs are located outside of Hawaii.

Except for New Hampshire, every other state that imposes a corporate-level income tax allows the DPD for widely-held REITs. It is hard to imagine Hawaii's position would be improved by partnering with New Hampshire as opposed to being seen as being aligned with the rest of the nation. If Hawaii repeals the DPD, Hawaii would not be viewed as an attractive place for REIT investments. As can be seen from the record, as opposed to the speculation on the part of the supporters of the bill, the REIT investments have resulted in tremendous value and in jobs, all of which produces income for government and residents. Can Hawaii be assured that much of this investment will not be lost if the DPD is repealed? Logic says much of the investment would be lost.

Accordingly, NAREIT urges you not to enact S.B. 118. Thank you again for the opportunity to submit this testimony.

LAND USE RESEARCH
FOUNDATION OF HAWAII

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February 13, 2015

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Senate Committee on Ways and Means

Comments and Concerns in Opposition to SB 118, Relating to Real Estate Investment Trusts (REITs); Disallows dividends paid deduction for REITs.

Wednesday, February 18, 2015, 9:00 a.m., in Conference Room 211

The Land Use Research Foundation of Hawaii (LURF) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. LURF's mission is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources, and public health and safety.

SB 118. The purpose of this bill is to amend Sections 235-2.3 and 2235-71 of the Hawaii Revised Statutes (HRS) to disallow the federal deduction for dividends paid by REITs for purposes of Hawaii income taxation. Should SB 118 be adopted, REITs will be taxed on their net income in Hawaii, while REIT shareholders will continue to be taxed on dividend income received, resulting in a double tax. In short, this measure is intended to subject REITs to the same tax as other corporations.

While LURF understands the intent of this bill given the potential for tax avoidance and abuse by foreign/mainland corporations and wealthy individuals through real estate ownership arrangements structured through REITs, it must nevertheless oppose SB 118 based on the following reasons and considerations:

1. **The "Double-Tax" Resulting from this Proposed Measure is Contrary to the Underlying Intent of REITs.**

REITs are corporations or business trusts which were created by Congress in 1960 to allow small investors, including average, every day citizens, to invest in income-producing real estate. Pursuant to current federal and state income tax laws, REITs are allowed a dividend paid deduction (DPD), resulting in the dividend being taxed a single time, at the recipient level, and not to the paying entity. Most other corporations are subject to a double layer of taxation – on the income earned by the corporation and on the dividend income received by the recipient.

Proponents of this measure attempting to eliminate the DPD, however, appear to ignore that the deduction at issue comes at a price. REITs are granted the DPD for good reason - they are required under federal tax law to be widely held and to distribute at least 90% of their taxable income to shareholders,[1] and must also comply with other requirements imposed to ensure their focus on real estate. In short, REITs earn the DPD as they must comply with asset, income, compliance and distribution requirements not imposed on other real estate companies.

2. **SB 118 is Contrary to the Tax Treatment of REITs Pursuant to Current Federal Income Tax Rules and Laws of Other States with an Income-Based Tax System.**

SB 118 would enact serious policy change that would create disparity between current Hawaii, federal, and most other states' laws with respect to the taxation of REIT income.

The laws of practically every state with an income-based tax system now allow REITs a deduction for dividends paid to shareholders.[2] Hawaii, as well as other states which impose income taxes currently tax REIT income just once on the shareholder level (not on the entity level), based on the residence of the shareholder that receives the REIT dividends and not on the location of the REIT or its projects.

By now proposing to double tax the REITs that do business in Hawaii as well as their shareholders, SB 118 would upset the uniformity of state taxation principles as applied between states. Other states which have similarly explored the possibility of such a double tax over the past years have rejected the disallowance of the DPD for widely held REITs.

Passage of this measure and the disallowance of the DPD would make Hawaii and New Hampshire the only two states to double tax widely held REITs as described above, despite the REITs continuing to be compelled to distribute their taxable income to shareholders as mandated by federal law.

3. **Hawaii REITs Significantly Benefit the Local Economy.**

Elimination of the DPD would result in a double taxation of income for Hawaii REITs which would certainly mitigate, if not extinguish interest and incentive in investing in Hawaii-based REITs, which currently contribute significantly to Hawaii's economy.

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[1] The State of Hawaii thus benefits from taxes it collects on dividend distributions made to Hawaii residents.

[2] New Hampshire is the only state which imposes corporate income tax on widely-held REITs, and while New Hampshire's Gross State Product is comparable to Hawaii's, REIT investment there amounts to only about twenty-five percent (25%) of that in this State.

As of December 2013, approximately twenty widely- held REITs reportedly invested about **$6 billion** in commercial real estate in Hawaii, which has resulted in substantial economic activity in local industries including construction, retail, resort, healthcare and personal services, as well as employment for many Hawaii residents, and considerable tax revenues for the state and city governments. Such tax revenues include general excise taxes on rents and retail sale of goods, business income tax on profits made by tenants, income tax from employment of Hawaii residents, and millions of dollars in property taxes.

Proponents of this bill should be mindful that significant economic growth experienced in this State over the past few years, and which is expected to occur in the future, is undoubtedly attributable in part to REIT investment in Hawaii. The Outrigger Enterprise Group partnered with REIT American Assets Trust in order to successfully develop the Waikiki Beach Walk. General Growth's current expansion of the Ala Moana Shopping Center, as well as its partnering with Honolulu-based, local companies (The MacNaughton Group, The Kobayashi Group and BlackSand Capital) to develop the Park Lane residential condominium project is another example. That investment alone will exceed $1 billion and is anticipated to create approximately 3,800 jobs. Taubman Centers, Inc., another REIT, is also spending $400 million on the redevelopment of Waikiki's International Marketplace.

Despite claims made by detractors, the multi-billion dollar investments and contributions to Hawaii's economy made by REITs may not be so easily generated through other means or resources. Attracting and obtaining in-state capital for large projects is very difficult. The State should also be concerned with the types of entities willing and able to invest in Hawaii, and should be wary of private investors looking only to make quick gains when the market is booming. Because federal regulations preclude REITs from "flipping" properties, REITs are by law, long-term investors which help to stabilize commercial real estate prices, and which are also likely to become a part of the local community.

4. **The Tax Rule Changes Proposed by this Bill will Unfairly Affect REITs and the Small Investors Which have Already Made Substantial Investments in Hawaii.**

The disallowance of the DPD and resulting increased taxation of REITs will reduce investment returns as well as dividend payments to shareholders, which will no doubt have a significant negative effect on future investment by REITs in Hawaii.

The tax law changes proposed by SB 118 will also unfairly impact those publicly traded REITs which have already made substantial investments in Hawaii and have contributed greatly to the State's economy in reliance on the DPD, which, as discussed above, is considered a fundamental principle of taxation applicable to REITs.

5. **Further Study Warranted Due to the Potentially Dire Consequences of this Proposed Legislation.**

Given that an unwarranted change of such a universal tax rule in place since 1960 may undoubtedly affect investments made by REITs in Hawaii, significantly reduce the availability of capital in this State, as well result in other economic repercussions, LURF believes that it may be advisable and prudent for these Committees to require support for this measure in the form of material facts and studies which would prove that the State's economy will not be negatively affected as a result of the proposed action. Such inquiry should include how much money the State would actually receive as a result of the proposed legislation,[3] especially given the likelihood that REIT investment in Hawaii will in turn, decline (i.e., whether the proposed measure is fiscally reasonable); and whether it would be possible to replace the billions of dollars in investments currently being made by REITs.

LURF believes it would be irresponsible for these Committees to agree to support this bill which may potentially stifle, if not reverse the current growth of the State's economy, without thorough review and analysis of all the facts and information relating to the proposed measure, as well as the potential consequences thereof.

For the reasons stated above, LURF must respectfully **oppose SB 118**, and recommends that this bill be **held in these Committees.**

Thank you for the opportunity to provide comments regarding this proposed measure.

[3] LURF understands that even the State Department of Taxation does not know how much money the government might gain from the legislation.

GGP

February 17, 2015

Hearing Date: Wednesday, February 18, 2015
Time: 9:00 am
Place: State Capital, Conference Room 211

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi. Vice-Chair
Senate Committee on Ways and Means
State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Re: Testimony in Opposition to Senate Bill No. 118

Dear Chairman Tokuda, Vice-Chairman Kouchi, and Committee Members:

Thank you for the opportunity to provide written testimony on Senate Bill No. 118, which would eliminate the federal tax deduction for dividends paid by a real estate investment trust ("REIT") for purposes of Hawaiian income taxation. We are Francis Cofran, the Senior General Manager of Ala Moana Center, the largest retail center in the state of Hawaii, and Sandeep Mathrani, the Chief Executive Officer of General Growth Properties, Inc. ("GGP"), an S&P 500 publicly traded REIT, the owner of Ala Moana Center.

GGP owns 121 shopping malls in 40 states with 124 million square feet of gross leasable space. Our mission is to own and operate best-in-class retail properties that provide an outstanding environment and experience for our communities, retailers, employees, consumers and shareholders. GGP operates three major retail shopping centers in Hawaii – the Prince Kuhio Plaza in Hilo, Whalers Village in Lahaina, and the Ala Moana Center in Honolulu. The latter two are iconic visitor attractions that help to sustain Hawaii's important tourism industry, with the majority of their respective sales made by tourists.

REITs are primarily engaged in owning and operating real estate assets and are generally required to pay out all taxable income in the form of dividends. The REIT's shareholders are subject to income tax on the dividends in their state of residence. This is the uniform and consistent single-tax environment in all states, except New Hampshire where REITs do not have a substantial presence. We believe the New Hampshire tax has inhibited REIT investment.

REITs have a significant real estate investment in Hawaii, which, in turn, produces substantial economic benefits, such as jobs, general excise tax on rents from tenants, general excise tax on sales of goods by tenants, income tax on profits from tenants, real property taxes, and individual income tax from employment of residents of Hawaii.

At Ala Moana Center, GGP has or will be investing almost $1 billion in capital to construct additional retail square footage and luxury residential condominiums based on the existing Hawaiian tax regime. We are making this investment using local partners; Hawaiian Dredging is the general contractor for the retail expansion and The MacNaughton Group, The Kobayashi Group, and Blacksand Capital are our partners in the residential condominiums.

This $1 billion investment is producing substantial benefits to the Hawaiian economy. During the construction period, we estimate economic activity of 11,600 full- and part-time jobs and over $146 million of state revenue including indirect community benefits (known as the "ripple effect"). Post the construction period, the shopping center investment alone will produce an incremental $33 million of state revenue and 3,000 jobs annually.

We are considering future expansion plans at Ala Moana Center that may be as much as an additional $2 billion. However, we would need to reconsider whether this investment could be more profitably deployed elsewhere if Senate Bill No. 118 was enacted. GGP evaluates investment opportunities throughout the United States, and the state tax implications of those investment opportunities impact our capital allocation decisions. The enactment of Senate Bill No. 118 or bills of this type ultimately reduce the attractiveness of investing in Hawaii.

Please do not allow a short-term revenue increase to override the long-term economic benefits that REIT investment under the existing tax regime brings to the state of Hawaii and its residents. For the foregoing reasons, we respectfully oppose Senate Bill No. 118 and urge you to not let it move forward. Thank you for your consideration.

Sincerely,

Francis Cofran
Senior General Manager

Sandeep Mathrani /s/

Sandeep Mathrani
Chief Executive Officer

February 17, 2015

Honorable Senator Jill N. Tokuda, Chair
Honorable Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means
State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Re: Testimony in Opposition to Senate Bill No. 118 relating to real estate investment trusts

Dear Chair Tokuda, Vice-Chair Kouchi and Committee Members:

I am submitting this testimony in opposition to Senate Bill No. 118 on behalf of The Shidler Group, which is based in Honolulu and invests in the formation and capitalization of real estate-related companies and new investment initiatives, including the acquisition and ownership of individual properties and portfolios. The Shidler Group has created real estate investment trusts (REITs) that has invested in Hawaii and in the Mainland including Pacific Office Properties which is headquartered in Honolulu.

Congress created REITs in order to provide investors a way to invest in professionally run real estate companies. Historically, real estate has been owned in the United States by "pass-through" entities such as limited partnerships and more recently limited liability companies. In order to allow REITs to compete with these vehicles, they were allowed a dividends paid deduction in exchange for paying out virtually all of their taxable income. As publicly traded companies, REITs also provide investors with liquidity previously unavailable to real estate investments.

Hawaii, via Senate Bill 118 is reconsidering this investment vehicle after more than 40 years. Apparently the premise is that REITs are bad for Hawaii because there are more mainland shareholders of the REITs doing business in Hawaii than there are Hawaii investors in REITs doing business outside of Hawaii. In other words we are losing some income tax revenue from the non-Hawaii residents.

Even if this argument is true, I would encourage you to focus on what we have gained rather than we have lost. <u>If there are more non-Hawaiian REIT investors than Hawaiian REIT investors, that must mean that we have benefited by receiving a disproportionate share of the money raised by REITs and invested in real estate</u>. How have we benefited from this additional investment? Improved and expanded retail properties (Ala Moana Center), renovated retail properties (International Marketplace), improved hotel properties (Starwood), and additional jobs. These types of assets are producing significantly greater sales because of those investments. The gross sales are all subject to general excise tax (GET) and transient accommodations tax (TAT) in the case of the hotel properties. The tax revenue that is raised the GET and TAT dwarfs the additional tax we could collect by taxing REITs corporate income. Furthermore, a significant portion of GET and TAT is being paid by non-Hawaiian residents. I believe that REIT investment in Hawaii has been a huge windfall for our state.

Enacting Senate Bill 118 would discourage future REIT investment in Hawaii. If other states enacted similar legislation, that would seriously cripple the REIT industry and would prevent many Hawaiians from participating in the real estate markets.

Finally, I believe that it is bad public policy to change the tax laws applicable to certain investments, after the investment has been made. Hawaii already receives more than our share of negative publicity about being business unfriendly. Let's not be short-sighted. I urge you to not adopt Senate Bill 118.

Thank you for the opportunity to present my view.

Sincerely,

Lawrence J. Taff
Managing Partner
The Shidler Group

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Public Storage

February 16, 2015

Hearing Date: Wednesday, February 18, 2015
Time: 9:00 a.m.
Place: Conference Room 211

The Honorable Jill N. Tokuda, Chair
The Honorable Ronald D. Kouchi, Vice Chair
Senate Committee on Ways and Means

Re: Testimony Opposing S.B. No. 118 – Repeal of Dividends Paid Deduction for REITs

Chair Tokuda, Vice Chair Kouchi, and Members of the Senate Committee on Ways and Means:

My name is Lily Yan Hughes, Senior Vice President, Chief Legal Officer and Corporate Secretary of Public Storage, and I am providing this written testimony in opposition to SB 118. I earlier supplied similar opposition testimony for a hearing in the House relating to a companion bill, H.B. 82.

Public Storage is a publicly-traded real estate investment trust (REIT) that is the largest owner and operator of self-storage facilities in the United States, with almost 150 million rentable square feet of real estate in 38 states. We have approximately 2,260 facilities and 1.3 million tenants in the United States. We own 11 properties in Hawaii that generated more than $25 million of gross revenue in 2014, resulting in over $1.1 million of general excise tax revenues for the state.

SB 118 would eliminate the "dividends paid deduction" (DPD) for Hawaii income tax purposes for all REITs. The DPD is a central feature of the taxation of REITs, provided because, unlike regular C corporations, REITs are required to distribute their income to their shareholders.

REITs were created by Congress in 1960 working from the mutual fund model, to give small investors the ability to invest in professionally managed real property with pass-through tax treatment of the income (as with the mutual fund model, no double level tax).

Mutual funds similarly permit investments in professionally managed portfolios of securities, and mutual funds are also required to distribute their income, which is only taxed once, at the shareholder level. So, REITs and mutual funds are not like regular corporations which can (and typically do) retain their income. Both REITs and mutual funds are subject to a broad array of tests designed to ensure that their income and assets are focused on real estate and securities, respectively, and that their shareholders are currently provided the benefits of those operations (and taxed on the income).

Of course, wealthy investors are also able to structure significant investment in real estate using pass-through entities including partnerships, limited liability companies and subchapter S corporations that may not be liable for any separate Hawaii income taxes. A vocal proponent of the legislation has apparently suggested that he is at some competitive disadvantage because he is taxable on the earnings of his limited liability real estate company. This is hard to understand, as there presumably is only one level of tax on that income, not the double level of tax he is proposing should be required for REITs.

Although little information is available to explain the motivations of supporters of the bill, some articles have offered anecdotes suggesting that shareholders of REITs from the mainland are inappropriately profiting from valuable Hawaii real estate. This is misguided in many ways. First, significant numbers of REIT shareholders reside in Hawaii and there is no reason to think (as some have suggested without any support) that REIT shareholders are disproportionately located on the mainland. Also, the dividends that all REITs pay to shareholders in Hawaii are subject to Hawaii tax (without regard to where the REITs' properties might be located). The bill would particularly penalize Hawaii residents (small investors as well as large investors) who invest in REITs owning Hawaii real estate. The REITs would be taxed on their Hawaii income, but still be required to distribute that income to their shareholders and Hawaii resident shareholders would be subject to double Hawaii tax on the dividends that the REITs are required to distribute.

SB 118 is also flawed from the standpoint of longer term revenue generation for the state. It will plainly cause Hawaii, apparently already capital-poor, to be less attractive for investments by REITs (any rational investor will find an added charge of 6.4% of income daunting). While other investors may step in, why would the state want to push away such a large source of economic development, funding and activity? Making Hawaii less competitive over the long term is not a good revenue generation strategy.

For all of these reasons, no state that imposes income tax upon REITs (other than New Hampshire) denies the dividends paid deduction as proposed by SB 118 and HB 82. Indeed, over the past decade, a number of states (*e.g.*, Idaho, Louisiana, New Jersey, North Carolina, and Rhode Island) have examined, and then rejected, legislation that would have disallowed a widely-held REIT's DPD in those states.

If SB 118 or similar bills are adopted, the added Hawaii taxes and divergence from the national REIT template will be a significant factor discouraging further investment in Hawaii by Public Storage (and, we suspect, all other REITs). REITs will rightly focus their investments in states that conform to the REIT model and permit the DPD.

As it did when similar proposals were raised in 2014, Hawaii should again reject the disallowance of a widely-held REIT's DPD. We respectfully request that you do **not** move SB 118 forward.

Sincerely,

Lily Yan Hughes
Senior Vice President, Chief Legal Officer
& Corporate Secretary of Public Storage
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818.244.8080, extension 1537

Hawai‘i Association of REALTORS®
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1259 A‘ala Street, Suite 300
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February 18, 2015

The Honorable Jill Tokuda, Chair
Senate Committee on Ways and Means
State Capitol, Room 211
Honolulu, Hawaii 96813

RE: S.B. 118, Relating to Real Estate Investment Trusts

HEARING: Wednesday, February 18, 2015, at 9:00 a.m.

Aloha Chair Tokuda, Vice Chair Kouchi, and Members of the Committee.

I am Myoung Oh, Director of Government Affairs, here to testify on behalf of the Hawai‘i Association of REALTORS® (“HAR”), the voice of real estate in Hawai‘i, and its 8,400 members. HAR **opposes** S.B. 118, which disallows the dividends paid deduction for Real Estate Investment Trusts (REIT) for Hawai‘i income tax purposes.

In 1960, the United States Congress created REITs to allow all individuals, and not only the wealthy, the opportunity to invest in large-scale diversified portfolios of income producing real estate. REITs are tied to all aspects of the economy, including office and apartment buildings, warehouses, hospitals, shopping centers and hotels.

These investments in Hawai‘i generate taxes to the State, such as through the workers and jobs it creates (income tax), the General Excise Tax for rental income and property taxes for the counties.

Under this measure, it proposes to remove the income tax deduction for dividends from a REIT, thereby creating a double taxation of income. HAR has concerns that this will become a disincentive to invest in Hawai‘i and negatively impact the economy through these investments in real estate. Some benefits of the REITS include renovation and redevelopment of Waikiki Beachwalk and Waikiki International Marketplace.

Mahalo for the opportunity to testify.

Taubman

February 17, 2015

Honorable Senator Jill N. Tokuda, Chair
Honorable Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means
State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Re: Testimony in Opposition to Senate Bill No. 118 relating to real estate investment trusts

Dear Chair Tokuda, Vice-Chair Kouchi and Committee Members:

On behalf of Taubman Centers, thank you for the opportunity to provide our testimony in opposition to Senate Bill No. 118, which is being heard by the Committee on Ways and Means on February 18, 2015 at 9:00 a.m. Taubman is an S&P MidCap 400 publicly-traded and widely owned Real Estate Investment Trust ("REIT") engaged in the ownership, operation, management, development and leasing of 21 regional, super-regional and outlet shopping centers in the U.S. and Asia.

We are a new investor in Hawaii and began construction last year with Queen Emma Land Company and our partner Coastwood Capital Group to redevelop and revitalize International Market Place in Waikiki, Honolulu, Hawaii. Our shopping center will include approximately 75 retailers and is designed to celebrate the rich history of the site and offer a Hawaiian sense of place that honors Queen Emma's legacy while adding vitality and appeal to Waikiki for tourists and residents alike. We are very excited about this project and to be part of the business community in Hawaii.

We are organized, owned and operated in a manner to qualify as a REIT under the Internal Revenue Code for federal income tax purposes. A REIT is a conduit vehicle designed to allow many small investors to participate in real estate development and ownership. Some of the requirements to qualify as a REIT include (1) ownership by at least 100 shareholders, (2) a prohibition on being closely held and controlled by limiting ownership by five or fewer persons to no more than a 50% interest in the REIT, (3) meeting certain asset and income tests to ensure we are primarily invested in real estate and operate it for rental purposes as a long term investor, and (4) paying out all of our taxable income as cash dividends to our shareholders. Failure to meet these requirements results in losing our REIT tax status or in some circumstances harsh penalties like a prohibited transaction tax for not holding property as a long term investor in a rental real estate business. For meeting these stringent tests, Taubman Centers, like all REITs, is entitled to a deduction for dividends paid to our shareholders to reduce our taxable income. It is this deduction afforded in the federal tax law and permitted by virtually all other states that Senate Bill No. 118 would eliminate and disallow for Hawaii corporate income taxation.

Because of the forced dividend requirement to distribute all of its taxable income, a REIT's taxable income is effectively taxed at the shareholder level by the state taxing jurisdictions in which the shareholders reside. This allows for a single level of taxation at the shareholder level and no double taxation (i.e., it prevents taxation at both the entity level and again at the shareholder level) and is consistent with the treatment of investors in mutual funds that are treated as regulated investment companies for tax purposes. For publicly-traded and widely held REITs, state income taxation based on the shareholder's residence is the uniform tax treatment in virtually all states that impose an income based tax system.[1] This results in state income taxation by Hawaii on dividends received by Hawaii residents who are shareholders in REITs that may own property and operations outside of the State.

Please note that those taxpayers organized by corporations who do not qualify as a REIT are not entitled to a deduction for dividends paid in the computation of their taxable income. However, those taxpayers are not required to meet the restrictions on ownership and stringent operational and distribution requirements imposed on companies like us to qualify as a REIT and entitle them to a deduction for dividends paid. This means they are not required to be long term investors in real estate and are not required to distribute all of their taxable income as cash dividends. Therefore these taxpayers can retain more cash to fund their operations when a REIT is required to distribute its income to its investors and shareholders.

Approximately 20 publicly-traded REITs have invested over $6 billion in commercial real estate in Hawaii and are responsible for significant economic activity in the construction industry, resort industry, restaurant and retail industry, office and industrial leasing and others. Taubman alone has committed an investment of over $450 million for the redevelopment of International Market Place. In addition after opening in 2016 our shopping center will require investment to fund significant capital expenditures on a recurring annual basis to maintain the property to our standards and provide the highest quality shopping destination for our shoppers and tenants. A REIT's ability to access and raise capital with equity offerings in the public markets to make these type of real estate investments in Hawaii and other states make it a unique investment vehicle and a major advantage over privately held real estate with a limited amount of investors.

Such business activity generates substantial economic benefit for Hawaii, including providing jobs, as well as significant tax revenues for the State government. The tax revenues include substantial general excise taxes on rents from tenants, on the sale of goods and services at retail by the tenants, and on construction activities, transient accommodations taxes on revenues from hotel operations, business income tax from profits from tenants and contractors, increased real property taxes, and individual income tax from employment of residents of Hawaii in the construction, retail, restaurant and resort industries.

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[1] We have no objection to limiting the dividend paid deduction for captive or privately owned REITs. They are different than widely owned REITs since captive REITs are primarily used as a tax strategy to lower their affiliate's effective income tax rate from non-real estate business activities.

Taubman's shopping center development is currently under construction and is projected to generate over $10 million annually in general excise tax (from landlord rents and by tenants from retail sales of merchandise) and over $4 million annually in property taxes. It will result in employment of over 1,000 construction jobs and 2,500 permanent jobs, which generate both general excise tax revenues from construction work and individual income tax revenues from both the construction and permanent jobs.

Such a policy change in state taxation of REITs is likely to discourage future investment by REITs in Hawaii, stifling the availability of capital[2] and putting Hawaii at a competitive disadvantage versus virtually every other state when trying to attract capital for investment in the State. Because investments by REITs generate so much economic activity and create so many local jobs in the State, disallowing the deduction for dividends paid not only would hurt workers in Hawaii, over the long run, it ultimately may result in less tax revenue for the State as its makes Hawaii unattractive for investment by REITs resulting in less economic activity.

Finally, we note that many publicly-owned REITs already have made substantial investments in Hawaii projects. To now change a fundamental rule of taxation applicable to REITs would unfairly affect the investments made by REITs in reliance upon the long-standing state of Hawaii income tax rules allowing the dividend paid deduction permitted in nearly every other U.S. state. If the Legislature decides to make this fundamental change, we respectfully urge that it be delayed for a sufficient period to allow REITs to adjust their investments in Hawaii to account for this change.

For the foregoing reasons, we respectfully but strongly oppose Senate Bill No. 118.

Thank you for your consideration of our testimony.

Very truly yours,

Robert S. Taubman
Chairman, President and Chief Executive Officer

200 East Long Lake Road
Suite 300
Bloomfield Hills, Michigan
48304-2324

T 248.258.6800
www.taubman.com

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2 As of December 31, 2014, there were approximately 200 publicly-traded REITs in the United States, with a market capitalization of around $800 billion.

ALBERT C.
KOBAYASHI, INC.
GENERAL CONTRACTORS
Gentry Business Park • 94-535 Uke'e Street
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February 14, 2015

Committee on Ways and Mans
Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Subject: Opposition to S.B. No. 118, Relating to Real Estate Investments Trusts

Hearing Date: February 18, 2015
Time: 9:00 am
Place: Conference Room 211
State Capitol

Albert C. Kobayashi, Inc. **opposes** S.B. 118, Relating to Real Estate Investments Trusts.

REITs have contributed to Hawaii's increase in our economy. They have created jobs for the local people which in turn has increased the local economy tax base.

Albert C. Kobayashi, Inc. is one of the largest 100% locally owned General Contractors. We have benefited through the old and new projects which Companies, such as General Growth Properties (a REIT company) , have provided for all of our local employees. We are presently working with General Growth Properties along with local companies such as The MacNaughton Group, The Kobayashi Group and Black Sand Capital. This project along with other past projects (and future projects) have provided jobs for all of our local employees. We view this Bill as very damaging to our economy.

Hawaii needs to have REIT's companies create more businesses and jobs for our people, which will result in more taxes being paid to the State of Hawaii. We need to have more REIT companies invest their money in Hawaii and our local people.

We urge you to oppose this bill.

Mahalo,

Russell Young
President & CEO
Albert C. Kobayashi, Inc.

Testimony of Brooke Wilson
Pacific Resource Partnership

Senate Committee on Ways and Means
Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair

SB 118 – Relating to Real Estate Investment Trusts
Wednesday, February 18, 2015
9:00 AM
State Capitol – Room 211

Aloha Chair Tokuda, Vice Chair Kouchi members of the Committee:

PRP is a not-for-profit organization that represents the Hawaii Regional Council of Carpenters, the largest construction union in the state, and more than 240 of Hawaii's top contractors. Through this unique partnership, PRP has become an influential voice for responsible construction and an advocate for creating a stronger, more sustainable Hawaii in a way that promotes a vibrant economy, creates jobs and enhances the quality of life for all residents.

We **oppose** SB 118, Relating to Real Estate Investment Trusts (REITs) which disallows dividends paid deduction for REITs.

Hawaii has challenges generating in-state capital to refresh aging commercial properties and hotels. However, in the last 5 years, our state has been fortunate to attract approximately $6 billion in REITs investment to our shores. As a result, projects such as the expansion and renovation of Ala Moana Center, the redevelopment of the iconic International Marketplace, and the Outrigger Hotels Waikiki Beachwalk project have spurred thousands of jobs in retail, healthcare, tourism and construction.

Unfavorable tax laws will only encourage REITs investments to look away from Hawaii and invest in other areas of the country. It is important to note that Hawaii's tax policy is in line with 49 other states. By keeping tax laws the way they are, Hawaii will remain competitive for attracting billions of dollars to fund needed improvements in our community.

For the reasons mentioned above, we respectfully request that SB 118 be held in Committee. Thank you for the opportunity to share our comments on this important issue with you.

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Testimony to the Senate Committee on Ways and Means
Wednesday, February 18, 2015
9:00 a.m.
State Capitol - Conference Room 211

RE: SENATE BILL NO. 118 RELATING TO REAL ESTATE INVESTMENT TRUSTS

Dear Chair Tokuda, Vice-Chair Kouchi, and members of the Committee:

My name is Gladys Marrone, Chief Executive Officer for the Building Industry Association of Hawaii (BIA-Hawaii), the Voice of the Construction Industry. We promote our members through advocacy and education, and provide community outreach programs to enhance the quality of life for the people of Hawaii. BIA-Hawaii is a not-for-profit professional trade organization chartered in 1955, and affiliated with the National Association of Home Builders.

BIA-Hawaii **opposes** S.B. 118, which disallows dividends paid deduction for Real Estate Investment Trusts.

S.B. 118 would discourage investment by REITs in Hawaii, making many large projects impossible. Projects such as the expansion and renovation of Ala Moana Center, the redevelopment of the iconic International Marketplace, and the Outrigger Hotels Waikiki Beachwalk project have spurred thousands of jobs in retail, healthcare, tourism and construction.

S.B. 118 would create a double tax for REITs in Hawaii whicdoesn't occur in other states. REITs will be forced to look elsewhere to invest. It is important to note that Hawaii’s current tax policy, regarding REITs, is in line with 49 other states. Attempting to raise tax revenue by creating a double tax on REITs would have the opposite effect, as the State would stand to lose all the potential other tax revenue related to the development and continued operation of these large projects.

Thank you for the opportunity to express our views on this matter.

SAVIO

Savio Associates LLC
a member of The Savio Group
1451 S. King Street, #504 • Honolulu, Hawaii 96814-2509
Telephone: (808) 946-3222
Facsimile: (808) 946-3224

Facsimile Transmittal Sheet

To: Ways and Means Committee **FAX No.:** (808) 587-7220

From: Peter B. Savio **Phone (Direct):** (808) 951-8976

Date: February 17, 2015 **Pages:** Two (2)

RE: **S.B. NO. 118, RELATING TO REAL ESTATE INVESTMENT TRUSTS**

☐ Urgent ☑ For Review ☐ Please Comment ☐ Please Reply

Comments: Submitting my testimony in support of S.B. No. 118, Relating to Real Estate Investment Trusts. Thank you.

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Peter B. Savio
President
The Savio Group
1451 S. King Street, Suite 504
Honolulu, Hawaii 96814-2509

Wednesday, February 18, 2014

RE: SUPPORT FOR S.B. NO. 118, RELATING TO REAL ESTATE INVESTMENT TRUSTS

Stop giving our tax revenue to mainland States.

The Federal Tax Code exempts REITs from paying federal taxes. Most States have adopted the Federal Tax Code so the States also exempt REITs from state taxes.

The Federal Government does not care since they do not lose the tax revenue. The only difference is the federal taxes are paid not by the REIT, but by individual stockholders through the stockholder's personal federal tax return. The Federal Government waives the tax revenue on the REITs, but receives the tax revenue from the stockholders. The Federal Government does not give up any revenue just has someone else pay it. REITs pay federal taxes through the personal tax returns of their investors.

The States are not as lucky as the Federal Government since they can only tax their residents. In Hawaii's case we do not charge the REITs state taxes.

The REITs pay the money out to the stockholders who then pay the state taxes on their state tax return in the State in which they live. Therefore, state taxes are paid on the money earned in Hawaii just not paid to the State of Hawaii, but to one of the other 49 States.

REITs pay state taxes through their investors and in the State the investors live in. We are giving away our state taxes to other States. This need to stop!

Because of our strong and stable real estate market we are attracting more and more REITs as owners of income producing property.

They are welcome in Hawaii, but should pay state taxes just like everyone else in Hawaii and not pay the state tax on the mainland.

Making a REIT pay its fair share will have little or no impact on Hawaii's real estate market. Every day we hear how the State does not have enough tax revenue yet we give away a minimum of $60-million every year to other States through this REIT exemption.

It is time for our legislature, those of you on this committee and serving in this year's legislature to correct the imbalance and remove the exemption so that REIT will pay state taxes on money earned in Hawaii to the State and the people of Hawaii and not allow our state taxes to be given to mainland states.

Keep our tax revenue in Hawaii.

1288 Ala Moana, Suite 208
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THE MACNAUGHTON GROUP

THE SENATE
THE TWENTY-EIGHTH LEGISLATURE
REGULAR SESSION OF 2015

COMMITTEE ON WAYS AND MEANS
Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair

Wednesday, February 18, 2015
Conference Room 211, 9:00 AM
State Capitol, 415 South Beretania Street

SB 118: Relating to Real Estate Investment Trusts

Chair Tokuda, Vice Chair Kouchi and Committee Members, my name is Ian MacNaughton, writing on behalf of The MacNaughton Group and BlackSand Capital, LLC in opposition to SB 118.

SB 118 will disallow the dividends paid deduction for Real Estate Investments Trusts ("REIT" or "REITs") which in turn would double the taxes for the corporation and shareholders. REIT corporations contribute to Hawaii's tax base by paying General Excise Tax (GET) and the dividends paid to shareholders are taxed as income.

We view this bill as damaging one of the few growing and long-term sources of capital that can improve Hawaii's economic picture, by providing outside funding to improve its infrastructure and rapidly ageing commercial asset base. As evidence of this, REIT investment in Hawaii is currently measured at approximately $6 billion dollars and REIT investment per capita in Hawaii is estimated to be the highest of any state in the U.S.

The MacNaughton Group and BlackSand Capital have had the good fortune to partner with REITs in developing and improving a number of Hawaii commercial properties. A good example is the partnership between The MacNaughton Group, BlackSand Capital, Kobayashi Group, and General Growth Properties ("GGP") on the Park Lane Ala Moana residential project at Ala Moana Center ("AMC") in Honolulu. GGP is the current owner of AMC and the company's willingness to partner with local Hawaii-based companies and their ability to provide efficient capital of significant scale given their unique access to the global capital markets was imperative to the projects ability to proceed in a timely manner. We strongly believe that REITs, such as GGP, are critical to the ability to proceed with commercial construction of significant scale in Hawaii and that these projects are very important for the future economic growth of our state.

The MacNaughton Group and BlackSand Capital view the enactment of SB 118 as a serious roadblock to continued REIT investment in State of Hawaii and urge you to oppose this legislation.

Thank you for the opportunity to submit this testimony.

Ian MacNaughton
Managing Partner
The MacNaughton Group

KOBAYASHI GROUP LLC
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web kobayashi-group.com
email info@kobayashi-group.com

DATE: February 18, 2015

TO: The Honorable Jill Tokuda, Chair
and Members of the Senate Committee on Ways & Means

SUBJECT: SB 118, Relating To Real Estate Investment Trust

We oppose SB 118 which will disallow dividends paid deduction for Real Estate Investment Trusts (REIT). Eliminating the deduction would mean double taxes for the corporation and shareholders. REIT corporations contribute to Hawaii's tax base by paying General Excise Tax (GET) and the dividends paid to shareholders are taxed as income.

REITs investments in Hawaii are valued at more than $6 billion dollars with primary investments in commercial properties for long term capital appreciation. Most notably is General Growth Properties, owner and operator of Ala Moana Center.

New Hampshire is the only state that disallows dividends paid deduction for REITs. Forbes ranks Hawaii among the bottom 5 states with a poor business climate and describes Hawaii as, "most onerous business tax situations."

Hawaii needs to continue to attract REITs which creates businesses, which in turn create jobs, and yes, contributes to our local economy tax base. The State of Hawaii collects GET from the lease rent and retail sales. The four counties collect higher property tax assessments. Double taxing REITs will enhance tax revenues for the short term, but it will have devastating long term effects as REITs will take their investments to other states with a more favorable tax climate.

Thank you for allowing us to provide our comments.

Bert A. Kobayashi
Chairman & CEO
Kobayashi Development Group

Duncan MacNaughton
Chairman & Founding Partner
The MacNaughton Group

ENVISION CREATE SUSTAIN

Alexander L. Fergus

125 MERCHANT STREET, SUITE 200
HONOLULU, HAWAII 96813
TELEPHONE (808) 545-1700
FAX (808) 545-1788

February 18, 2015, 9:00 a.m., Conference Room 211

TO: Senate Committee on Ways and Means
Senator Jill N. Tokuda, Chair

FROM: Alexander L. Fergus

RE: In Support of SB 118, Relating to Real Estate Investment Trusts

Members of the Senate Committee on Ways and Means:

I strongly support SB 118 which will eliminate the tax deductibility of dividends for Real Estate Investment Trusts (REITs).

There is more REIT-owned property in Hawaii per capita than any other state in the nation and every year more and more Hawaii property is being purchased by REITs which shrinks our already dwindling tax base. REITs should be taxed the same way as other real estate investors, who are paying state income taxes ranging from 6 to 11 percent.

This bill corrects a loophole in our state income tax law that allows mainland corporations operating profitably as REITs in Hawaii to take the net income they earn here out of state, tax free. This represents a loss of between $30 to $60 million annually to the state, funds that are needed to supplement the costs of education, social services, and other state commitments.

It is unfair that the owners of the major shopping centers, hotels, and office buildings in Hawaii who have profited from our local and visitor trade have not been paying our State their share of income taxes. They should be required to cover the costs of the infrastructure, emergency, and social services that support their properties, the same way our local businesses and Hawaii residents are. S.B. No. 118 would close the REIT income tax loophole and keep more revenues in Hawaii for the benefit of our community.

We need to protect our tax base. I strongly urge you to pass S.B. No. 118. Thank you.

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

Thank you for allowing me to submit this testimony in strong support of S.B. No. 118, Relating to Real Estate Investment Trusts.

This bill corrects a loophole in our state income tax law that allows mainland corporations operating profitably as REITs in Hawaii to take the net income they earn here out of state, tax free. This represents a loss of between $30 to $60 million annually to the state, funds that are needed to supplement the costs of education, social services, and other state commitments. When the state is facing another belt-tightening year, we need to find ways to raise revenues without further burdening our residents.

I urge the committee to pass S.B. No. 118. Thank you for the opportunity to testify.

Submitted by:

Barbara J. Tanabe
btanabe@hoakeacomm.com

HAWAII STATE TEACHERS ASSOCIATION
Teaching Today for Hawaii's Tomorrow

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President

Joan Kamila Lewis
Vice President

Colleen Pasco
Secretary-Treasurer

Wilbert Holck
Executive Director

TESTIMONY BEFORE THE SENATE COMMITTEE
ON WAYS AND MEANS

DATE: WEDNESDAY, FEBRUARY 18, 2015

RE: S.B. 118 - RELATING TO REAL ESTATE INVESTMENT TRUSTS

PERSON TESTIFYING: WIL OKABE
HAWAII STATE TEACHERS ASSOCIATION

The Honorable Chair Jill Tokuda, Honorable Vice-Chair Ronald Kouchi and Members of the Committee:

The Hawaii State Teachers Association (HSTA) **supports S.B. 118**, relating to real estate investment trusts.

HSTA is the exclusive representative of more than 13,500 public and charter school teachers statewide. As the state affiliate, of the 3.2 million members of the National Education Association, HSTA believes that schools need air conditioning and that the condition of the schools physical plant impacts the health, safety, and welfare of students and staff members.

HSTA supports tax reform and believes that it should:

a. Increase tax fairness and raise revenue necessary to finance quality public education and other public service;
b. Eliminate regulations that shift the tax burden to the less affluent;
c. Prevent excessive reliance on property tax or any other single tax;
d. Reflect the findings off comprehensive studies of the total individual and corporate tax burden;
e. Assure that statewide uniformity in property tax effort be required;
f. Provide funding for public education that ensures adequacy and equity of resources;
g. Not be used to place arbitrary maximum limits on any state or local government's ability to spend or tax, particularly since such limits have a negative impact on the full funding of schools;
h. Attract expatriated businesses and investments to return the benefit to our American economy; and
i. Encourage penalties to corporations that move their interests abroad to avoid tax liabilities.

Thank you for the opportunity to testify in **support of S.B. 118.**

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Bennett Walin CCIM
12 Kaimau St
Paia Hi 96779

Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

As a Commercial Real Estate Broker and owner of commercial investment property, and business person concerned about Hawaii's economy and long-term community development, I strongly support S.B. No. 118, Relating to Real Estate Investment Trusts.

The fact that our State is offering a "no state income tax" incentive for out of State REITs to invest is not right. These REITs can pay more then what a local investor could pay for real estate that would keep the money local. What are the reasons that this bill would be bad for our State.   I think that if it does not pass, the Senators not in favor should be accountable for the missed opportunity to raise Millions. And in turn, those in favor should be praised for the wisdom to do what is right.

This bill corrects a loophole in our state income tax law that allows mainland corporations operating profitably as REITs in Hawaii to take the net income they earn here out of state, tax free. This represents a loss of between $30 to $60 million annually to the state, funds that are needed to supplement the costs of education, social services, and other state commitments.

There is more REIT-owned property in Hawaii per capita than any other state in the nation, and, with our attractive real estate market, this will only increase in the future. REITs should be taxed the same way as other real estate investors, who are paying state income taxes ranging from 6 to 11 percent.

I urge the committee to pass S.B. No. 118. Thank you for the opportunity to testify.

February 18, 2015

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means
Hawaii State Legislature

Re: Support for S.B. No. 118, Relating to Real Estate Investment Trusts

Dear Chairman Senator Tokuda:

I am Bernard Ho and a resident of Oahu all my life and raised my family in Kaneohe. As a resident, businessman, former health insurance executive, and current head of school I am naturally concerned about Hawaii's economy and long-term community development and strongly support S.B, No. 118, Relating to Real estate Investment Trusts.

This bill is critical to me and our Hawaii residents because it corrects a loophole in our state income tax law that allows mainland corporations operating profitably as REITs in Hawaii to take the net income they earn here out-of-state, tax free. This represents a loss of between $30 to $60 million annually to the state.

As I read and listen to reports from the Governor and State Legislative Officials and appeals for funding support from many needed program, the loss of this tax revenue from REITs are needed to supplement the costs of education, social services, Hawaii state hospital system, Hawaii Health Connector, and other state commitments.

There is more REIT-owned property in Hawaii per capita than any other state in the nation, and, with our attractive real estate market, this will only increase in the future. REITs should be taxed in the same manner as other real estate investors, including myself, who are paying state income taxes ranging from 6 to 11 percent.

The time is now to bring parity between REITs and other Hawaii based corporations and eliminate the loophole that currently exists. There are too many dollars leaving the state that can be utilized for the direct benefit of Hawaii's citizens. I urge the Committee to pass S.B. No. 118. Thank you for the opportunity to voice my sincere concerns over this unjust matter.

Sincerely,

Bernard A.K.S. Ho

Bernard A.K.S. Ho
45-522 Mokulele Drive
Kaneohe HI 96744

Brian M. Gold

Wednesday, February 18, 2015, 9:00AM - Conference Room 211

To: Senate Committee on Ways and Means
Senator Jill N. Tokuda, Chair

From: Brian M. Gold
818 S. King St. #2005
Honolulu, HI 96782
Tel: (808) 292-4341

Re: Supporting SB 118, Relating to Real Estate Investment Trusts (REITs)

As a small business owner and island resident for 24 years, increasingly concerned about Hawaii's economy and long-term community development, I support Senate Bill No. 118, Relating to Real Estate Investment Trusts.

The remedy of this long-time loophole in our state's income tax law, through the passage of SB 118, will put an end to the decade's old practice of hotels, shopping centers, and office buildings taking net income they earn locally out of state, tax free. Having more REIT owned property per capita than any other state, this significant loss of tax revenue to the state would, if collected, help supplement the costs for infrastructure, emergency, and social services of which these businesses are currently receiving gratis.

Taxing REITs in Hawaii the same way as other real estate investors, who are paying rates ranging from 6 to 11 percent, is not only smart, it's the right thing to do.

I urge you to pass Senate Bill No. 118. Thank you for your time.

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Carl L. de los Reyes, MD
1200 Queen Emma St., #3811
Honolulu, HI 96813

Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

As a business person concerned about Hawaii's economy and long-term community development, I strongly support S.B. No. 118, Relating to Real Estate Investment Trusts.

This bill corrects a loophole in our state income tax law that allows mainland corporations operating profitably as REITs in Hawaii to take the net income they earn here out of state, tax free. This represents a loss of between $30 to $60 million annually to the state, funds that are needed to supplement the costs of education, social services, and other state commitments.

There is more REIT-owned property in Hawaii per capita than any other state in the nation, and, with our attractive real estate market, this will only increase in the future. REITs should be taxed the same way as other real estate investors, who are paying state income taxes ranging from 6 to 11 percent.

I urge the committee to pass S.B. No. 118. Thank you for the opportunity to testify.

Dear Senator Toduda & Senator Kouchi,

I was recently shocked to learn that so much potential tax dollars are not collected because of antiquated loopholes in the state tax laws. I have worked in the social services, specifically as a domestic violence facilitator for over twenty years. We all know that our community is too violent yet we don't seem to have the means to address this huge issue. More resources would help. However, it is common knowledge that government has a limited amount of money they are allowed to allocate. With the additional money that right now is not being collected from companies that reside outside our state it's possible a few of our pressing issues can be addressed.

Peace,
Chris Leong, Ph.D
739-9549

Colbert M. Matsumoto
1132 Bishop Street, Suite 2450
Honolulu, Hawaii 96813

February 14, 2015

Senator Jill N. Tokuda, Chair
Committee on Ways and Means
Hawaii State Senate
State Capitol
Honolulu, Hawaii 96813

Re: SB 118, Relating to Real Estate Investment Trusts

Dear Chair Tokuda & Members of the Committee:

This is to express my support for the enactment of SB 118 which would close a loophole in our state tax law that allows mainland investors operating as REITs to avoid paying state income tax on the profits they generate on Hawaii-based real estate holdings.

I have been informed that this leakage of state tax revenue for the benefit of mainland-based investors ranges from $30 to $60 million annually. Providing such a valuable tax benefit to mainland-based investors deprives our State government of needed revenue to address the serious fiscal challenges our community faces. Moreover, it forces the Legislature to look to further increase the tax burden on Hawaii-based taxpayers, both individual and corporate, to address those needs.

Closing this loophole will not have any adverse impact on our economy by drying up investment capital for real estate investments in Hawaii as some might contend. Hawaii real estate remains a very attractive investment opportunity with no shortage of diverse investors willing to bear their fair share of the state income tax burden. So why slavishly be tied to an archaic tax incentive that no longer is needed to attract investment capital? Hawaii today faces different challenges than it did 50 years ago when this tax loophole was legislated. Our Legislature should acknowledge this and level the playing field by requiring all individuals and business entities investing in Hawaii real estate to share in the burden of supporting our State's needs.

I encourage you to act favorably on SB 118 and support its enactment.

Very truly yours,

Colbert M. Matsumoto

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Coleen Howard
439 Opihikao Place
Honolulu, HI 96825

Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

I have been a resident of Hawaii for 64 years, and I am discouraged to continually hear that the State does not have the means to fix our public schools, improve public health services, and pay promised benefits to its retirees, even while my tax bill seems to increase every year. I support S.B. No. 118, Relating to Real Estate Investment Trusts, because it is a way to address this situation.

It is unfair that the owners of the major shopping centers, hotels, and office buildings in Hawaii who have profited from our local and visitor trade have not been paying our State their share ofincome taxes. They should be required to cover the costs of the infrastructure, emergency, and social services that support their properties, the same way ourlocal businesses and Hawaii residents are. S.B. No. 118 would close the REIT income tax loophole and keep more revenues in Hawaii for the benefit of our community.

We need to protect our tax base. I strongly urge you to pass S.B. No. 118. Thank you.

Colin Lau
47-695 Hui Ulili St.
Kaneohe, HI 96777
(808) 239-1515

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

As a business person and a taxpayer concerned about Hawaii's economy and long-term community development, I strongly support S.B. No. 118, Relating to Real Estate Investment Trusts.

This bill corrects a loophole in our state income tax law that allows mainland corporations operating profitably as REITs in Hawaii to take the net income they earn here out of state, tax free. This represents a loss of between $30 to $60 million annually to the state, funds that are needed to supplement the costs of education, social services, and other state commitments.

It is unfair that the REIT owners of the major shopping centers, hotels, and office buildings in Hawaii who have profited from our local and visitor trade have not been paying our State their share of income taxes. They should be required to cover the costs of the infrastructure, emergency, and social services that support their properties, the same way our local businesses and Hawaii residents are.

There is more REIT-owned property in Hawaii per capita than any other state in the nation, and, with our attractive real estate market, this will only increase in the future. REITs should be taxed the same way as other real estate investors, who are paying state income taxes ranging from 6 to 11 percent.

I urge the committee to pass S.B. No. 118. Thank you for the opportunity to testify.

Wednesday, February 18, 2015

To: Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

From: Dan O'Connell
779 Kumulani Drive
Kihei, HI 96753
(808)214-4699

Re: Support for S.B. No. 118, Relating to Real Estate Investment Trusts

I have been a resident of Hawaii for 25 years, and I am discouraged to continually hear that the State does not have the means to fix our public schools, improve public health services, and pay promised benefits to its retirees, even while my tax bill seems to increase every year. I support S.B. No. 118, Relating to Real Estate Investment Trusts, because it is a way to address this situation.

It is unfair that the owners of the major shopping centers, hotels, and office buildings in Hawaii who have profited from our local and visitor trade have not been paying our State their share ofincome taxes. They should be required to cover the costs of the infrastructure, emergency, and social services that support their properties, the same way ourlocal businesses and Hawaii residents are. S.B. No. 118 would close the REIT income tax loophole and keep more revenues in Hawaii for the benefit of our community.

We need to protect our tax base. I strongly urge you to pass S.B. No. 118. Thank you.

Dan O'Connell

To: Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

From: Dan O'Connell
779 Kumulani Drive
Kihei, HI 96753
(808)214-4699

Wednesday, February 18, 2015

Re: Support for S.B. No. 118, Relating to Real Estate Investment Trusts

As a business person concerned about Hawaii's economy and long-term community development,I strongly support S.B. No. 118, Relating to Real Estate Investment Trusts.

This bill corrects a loophole in our state income tax law that allows mainland corporations operating profitably as REITs in Hawaii to take the net income they earn here out of state, tax free. This represents a loss of between $30 to $60 million annually to the state, funds that are needed to supplement the costs of education, social services, and other state commitments.

There is more REIT-owned property in Hawaii per capita than any other state in the nation, and, with our attractive real estate market,this will only increase in the future. REITs should be taxed the same way as other real estate investors, who are paying state income taxes ranging from 6 to 11 percent.

I urge the committee to pass S.B. No. 118. Thank you for the opportunity to testify.

Dan O'Connell

David Ward
1049 Kapukaulua Place
Paia, HI 96779

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Wednesday, February 17, 2015

Re: Support for S.B. No. 118, Relating to Real Estate Investment Trusts

Committee on Ways and Means Members,

As a business person concerned about Hawaii's economy and long-term community development, I strongly support S.B. No. 118, Relating to Real Estate Investment Trusts.

This bill corrects a loophole in our state income tax law that creates an unfair advantage to mainland corporations that operate profitably as REITs in Hawaii to take the net income they earn here out of state, tax free while Hawaii companies in a similar business are taxed at the State level. As these businesses operate on thin margins, the difference in Hawaii companies paying their fair share of tax dollars while mainland companies are tax free can make the difference in Hawaii companies' ability to invest here locally. Additionally, the loss of taxes in Hawaii is between $30 to $60 million annually to the state, funds that are needed to supplement the costs of education, social services, and other state commitments.

There is more REIT-owned property in Hawaii per capita than any other state in the nation, and, with our attractive real estate market, this will only increase in the future. REITs should be taxed the same way as other real estate investors, who are paying state income taxes ranging from 6 to 11 percent.

I urge the committee to pass S.B. No. 118. Thank you for the opportunity to testify.

Sincerely,

David Ward

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Derek Lock
215 North King St STE 1000
Honolulu HI 96817

Monday, February 16, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

As a lifetime Hawaii resident, it's discouraging to continually hear that the State does not have the means to fix our public schools, improve public health services, and pay promised benefits to its retirees, even while my tax bill seems to increase every year. I support S.B. No. 118, Relating to Real Estate Investment Trusts, because it is a way to address this situation.

It is unfair that the owners of the major shopping centers, hotels, and office buildings in Hawaii who have profited from our local and visitor trade have not been paying our State their share of income taxes. They should be required to cover the costs of the infrastructure, emergency, and social services that support their properties, the same way our local businesses and Hawaii residents are. S.B. No. 118 would close the REIT income tax loophole and keep more revenues in Hawaii for the benefit of our community.

SB118 is a bill about fairness and corporate responsibility that will ultimately protect our tax base. I strongly urge you to pass S.B. No. 118. Thank you.

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Donna Hayashida
1262 Nehoa Street
Honolulu, Hawaii 96822

Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

As a business person concerned about Hawaii's economy and long-term community development, I strongly support S.B. No. 118, Relating to Real Estate Investment Trusts. Hawaii real estate investors should not be at a disadvantage to REITs.

This bill corrects a loophole in our state income tax law that allows mainland corporations operating profitably as REITs in Hawaii to take the net income they earn here out of state, tax free. This represents a loss of between $30 to $60 million annually to the state, funds that are needed to supplement the costs of education, social services, and other state commitments.

There is more REIT-owned property in Hawaii per capita than any other state in the nation, and, with our attractive real estate market, this will only increase in the future. REITs should be taxed the same way as other real estate investors, who are paying state income taxes ranging from 6 to 11 percent.

I urge the committee to pass S.B. No. 118. Thank you for the opportunity to testify.

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Elizabeth Ana Cera
(808) 421-9123

Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

As a business person concerned about Hawaii's economy and long-term community development, I strongly support S.B. No. 118, Relating to Real Estate Investment Trusts.

This bill corrects a loophole in our state income tax law that allows mainland corporations operating profitably as REITs in Hawaii to take the net income they earn here out of state, tax free. This represents a loss of between $30 to $60 million annually to the state, funds that are needed to supplement the costs of education, social services, and other state commitments.

There is more REIT-owned property in Hawaii per capita than any other state in the nation, and, with our attractive real estate market, this will only increase in the future. REITs should be taxed the same way as other real estate investors, who are paying state income taxes ranging from 6 to 11 percent.

I urge the committee to pass S.B. No. 118. Thank you for theopportunity to testify.

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Elizabeth Ana Cera
(808) 421-9123

Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

I have been a resident of Hawaii for 37 years, and I am discouraged to continually hear that the State does not have the means to fix our public schools, improve public health services, and pay promised benefits to its retirees, even while my tax bill seems to increase every year. I support S.B. No. 118, Relating to Real Estate Investment Trusts, because it is a way to address this situation.

It is unfair that the owners of the major shopping centers, hotels, and office buildings in Hawaii who have profited from our local and visitor trade have not been paying our State their share ofincome taxes. They should be required to cover the costs of the infrastructure, emergency, and social services that support their properties, the same way our local businesses and Hawaiiresidents are. S.B. No. 118 would close the REIT income tax loophole and keep more revenues in Hawaii for the benefit of our community.

We need to protect our tax base. I strongly urge you to pass S.B. No. 118. Thank you.

Francis U. Imada, CPA, CFP
1073 Maunawili Road
Kailua, Hawaii 96734

February 16, 2015

To: Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

From: Francis U. Imada, CPA, CFP
1073 Maunawili Road
Kailua, Hawaii 96734

Re: Support for S.B. No. 118, Relating to Real Estate Investment Trusts

As a Certified Public Account and Certified Financial Planner I am concerned about Hawaii's economy, education of our keiki, the State of Hawaii's fiscal health and the viability of the Hawaii Health Systems Corporation. I strongly support S.B. No. 118, Relating to Real Estate Investment Trusts.

This bill corrects a loophole in our state income tax law that allows mainland corporations operating profitably as REITs in Hawaii to take the net income they earn here out of state, tax free. This represents a loss of between $30 to $60 million annually to the state, funds that are needed to supplement the costs of education, healthcare, social services, and other state commitments. The REITS benefit from all the services the State of Hawaii provides and should pay their fair share of the costs.

There is more REIT-owned property in Hawaii per capita than any other state in the nation, and, with our attractive real estate market, this will only increase in the future. REITs should be taxed the same way as other real estate investors, who are paying state income taxes ranging from 6 to 11 percent.

I urge the committee to pass S.B. No. 118. Thank you for your attention to this very important matter.

Sincerely,

Francis U. Imada

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Francisco Faria
1202 Kaeleku Street
Honolulu, Hawaii 96825
808.398.8509

Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

As a business person concerned about Hawaii's economy, I strongly support S.B. No. 118, Relating to Real Estate Investment Trusts.

This bill corrects a loophole in our state income tax law that allows mainland corporations operating profitably as REITs in Hawaii to take the net income they earn here out of state, tax free. This represents a loss of between $30 to $60 million annually to the state, funds that are needed to supplement the costs of education, social services, and other state commitments.

There is more REIT-owned property in Hawaii per capita than any other state in the nation, and, with our attractive real estate market, this will only increase in the future. REITs should be taxed the same way as other real estate investors, who are paying state income taxes ranging from 6 to 11 percent.

I urge the committee to pass S.B. No. 118.

Thank you for the opportunity to testify.

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

FRANKLIN M. TOKIOKA
PH. 808-564-8183

Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

I have been a resident of Hawaii for 78 years, and I am discouraged to continually hear that the State does not have the means to fix our public schools, improve public health services, and pay promised benefits to its retirees, even while my tax bill seems to increase every year. I support S.B. No. 118, Relating to Real Estate Investment Trusts, because it is a way to address this situation.

It is unfair that the owners of the major shopping centers, hotels, and office buildings in Hawaii who have profited from our local and visitor trade have not been paying our State their share of income taxes. They should be required to cover the costs of the infrastructure, emergency, and social services that support their properties, the same way our local businesses and Hawaii residents are. S.B. No. 118 would close the REIT income tax loophole and keep more revenues in Hawaii for the benefit of our community.

We need to protect our tax base. I strongly urge you to pass S.B. No. 118. Thank you.

Frank M. Tokioka

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Gabriel F. Gorman
Address: 1088 Bishop Street, Honolulu, HI, 96813

Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

I submit the following testimony in strong support S.B. No. 118, Relating to Real Estate Investment Trusts.

I am a real estate attorney and have been practicing at one the Hawaii's largest and oldest law firms for the past two and a half years. I have worked on various large-scale developments in the State with both local and out of state real estate companies. Before moving to Hawaii, I worked in real estate and development in Chicago, Illinois.

As a lawyer, a business person, and a member of this community, I am deeply concerned about Hawaii's economy and long-term development. The State currently does not have the means to fix our public schools, improve public health services, or pay promised benefits to its retirees, despite annual tax increases. The passing of S.B. No. 118, Relating to Real Estate Investment Trusts, will help address these issues.

This bill corrects a glaring loophole in our state income tax law that allows mainland corporations operating profitably as REITs in Hawaii to take the net income they earn here out of state, tax free. This has gone on far too long. These REITs own major shopping centers, hotels, and office buildings in Hawaii and directly profit from our local and visitor trade. And, yet, they do not pay the State their share of income taxes. This not only defies logic, but amounts to a loss of between $30 to $60 million annually to the State. These funds are desperately needed to supplement the costs of education, social services, and other State commitments, which are continuing to struggle.

Significantly, there is more REIT-owned property in Hawaii per capita than any other state in the nation. And, with our attractive real estate market, this will only increase in the future. REITs should be taxed the same way as other real estate investors, who are paying state income taxes ranging from 6 to 11 percent. Anything less is a transgression of fairness and injurious to our community.

For the foregoing reasons, I respectfully urge the Committee to pass S.B. No. 118.

Thank you for your time and consideration.

Senator Donna Mercado Kim - President
Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Gary J North
1053 Mokulua Drive
Kailua, HI 96734
Ph. 808 478-4544

February 16, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

As a business person concerned about Hawaii's economy and long-term community development, I strongly support S.B. No. 118, Relating to Real Estate Investment Trusts.

This bill corrects a loophole in our state income tax law that allows mainland corporations operating profitably as REITs in Hawaii to take the net income they earn here out of state, tax free. This represents a loss of between $30 to $60 million annually to the state, funds that are needed to supplement the costs of education, social services, and other state commitments.

There is more REIT-owned property in Hawaii per capita than any other state in the nation, and, with our attractive real estate market, this will only increase in the future. REITs should be taxed the same way as other real estate investors, who are paying state income taxes ranging from 6 to 11 percent.

I urge the committee to pass S.B. No. 118. Thank you for the opportunity to testify.

Mahalo

Gary J North

SB118
Submitted on: 2/16/2015
Testimony for WAM on Feb 18, 2015 09:00AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Helen Nielsen	Individual	Comments Only	No

Comments: I am writing in support of this bill. So much of the money made in this state is sent out of the state. This bill should help money made here, stay here. Please consider supporting this bill. Thank you.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Ian Clagstone
(808) 222-9890

Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

I have been a resident of Hawaii for 27 years, and I am discouraged to continually hear that the State does not have the means to fix our public schools, improve public health services, and pay promised benefits to its retirees, even while my tax bill seems to increase every year. I support S.B. No. 118, Relating to Real Estate Investment Trusts, because it is a way to address this situation.

It is unfair that the owners of the major shopping centers, hotels, and office buildings in Hawaii who have profited from our local and visitor trade have not been paying their share of State income taxes. They should be required to cover the costs of the infrastructure, emergency, and social services that support their properties, the same way our local businesses and Hawaii residents are. S.B. No. 118 would close the REIT income tax loophole and keep more revenues in Hawaii for the benefit of our community.

We need to protect our tax base. I strongly urge you to pass S.B. No. 118. Thank you.

Ian B Scott

96-1185 Waihona St. D-2
Pearl city, hi 96782
TELEPHONE (808) 455-9100
FAX (808) 455-9200

February 14, 2015

TO: Senate Committee on Ways and Means
Senator Jill N. Tokuda, Chair

FROM: Ian B Scott

RE: In Support of SB 118, Relating to Real Estate Investment Trusts

Members of the Senate Committee on Ways and Means:

I strongly support SB 118 which will eliminate the tax deductibility of dividends for Real Estate Investment Trusts (REITs). A loophole in our state income tax law that came from the '60's allows mainland corporations to take the net income that they earn in Hawaii out of state, tax free. These corporations, which own and operate the major shopping centers in Hawaii, most of the Class A office buildings downtown, major industrial tracts like Mapunapuna, and many of the hotels in Waikiki and on the neighbor islands, are called Real Estate Investment Trusts (REITs). They pay no Hawaii corporate income tax.

There are about 25 major corporations operating profitably as REITs in Hawaii and they are all headquartered on the mainland. Further, their senior management and 99.5% of their shareholders live on the mainland and they pay taxes on their REIT dividends in the states where they reside. So other states are receiving the tax revenue earned in Hawaii even while our residents and local businesses foot the bill for the infrastructure, emergency and social services required to support the commercial properties owned by these REITs.

It's time to close the REIT income tax loophole. Currently, around $14 billion of Hawaii property is owned by REITs. These companies are earning an estimated $700 million to $1 billion every year in Hawaii, but they pay zero income tax. That is a loss of between $30 to $60 million annually in taxes for Hawaii. Then there's the capital gains tax on the sale of these properties, which is also not being taxed in Hawaii. If a REIT sells one of its trophy shopping centers in Hawaii for a $100 million gain, the taxes on the gain are paid to the mainland states where its shareholders live. Hawaii gets nothing. If a local corporation sold a property for a $100 million gain, the State of Hawaii would collect $4 million in capital gains tax. REITs may pay general excise tax, conveyance tax and real property taxes in Hawaii, but in the case of the retail, office and industrial properties, 100 percent of those taxes are passed on to the REITs' overburdened local tenants; so, again, these REITs effectively pay no taxes in Hawaii. Why should we give out-of-state investors a tax break that we don't give to our own local citizen-investors who are paying state income taxes ranging from 6 percent to 11 percent?

There is more REIT-owned property in Hawaii per capita than any other state in the nation, and by a wide margin. The REITs argue that if we tax them and make them pay their fair share of taxes, they will no longer invest here. That is simply not true. The state of New Hampshire has taxed REITs for years and still has more REIT-owned property per capita than the median U.S. state. All we are asking is that they pay 6.4% of the income earned in Hawaii to the state to support our community like the rest of us do.

There is no reason why any investor in Hawaii should be operating tax-free when our state is struggling to pay for our children's education, services for our elderly, and to deliver promised benefits to its retirees. REITs don't pay sufficient taxes to support Hawaii's infrastructure and don't support our local charities in a meaningful way, then they ship our money out of state, tax free. There are plenty of local, mainland, and foreign tax-paying investors here, such as Alexander & Baldwin, Castle & Cooke, Watumull Properties, private equity funds, hedge funds, and mainland institutional investors. We should level the playing field and tax REITs the same way as other real estate investors. We need to protect our tax base for the benefit of our community.

Thank you.

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means
Jack Belli
94-1120 Manino Place Waipahu HI 96797

Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

As a business person concerned about Hawaii's economy and long-term community development, I strongly support S.B. No. 118, Relating to Real Estate Investment Trusts.

This bill corrects a loophole in our state income tax law that allows mainland corporations operating profitably as REITs in Hawaii to take the net income they earn here out of state, tax free. This represents a loss of between $30 to $60 million annually to the state, funds that are needed to supplement the costs of education, social services, and other state commitments.

There is more REIT-owned property in Hawaii per capita than any other state in the nation, and, with our attractive real estate market, this will only increase in the future. REITs should be taxed the same way as other real estate investors, who are paying state income taxes ranging from 6 to 11 percent.

I urge the committee to pass S.B. No. 118. Thank you for the opportunity to testify.

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Jack Belli
94-1120 Manino Place Waipahu HI 96797
Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

I have been a resident of Hawaii for 27 years, and I am discouraged to continually hear that the State does not have the means to fix our public schools, improve public health services, and pay promised benefits to its retirees, even while my tax bill seems to increase every year. I support S.B. No. 118, Relating to Real Estate Investment Trusts, because it is a way to address this situation.

It is unfair that the owners of the major shopping centers, hotels, and office buildings in Hawaii who have profited from our local and visitor trade have not been paying our State their share of income taxes. They should be required to cover the costs of the infrastructure, emergency, and social services that support their properties, the same way our local businesses and Hawaii residents are. S.B. No. 118 would close the REIT income tax loophole and keep more revenues in Hawaii for the benefit of our community.

We need to protect our tax base. I strongly urge you to pass S.B. No. 118. Thank you.

Jack Belli

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Jake Fergus
125 Merchant Street, Suite 200
Honolulu, HI 96813
808-282-5194
jake@fergushawaii.com

Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

As a business person concerned about Hawaii's economy and long-term community development, I strongly support S.B. No. 118, Relating to Real Estate Investment Trusts.

This bill corrects a loophole in our state income tax law that allows mainland corporations operating profitably as REITs in Hawaii to take the net income they earn here out of state, tax free. This represents a loss of between $30 to $60 million annually to the state, funds that are needed to supplement the costs of education, social services, and other state commitments.

There is more REIT-owned property in Hawaii per capita than any other state in the nation. With our attractive real estate market, this will only increase in the future. REITs should be taxed the same way as other real estate investors, who are paying state income taxes ranging from 6 to 11 percent.

I urge the committee to pass S.B. No. 118. Thank you for the opportunity to testify.

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

James M. Fulton
2101 Nuuanu Ave 1505
Honolulu, Hi 96817
Jfulton1010@yahoo.com

Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

As a business person concerned about Hawaii's economy and long-term community development, I strongly support S.B. No. 118, Relating to Real Estate Investment Trusts.

While I believe that we should be cautious about enacting any new taxes, I also understand that all should share appropriately in our tax responsibilities.

This S.B. NO 118 corrects a loophole that has been in place way to long in our state income tax law that allows mainland corporations operating profitably as REITs in Hawaii to take the net income they earn here out of state, tax free. Other states have made the decision that the taxing of REITS is appropriate, and this taxing authority has not had a negative impact on development. .

There is more REIT-owned property in Hawaii per capita than any other state in the nation, and, with our attractive real estate market, this will only increase in the future. REITs should be taxed the same way as other real estate investors, who are paying state income taxes ranging from 6 to 11 percent.

I urge the committee to pass S.B. No. 118. Thank you for the opportunity to testify.

James M. Fulton

SB118
Submitted on: 2/16/2015
Testimony for WAM on Feb 18, 2015 09:00AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Janice Lau	Individual	Support	No

Comments: Senator Jill N. Tokuda, Chair Senator Ronald D. Kouchi, Vice Chair Committee on Ways and Means Janice Lau janjlau@gmail.com Wednesday, February 18, 2015 Support for S.B. No. 118, Relating to Real Estate Investment Trusts As a Hawaii born and resident of Hawaii for my entire life, I am concerned about Hawaii's economy and long-term community development,I strongly support S.B. No. 118, Relating to Real Estate Investment Trusts. This bill corrects a loophole in our state income tax law that allows mainland corporations operating profitably as REITs in Hawaii to take the net income they earn here out of state, tax free. This represents a loss of between $30 to $60 million annually to the state, funds that are needed to supplement the costs of education, social services, and other state commitments. There is more REIT-owned property in Hawaii per capital than any other state in the nation, and, with our attractive real estate market,this will only increase in the future. REITs should be taxed the same way as other real estate investors, who are paying state income taxes ranging from 6 to 11 percent. I urge the committee to pass S.B. No. 118. Thank you for the opportunity to testify.

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Jason Ideta
2809 Kahihikapu Street
Honolulu, Hawaii 96819

Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

As a business person concerned about Hawaii's economy and long-term community development, I strongly support S.B. No. 118, Relating to Real Estate Investment Trusts.

This bill corrects a loophole in our state income tax law that allows mainland corporations operating profitably as REITs in Hawaii to take the net income they earn here out of state, tax free. This represents a loss of between $30 to $60 million annually to the state, funds that are needed to supplement the costs of education, social services, and other state commitments.

There is more REIT-owned property in Hawaii per capita than any other state in the nation, and, with our attractive real estate market, this will only increase in the future. REITs should be taxed the same way as other real estate investors, who are paying state income taxes ranging from 6 to 11 percent.

I strongly urge the committee to pass S.B. No. 118. Thank you for the opportunity to submit testimony.

Sincerely,

Jason Ideta

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Jay Hanamura
3456A Keanu Street
Honolulu, HI 96816

Monday, February 16, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

As a lifetime local resident and business owner, I was shocked to hear about the issue that S.B. No. 118 is addressing. While our state has critical needs to improve our public schools and health system, I simply cannot fathom why we are giving a free pass to out of state property owners. Those property owners have businesses in our community and should be held responsible for supporting our community needs through taxation.

It is sad to think how long this loophole has been open, but the time to close it is now. Our community needs are great, yes, but this is simply a matter of what's right vs. wrong. I have been an owner of a local film/tv production company for the past 15 years and I realize the need to give back to the community that I'm a part of. And I have no quarrels on being taxed on the income I make. That is the idea of being a part of a community. If one has ownership in a community, one should be giving back and should be taxed accordingly. While the law cannot govern the attitude of giving back, it surely has a voice in taxation. This is where we need you, as elected voices of the people to step up.

I have only written to my government officials twice in my life on issues that I'm passionate about. This is one of them. I strongly urge the committee to pass S.B. No. 118. Thank you.

Jerry Correa

2226 Liliha St. Ste 227
Honolulu, Hawaii 96817
Phone: (808) 547-8004
Fax: (808) 547-8018

Wednesday, February 18, 2015

To: Senate Committee on Ways and Means
Senator Jill N. Tokuda, Chair

From: Jerry Correa

Re: Support for S.B. No. 118, Relating to Real Estate Investment Trusts

As the CEO of St. Francis Healthcare System of Hawaii, I'm constantly looking at ways to help our community. St. Francis does this by working (and partnering) with other local businesses. As a lawmaker, I know you are always looking at ways to grow our economy, help our local businesses, and take care of the people of Hawaii.

I strongly support S.B. No. 118, Relating to Real Estate Investment Trusts.

This bill corrects a loophole in our state income tax law that allows mainland corporations operating profitably as REITs in Hawaii to take the net income they earn here out of state, tax free. This represents a loss of between $30 to $60 million annually to the state, funds that are needed to supplement the costs of education, social services, and other state commitments.

There is more REIT-owned property in Hawaii per capita than any other state in the nation, and, with our attractive real estate market, this will only increase in the future. REITs should be taxed the same way as other real estate investors, who are paying state income taxes ranging from 6 to 11 percent.

I urge the committee to pass S.B. No. 118. Thank you for the opportunity to testify.

Thank you very much for this opportunity to present this testimony.

Aloha!

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Jonathan S. Durrett
841 Bishop Street, Suite 1101
Honolulu, Hawaii 96813
Telephone: (808) 526-0892

Wednesday, February 18, 2015

Testimony in Support of S.B. No. 118, Relating to Real Estate Investment Trusts

A lifetime resident and local attorney, I am extremely pleased to finally see a legislative remedy for the unwarranted and ill-advised deduction for REIT dividends on State income taxes as represented by S.B No. 118. In retrospect, the original deduction provision was created by manipulative benefit special interests at the expense of Hawaii taxpayers. Repeal of this antiquated and unfair law bill just makes common sense. In the absence of this repeal, Hawaii loses annual revenues of between $30 to $60 million. This means that local taxpayers would have realized savings in the billions of dollars since the early 60s when the deduction was implemented.

These funds could have been used to supplement the costs of education, social services, transportation and other state commitments. More important repeal of the deduction would eliminate an industry subsidy without any meaningful rationale.

My understanding is that there is more REIT-owned property in Hawaii per capita than any other state in the nation, and, with our attractive real estate market, this will only increase in the future. Repeal of the deduction will not be a disincentive for REIT investment in our State. Hawaii should level the playing field for Hawaii based real estate investors and tax out of state REITs the same as these companies, who are paying state income taxes ranging from 6 to 11 percent.

This is really low hanging fruit in terms of raising revenue without burdening Hawaii taxpayers. I urge the committee to pass S.B. No. 118. Thank you for the opportunity to testify.

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

[YOUR NAME]
[YOUR ADDRESS OR CONTACT NUMBER]

Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

I have been a resident of Hawaii for [NUMBER] years, and I am discouraged to continually hear that the State does not have the means to fix our public schools, improve public health services, and pay promised benefits to its retirees, even while my tax bill seems to increase every year. I support S.B. No. 118, Relating to Real Estate Investment Trusts, because it is a way to address this situation.

It is unfair that the owners of the major shopping centers, hotels, and office buildings in Hawaii who have profited from our local and visitor trade have not been paying our State their share of income taxes. They should be required to cover the costs of the infrastructure, emergency, and social services that support their properties, the same way our local businesses and Hawaii residents are. S.B. No. 118 would close the REIT income tax loophole and keep more revenues in Hawaii for the benefit of our community.

We need to protect our tax base. I strongly urge you to pass S.B. No. 118. Thank you.

SB118
Submitted on: 2/15/2015
Testimony for WAM on Feb 18, 2015 09:00AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Jonathan Starr	Individual	Support	No

Comments: Dear Senators, Please support and pass this measure. It will provide a more level playing field for local property investors to compete with large off-island entities that now have an advantage over Hawaii Residents. This will also provide needed revenue, that fairness dictates should benefit the State of Hawaii. With Aloha, Jonathan Starr Kaupo, Maui

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

As a business person concerned about Hawaii's economy and long-term community development, I strongly support S.B. No. 118, Relating to Real Estate Investment Trusts.

This bill corrects a loophole in our state income tax law that allows mainland corporations operating profitably as REITs in Hawaii to take the net income they earn here out of state, tax free. This represents a loss of between $30 to $60 million annually to the state, funds that are needed to supplement the costs of education, social services, and other state commitments.

There is more REIT-owned property in Hawaii per capita than any other state in the nation, and, with our attractive real estate market, this will only increase in the future. REITs should be taxed the same way as other real estate investors, who are paying state income taxes ranging from 6 to 11 percent.

I urge the committee to pass S.B. No. 118. Thank you for the opportunity to testify.

Sincerely,

Kenneth C. S. Pai
3914 Waokanaka Street
Honolulu, Hawaii 96817
Phone: (808) 375-7577
Email: kenpai@hawaii.rr.com

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Keola Siafuafu
1200 Queen Emma Street
Honolulu, Hi 96813

Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

As a business person concerned about Hawaii's economy and long-term community development, I strongly support S.B. No. 118, Relating to Real Estate Investment Trusts.

This bill corrects a loophole in our state income tax law that allows mainland corporations operating profitably as REITs in Hawaii to take the net income they earn here out of state, tax free. This represents a loss of between $30 to $60 million annually to the state, funds that are needed to supplement the costs of education, social services, and other state commitments.

There is more REIT-owned property in Hawaii per capita than any other state in the nation, and, with our attractive real estate market, this will only increase in the future. REITs should be taxed the same way as other real estate investors, who are paying state income taxes ranging from 6 to 11 percent.

I urge the committee to pass S.B. No. 118. Thank you for the opportunity to testify.

KEOLA SIAFUAFU

February 18, 2015

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Re: In Support of SB 118, Relating to Real Estate Investment Trusts

Dear Senators Tokuda and Kouchi:

I am a small business owner, born and raised in Kaneohe, Hawaii. As a business person and resident, I am concerned about Hawaii's economy and long term community development. I hear so much about our lack of needed funds to improve our public schools, social programs, state retirement system, state hospital system, and the list goes on.

S.B. 118 will make a positive difference to address the above needs. This bill corrects a loophole in our state income tax law that allows mainland corporations operating profitably as REITs in Hawaii to take the net income they earn here out of state, tax free. I understand that this represents a substantial loss of about $30-60 million annually to the state.

There is more REIT-owned property in Hawaii per capita than any other state and because Hawaii's real estate market is very attractive to investors, this will only increase in future years. I believe that since other real estate investors are paying income taxes ranging from 6-11 percent, it is only fair that REITs should be taxed in the same way.

I urge the Committee to pass SB 118 and level the playing field between REITs and other Hawaii corporations. These untaxed profits will be an opportunity to help our needs in Hawaii. Thank you.

Kristyn M. Ho
45-537 Mahinui Road
Kaneohe, Hawaii 96744

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Kynan Pang
1402 Piikoi Street #404
Honolulu, HI. 96822
808-225-8776

Tuesday, February 16, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

As a business person concerned about Hawaii's economy and long-term community development, I strongly support S.B. No. 118, Relating to Real Estate Investment Trusts.

This bill corrects a loophole in our state income tax law that allows mainland corporations operating profitably as REITs in Hawaii to take the net income they earn here out of state, tax free. This represents a loss of between $30 to $60 million annually to the state, funds that are needed to supplement the costs of education, social services, and other state commitments.

There is more REIT-owned property in Hawaii per capita than any other state in the nation, and, with our attractive real estate market, this will only increase in the future. REITs should be taxed the same way as other real estate investors, who are paying state income taxes ranging from 6 to 11 percent.

I urge the committee to pass S.B. No. 118. Thank you for the opportunity to testify.

Sincerely,

Kynan Pang

To: Senate Committee on Ways and Means
Hon. Senator Jill N. Tokuda, Chair
Hon. Senator Ronald D. Kouchi, Vice Chair

Re: S.B. No. 118, Relating to Real Estate Investment Trusts

Hearing: Wednesday, February 18, 2015, 9:00 a.m., Room 211

TESTIMONY IN STRONG SUPPORT

I STRONGLY SUPPORT S.B. 118, which would require real estate investment trusts (REITs) doing business in Hawaii to pay Hawaii income tax on their profits made here.

This is a matter of simple fairness. These entities, none of which choose to domicile their headquarters here, own over $13 billion worth of Hawaii properties. They make hundreds of millions of dollars in profits on these properties every year, yet pay zero income tax.

Would these REITs invest in these properties if they received no fire protection? No police protection? If there were no roads, sewers, water or other utilities to service them? No! Part of what helps these REITs make their profits is the tax dollars paid by Hawaii residents and companies to support the infrastructure that THEY benefit from. Yet they pay no tax.

REITs invest in Hawaii property at a rate of almost four times their median rate per capita for the other 49 states, and over 22% higher than the next closest state. Why? Because owning property in Hawaii is incredibly profitable. And why is it so much more profitable than other states? In part because Hawaii is an island paradise that goes to great lengths and expense to protect its natural beauty by preserving open spaces, restricting development and otherwise making land more scarce—and hence more valuable. We who live here make a lot of sacrifices in order to preserve the beauty of our home, and we pay taxes as part of those sacrifices. The REITs should do the same.

Another reason REITs invest in Hawaii property is because of the high volume of visitor spending. And why do the visitors come, and spend? Because we as Hawaii residents work so hard to make it an attractive place to visit, and to be welcoming to our visitors. Again, we residents are the ones doing the work, and the REITs are getting a free ride on it.

Will REITs stop investing in Hawaii property if they are taxed here? Of course not. As long as it's profitable, they will invest, and it will remain profitable for the reasons above—Hawaii is a great and unique place with limited land and one of the most attractive environments on earth. The REITs and their money will stay.

REITs should pay their fair share of taxes, just like the rest of us.

Thank you for the opportunity to offer this testimony. Please help protect Hawaii's residents by acting favorably to pass S.B. 118.

Larry Gilbert
10 Prospect Street
Honolulu HI 96813
Tel 808 457 1600

Tuesday, February 17, 2015

To:
Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

From:
Linda Barcheski
PO Box 790576
Paia, HI 96779

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

I have been a resident of Hawaii for 37 years, and I am discouraged to continually hear that the State does not have the means to fix our public schools, improve public health services, and pay promised benefits to its retirees, even while my tax bill seems to increase every year. I support S.B. No. 118, Relating to Real Estate Investment Trusts, because it is a way to address this situation.

It is unfair that the owners of the major shopping centers, hotels, and office buildings in Hawaii who have profited from our local and visitor trade have not been paying our State their share ofincome taxes. They should be required to cover the costs of the infrastructure, emergency, and social services that support their properties, the same way ourlocal businesses and Hawaii residents are. S.B. No. 118 would close the REIT income tax loophole and keep more revenues in Hawaii for the benefit of our community.

We need to protect our tax base. I strongly urge you to pass S.B. No. 118. Thank you.

Aloha,

Linda Barcheski

Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Liza Vida
1288 Kapiolani Blvd. #3706
Honolulu, HI 96814

Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

As a business person concerned about Hawaii's economy and long-term community development, I strongly support S.B. No. 118, Relating to Real Estate Investment Trusts.

This bill corrects a loophole in our state income tax law that allows mainland corporations operating profitably as REITs in Hawaii to take the net income they earn here out of state, tax free. This represents a loss of between $30 to $60 million annually to the state, funds that are needed to supplement the costs of education, social services, and other state commitments.

There is more REIT-owned property in Hawaii per capita than any other state in the nation, and, with our attractive real estate market, this will only increase in the future. REITs should be taxed the same way as other real estate investors, who are paying state income taxes ranging from 6 to 11 percent.

I urge the committee to pass S.B. No. 118. Thank you for theopportunity to testify.

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Liza Vida
1288 Kapiolani Blvd. #3706
Honolulu, HI 96814

Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

I have been a resident of Hawaii for 7 years, and I am discouraged to continually hear that the State does not have the means to fix our public schools, improve public health services, and pay promised benefits to its retirees, even while my tax bill seems to increase every year. I support S.B. No. 118, Relating to Real Estate Investment Trusts, because it is a way to address this situation.

It is unfair that the owners of the major shopping centers, hotels, and office buildings in Hawaii who have profited from our local and visitor trade have not been paying our State their share ofincome taxes. They should be required to cover the costs of the infrastructure, emergency, and social services that support their properties, the same way our local businesses and Hawaiiresidents are. S.B. No. 118 would close the REIT income tax loophole and keep more revenues in Hawaii for the benefit of our community.

We need to protect our tax base. I strongly urge you to pass S.B. No. 118. Thank you.

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Margaret Friedman
2969 Kalakaua Avenue
Honolulu, HI 96815

Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

I have been a resident of Hawaii for almost 20 years, and I am discouraged to continually hear that the State does not have the means to fix our public schools, improve public health services, and pay promised benefits to its retirees, even while my tax bill seems to increase every year. I support S.B. No. 118, Relating to Real Estate Investment Trusts, because it is a way to address this situation.

It is unfair that the owners of the major shopping centers, hotels, and office buildings in Hawaii who have profited from our local and visitor trade have not been paying our State their share of income taxes. They should be required to cover the costs of the infrastructure, emergency, and social services that support their properties, the same way our local businesses and Hawaii residents are. S.B. No. 118 would close the REIT income tax loophole and keep more revenues in Hawaii for the benefit of our community.

We need to protect our tax base. I strongly urge you to pass S.B. No. 118. Thank you.

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Matthew Raff
201 Merchant Street
Suite 2228
Honolulu, HI 96813

Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

As a business person concerned about Hawaii's economy and long-term community development, I strongly support S.B. No. 118, Relating to Real Estate Investment Trusts.

This bill corrects a loophole in our state income tax law that allows mainland corporations operating profitably as REITs in Hawaii to take the net income they earn here out of state, tax free. This represents a loss of between $30 to $60 million annually to the state, funds that are needed to supplement the costs of education, social services, and other state commitments.

There is more REIT-owned property in Hawaii per capita than any other state in the nation, and it is imbalanced that the owners of the major shopping centers, hotels, and office buildings in Hawaii who have profited from our local and visitor trade have not been paying their share of income taxes. REITs should be taxed the same way as other real estate investors, who are paying state income taxes ranging from 6 to 11 percent.

I urge the committee to pass S.B. No. 118. Thank you for the opportunity to testify.

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Matthew Friedman
347 Opihikao Place
Honolulu, HI 96825

Monday, February 16, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

As an economist concerned about Hawaii's long-term economic stability, I strongly support S.B. No. 118, Relating to Real Estate Investment Trusts.

For years, the out-of-state owners of Ala Moana Center, Public Storage, Bishop Square, as well as many other retail centers, office buildings, hotels and industrial parks, have paid virtually no state tax on their real-estate operations in Hawaii. These mainland firms manage to avoid paying state taxes by holding their assets in a real estate investment trust (REIT).

A REIT, unlike other corporate entities, generally pays no tax at the corporate level, thanks to a "dividends paid deduction." Instead, Hawaii law requires that at least 90 percent of a REIT's taxable income be distributed directly to shareholders, who will then pay income tax on those dividends. The flaw in this design, however, is that because REITs are taxed only at the shareholder level, shareholders who reside outside of Hawaii typically pay zero tax in Hawaii. Instead, they pay income taxes to their state of residence. This means a REIT shareholder can make a fortune collecting rent in Waikiki, but when that fortune is taxed, it might pay for pension benefits in Illinois or a new highway in New York.

Fortunately some of our state legislators have recognized this loophole and S.B. No. 118 to plug it. Passage of this bill would broaden and stabilize Hawaii's tax base without burdening Hawaii residents or businesses with any additional tax obligations.

Conservative estimates project that closing this loophole would recover nearly tens of millions of dollars in tax revenue annually. While significant, the actual figure is likely to be greater, especially considering the potential capital gains on future sales of REIT-owned property.

Obviously, the big-money mainland firms who profit from this tax loophole will be staunchly opposed to closing it. Illinois-based General Growth Properties (GGP), Michigan-based Taubman and the rest of the REIT community have and will continue to lobby lawmakers to defeat SB 118. They argue it threatens the positive economic benefits that their current investments provide the local economy and jeopardizes future investment. Don't believe them.

First of all, to suggest that the economic benefits created by Ala Moana Center would vanish should its owner, GGP, be taxed like every other business entity in the state borders on absurd. GGP may decide to owner, GGP, be taxed like every other business entity in the state borders on absurd. GGP may decide to go back to the mainland, but it doesn't get to take Ala Moana Center with it; the mall would stay and so would the property and general excise tax revenues that come with it. Should GGP (or any other REIT) decide paying taxes on its Hawaii income is prohibitive, there would be a line of tax-paying non-REIT investors stretching as far as the eye can see waiting to buy those properties, thereby increasing the economic benefits to the state on any existing or future projects.

Second, recognize that Hawaii has no substitute in the real-estate world. Hawaii will remain a lucrative destination for investment dollars, given the excess profits that can be generated because of our islands' unique culture and position geographically. Whatever outside investment may be discouraged by this bill can be countered with targeted tax breaks for new investments - there is no reason to offer a blanket subsidy for mainland ownership of existing properties.

The current system of tax giveaways to out-of-state investors puts local firms at a competitive disadvantage. This is neither conducive to growth nor prudent from the standpoint of supporting the local community. Leaving this loophole open would only incentivize more firms to pack a bag full of dollars in Hawaii and fly off with it to fund some other state's infrastructure. Supporting SB 118 will help ensure that all businesses in Hawaii are doing their fair share to maintain our paradise.

Thank you for the opportunity to testify.

Michael J. Fergus

125 MERCHANT STREET, SUITE 200
HONOLULU, HAWAII 96813
TELEPHONE (808) 545-1700
FAX (808) 545-1788

February 18, 2015, 9:00 a.m., Conference Room 211

TO: Senate Committee on Ways and Means
Senator Jill N. Tokuda, Chair

FROM: Michael J. Fergus

RE: In Support of SB 118, Relating to Real Estate Investment Trusts

Members of the Senate Committee on Ways and Means:

I strongly support SB 118 which will eliminate the tax deductibility of dividends for Real Estate Investment Trusts (REITs). A loophole in our state income tax law that came from the '60's allows mainland corporations to take the net income that they earn in Hawaii out of state, tax free. These corporations, which own and operate the major shopping centers in Hawaii, most of the Class A office buildings downtown, major industrial tracts like Mapunapuna, and many of the hotels in Waikiki and on the neighbor islands, are called Real Estate Investment Trusts (REITs). They pay no Hawaii corporate income tax.

There are about 25 major corporations operating profitably as REITs in Hawaii and they are all headquartered on the mainland. Further, their senior management and 99.5% of their shareholders live on the mainland and they pay taxes on their REIT dividends in the states where they reside. So other states are receiving the tax revenue earned in Hawaii even while our residents and local businesses foot the bill for the infrastructure, emergency and social services required to support the commercial properties owned by these REITs.

It's time to close the REIT income tax loophole. Currently, around $14 billion of Hawaii property is owned by REITs. These companies are earning an estimated $700 million to $1 billion every year in Hawaii, but they pay zero income tax. That is a loss of between $30 to $60 million annually in taxes for Hawaii. Then there's the capital gains tax on the sale of these properties, which is also not being taxed in Hawaii. If a REIT sells one of its trophy shopping centers in Hawaii for a $100 million gain, the taxes on the gain are paid to the mainland states where its shareholders live. Hawaii gets nothing. If a local corporation sold a property for a $100 million gain, the State of Hawaii would collect $4 million in capital gains tax. REITs may pay general excise tax, conveyance tax and real property taxes in Hawaii, but in the case of the retail, office and industrial properties, 100 percent of those taxes are passed on to the REITs' overburdened local tenants; so, again, these REITs effectively pay no taxes in Hawaii. Why should we give out-of-state investors a tax break that we don't give to our own local citizen-investors who are paying state income taxes ranging from 6 percent to 11 percent?

There is more REIT-owned property in Hawaii per capita than any other state in the nation, and by a wide margin. The REITs argue that if we tax them and make them pay their fair share of taxes, they will no longer invest here. That is simply not true. The state of New Hampshire has taxed REITs for years and still has more REIT-owned property per capita than the median U.S. state. All we are asking is that they pay 6.4% of the income earned in Hawaii to the state to support our community like the rest of us do.

There is no reason why any investor in Hawaii should be operating tax-free when our state is struggling to pay for our children's education, services for our elderly, and to deliver promised benefits to its retirees. REITs don't pay sufficient taxes to support Hawaii's infrastructure and don't support our local charities in a meaningful way, then they ship our money out of state, tax free. There are plenty of local, mainland, and foreign tax-paying investors here, such as Alexander & Baldwin, Castle & Cooke, Watumull Properties, private equity funds, hedge funds, and mainland institutional investors. We should level the playing field and tax REITs the same way as other real estate investors. We need to protect our tax base for the benefit of our community.

Thank you.

TO: Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

From: Michael Shimoko
1013 Iiwi Street, Honolulu, HI 96816

Date: Wednesday, February 18, 2015

RE: Support for S.B. No. 118, Relating to Real Estate Investment Trusts

I am born and raised in Hawaii and have been a resident of Hawaii for over 30 years, and I am discouraged to continually hear that the State does not have the means to fix our public schools, improve public health services, and pay promised benefits to its retirees, even while my tax bill seems to increase every year. I support S.B. No. 118, Relating to Real Estate Investment Trusts, because it is a way to address this situation.

It is unfair that the owners of the major shopping centers, hotels, and office buildings in Hawaii who have profited from our local and visitor trade have not been paying our State their share of income taxes. They should be required to cover the costs of the infrastructure, emergency, and social services that support their properties, the same way our local businesses and Hawaii residents are. S.B. No. 118 would close the REIT income tax loophole and keep more revenues in Hawaii for the benefit of our community.

We need to protect our tax base. I strongly urge you to pass S.B. No. 118.
Thank you.

Michael Shimoko
1013 Iiwi Street • Honolulu, HI, 96816 • Telephone 808.285.0050 • mshimoko@hawaii.rr.com

STEINER & ASSOCIATES
Business and Management Consulting
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316 Ilihau Streett
Kailua, HI 96734

808-221-5955
MSteiner@SteinerAssoc.com

February 15, 2015

THE TWENTY-EIGHT LEGISLATURE
REGULAR SESSION OF 2015

Committee on Ways and Means
Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair

RE: Testimony in Strong Support of SB 118 - Relating to Real Estate Investments Trusts
Hearing: February 18, 2015, 9:00 am; Room 211
State Capitol, 415 South Beretania Street

Aloha Chair Tokuda, Vice Chair Kouchi and Members of the Committee,

My name is Michael Steiner and I am the Principal of Steiner & Associates, a consulting firm. As the former Executive Director of Citizens for Fair Valuation, I have worked for many years to bring equity to lessees and the State of Hawaii when dealing with out-of-state Real Estate Investment Trusts (REITs).

I strongly support SB 118 which will eliminate the tax deductibility of dividends for Real Estate Investment Trusts (REITs). REITs are earning tremendous profits from the lessee and citizens of this state without paying any state income tax. All of the cash (revenue) earned here in Hawaii leaves the state providing little economic value to the state or other businesses.

Opponents of this measure want to scare us by saying the REITs will no longer invest in Hawaii, but this is simply not the case. Hawaii is just beginning a major redevelopment and the REITs will continue to invest here despite being taxed as they are in other states across the country. Indeed, the state of New Hampshire has taxed REITs for years and still has more REIT-owned property per capita than the median U.S. state. Opponents also cry double taxation; however, the income tax paid here is really the cost to use our infrastructure, emergency and social services.

Hawaii continues to face tough issue with scarce resources. Requiring the REITs to pay Income Tax could net the state somewhere between $30 and $60 million per year! REITs will argue that they pay general excise tax, conveyance tax and real property taxes in Hawaii, however, most of these costs are simply passed through to the local merchant of lessee for payment so the REITs effectively pay no taxes in Hawaii. Why should we give out-of-state investors a tax break that we don't give to our own local citizen-investors?

There is no reason why any investor in Hawaii should be operating tax-free when our state is struggling to pay for our children's education, services for our elderly, and to deliver promised benefits to its retirees. REITs don't pay sufficient taxes to support Hawaii's infrastructure and don't support our local charities in a meaningful way, then they ship our money out of state, tax free. The state needs to take a stand and tax REITs the same way as other real estate investors. We need to protect our tax base for the benefit of our community.

Thank you.

Michael Steiner

Michael Steiner, CLM, Principal
Steiner & Associates

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Michael Trombetta
1001 Bishop Street
Suite 104
Honolulu, Hawaii 96813

Monday February 16, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

As a business person concerned about Hawaii's economy and long-term community development, I strongly support S.B. No. 118, Relating to Real Estate Investment Trusts.

This bill corrects a loophole in our state income tax law that allows mainland corporations operating profitably as REITs in Hawaii to take the net income they earn here out of state, tax free. This represents a loss of between $30 to $60 million annually to the state, funds that are needed to supplement the costs of education, social services, and other state commitments.

There is more REIT-owned property in Hawaii per capita than any other state in the nation, and, with our attractive real estate market, this will only increase in the future. REITs should be taxed the same way as other real estate investors, who are paying state income taxes ranging from 6 to 11 percent.

I urge the committee to pass S.B. No. 118. Thank you for the opportunity to testify.

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

[YOUR NAME]
[YOUR ADDRESS OR CONTACT NUMBER]

Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

I have been a resident of Hawaii for [NUMBER] years, and I am discouraged to continually hear that the State does not have the means to fix our public schools, improve public health services, and pay promised benefits to its retirees, even while my tax bill seems to increase every year. I support S.B. No. 118, Relating to Real Estate Investment Trusts, because it is a way to address this situation.

It is unfair that the owners of the major shopping centers, hotels, and office buildings in Hawaii who have profited from our local and visitor trade have not been paying our State their share of income taxes. They should be required to cover the costs of the infrastructure, emergency, and social services that support their properties, the same way our local businesses and Hawaii residents are. S.B. No. 118 would close the REIT income tax loophole and keep more revenues in Hawaii for the benefit of our community.

We need to protect our tax base. I strongly urge you to pass S.B. No. 118. Thank you.

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Nicholas W. Teves, Jr.
1010 Paapu Street
Honolulu, HI 96819

February 13, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

As a business person concerned about Hawaii's economy and long-term community development, I strongly support S.B. No. 118, Relating to Real Estate Investment Trusts.

This bill corrects a loophole in our state income tax law that allows mainland corporations operating profitably as REITs in Hawaii to take the net income they earn here out of state, tax free. This represents a loss of between $30 to $60 million annually to the state, funds that are needed to supplement the costs of education, social services, and other state commitments.

There is more REIT-owned property in Hawaii per capita than any other state in the nation, and, with our attractive real estate market, this will only increase in the future. REITs should be taxed the same way as other real estate investors, who are paying state income taxes ranging from 6 to 11 percent.

I urge the committee to pass S.B. No. 118. Thank you for the opportunity to testify.

Sincerely,

Nicholas W. Teves, Jr.

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Randy Higa
808-341-1276

Wednesday, February 15, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

I have been a resident of Hawaii for 50+ years, and I am discouraged to continually hear that the State does not have the means to fix our public schools, improve public health services, and pay promised benefits to its retirees, even while my tax bill seems to increase every year. I support S.B. No. 118, Relating to Real Estate Investment Trusts, because it is a way to address this situation.

It is unfair that the owners of the major shopping centers, hotels, and office buildings in Hawaii who have profited from our local and visitor trade have not been paying our State their share of income taxes. They should be required to cover the costs of the infrastructure, emergency, and social services that support their properties, the same way our local businesses and Hawaii residents are. S.B. No. 118 would close the REIT income tax loophole and keep more revenues in Hawaii for the benefit of our community.

We need to protect our tax base. I strongly urge you to pass S.B. No. 118. Thank you.

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Reed Ariyoshi
618 Anela Place
Wailuku, HI 96793

Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

As a citizen concerned about Hawaii's economy and long-term community development, I strongly support S.B. No. 118, Relating to Real Estate Investment Trusts.

This bill corrects a loophole in our state income tax law that allows mainland corporations operating profitably as REITs in Hawaii to take the net income they earn here out of state, tax free. This represents a loss of between $30 to $60 million annually to the state, funds that are needed to supplement the costs of education, social services, and other state commitments.

There is more REIT-owned property in Hawaii per capita than any other state in the nation, and, with our attractive real estate market, this will only increase in the future. REITs should be taxed the same way as other real estate investors, who are paying state income taxes ranging from 6 to 11 percent.

I urge the committee to pass S.B. No. 118. Thank you for the opportunity to testify.

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Reed Ariyoshi
618 Anela Place
Wailuku, HI 96793

Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

I have been a resident of Hawaii for 57 years, and I am discouraged to continually hear that the State does not have the means to fix our public schools, improve public health services, and pay promised benefits to its retirees, even while my tax bill seems to increase every year. I support S.B. No. 118, Relating to Real Estate Investment Trusts, because it is a way to address this situation.

It is unfair that the owners of the major shopping centers, hotels, and office buildings in Hawaii who have profited from our local and visitor trade have not been paying our State their share of income taxes. They should be required to cover the costs of the infrastructure, emergency, and social services that support their properties, the same way our local businesses and Hawaii residents are. S.B. No. 118 would close the REIT income tax loophole and keep more revenues in Hawaii for the benefit of our community.

We need to protect our tax base. I strongly urge you to pass S.B. No. 118. Thank you.

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Richard Friedman
2969 Kalakaua Avenue
Honolulu, HI

Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

I have been a resident of Hawaii for almost 20 years. All this time our income and property taxes have been increasing. However, there are groups that have benefited from state services but have not paid their fair share of taxes. I support S.B. No. 118, relating to Real Estate Investment Trusts, because it is a way to address this situation.

It is unfair that the owners of the major shopping centers, hotels, and office buildings in Hawaii who have profited from our local and visitor trade have not been paying our State their share of income taxes. They should be required to cover the costs of the infrastructure, emergency, and social services that support their properties, the same way our local businesses and Hawaii residents are. S.B. No. 118 would close the REIT income tax loophole and keep more revenues in Hawaii for the benefit of our community.

We need to protect our tax base. I strongly urge you to pass S.B. No. 118. Thank you.

It makes absolutely no sense to let out of state real estate companies operate here tax free. By you allowing this you are a big part of the problem. I pay taxes you pay taxes, they should pay taxes a s well! Stand up for the people who voted you in.

Mahalo nui
Ron Fitzgerald

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Ryan Matsumoto
215 N King St. #1202
Honolulu, Hawaii 96817

Wednesday, February 18, 2015

SUPPORT for S.B. No. 118, Relating to Real Estate Investment Trusts

As a resident concerned about Hawaii's economy and long-term community development, I strongly support S.B. No. 118, Relating to Real Estate Investment Trusts.

I find it very concerning that this bill has not had the attention it deserves. In the past this bill has not passed through the committee level due to lack of support. Due to the potential income to the State of Hawaii the passing of this bill is critical.

This bill corrects a loophole in our state income tax law that allows mainland corporations operating profitably as REITs in Hawaii to take the net income they earn here out of state, tax free. This represents a loss of between $30 to $60 million annually to the state, funds that are needed to supplement the costs of education, social services, and other state commitments.

There is more REIT-owned property in Hawaii per capita than any other state in the nation, and, with our attractive real estate market, this will only increase in the future. REITs should be taxed the same way as other real estate investors, who are paying state income taxes ranging from 6 to 11 percent.

I urge the committee to pass S.B. No. 118 this session and stop this loophole in the law from continuing further.

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

I believe that we need to take a look at all of our options this legislative session on where the State can bring in tax revenue to fix our public schools, improve public health services, and pay promised benefits to its retirees. I support S.B. No. 118, Relating to Real Estate Investment Trusts, because it is a way to address this situation.

I believe that the owners of the major shopping centers, hotels, and office buildings in Hawaii need to shoulder their share of income taxes to the State. They should be required to cover the costs of the infrastructure, emergency, and social services that support their properties, the same way our local businesses and Hawaii residents are. S.B. No. 118 would close the REIT income tax loophole and keep more revenues in Hawaii for the benefit of our community.

I strongly urge you to pass S.B. No. 118. Thank you.

Samuel E. H. Moku
45-426 Meakaua Street
Kaneohe, HI 96744

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Scott Kagan
PO Box 314
Kilauea, HI 96754
808-366-3333

Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

I have been a resident of Hawaii for 20 years, and I am discouraged to continually hear that the State does not have the means to fix our public schools, improve public health services, and pay promised benefits to its retirees, even while my tax bill seems to increase every year. I support S.B. No. 118, Relating to Real Estate Investment Trusts, because it is a way to address this situation.

It is unfair that the owners of the major shopping centers, hotels, and office buildings in Hawaii who have profited from our local and visitor trade have not been paying our State their share of income taxes. They should be required to cover the costs of the infrastructure, emergency, and social services that support their properties, the same way our local businesses and Hawaii residents are. S.B. No. 118 would close the REIT income tax loophole and keep more revenues in Hawaii for the benefit of our community.

We need to protect our tax base. I strongly urge you to pass S.B. No. 118.

Thank you.

Scott Kagan

Scott Kuioka
1132 Bishop Street Ste 2450
Honolulu, HI 96813

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

As a business person concerned about Hawaii's economy and long-term community development, I strongly support S.B. No. 118, Relating to Real Estate Investment Trusts.

This bill corrects a loophole in our state income tax law that allows mainland corporations operating profitably as REITs in Hawaii to take the net income they earn here out of state, tax free. This represents a loss of between $30 to $60 million annually to the state, funds that are needed to supplement the costs of education, social services, and other state commitments. Historically property in Hawaii was owned by large family trusts. These trusts historically have positively impacted the surrounding community through support of non-profits and community projects. With the transition of ownership to REITs, those community reinvestment dollars in addition to the tax revenue are no longer impacting the local community. The burden of supporting the community is now on its residents and local governments. A strong community helps us to perpetuate our culture. Our local culture is what sets Hawaii apart from other tropical destinations across the world. As our culture and values disappears, so will our way of life and our uniqueness.

There is more REIT-owned property in Hawaii per capita than any other state in the nation, and, with our attractive real estate market, this will only increase in the future. REITs should be taxed the same way as other real estate investors, who are paying state income taxes ranging from 6 to 11 percent.

I urge the committee to pass S.B. No. 118. Thank you for the opportunity to testify.

Sincerely,

Scott Kuioka

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Sean Fitzsimmons
1617 Keeaumoku Street, Apt 1503
Honolulu, Hawaii 96822

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

I have been a resident of Hawaii for 31 years, and I am discouraged to continually hear that the State does not have the means to fix our public schools, improve public health services, and pay promised benefits to its retirees, even while my tax bill seems to increase every year. I support S.B. No. 118, Relating to Real Estate Investment Trusts, because it is a way to address this situation.

It is unfair that the owners of the major shopping centers, hotels, and office buildings in Hawaii who have profited from our local and visitor trade have not been paying our State their share of income taxes. They should be required to cover the costs of the infrastructure, emergency, and social services that support their properties, the same way our local businesses and Hawaii residents are. S.B. No. 118 would close the REIT income tax loophole and keep more revenues in Hawaii for the benefit of our community.

We need to protect our tax base. I strongly urge you to pass S.B. No. 118.

Best Regards,

Sean Fitzsimmons

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Sherman Dudley DePonte, RPLS,
P.O. Box 1748
Makawao, Maui, Hawaii 96768
(808)876-0177

Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

As a business person and owner/president of Akamai Land Surveying, Inc, I am concerned about Hawaii's economy and long-term community development, I strongly support S.B. No. 118, Relating to Real Estate Investment Trusts.

This bill corrects a loophole in our state income tax law that allows mainland corporations operating profitably as REITs in Hawaii to take the net income they earn here out of state, tax free. This represents a loss of between $30 to $60 million annually to the state, funds that are needed to supplement the costs of education, social services, infrastructure and other state commitments.

There is more REIT-owned property in Hawaii per capita than any other state in the nation, and, with our attractive real estate market, this will only increase in the future. REITs should be taxed the same way as other real estate investors, who are paying state income taxes ranging from 6 to 11 percent.

I strongly urge the committee to be fair to all and pass S.B. No. 118

Mahalo nui loa (thank you from my heart) for the opportunity to testify and being a part of a democracy that is equal to all.

Sincerely,
From up the windy, rainy, cold and foggy hill on Maui,

4FEB'15

Sherman Dudley DePonte, RPLS,

SHERMAN DUDLEY DEPONTE
LICENSED PROFESSIONAL LAND SURVEYOR
No. 6960
HAWAII, U.S.A.

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Derek A. DePonte
2591 Dole Street. Wainani F, 1403 B
Honolulu, Hawaii 96822
(808)757-4640

Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

I have been a resident of Hawaii for 21 years, a student at University of Hawaii, Manoa campus, and I am discouraged to continually hear that the State does not have the means to fix our public schools, improve public health services, and pay promised benefits to its retirees, even while my tax bill seems to increase every year. I support S.B. No. 118, Relating to Real Estate Investment Trusts, because it is a way to address this situation.

It is unfair that the owners of the major shopping centers, hotels, and office buildings in Hawaii who have profited from our local and visitor trade have not been paying our State their share of income taxes. They should be required to cover the costs of the infrastructure, emergency, and social services that support their properties, the same way our local businesses and Hawaii residents are. S.B. No. 118 would close the REIT income tax loophole and keep more revenues in Hawaii for the benefit of our community.

We need to protect our tax base. I strongly urge you to pass S.B. No. 118. Thank you.

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

As a business person concerned about Hawaii's economy and long-term community development, I strongly support S.B. No. 118, Relating to Real Estate Investment Trusts.

This bill corrects a loophole in our state income tax law that allows mainland corporations operating profitably as REITs in Hawaii to take the net income they earn here out of state, tax free. This represents a loss of between $30 to $60 million annually to the state, funds that are needed to supplement the costs of education, social services, and other state commitments.

There is more REIT-owned property in Hawaii per capita than any other state in the nation, and, with our attractive real estate market, this will only increase in the future. REITs should be taxed the same way as other real estate investors, who are paying state income taxes ranging from 6 to 11 percent.

I urge the committee to pass S.B. No. 118. Thank you for theopportunity to testify.

Steven L. Ching, Esq.
Char Sakamoto Ishii Lum & Ching, AAL ALC
841 Bishop Street, Suite 850
Honolulu, Hawaii 96813-3957
Phone: (808) 522-5133
Fax: (808) 522-5144
slching@lawcsilc.com

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Tia K. Teves
2249 Nuna Street
Honolulu, HI 96821

February 16, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

As a business person concerned about Hawaii's economy and long-term community development, I strongly support S.B. No. 118, Relating to Real Estate Investment Trusts.

This bill corrects a loophole in our state income tax law that allows mainland corporations operating profitably as REITs in Hawaii to take the net income they earn here out of state, tax free. This represents a loss of between $30 to $60 million annually to the state, funds that are needed to supplement the costs of education, social services, and other state commitments.

There is more REIT-owned property in Hawaii per capita than any other state in the nation, and, with our attractive real estate market, this will only increase in the future. REITs should be taxed the same way as other real estate investors, who are paying state income taxes ranging from 6 to 11 percent.

I urge the committee to pass S.B. No. 118. Thank you for the opportunity to testify.

Sincerely,

Tia K. Teves

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Tim Hazelgrove
808-729-3123

Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

Im 41, have been a resident of Hawaii for over 22 years, and I am discouraged to continually hear that the State does not have the means to fix our public schools, improve public health services, and pay promised benefits to its retirees, even while my tax bill seems to increase every year. I have a 2 year old daughter and I feel like I'm forced to look into private schools to get the proper education and that scares me. Between 2005 and 2013 Hawaii schools have ranked nationally between 50th and 46$^{th.}$ That is just the tip of the iceberg.I support S.B. No. 118, Relating to Real Estate Investment Trusts, because it is a way to address this situation.

It is unfair that the owners of the major shopping centers, hotels, and office buildings in Hawaii who have profited from our local and visitor trade have not been paying our State their share of income taxes. They should be required to cover the costs of the infrastructure, emergency, and social services that support their properties, the same way our local businesses and Hawaii residents are. S.B. No. 118 would close the REIT income tax loophole and keep more revenues in Hawaii for the benefit of our community.

We need to protect our tax base. I strongly urge you to pass S.B. No. 118. Thank you.

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Vivian Shiroma
302 Anonia Street, Honolulu, HI 96821
(808) 373-1028

Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

I am not a real estate investor. I am just one of the many hard-working, middle-income residents of Hawaii who has always paid out a large share of my earnings in various taxes, and for whom there are no loopholes to reduce my tax bill. I support S.B. No. 118, Relating to Real Estate Investment Trusts.

The State needs more money for rail, early childhood education, services for the growing elderly population, support for nonprofit community organizations, and endless other projects. It seems that usually government looks to the middle class taxpayers for the solution. But the costs of raising and educating our children, maintaining a home, and caring for our parents have tapped us out. We have no way to save for retirement and are worried we may never pay off the large mortgages we carry into our 60’s and 70’s. These challenging economic times call for creative measures.

S.B. No. 118 is a great idea and merits continued discussion. It would make revenues generated in Hawaii stay in Hawaii instead of going to other states. It would make mainland corporations compete more fairly with local real estate investors. It would leverage Hawaii’s geographic and cultural attractions to benefit the people like me, for whom no place else can be called home. And it could be a new source of millions of dollars of income to the state coffers annually, for as long as these companies continue to invest in Hawaii.

Please pass S.B. No. 118. On behalf of all the tax-burdened, working class people in Hawaii, thank you for your consideration.

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

From: William Crowe (B) – RB 15415
William Crowe Commercial Real Estate
115 D Maunalua Ave., Honolulu HI 96821 phone: 396-8410

Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

As a business person concerned about Hawaii's economy and long-term community development, I strongly support S.B. No. 118, Relating to Real Estate Investment Trusts.

This bill corrects a loophole in our state income tax law that allows mainland corporations operating profitably as REITs in Hawaii to take the net income they earn here out of state, tax free. This represents a big loss, estimated at between $30 to $60 million annually to the state, funds that are needed to supplement the costs of education, social services, and other state commitments.

Only REITs have been allowed to deduct dividends paid in determining their taxable income. The REIT law intended that the taxes would be paid at the shareholder level, but 99.5 percent of the shareholders live on the mainland, so Hawaii never gets its share of the income tax generated by these properties. REITs may pay general excise tax, conveyance tax and real property taxes in Hawaii, but in the case of the retail, office and industrial properties, 100 percent of those taxes are passed on to the REITs' overburdened tenants; so the REITs effectively pay no taxes in Hawaii. Why should we give out-of-state investors a tax break that we don't give to our own local citizen-investors who are paying state income taxes ranging from 6.4 percent to 11 percent?

REITs should be taxed the same way as other real estate investors, who are paying state income taxes ranging from 6 to 11 percent.

I urge the committee to pass S.B. No. 118. Thank you for the opportunity to testify.

William Crowe (B)

JAMES W. Y. WONG

HONOLULU OFFICE
3737 Manoa Road
Honolulu Hawaii 96822
Phone: (808) 946-2966
FAX: (808) 943-3140

ANCHORAGE OFFICE
411 West 4th Avenue, Ste 200
Anchorage, Alaska 99501
Phone: (907) 278-3263
FAX: (907) 222-4852

February 17, 2015

VIA FACSIMILE
587-7220

Honorable Senator Jill N. Tokuda, Chair
Honorable Senator Ronald D. Kouchi, Vice Chair
Senate Committee on Ways and Means

RE: TESTIMONY IN SUPPORT OF SENATE BILL SB118, RELATING TO REAL ESTATE INVESTMENT TRUSTS – HEARING SCHEDULED FOR WEDNESDAY, FEBRUARY 18, 2015, AT 9:00 A.M. IN STATE CAPITOL CONFERENCE ROOM 211

Dear Honorable Chair Jill Tokuda, Vice Chair Ronald Kouchi, and members of the Senate Committee on Ways and Means:

As a business person concerned about Hawaii's economy and long-term community development, I strongly support S.B. No. 118, Relating to Real Estate Investment Trusts.

This bill corrects a loophole in our state income tax law that allows mainland corporations operating profitably as REITs in Hawaii to take the net income they earn here out of state, tax free. This represents a loss of between $30 to $60 million annually to the state, funds that are needed to supplement the costs of education, social services, and other state commitments.

There is more REIT-owned property in Hawaii per capita than any other state in the nation, and, with our attractive real estate market, this will only increase in the future. REITs should be taxed the same way as other real estate investors, who are paying state income taxes ranging from 6 to 11 percent.

I urge the committee to pass S.B. No. 118. Thank you for the opportunity to testify.

Sincerely,

James W. Y. Wong

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Wendy Mayne
98-2013 Kaahumanu Street
Aiea, HI 96701

(808)455-3128

Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

I have been a resident of Hawaii for 54 years, and I am discouraged to continually hear that the State does not have the means to fix our public schools, improve public health services, and pay promised benefits to its retirees, even while my tax bill seems to increase every year. I support S.B. No. 118, Relating to Real Estate Investment Trusts, because it is a way to address this situation.

It is unfair that the owners of the major shopping centers, hotels, and office buildings in Hawaii who have profited from our local and visitor trade have not been paying our State their share of income taxes. They should be required to cover the costs of the infrastructure, emergency, and social services that support their properties, the same way our local businesses and Hawaii residents are. S.B. No. 118 would close the REIT income tax loophole and keep more revenues in Hawaii for the benefit of our community.

We need to protect our tax base. I strongly urge you to pass S.B. No. 118. Thank you.

February 17, 2015

VIA FACSIMILE
587-7220

Honorable Senator Jill N. Tokuda, Chair
Honorable Senator Ronald D. Kouchi, Vice Chair
Senate Committee on Ways and Means

RE: TESTIMONY IN SUPPORT OF SENATE BILL SB118, RELATING TO REAL ESTATE INVESTMENT TRUSTS – HEARING SCHEDULED FOR WEDNESDAY, FEBRUARY 18, 2015, AT 9:00 A.M. IN STATE CAPITOL CONFERENCE ROOM 211

Dear Honorable Chair Jill Tokuda, Vice Chair Ronald Kouchi, and members of the Senate Committee on Ways and Means:

I have been a resident of Hawaii for 55 years, and I am discouraged to continually hear that the State does not have the means to fix our public schools, improve public health services, and pay promised benefits to its retirees, even while my tax bill seems to increase every year. I support S.B. No. 118, Relating to Real Estate Investment Trusts, because it is a way to address this situation.

It is unfair that the owners of the major shopping centers, hotels, and office buildings in Hawaii who have profited from our local and visitor trade have not been paying our State their share of income taxes. They should be required to cover the costs of the infrastructure, emergency, and social services that support their properties, the same way our local businesses and Hawaii residents are. S.B. No. 118 would close the REIT income tax loophole and keep more revenues in Hawaii for the benefit of our community.

We need to protect our tax base. I strongly urge you to pass S.B. No. 118. Thank you.

Sincerely,

Lori L. Lee
906 6th Avenue
Honolulu, Hawaii 96816

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Dayna Kawamura
98-2013 Kaahumanu St.
Aiea, HI 96701

Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

As a business person concerned about Hawaii's economy and long-term community development, I strongly support S.B. No. 118, Relating to Real Estate Investment Trusts.

This bill corrects a loophole in our state income tax law that allows mainland corporations operating profitably as REITs in Hawaii to take the net income they earn here out of state, tax free. This represents a loss of between $30 to $60 million annually to the state, funds that are needed to supplement the costs of education, social services, and other state commitments.

There is more REIT-owned property in Hawaii per capita than any other state in the nation, and, with our attractive real estate market, this will only increase in the future. REITs should be taxed the same way as other real estate investors, who are paying state income taxes ranging from 6 to 11 percent.

I urge the committee to pass S.B. No. 118. Thank you for the opportunity to testify.

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Lawrence J. Busto
(808) 534-7301
(808) 521-5995 (fax)

Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

I have been a resident of Hawaii for 32 years, and I am discouraged to continually hear that the State does not have the means to fix our public schools, improve public health services, and pay promised benefits to its retirees, even while my tax bill seems to increase every year. I support S.B. No. 118, Relating to Real Estate Investment Trusts, because it is a way to address this situation.

It is unfair that the owners of the major shopping centers, hotels, and office buildings in Hawaii who have profited from our local and visitor trade have not been paying our State their share of income taxes. They should be required to cover the costs of the infrastructure, emergency, and social services that support their properties, the same way our local businesses and Hawaii residents are. S.B. No. 118 would close the REIT income tax loophole and keep more revenues in Hawaii for the benefit of our community.

We need to protect our tax base. I strongly urge you to pass S.B. No. 118. Thank you.

Lawrence J. Busto

Darryl P. Wong
1836 Punahou Street
Honolulu, Hawaii 96822
(808) 941-1654

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

I am a business person and a taxpayer concerned about Hawaii's economy and am strong supporter of S.B. No. 118, Relating to Real Estate Investment Trusts.

REIT's should pay a fair share of taxes on net income they generate in Hawaii. Not charging REIT's income tax by the State puts the burden on local companies to pay that tax alone. As more and more REIT's invest in Hawaii, more and more of the income generated in Hawaii will leave the State of Hawaii tax free which is unfair to local companies.

There is more REIT-owned property in Hawaii per capita than any other state in the nation, and, with our attractive real estate market, this will only increase in the future. REITs should be taxed the same way as other real estate investors, who are paying state income taxes ranging from 6 to 11 percent.

I urge the committee to pass S.B. No. 118. Thank you for the opportunity to testify.

Darryl P Wong

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Steven M Gold

Monday, February 16, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

I have been a resident of Hawaii my entire 68 years of life, and I am discouraged to continually hear that the State does not have the means to fix our public schools, improve public health services, and pay promised benefits to its retirees, even while my tax bill seems to increase every year. I support S.B. No. 118, Relating to Real Estate Investment Trusts, because it is a way to address this situation.

It is unfair that the owners of the major shopping centers, hotels, and office buildings in Hawaii who have profited from our local and visitor trade have not been paying our State their share of income taxes. They should be required to cover the costs of the infrastructure, emergency, and social services that support their properties, the same way our local businesses and Hawaii residents are. S.B. No. 118 would close the REIT income tax loophole and keep more revenues in Hawaii for the benefit of our community.

We need to protect our tax base. I strongly urge you to pass S.B. No. 118. Thank you.

Respectfully,

Steven M Gold

587-7220

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Erin Fujii
91-1180 Kaileolea Drive #2H2
Ewa Beach, HI 96706

(808)689-8999

Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

I have been a resident of Hawaii for 35 years, and I am discouraged to continually hear that the State does not have the means to fix our public schools, improve public health services, and pay promised benefits to its retirees, even while my tax bill seems to increase every year. I support S.B. No. 118, Relating to Real Estate Investment Trusts, because it is a way to address this situation.

It is unfair that the owners of the major shopping centers, hotels, and office buildings in Hawaii who have profited from our local and visitor trade have not been paying our State their share of income taxes. They should be required to cover the costs of the infrastructure, emergency, and social services that support their properties, the same way our local businesses and Hawaii residents are. S.B. No. 118 would close the REIT income tax loophole and keep more revenues in Hawaii for the benefit of our community.

We need to protect our tax base. I strongly urge you to pass S.B. No. 118. Thank you.

The Twenty-Eighth Legislature
Regular Session of 2015

THE SENATE
Committee on Ways and Means
Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
State Capitol, Conference Room 211
Wednesday, February 18, 2015; 9:00 a.m.

STATEMENT OF THE ILWU LOCAL 142 ON S.B. 118
RELATING TO REAL ESTATE INVESTMENT TRUSTS

The ILWU Local 142 supports the intent of S.B. 118, which disallows dividends paid deduction for Real Estate Investment Trusts (REITs).

Hawaii is losing out on millions of dollars in taxes because of something called the dividends paid deduction that helps REITs avoid paying taxes in Hawaii as long as they distribute 90% of their taxable income to shareholders, who then pay taxes in their home states. Most of the REITs with real estate holdings in Hawaii have shareholders/investors who do not live in Hawaii. Since REITs themselves currently have a dividends paid deduction, and most shareholders reside outside of Hawaii, all of the income from real estate activity of REITs in Hawaii goes to other states, and none of it remains in Hawaii.

Hawaii can certainly use another revenue stream. Requiring REITs to pay corporate income taxes would be one means of generating the revenues needed for the services and programs needed to address the myriad of issues facing our residents—including public education and early childhood education, homelessness and affordable rental housing, support for the elderly and disabled, and access to quality health care.

Many involved with REITs have testified in opposition to repealing the deduction. However, we believe this option needs more careful study and discussion. It is highly unlikely that a repeal of the deduction will mean that REITs will pull out of the Hawaii real estate market altogether. There are reasons why REITs invest in Hawaii—the deduction being but one small reason. And there are also reasons why everyone should pay their fair share of taxes to benefit the entire community.

The ILWU urges the Committee on Ways and Means to pass S.B. 118 to continue the discussion needed to determine if repeal of the dividends paid deduction should be enacted into law.

Thank you for the opportunity to share our views on this measure.

HAWAI'I APPLESEED CENTER
LAW
AND
ECONOMIC
JUSTICE

Testimony of Hawai‘i Appleseed Center for Law and Economic Justice
Supporting Senate Bill 118 Relating to Real Estate Investment Trusts
Senate Committee on Ways and Means
Scheduled for Hearing Wednesday, February 18, 2015 9:00 AM, Room 211

Hawai‘i Appleseed Center for Law and Economic Justice is a nonprofit law firm created to advocate on behalf of low income individuals and families in Hawai‘i on policy and legal issues. Our core mission is to help our clients gain access to the resources, services, and fair treatment that they need to realize their opportunities for self-achievement and economic security.

Thank you for the opportunity to testify in **support** of Senate Bill 118, which would eliminate the dividends-paid deduction allowed for Real Estate Investment Trusts on their Hawai‘i state income taxes. We support this measure as a fair means to raise revenue. Because of their dividends-paid deduction, real estate investment trusts (REITs) in Hawai‘i are able to avoid significant taxation on wealth derived from Hawai‘i’s land without providing any significant benefits to the state in return.

Real estate investment trusts are given special federal tax treatment through a corporate income tax deduction on all dividends paid out to their investors, and are required by statute to pay out at least 90 percent of their net income in dividends. This ensured that REITs would be an attractive vehicle for individuals who wanted to invest in real estate but couldn’t afford to purchase it outright—the original intent of Congress when it established REITs. Most states, including Hawai‘i, have followed the federal tax treatment.

The cumulative value of Hawai‘i’s 291 REITs is $13 billion, the highest in the country. (“A Multimillion-Dollar Tax Loophole Bigger than Ala Moana Center,” Honolulu Civil Beat, Jan. 8, 2015). The rents collected on these properties are collected by REITs and then paid out to their investors, many of whom are large corporations and wealthy non-residents. Because Hawai‘i state tax law allows a deduction for these dividends, this income goes untaxed here. In most cases, the investors will be required to pay income taxes on the dividends they receive in their home states. However, given that relatively few of these investors live in Hawai‘i, those tax revenues go to other states. In short, REITs have become a vehicle whereby large mainland investors are able to profit from Hawaii’s high land values, and export that wealth without paying taxes on the income in Hawai‘i—effectively functioning as a tax loophole.

Eliminating the dividends-paid deduction is the most straightforward way to ensure that the financial benefits of owning and operating real estate in Hawai‘i do not accrue only to wealthy out-of-state investors, and that the state of Hawai‘i has a fair share of the revenue created by REITs by eliminating the dividends-paid deduction. For these reasons, we respectfully request that you **pass SB 118.**

February 17, 2015

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Alan Tsuruda
Corporate Controller
Sullivan Family of Companies
3536 Harding Avenue
Honolulu, Hawaii 93816

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

Dear Senators Tokuda and Kouchi, and Members of the Committee:

I have been a resident of Hawaii for my entire life and I am discouraged to continually hear that the State does not have the means to fix our public schools, improve public health services, and pay promised benefits to its retirees. I support S.B. No. 118, Relating to Real Estate Investment Trusts, because it is a way to help address this situation.

It is unfair that the owners of major shopping centers, hotels, and office buildings in Hawaii who have profited from our local and visitor trade have not been paying our State their share of income taxes. They should be required to cover the costs of the infrastructure, emergency, and social services that support their properties, the same way our local businesses and Hawaii residents do with their taxpayer dollars. S.B. No. 118 would close the REIT income tax loophole and keep more revenues in Hawaii for the benefit of our community.

I strongly urge you to pass S.B. No. 118. Thank you.

Sincerely,
Alan Tsuruda

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

Blair Suzuki
808-230-3559

Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

I strongly support S.B. No. 118, Relating to Real Estate Investment Trusts. This bill will correct an unfair state income tax loophole, which allows mainland REITs operating in Hawaii to take their net income earned here out of state and tax free, resulting in an annual State loss between $30 to $60 million. These funds are sorely needed to supplement education, social services, infrastructure, affordable housing, the list goes on.

It is unfair that the owners of the major shopping centers, hotels, and office buildings in Hawaii who have profited from our local and visitor trade have not been paying our State their share of income taxes. They should be required to cover the costs the same way our local businesses and Hawaii residents are.

As a concerned local about Hawaii's long term social and economic wellbeing, I urge the committee to pass S.B. No. 118.

Thank you for the opportunity to testify.

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

June Akina
1511 Nuuanu Avenue
Box 125
Honolulu, Hawaii 96817

Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

As a business person concerned about Hawaii's economy and long-term community development,I strongly support S.B. No. 118, Relating to Real Estate Investment Trusts.

This bill corrects a loophole in our state income tax law that allows mainland corporations operating profitably as REITs in Hawaii to take the net income they earn here out of state, tax free. This represents a loss of between $30 to $60 million annually to the state, funds that are needed to supplement the costs of education, social services, and other state commitments.

There is more REIT-owned property in Hawaii per capita than any other state in the nation, and, with our attractive real estate market,this will only increase in the future. REITs should be taxed the same way as other real estate investors, who are paying state income taxes ranging from 6 to 11 percent.

I urge the committee to pass S.B. No. 118. Thank you for the opportunity to testify.

June Akina

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

June Akina
1511 Nuuanu Avenue
Box 125
Honolulu, Hawaii 96817

Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

I have been a resident of Hawaii for [NUMBER] years, and I am discouraged to continually hear that the State does not have the means to fix our public schools, improve public health services, and pay promised benefits to its retirees, even while my tax bill seems to increase every year. I support S.B. No. 118, Relating to Real Estate Investment Trusts, because it is a way to address this situation.

It is unfair that the owners of the major shopping centers, hotels, and office buildings in Hawaii who have profited from our local and visitor trade have not been paying our State their share ofincome taxes. They should be required to cover the costs of the infrastructure, emergency, and social services that support their properties, the same way ourlocal businesses and Hawaii residents are. S.B. No. 118 would close the REIT income tax loophole and keep more revenues in Hawaii for the benefit of our community.

We need to protect our tax base. I strongly urge you to pass S.B. No. 118. Thank you.

June Akina

Testimony of Paul H. Brewbaker, Ph.D., Principal, TZ Economics

before the Senate Committee on Ways and Means
Hawaii State Legislature
on
SB118: RELATING TO REAL ESTATE INVESTMENT TRUSTS

Wednesday, February 18, 2015

My name is Paul H. Brewbaker and I am a private economist and former member and Chair of the Hawaii Council on Revenues (COR). Many of you are familiar with me from my testimony at your committee's annual economic informational briefing, presenting with colleagues from DBEBT and UHERO, along with the COR Chair and, oftentimes, Directors of Taxation and Budget and Finance. It is along those lines of experience that I recently have been engaged to conduct a brief economic analysis of the proposal to disallow the dividends paid tax deduction for Real Estate Investment Trusts (REITs). My research is ongoing, but a preliminary examination of the bill's proposal and the economic principles underlying the relevant federal tax law suggests to me that SB118 is an ill-advised initiative unlikely to raise much revenue and mostly likely to divert capital inflows away from Hawaii. It is not a good idea.

Withdrawing the exemption for dividends paid introduces a pernicious tax distortion—double-taxation of capital income—that impairs one asset class (real property owned or being built or redeveloped by REITs) relative to other asset classes indistinguishable except by their ownership structure (real property with individual, pension and charitable fund, private corporate, private equity fund, etc. ownership). In this instance, private ownership structure is not simply a veil that when swept away reveals indistinguishable value of the underlying real assets. The financial structure of ownership itself can be a determinant of value, signaling valuations important to levels of financial capital flows and physical capital formation. It is important *not* to alter the tax code in a way that discriminates against one or another financial structure lest it risk a misallocation of financial capital.

Real capital—residential condominiums, commercial retail capacity, and the like—are formed and transformed because of efficient financial capital mobility both within the U.S. and internationally. Financial structures like pension funds, charitable endowment funds, private equity funds, and REITs all bear similarity because they mobilize financial capital and allocate its deployment into real capital formation by pooling risk exposures and by enabling collective, small-investor access to global capital markets. Hawaii's physical capital endowment as a modern, post-industrial economy and the productivity latent in this capital stock is a product of individuals investing in long-term real capital formation personally (as in their family residences) *as well as* their collective investments through a variety of financial structures including REITs. The latter now dominate over the former. It is not a good idea to distort returns to and flows of capital in Hawaii in a way that impairs one financial structure versus others.

There is never a good time in the economic cycle to doubly-tax capital income and deter capital formation in Hawaii. However, if you had to pick the worst time to do it, introducing such a tax distortion at the threshold of an investment-led reacceleration of Hawaii economic activity, this would be it. (See appended Figure 1 and Figure 2.) I refer the committee to my earlier comments before the joint House and Senate "money" committees from January 21, 2015 and, in particular, the presentation's title, "Overoptimistic forecasts bailed out by oil prices." To wit: (a) the tourism-led Hawaii economic recovery, 2010-2012, faded in 2013; (b) through stagnating real federal government civilian employment in Hawaii,[1] real Hawaii construction outlays,[2] and real Hawaii tourism receipts,[3] Hawaii's economy lost growth impetus from its principal exports and from investment during 2013-2014; and (c) the much-anticipated construction and investment upswing forecast for several years running has yet to manifest itself durably. Only falling oil prices in second half 2014 provided a tailwind sufficient to sustain Hawaii economic growth in the fact of an absolute decline in real federal government and construction activity, and a stagnation in Hawaii's primary export receipts through tourism. An increase in scheduled seats flown non-stop to Hawaii's Neighbor Islands bodes well for the near-term, but an investment-led reacceleration is the *only* plausible way to sustainably extend Hawaii economic expansion during the 20-teens. Capacity constraints in the lodging sector and long-term fiscal challenges of the U.S. federal government in funding Medicare, social security, and net interest on federal debt in the hands of the public, against the cross-current of demographic transition, limit Hawaii's growth prospects.

Investment is the key. As many observers note from the reappearance of construction cranes in Honolulu,[4] some people labor under the misimpression that investment already has mounted its cyclical upswing. The incipient upswing *is* benefitting from a substantial inflow of offshore capital in acquisitions and in commitments to build. However, talk is cheap. In terms of *actual* building (the verb), as recently as in 2014 the number of new housing units for which building permits were issued in Hawaii was the lowest since 1944. It's so good, only world war was worse than last year. (These housing totals *include* urban high-rise residential condominiums.) In commercial development there hasn't been a Class A office tower built in Hawaii in over twenty years.[5] As a consequence of this anticipated but no-show investment upswing, as recently as last fiscal year, the state's general fund revenue forecast estimate was too high by approximately 10 percentage points in absolute value. The fact that revenues declined when they were forecast to rise is an indication of how much forward economic momentum the state lost in the last two calendar years.[6]

[1] Including military employment, monthly, on a seasonally-adjusted basis going back over two years to federal fiscal year 2013 commencing in October 2012.

[2] Measured by contracting receipts in the State's General Excise and Use Tax Base, adjusted for construction cost inflation using the U.S. Bureau of the Census implicit price deflator for (residential) construction and, therefore, an *underestimate* of decline because of the wind-down in federal military housing privatization and redevelopment, which was not general excise taxable economic activity (qualifying as "federal" projects on federal lands).

[3] Measured to total visitor expenditure in either event, adjusted for inflation on a seasonally-adjusted basis adjusted for U.S. price inflation using the Bureau of Economic Analysis (BEA) implicit price deflator for consumption or, at quarterly frequencies, using the Honolulu Consumer Price Index interpolated from its semi-annual original format.

[4] See Andrew Gomes (June 3, 2013) "CONDO MANIA!" *Honolulu Star-Advertiser,* page A-1

[5] Ironically, the most recent one was the benchmark used by the Legislature last year to cap building heights at the level of 20 years ago, in a time in which it would be inconceivable to cap cellular telephone technology accordingly.

[6] Compare actual FY2014 revenues, in the year ending in June 2014, to the forecast from May 2013. See Hawaii Council on Revenues (May 30, 2012) (http://files.hawaii.gov/tax/useful/cor/2012gf05-29_with0530_Rpt2Gov.pdf).

For Hawaii in the 21st century, *re*development is the dominant phenomenon and the key players are offshore institutional investors. (See appended Figure 3.) Investment-led economic growth is a sufficient and *necessary* condition for improving the State of Hawaii's fiscal picture, but not if it is impaired by tax distortions or an increased probability of future tax distortions.

This point about "signaling" is an important one. My guess is that a double-tax on REIT income from Hawaii real assets will raise nothing approaching the $35 million I am told prior testimony to this committee has conjectured in tax revenue. For one thing, every REIT with an investment in Hawaii immediately would have a motivation to completely change ownership structure of the holding entity to avoid the tax liability. Financial structure is not inert, even if buildings are. Worse, however, is the risk that Hawaii would send a signal to the global financial market that it cannot be taken seriously as an investment host because it cannot credibly pre-commit adherence to basic, efficiency-enhancing, non-distortionary tax policy principles.

Investors in physical capital formation of large structures face uncertainty about their future returns which is complicated by the irreversibility of the investments they are making when building or redeveloping. Anything that *increases* the uncertainty of future returns—such as whether the host environment's tax code can be credibly perceived as stable—interacts with irreversibility to raise even higher then threshold for an investor's acceptance of a potential acquisition or development project. Simply talking about the tax code in a manner that renders its perception variable rather than fixed can deleteriously affect the amount of capital flowing to Hawaii. There are plenty of other geographies in which such uncertainties are absent, not to mention other investment impediments. Beyond the *direct* behavioral response to a decrease in asset values implied by higher taxes on capital income, and diminution of capital flows implied by the reduction in the net present value of future returns, lies the *indirect* and adverse behavioral response to a jurisdiction signaling unpredictability of its tax code or willingness to introduce inefficiencies into the tax code. For investors, confidence is about predictability. Don't act like Greece.

Note that the pernicious consequences of capital taxation may not be obvious except in the long-run. For example, Hawaii's existing corporate net income tax on the surface may not seem like a pernicious distortion that we teach undergraduates it is. First, Hawaii taxes gross business receipts, then it taxes the net income of corporations with a Hawaii tax domicile, and then it taxes incomes of the corporation's owners, its shareholders, in Hawaii. Much is made in Hawaii by residents, as is true in Wisconsin and rural Idaho, surely, about the fact that out-of-state corporations send money "out of state." Ooooh, scary. As if a person importing a cell phone bought on the mainland, rather than buying one locally from a corporation, or on-line from a corporate retailer, isn't the same thing. It's *because* of trade that our living standards are high enough. It's because importing and exporting are so economically beneficial that we *tolerate* the pernicious distortions in our tax code as "too much pilikia" to try to correct. Make no mistake about it, however: Hawaii is no different from anywhere else in terms of "money leaving the state" bad-thinking. Hawaii has prospered economically from trade, in spite of the fact that Hawaii's tax code gives corporations a reason not to exist in Hawaii.

Here are the facts. Adjusted for inflation and seasonality, the constant-dollar value of Hawaii corporate net income tax receipts has been *declining* for the last four or five *decades*.

(See appended Figure 4.) Did Hawaii's economy decline in real terms over the last half century? No. Between 1969 and 2007, between the first full year for which I have monthly Hawaii tax revenue data and the last full year before the recent recession, Hawaii real GDP grew at a 2.7 percent annual average rate. During that same interval, real Hawaii corporate net income tax receipts declined at a −0.17 percent annualized annual rate, 1969-2007. In contrast, general excise tax receipts grew at a +3.0 percent average annual rate, and individual income tax receipts grew at a +2.7 percent annual average growth rate, 1969-2007. I suppose that corporate economic activity in Hawaii could have become dramatically *less* important to the state by 2007 than it was thirty-eight years earlier. However, I'm pretty sure what declined dramatically was having a corporate net income tax liability in Hawaii, *not* the amount of economic activity conducted by corporations. After inflation, Hawaii GDP grew 2.7 percent per annum, general excise taxes grew 3.0 percent per annum, individual income taxes grew 2.7 percent per annum, and corporate net income tax receipts grew −0.17 percent per annum. That says something distorted corporations in Hawaii, and taxation is one candidate (among other, structural factors).[7]

Hawaii should not to impair potential economic growth and development by introducing a tax distortion that creates uncertainty about the predictability of future asset returns in general and imposes a differential cost burden on one particular form of financial ownership structure and not others. Taxing REIT income twice, once when received in gross form (implied in the bill's creative accounting as comprising dividend income not received by Hawaii residents or others with a Hawaii state income tax liability), and once again when received by Hawaii REIT owners is an obvious distortion to returns on capital. Other things equal (*ceteris paribus*) a financial structure such as a pension fund or a charitable endowment fund or a private equity fund will not be impaired by the double-tax liability to which REITs are intended to be subjected by the proposed legislation. Nothing prevents ownership structure from changing to avoid a tax liability from withdrawal of the REIT deduction, so, it's possible the tax will not raise revenue simply through behavioral response: change of ownership. Nevertheless the shadow of tax code unpredictability also will be cast across the path of existing and prospective investments of non-REIT financial management structures.

Economics teaches that in the balancing act between revenue adequacy, efficiency, and equity (fairness), a tax policy decision-maker must be careful not to stray too far in one direction to the neglect of the others. Taxing REIT income before it is distributed to a subset of shareholders, and then taxing it again upon accrual to Hawaii shareholders as dividend income, is not just an exercise in creative (and fictional) accounting, it's a straight-up introduction of economic *in*efficiency. It benefits alternative financial structures that are near-substitutes for REITs as acquisition, development, and management vehicles for Hawaii real estate portfolios.

[7] Economic governance, economies of scale, globalization, information technology, the market for corporate control, and many other factors explain the disappearance of some of the grand old corporate names such as Hawaii's oligarchic Big Five of the mid-20th century (Alexander & Baldwin, AMFAC, C. Brewer & Company, Castle & Cooke, Theo. H. Davies). It's not simply an accident of history that First Hawaiian Bank is a wholly-owned subsidiary of Banque National de Paris, or that the vast majority of Bank of Hawaii's shareholders are non-resident financial institutions such as pension funds. Most Hawaii consumers are delighted no longer to live in the world B.C. (Before Costco), enjoying the consumer benefits of Costco as well as Wal-Mart, Target, Home Depot, and Ross Dress For Less without getting hung-up on whether "da money goes out of state" through KTA Supermarkets or Whole Foods, only one of which is "local," or whether Liberty House "kept da money in state," before Macy's. Most people know they're better off even faking it at the farmer's market, driving their earth-friendly Ford F-150s.

It spuriously induces a flow of capital away from REITs to alternative structures for which the tax distortion is not applicable. It risks spuriously inducing a flow of capital away from Hawaii as a host environment for capital formation. It directs capital away from REITs and away from Hawaii *for no obvious gain*. Neither will revenue adequacy be enhanced if the dynamic, behavioral responses to the tax distortion shift capital away from REITs and away from Hawaii, nor will any obvious gain in fairness arise except for the patently unfair treatment of Hawaii REIT dividend recipients.[8] Their incomes first will be diminished by the amount of income extracted at the structure-level, and then diminished (appropriately) at the final recipient-level. This is like paying once to enter Disneyland, and then paying again for each ride: you would only do this if you *intended* to distort the pattern of ridership and to *deter* entry into the theme park.

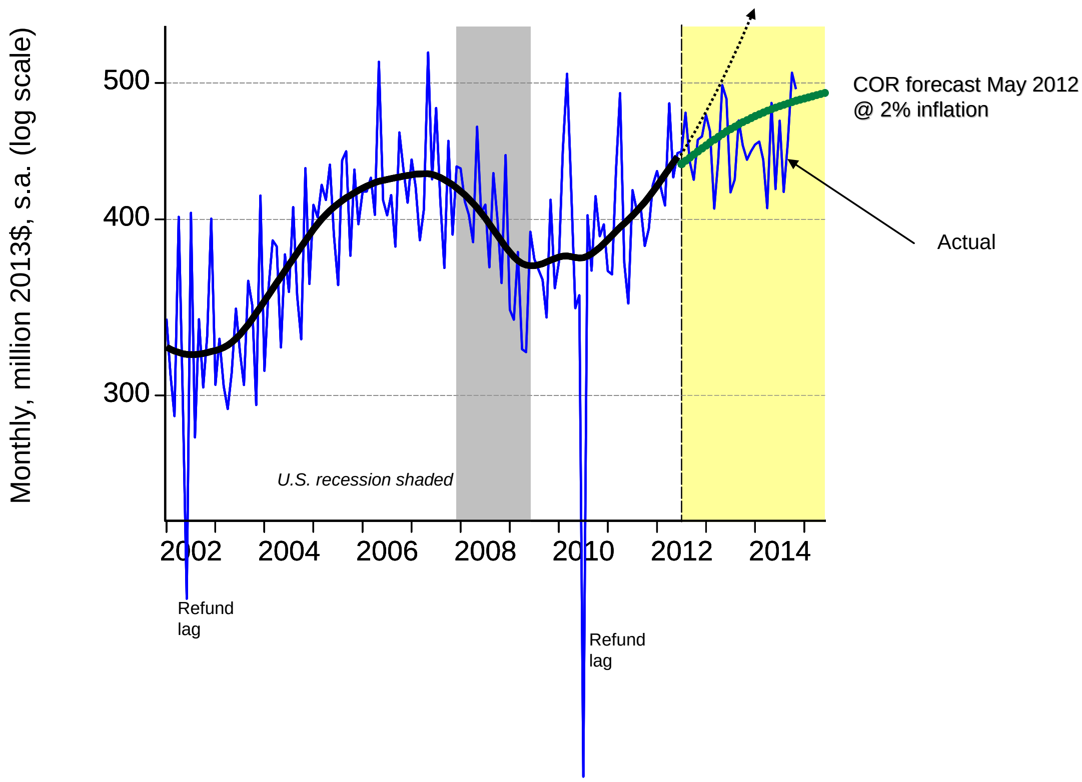
Surely the State of Hawaii intends neither to distort the pattern of financial capital allocation nor of physical capital formation. Hawaii must recognize that as a host environment for investment it faces a global capital market playing field that is tilted in its favor only slightly by its natural endowment and its advanced stage of destination-tourism development and related commercial activities such as shopping and recreation. These are precious, thin distinctions from the global competition for capital. Like Disneyland, to maximize attendance and insure that each attendee has the most rewarding experience, it should charge the same entrance fee and let the guests make their own choices from Disneyland's many experience options. Hawaii should treat all financial structures equally in its tax code, and maximize returns to investors *and* to Hawaii by facilitating an efficient flow of capital across Hawaii's many investment options.

[8] Technically, getting rid of REITs and other modern financial management structures as Hawaii property development, ownership, and management entities might return the islands to an earlier romanticized time when a few families owned most of the assets. See Gavin Daws, *Land and Power in Hawaii*, UH Press or get a copy of the movie version of Kaui Hemming's *The Descendants*. It's true that Hawaii's income distribution in the 21st century is worse than it was for most of the 20th, but not because REITS, pension funds, charitable endowments, private equity funds and other institutions through which the vast majority of Hawaii residents participate directly as individual investors are major real estate holders in Hawaii, rather than a few families.

Graphical Appendix

Figure 1. Hawaii General Fund Revenues in constant dollars lost upward momentum

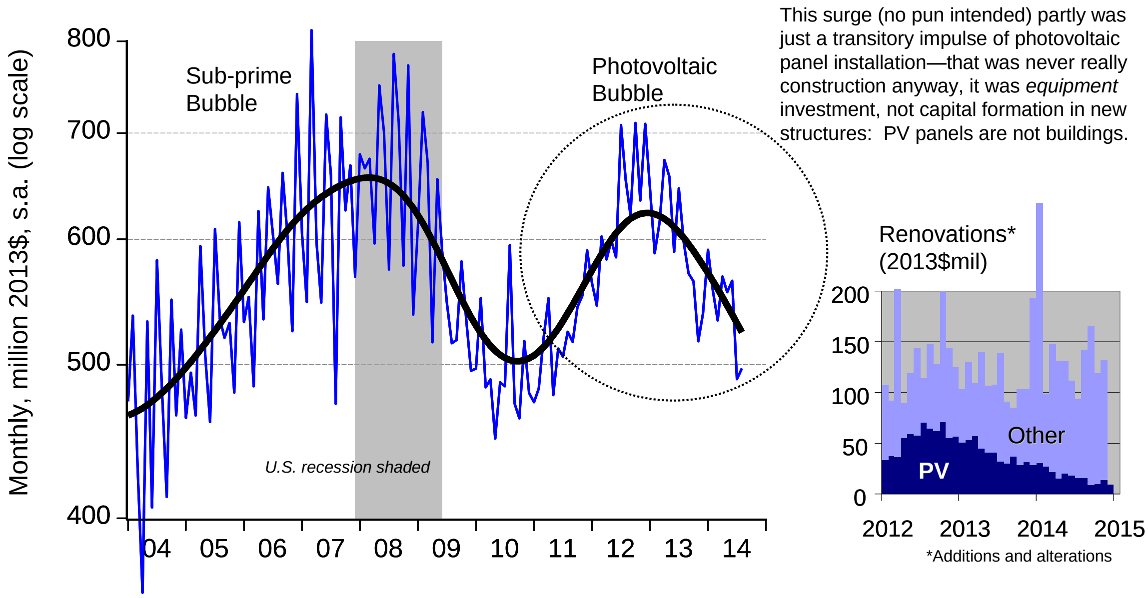
Hawaii Council on Revenues forecasts did not anticipate the extent of Hawaii's economic deceleration, 2013-2014



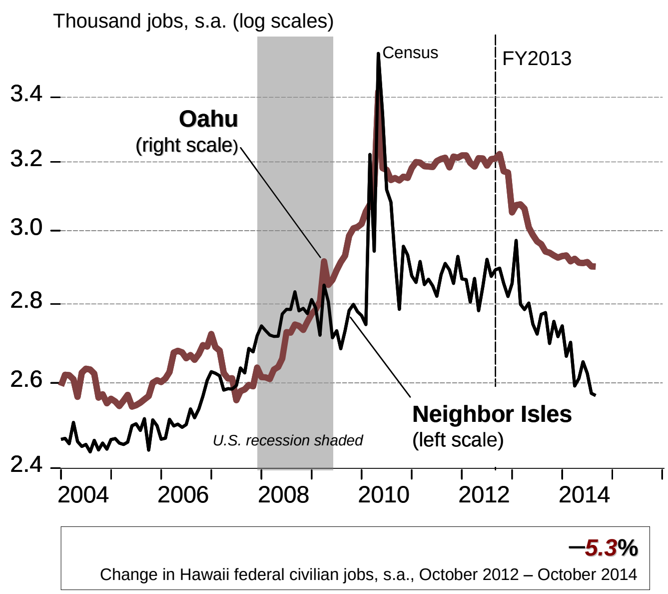
Sources: Hawaii DBEDT, DoTAX, and Hawaii Council on Revenues (May 30, 2012) (http://files.hawaii.gov/tax/useful/cor/2012gf05-29_with0530_Rpt2Gov.pdf); deflation using U.S. PCE deflator, seasonal adjustment using Census X-12 ARIMA filter, trend extraction with Hodrick-Prescott filter and interval regression by TZE.

Figure 2. Three areas of Hawaii economic activity where down is the new up

1. Hawaii contracting receipts

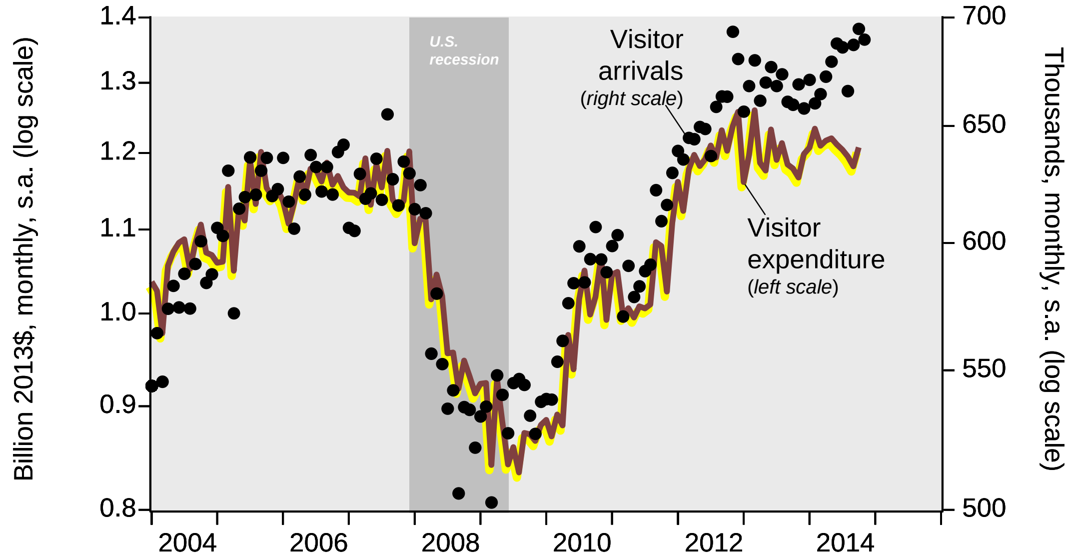


2. Hawaii federal government employment



- Federal fiscal contraction
- Loss of earmarks, Inouye
- Sequestration, impasse
- CBO: "If current laws governing federal taxes and spending generally remained unchanged, revenues would grow only slightly faster than the economy and spending would increase more rapidly.... Consequently, relative to the size of the economy, deficits would grow and federal debt would climb."

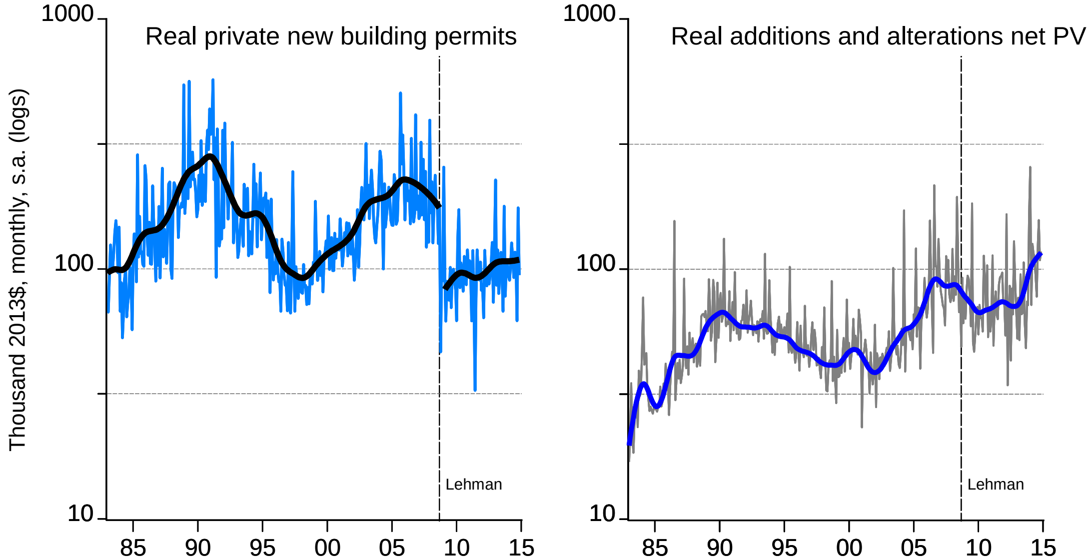
3. Hawaii real tourism performance



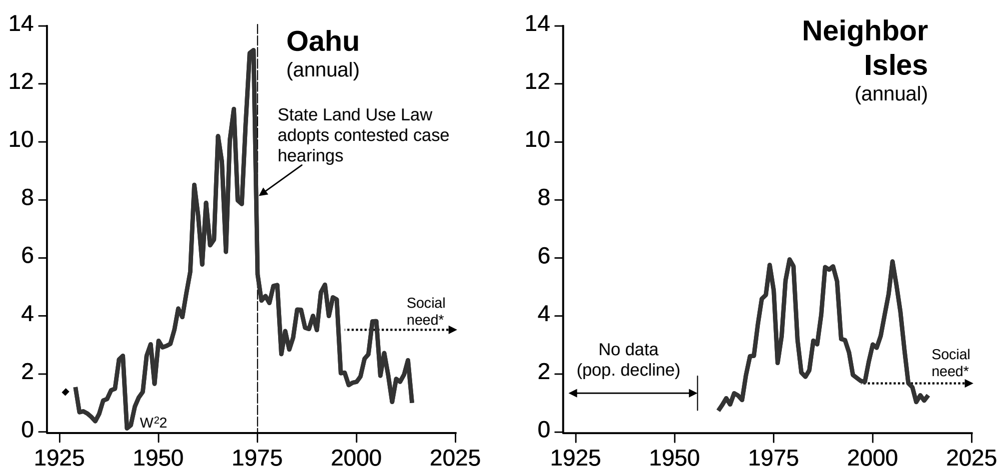
Sources: Hawaii Department of Taxation (contracting receipts), Hawaii DLIR, Hawaii DBEDT (payroll employment monthly averages through October 2014); quote from CBO (August 27, 2014) (http://cbo.gov/publication/45653), Bureau of the Census (construction cost deflator), Hawaii Tourism Authority and Hawaii DBEDT (http://dbedt.hawaii.gov/visitor/tourism/) including 2013-2014(Apr) revisions and data through November 2014, Bureau of Economic Analysis (U.S. personal consumption deflator); seasonal adjustment, deflation, trend/cycle component extraction by TZ Economics.

Figure 3. Emerging Hawaii investment upswing is *re*development-led, housing-poor

1. Real private building permit value net of photovoltaic panel (PV) installation



2. Hawaii statewide new housing authorizations (thousand units permitted)

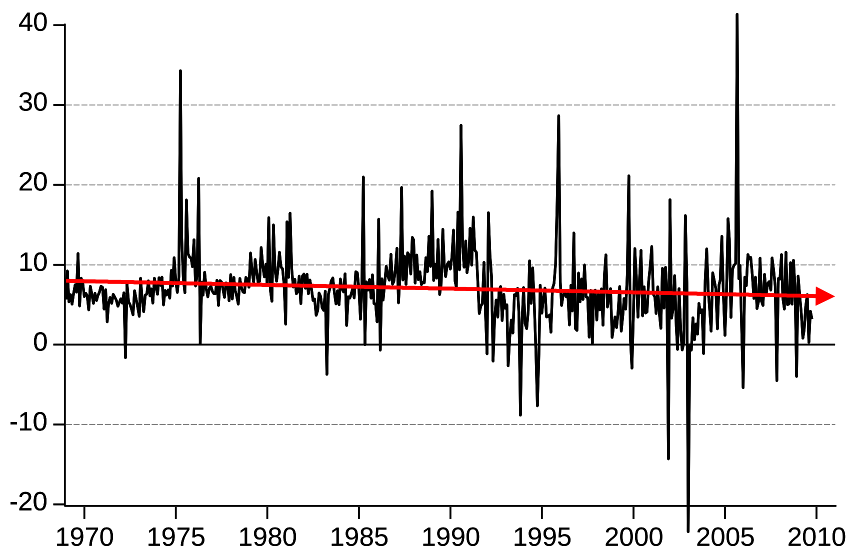


*Eugene Tian, Hawaii DBEDT, "What are the Economic Drivers for Hawaii in 2014 and Beyond," Realtor Housing Forum (May 2, 2024) calculated annual need to accommodate new household formation at existing density (http://files.hawaii.gov/dbedt/economic/reports/2014-economic-drivers.pdf).

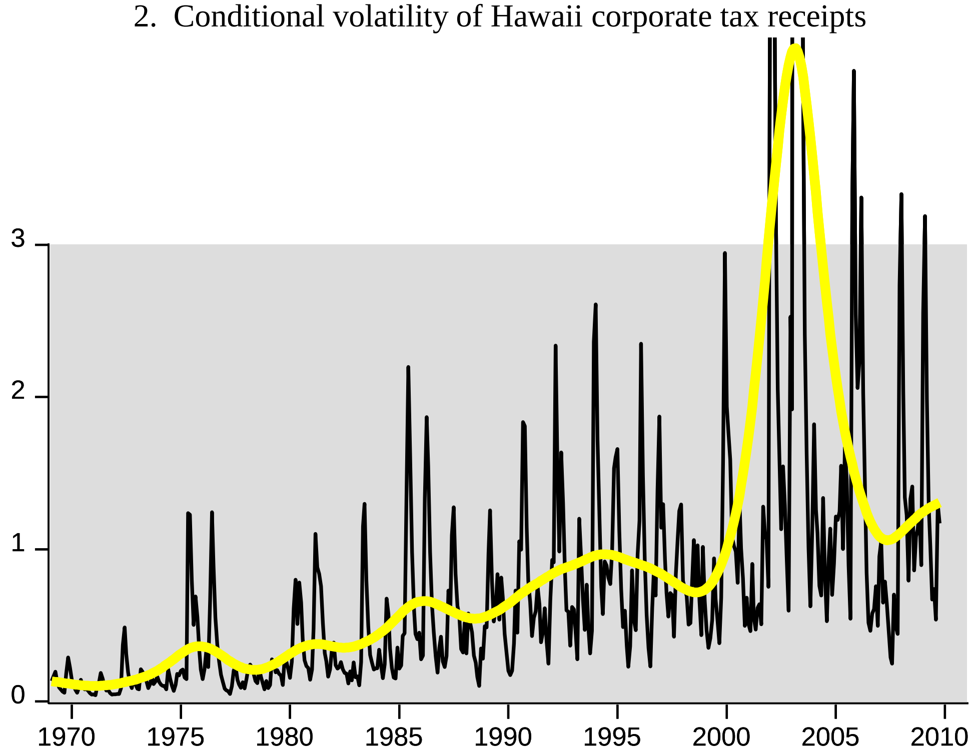
Sources: County building departments, Hawaii DBEDT, U.S. Bureau of the Census, Robert C. Schmitt (1976) Historical Statistics of Hawaii UH Press, county building departments, Hawaii DBEDT (various) State of Hawaii Data Book (Section 21), TZE database; flows are permitted new units minus authorized demolitions, but later data (since late-1970s) are gross new units; seasonal adjustment, deflation, and trend extraction by TZ Economics.

Figure 4. Hawaii real monthly corporate net income tax receipts:
more noise than signal (all data seasonally-adjusted, 1969-2009)

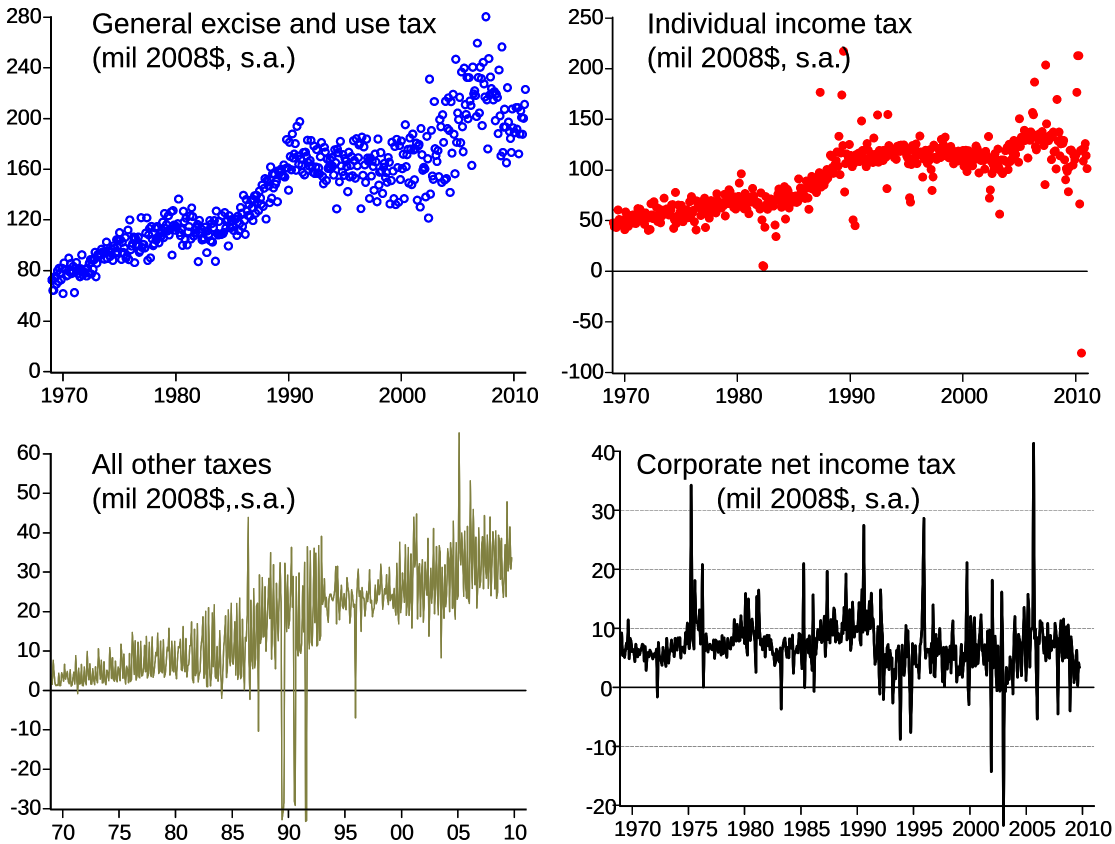
1. Hawaii corporate net income tax receipts (million 2008$)



2. Conditional volatility of Hawaii corporate tax receipts



3. Everything grew *except* Hawaii corporate income tax revenues



Sources: Hawaii Department of Taxation; all calculations (seasonal adjustment, deflation, etc.) are by TZ Economics, volatility depicted is generalized autoregressive conditional heteroskedasticity estimate of the annualized monthly standard deviation of log changes of intercept-adjusted, seasonally-adjusted monthly Hawaii real corporate net income tax receipts.

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

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Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

As a business person concerned about Hawaii's economy and long-term community development, I strongly support S.B. No. 118, Relating to Real Estate Investment Trusts.

This bill corrects a loophole in our state income tax law that allows mainland corporations operating profitably as REITs in Hawaii to take the net income they earn here out of state, tax free. This represents a loss of between $30 to $60 million annually to the state, funds that are needed to supplement the costs of education, social services, and other state commitments.

There is more REIT-owned property in Hawaii per capita than any other state in the nation, and, with our attractive real estate market, this will only increase in the future. REITs should be taxed the same way as other real estate investors, who are paying state income taxes ranging from 6 to 11 percent.

I urge the committee to pass S.B. No. 118. Thank you for the opportunity to testify.

Senator Jill N. Tokuda, Chair
Senator Ronald D. Kouchi, Vice Chair
Committee on Ways and Means

[YOUR NAME]
[YOUR ADDRESS OR CONTACT NUMBER]

Wednesday, February 18, 2015

Support for S.B. No. 118, Relating to Real Estate Investment Trusts

I have been a resident of Hawaii for [NUMBER] years, and I am discouraged to continually hear that the State does not have the means to fix our public schools, improve public health services, and pay promised benefits to its retirees, even while my tax bill seems to increase every year. I support S.B. No. 118, Relating to Real Estate Investment Trusts, because it is a way to address this situation.

It is unfair that the owners of the major shopping centers, hotels, and office buildings in Hawaii who have profited from our local and visitor trade have not been paying our State their share of income taxes. They should be required to cover the costs of the infrastructure, emergency, and social services that support their properties, the same way our local businesses and Hawaii residents are. S.B. No. 118 would close the REIT income tax loophole and keep more revenues in Hawaii for the benefit of our community.

We need to protect our tax base. I strongly urge you to pass S.B. No. 118. Thank you.