DEPARTMENT OF THE ATTORNEY GENERAL

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COURT DISMISSES LEGAL CHALLENGE TO STATE ADMINISTRATIVE COSTS FOR COUNTY SURCHARGE TO FUND RAIL TRANSIT

HONOLULU – State circuit judge Edwin C. Nacino yesterday dismissed a legal challenge to the State of Hawaii's ability to retain ten percent of the county surcharge to the general excise tax to fund rail transit, Hawaii Attorney General Doug Chin announced. In October of 2015, the Tax Foundation of Hawaii ("Tax Foundation") sued the State alleging that legislation authorizing the State to deduct ten percent of the county surcharge and deposit it into the State general fund violated the United State and Hawaii Constitutions.

The court rejected the Tax Foundation's claims, ruling that Hawaii law prevented courts from issuing declaratory judgments "in any controversy with respect to taxes." Since 2007, the State has collected more than $1.5 billion in county surcharge taxes on behalf of the City and County of Honolulu, for use by the City to fund its rail transit system now under construction.

Deputy Attorney General Hugh Jones said "The court recognized the proper way to address this dispute is not through the court system, but through the legislative process."

The State's motion to dismiss the Tax Foundation's lawsuit is attached.

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FIRST CIRCUIT COURT
STATE OF HAWAII
FILED

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IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

TAX FOUNDATION OF THE STATE OF HAWAII, a Hawai'i Nonprofit Corporation, Plaintiff v. STATE OF HAWAI'I Defendant.	Civil AH CASE NO. 15-1-2020-10 ECN DEFENDANT STATE OF HAWAII'S MOTION TO DISMISS COMPLAINT FILED ON OCTOBER 21, 2015; MEMORANDUM IN SUPPORT OF MOTION; DECLARATION OF HUGH R. JONES; EXHIBITS "1" AND "2"; DECLARATION OF JUDY DANG, EXHIBIT "3"; NOTICE OF HEARING AND CERTIFICATE OF SERVICE Trial Date: None Hearing Motion: Hearing Date: December 23. 2015 Time: 11:00 am Judge: Edwin C. Nacino

DEFENDANT STATE OF HAWAII'S MOTION
TO DISMISS COMPLAINT FILED ON OCTOBER 21, 2015

Defendant STATE OF HAWAI'I moves to dismiss Plaintiff's complaint for lack of subject matter jurisdiction pursuant to Rules 7 and 12(b)(1) , 12(h)(3) and 57, Hawai'i Rules of

Civil Procedure, Rule 7 of the Rules of the Circuit Court, and sections 231-23(b), and 632-1, and 662-15(2), Hawai‘i Revised Statutes.

The motion is supported by the attached memorandum, declarations, exhibits and the records and files herein.

DATED: Honolulu, Hawai‘i, November 9, 2015.

DOUGLAS S. CHIN
Attorney General

By: [signature]
HUGH R. JONES
NATHAN S.C. CHEE
Deputy Attorneys General

Attorneys for the STATE OF HAWAI‘I

IN THE CIRCUIT COURT, FIRST CIRCUIT

STATE OF HAWAI'I

TAX FOUNDATION OF THE STATE OF HAWAII, a Hawai'i Nonprofit Corporation, Plaintiff v. STATE OF HAWAI'I Defendant.	CASE NO. 15-1-2020-10 ECN MEMORANDUM IN SUPPORT OF MOTION

MEMORANDUM IN SUPPORT OF MOTION

I. INTRODUCTION.

Plaintiff's complaint invokes the jurisdiction of the circuit court under sections 632-1, and 663-1, HRS, to seek court ordered refunds of county surcharge on state taxes ("County Surcharge") and mandamus relief, on the theory that section 248-2.6(a), HRS is unconstitutional. However, section 632-1, HRS, denies declaratory relief in "any controversy" with respect to taxes and therefore this court lacks jurisdiction. Nor does section 663-1, HRS, confer jurisdiction under at all, as the State of Hawaii' has retained sovereign immunity for "[a]ny claim arising in respect to the assessment or collection of any tax." Haw. Rev. Stat.§ 662-15(2).

Plaintiff's claims are also non-justiciable because Plaintiff lacks standing. Plaintiff, a tax-exempt entity, seeks a judicial declaration that section 248-2.6(a), HRS, is illegal in the abstract without suffering any injury in fact. The State has not assessed taxes against the Plaintiff nor denied a refund of taxes paid under protest. Plaintiff simply quarrels with the wisdom of a policy decision entrusted to the legislative branch of government while the only party that may conceivably lay claim to suffering an actual injury due to the action of the legislature — the City and County of Honolulu — is not a party to this case, much less a plaintiff. In addition, for reasons explained below, no remedy can be supplied (an additional requirement for standing) because the State's actual cost of the assessment, collection and disposition of the County Surcharge is not capable of calculation—no cost accounting or time keeping records exist to calculate this amount. It is for this reason that 10 years ago, the legislature determined as a policy decision that 10 percent of the county surcharge was a fairly credited to the general fund of the State to cover the State's costs. Accordingly, this case should be dismissed for lack of standing.

The court ordered refund claims Plaintiff asserts lie at best, within the exclusive jurisdiction of the tax appeal court only.

II. FACTS/BACKGROUND INFORMATION.

Plaintiff is a Hawai'i nonprofit corporation and exempt from federal income taxes and Hawai'i income taxes under section 501(c)(3) of the Internal Revenue Code. See Declaration of Hugh R. Jones; Ex. "1" (Plaintiff's IRS Form 990/Return of Organization Exempt from Income Tax).

In 2005, the legislature passed Act 247, Session Laws of Hawai'i 2005. Act 247 became law without the Governor's signature and among other things amended chapter 46, HRS, to authorize any county to adopt a County Surcharge on Hawai'i general excise and use taxes by action of the county councils. Counties with populations over 500,000 were authorized by section 2 of Act 247 to use the surcharge proceeds for projects like rail transit ("operating or capital costs for a locally preferred alternative to mass transit") and for complying with the Americans with Disabilities Act. See Haw. Rev. Stat. §46-16.8(c)

When the legislature adopted Act 247, the conference committee appointed to work out differences between the House and Senate version of House Bill No. 1309 amended the bill to allow the director of finance to deduct 10 percent of the county surcharge to deposit in the state general fund to reimburse the State for its costs in assessing, collection and dealing with the County Surchager.[1] Section 248-2.6(a) and (b), HRS, provide:

> (a) If adopted by county ordinance, all county surcharges on state tax collected by the director of taxation shall be paid into the state treasury quarterly, within ten working days after collection, and shall be placed by the director of finance in special accounts. Out of the revenues generated by county surcharges on state tax paid into each respective state treasury special account, the director of finance shall deduct ten per cent of the gross proceeds of a respective county's surcharge on state tax to reimburse the State for the costs of assessment, collection, and disposition of the county surcharge on state tax incurred by the State. Amounts retained shall be general fund realizations of the State.
>
> (b) The amounts deducted for costs of assessment, collection, and disposition of county surcharges on state tax shall be withheld from payment to the counties by the State out of the county surcharges on state tax collected for the current calendar year.
>
> (c) For the purpose of this section, the costs of assessment, collection, and disposition of the county surcharges on state tax shall include any and all costs, direct or indirect, that are deemed necessary and proper to effectively administer this section and sections 237-8.6 and 238-2.6. (Emphasis added).

Only the City and County of Honolulu adopted a County Surcharge. See ROH §6-60.1[2] Since January 1, 2007, the State has collected $1.586 billion in County Surcharge taxes after the 10 percent deduction for the City and County of Honolulu. The State department of accounting and general services at the direction of the director of finance has deposited 10 percent of gross

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[1] See Conf. Committee Report No 186, 23rd Leg., 2005 Reg. Sess., Haw. H.J. 1828-29 (2005) ("After careful consideration, your Committee on Conference has amended this measure by . . [i]nserting a provision allowing for the deduction of ten percent of the gross proceeds of a respective county's surcharge on state tax to reimburse the State for costs of assessment, collection, and disposition of the county surcharge on state tax incurred by the State.

[2] "Pursuant to Section 2 of Act 247, Session Laws of Hawaii, Regular Session of 2005, codified as Section 46-16.8 of the Hawaii Revised Statutes, there is hereby established a one-half percent general excise and use tax surcharge to be used for purposes of funding the operating and capital costs of public transportation within the City and County of Honolulu as specified herein."

proceeds, or $176.2 million, into the general fund, through September 30, 2015 as provided by section 248-2.6, HRS. See Declaration of Judy Dang, Exhibit "3."

On October 21, 2015, Plaintiff sued the State, invoking the court's jurisdiction under section 632-1, HRS, to declare section 248-2.6(a), HRS, unconstitutional and seeking the following relief:

- Count I asks the court for injunctive relief "directing that the State reimburse to Plaintiffs and/or Honolulu all amounts improperly kept by the State."
- Count II seeks mandamus relief by order directing the State to only keep the actual costs of administering the county surcharge.
- Count II also asks "that the State reimburse to Plaintiffs and/or Honolulu all amounts improperly kept by the State."

III. DISCUSSION.

A. THE COURT LACKS SUBJECT MATTER JURISDICTION OVER PLAINTIFF'S COMPLAINT FOR A DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF.

1. The Court Must Ensure Jurisdiction Exists.

This Court's first obligation is to ensure that it has subject matter jurisdiction to decide the issues presented. Public Access Shoreline Hawaii v. Hawaii County Planning Comm'n, 79 Hawai'i 425, 431, 903 P.2d 1246, 1252 (1995), cert. denied, 517 U.S. 1163 (1996). Moreover, subject matter jurisdiction may not be waived and can be challenged at any time. Bush v. Hawaiian Homes Comm'n, 76 Hawai'i 128, 133, 870 P.2d 1272, 1277 (1994). Rule 12(h)(3), Hawai'i Rules of Civil Procedure provides that whenever it appears that the court lacks subject matter jurisdiction, "the court shall dismiss the action."

2. Plaintiff Invoked Section 632-1, HRS.

Plaintiff invokes section 632-1, HRS, as the jurisdictional basis for the circuit court to declare section 248-2.5 (a), HRS unconstitutional. See Compl. ¶ 6. Plaintiff also cites section 663-1, HRS. Section 632-1, HRS, is jurisdictional. See Island Ins. Co. Ltd. v. Perry, 94 Hawai'i 498, 17 P.3d 847 (2000). Section 632-1, HRS, is Plaintiff's jurisdictional authority for the court to grant the injunctive relief sought by the Plaintiff ordering refunds of the county surcharge.

3. Section 632-1, HRS, Does Not Confer Jurisdiction In Any Controversy With Respect to Taxes.

Section 632-1, HRS, unambiguously provides in pertinent part as follows:

> **§632-1 Jurisdiction; controversies subject to.** In cases of actual controversy, courts of record, within the scope of their respective jurisdictions, shall have power to make binding adjudications of right, whether or not consequential relief is, or at the time could be, claimed, and no action or proceeding shall be open to objection on the ground that a judgment or order merely declaratory of right is prayed for; provided that declaratory relief may not be obtained in any district court, **or in any controversy with respect to taxes**, or in any case where a divorce or annulment of marriage is sought. Controversies involving the interpretation of deeds, wills, other instruments of writing, statutes, municipal ordinances, and other governmental regulations, may be so determined, and this enumeration does not exclude other instances of actual antagonistic assertion and denial of right.
>
> Relief by declaratory judgment may be granted in civil cases where an actual controversy exists between contending parties, ... Where, however, a statute provides a special form of remedy for a specific type of case, that statutory remedy shall be followed; but the mere fact that an actual or threatened controversy is susceptible of relief through a general common law remedy, a remedy equitable in nature, or an extraordinary legal remedy, whether such remedy is recognized or regulated by statute or not, shall not debar a party from the privilege of obtaining a declaratory judgment in any case where the other essentials to such relief are present. [Emphases added]

See also, Rule 57, HRCP ("declaratory relief may not be obtained in any controversy with respect to taxes:")

The plain language of this statute and Rule 57 therefore precludes plaintiff from using section 632-1, HRS as a basis for its lawsuit. Plaintiff's suit, therefore, must be dismissed. Moreover, "section 632-1, HRS, . . . nonetheless disallows such relief 'where here . . . a statute provides a special form of remedy for a specific type of case.'" Travelers Ins. Co. v. Hawaii Roofing, Inc. 64 Hawai'i 380, 386, 641 P.2d 1333 1337 (1982). As discussed further below, sections 40-35 and 232-12.5, and 231-23, HRS create exclusive judicial remedies for tax refund controversies.

Furthermore the Federal Declaratory Judgments Act contains a similar prohibition. See 28 U.S.C. §2201. "The manifest purpose of [sections 2201 and 7421(a)] is to permit the United States to assess and collect taxes alleged to be due without judicial intervention, and to require that the legal right to disputed sums be determined in a suit for refund. In this manner the United States is assured of prompt collection of its lawful revenue. Enochs v. Williams Packing Co., 370 U.S. 1, 7, 82 S.Ct. 1125, 1129, 8 L.Ed.2d 292 (1962)[3]. When Congress amended this Act to except tax controversies the Senate Finance Committee stated that "the application of the Declaratory Judgments Act to taxes would constitute a radical departure from the long-continued policy of Congress . . . with respect to the determination, assessment and collection of Federal Taxes." Americans United, Inc. v. Walters, 477 F.2d 1169 (U.S. App. 1973).

In the Matter of the Tax Appeal of Grace Business Development Corp. , 92 Hawai'i 608, 994 P.2d 554 (2000) illustrates the Hawai'i Supreme Court's deference towards the jurisdictional mandate that declaratory relief is unavailable in tax controversies, concluding that there must be an actual dispute between a taxpayer and the State. The court likewise observed that this

[3] The Tax Injunction Act §7421 and The Declaratory Judgments Act §2201 "are interpreted conterminously" See Church of Scientology of Celebrity Centre v. Egger, 539 F. Supp. 491, 494 (D.D.C . 1982); Americans United v. Walters, 477 F.2d 1169 (1973).

prohibition on declaratory relief allows the government to collect taxes without judicial interference, reasoning:

> The prohibition against declaratory relief in controversies with respect to taxes was added to the language HRS § 632–1 in 1972, in accord with the federal Declaratory Judgment Act, 28 U.S.C. § 2201. HRS § 632–1, am L 1972, c 89, § 1(a); Committee on Coordination of Rules and Statutes, Report to Joint Interim Committee for Consideration of the Statutory Revision Program, v.1, § 632 (September 1, 1971). The federal Declaratory Judgment Act also prohibits declaratory relief in tax controversies in order to "permit the government to assess and collect taxes alleged to be due it without judicial interference." *See Ingham v. Hubbell,* 462 F. Supp. 59, 64 (1978) (holding that Declaratory Judgment Act barred taxpayer's action where no assessment extant and taxable event had not yet occurred).

Grace Bus. Dev. Corp. at 613 n. 5.[4]

In Grace Bus. Dev. Corp, the Court re-affirmed the principle that there must at the very least be "an actual dispute" to confer jurisdiction on the tax appeal court and section 632-1, HRS requires an actual dispute too.

Here there is no actual dispute. Plaintiff has suffered no injury due to any administrative action of the department of taxation. There has been no tax assessment issued against the Plaintiff, or a denial of any refund claim made by Plaintiff. And, plaintiff has suffered no injury because its exempt from tax. (Decl. of Edward Beal filed under Rule HCRR). In addition, any increase in surcharge payment amount that might be turned over to the County of Honolulu would not yield a direct tax benefit to plaintiff. Instead Plaintiff merely disagrees philosophically with actions taken pursuant to an unambiguous statute passed into law by the legislature directing the director of finance to deposit 10 percent of the county surcharge into the general fund.

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[4] In Grace Bus. Dev. decision, the Court described the various judicial remedies that are available to taxpayers that have actual disputes with the State, such as Haw. Rev. Stat. § 40-35 and appeals from tax assessments. Grace Bus. Dev. Corp. at 612 n. 2. These remedies, appeals and suite for refund of taxes paid under protest are similar to the remedies available to federal taxpayers.

4. Section 663-1, HRS Does Not Confer Original Jurisdiction in the Circuit Court Because of Sovereign Immunity

Plaintiff also cites section 663-1, HRS, the governing tort actions as another jurisdictional basis for its complaint. First of all, unlike statutes like 661-1 and 662-3 which contain express "jurisdiction" conferring language, 663-1 does not confer jurisdiction at all; it merely defines "who may sue and for what." Moreover, the State has retained sovereign immunity for "[a]ny action arising with respect to the assessment or collection of any tax." Haw. Rev. Stat. §662-15(2)

There are no Hawaii decision interpreting section 662-15(2), HRS, probably because it is broad in application and unambiguous. Its plain and unambiguous language prohibits suits involving "the assessment or collection of <u>any tax</u>" which is what plaintiff's complaint is clearly all about. After all, the legislative directive that "the director of finance shall deduct ten percent of the gross proceeds of a respective county's county surcharge on state tax to reimburse the state for the costs of assessment and collection" in section 248-2.6, HRS, relates to the collection or assessment of any tax. Plaintiff's suit must be dismissed.

Moreover, the provision is identical to a provision in the Federal Tort Liability Act, 28 U.S.C. 2680(c). The federal courts have construed the federal counterpart to section 662-15(2), HRS broadly:

> The language of 28 U.S.C. s 2680(c) is identical to that of another U.S. Code provision, 26 U.S.C. s 7421(a), which prohibits any "suit for the purpose of restraining the assessment or collection of any tax" (emphasis added). See <u>Am. Assn. of Commodity Traders v. Dept. of Treasury</u>, 598 F.2d 1233, 1235 (1st Cir. 1979). In construing Section 7421(a), the Supreme Court in <u>Bob Jones University v. Simon</u>, 416 U.S. 740, 94 S.Ct. 2038, 40 L.Ed.2d 496 (1974) interpreted the phrase "assessment and collection of taxes" broadly to preclude judicial interference with any phase of IRS activities. We believe that both 26 U.S.C. s 7421(a) and 28 U.S.C. s 2680(c) reflect the government's strong interest in protecting the administration of its tax system from the burden of constant litigation. This interest would be completely frustrated if we were to read Section 2680(c) as providing an immunity for only certain narrowly defined activities of the IRS.

Capazzoli v. Tracey, 663 F.2d 654 (5th Cir. 1981)

Plaintiff's demand for a refund of the County Surcharge under section 663-1, HRS is expressly barred by section 662-15(2) of the State's Tort Liability Act.

B. MANDAMUS AND INJUNCTIVE RELIEF DO NOT LIE

Mandamus and injunctive relief are remedies and without subject matter jurisdiction (or standing) they don't properly lie. Moreover, as with declaratory judgments, mandamus is extraordinary and does not properly lie where there are other adequate remedies to obtain the relief requested. See Cohen v. Ayabe, 132 Hawai'i 408, 322 P,3d 948 (2014); 52 Am. Jur.2d Mandamus § 2 (mandamus is a legal remedy). Tax have adequate other remedies: any taxpayer can pay a tax under protest and file suit for a refund under section 40-35, HRS[7], or timely file a tax refund claim and appeal from a denial of the refund claim to the Tax Appeal Court under section 232-14.5, HRS[8]. These are adequate and in fact exclusive remedies in tax disputes. See Aetna Life. Ins. v. Park, 5 Haw. App. 122 (1984),(section 231-23 and 40-35 are exclusive judicial remedies in tax refund actions)[9].

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[7] See Haw. Rev. Stat. §231-23(a) "As to all tax payments for which a refund or credit is not authorized by this subsection (including without prejudice to the generality of the cases of unconstitutionality hereinafter mentioned in (1)(C)) the remedies provided by appeal or under section 40-35 are exclusive." (emphasis added)

[8] "The denial in whole or in part by the department of taxation of a tax refund claim may be appealed by the filing of a written notice of appeal to a board of review or the tax appeal court within thirty days after notice of the denial of the claim."

[9] As such reliance on section 603-21.5, HRS for jurisdiction is also misplaced because this statute provides for circuit court jurisdiction "except as otherwise expressly provided by statute." In tax refund situations and tax disputes relief is otherwise provided by other statutes.

Importantly, in such alternative actions, the Tax Appeal Court and appeal "shall bring up for review all questions of fact and all questions of law, including constitutional questions, necessary to the determination of the objections raised by the taxpayer." Haw. Rev. Stat. §236-16(e) (emphasis added).

Finally if any person is subject to a writ of mandamus, it would be the director of finance to do what is legally and clearly required by section 248-2.6, HRS.

C. PLAINTIFF LACKS STANDING TO SUE

1. Introduction/Standards

Whether the plaintiff has standing to bring his or her claim presents a question of law, reviewable *de novo*. Haw. Med. Ass'n v. Haw. Med. Serv. Ass'n, Inc., 113 Hawai'i 77, 90, 148 P.3d 1179, 1192 (2006); see also Keahole Def. Coal., Inc. v. Bd. of Land & Natural Res., 110 Hawai'i 419, 427–28, 134 P.3d 585, 593–94 (2006). Further, standing must be addressed before a court reaches merits, and "may be addressed at any stage of a case." Keahole Def. Coal., Inc., 110 Hawai'i at 427, 134 P.3d at 593.

Legal standing requirements improve judicial decision-making by ensuring that the parties before the court have a sufficient personal stake in the outcome to effectively and zealously argue the merits. See McDermott v. Ige, 135 Hawai'i 275, 349 P.3d 382 (2015) ("standing" is whether "the appellants [have] alleged such a personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court so largely depends for illumination of difficult constitutional questions").

Legal standing requirements promote the separation of powers between the three branches of government by limiting the availability of judicial review to cases in which there is an actual dispute between adverse parties, which "focuses attention directly on the question of what is the proper place of the judiciary in the American system of government." McDermott, 135 Hawai'i at 293, quoting Erwin Chemerinsky, *Federal Jurisdiction* 57–58 (4th ed. 2003). In the McDermott case, the Hawai'i Supreme Court counseled that the courts "should carefully weigh the wisdom, efficacy, and timeliness of an exercise of their power before acting, especially where there may be an intrusion into areas committed to other branches of government." McDermott at 283. As stated by the Court:

> Thus, a judicial determination of the constitutionality of a statute without an actual dispute between genuinely adverse parties could constitute an unwarranted encroachment into the authority of the legislative branch of government.

Id.

Generally, whether a plaintiff has the requisite "personal stake" is evaluated using the three-part injury-in-fact test. Sierra Club v. Hawai'i Tourism Auth., 100 Hawai'i at 250–51, 59 P.3d at 885–86. Under this test, a plaintiff must allege that: (1) he or she has suffered an actual or threatened injury as a result of the defendant's wrongful conduct; (2) the injury is fairly traceable to the defendant's actions; and (3) a favorable decision would likely provide relief for the plaintiff's injury. *Id.*

2. Plaintiff's complaint fails to pass the first and third prongs of this 3 part test.

a. No Injury In Fact.

Plaintiff's complaint seeks a refund to itself or the City and County of Honolulu of the 10 percent deduction from the County Surcharge on a legal theory that the deduction is illegal. If, as Plaintiff alleges, the deduction were illegal, only one party has suffered an injury--the City and County of Honolulu. Under no set of facts presented here is Plaintiff entitled to any portion of the 10 percent deduction even if the court declared that section 248-2.6(b), HRS were unconstitutional. This is because the 10 percent deduction comes from monies that would otherwise be transferred to the City and County of Honolulu and not be refunded to any taxpayer.

Moreover, as a tax-exempt organization, Plaintiff is exempt from the State's general excise and use taxes. See Haw. Rev. Stat. §237-23(a)(4). Plaintiff is thus not even presently subject to the very tax it complains about---the County Surcharge. See Declaration of Edward N. Beal (filed under Rule 9 HCRR). Plaintiff therefore suffers no injury in fact. If the Plaintiff has paid the County Surcharge previously, it did so voluntarily and not under protest and may not contest the self-assessed tax. See Haw. Rev. Stat. § 232-2 (person not aggrieved is assessment in accord with own return).

Plaintiff simply quarrels philosophically with the wisdom and efficacy of the legislature's 10 year old policy determination in section 248-2.6(a), HRS. The court should heed the Supreme Court's wise admonition and refrain from an intrusion into matters entrusted to other branches of government in the absence of a cognizable injury in fact. Plaintiff seeks an abstract legal ruling without "skin in the game."

b. The Alleged Injury Cannot be Addressed.

It is impossible to determine the actual cost to assess, collect and administer the county surcharge. Although the tax department can calculate some of the costs of assessment, collection and distribution of the county surcharge such as budgeted positions, it has no timekeeping records or cost accounting system that would allow it to determine even the approximate cost to assess, collect and administer the county surcharge. See Department of Taxation's Report to Legislature under Act 213, §121 (2007) ("[t]he Department of Taxation does not have the resources or ability to perform cost accounting" relating to the County Surcharge); Declaration of Hugh R. Jones (Ex. 2) Likewise, the director of finance who is responsible for depositing the

10 percent deduction into the general fund has no cost accounting system for this function. See Declaration of Judy Dang. Because it is impossible to determine the alleged "damages", there is no effective remedy the Court can supply—to either the plaintiff or the City and County of Honolulu. Thus, a favorable legal ruling "would not provide relief to the plaintiff." McDermott, 135 Hawai'i at 293. For this reason, the Legislature correctly determined as a policy matter that 10 percent was a fair estimate of this cost[10].

V. CONCLUSION

The Court lacks subject matter jurisdiction over this original proceeding under sections 632-1 and 662-1, HRS. Other sections of the state statutes provide the exclusive means to assert and obtain a tax refund in the Tax Appeal Court of the State of Hawaii.

The Plaintiff also lacks legal standing to assert a tax refund claim that belongs, if at all, to the City and County of Honolulu. The court should dismiss this case for lack of subject matter jurisdiction and for want of an actual controversy between the parties.

DATED: Honolulu, Hawai'i, November 9, 2015.

DOUGLAS S. CHIN
Attorney General

By: ______________________
HUGH R. JONES
NATHAN S.C.CHEE
Deputy Attorneys General

Attorneys for the STATE OF HAWAI'I

[10] [10] Even if one were to assume, *arguendo*, that time records or a cost accounting system *could* have been kept to properly allocate total costs involving the county surcharge, the fact remains that such time records were not kept and no cost accounting system was in place. Therefore, at minimum, any relief regarding alleged excessive ***past*** costs assessed is impossible to calculate, and therefore to award. Thus, plaintiffs lack standing, at minimum, to seek return of alleged excessive ***past*** costs assessed.
2

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAIʻI

TAX FOUNDATION OF THE STATE OF HAWAII, a Hawaiʻi Nonprofit Corporation, Plaintiff v. STATE OF HAWAIʻI, Defendant.	CASE NO. 15-1-2020-10 ECN DECLARATION OF HUGH R. JONES; EXHIBIT 1 AND 2

DECLARATION OF HUGH R. JONES

I HUGH R. JONES, DECLARE AS FOLLOWS:

1. I am a Supervising Deputy Attorney General in the Tax & Charities Division, Department of the Attorney General, State of Hawaiʻi.

2. I am licensed to practice law in the State of Hawai.

3. On November 2, 2015, I used my work computer's internet browser, Firefox, to login to Guidestar's website, www.guidestar.org ("Guidestar"). Guidestar maintains publicly accessible document images of all informational tax returns (IRS Form 990) filed by tax exempt charitable and educational organizations.

4. After logging into Guidestar, I searched for and printed the 2014 IRS Form 990 of the Plaintiff, Tax Foundation of the State of Hawaii, a true and correct copy of which is attached as Exhibit "1." The Form 990 was received by the IRS on or about May 18, 2015 according to the IRS date stamp on Exhibit "1."

5. Attached as Exhibit "2" is a true and correct copy of the Department of Taxation's Report to Legislature under Act 213, §121 (2007). This report is published on the Department of Taxation's website at the following URL: http://tax.hawaii.gov/stats/a5_1annual/.

I declare under penalty of perjury under the laws of the State of Hawaiʻi that the foregoing is true and correct.

DATED: Honolulu, Hawaiʻi, November 2, 2015

HUGH R. JONES

Form **990**

Department of the Treasury
Internal Revenue Service

Return of Organization Exempt From Income Tax

Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except private foundations)

▶ Do not enter social security numbers on this form as it may be made public.

▶ Information about Form 990 and its instructions is at *www.irs.gov/form990*.

OMB No 1545-0047

2014

Open to Public Inspection

A For the 2014 calendar year, or tax year beginning , 2014, and ending , 20

B Check if applicable
- ☐ Address change
- ☐ Name change
- ☐ Initial return
- ☐ Final return/terminated
- ☐ Amended return
- ☐ Application pending

C Name of organization Tax Foundation of Hawaii

Doing business as

Number and street (or P O box if mail is not delivered to street address) 126 Queen Street — Room/suite 304

City or town, state or province, country, and ZIP or foreign postal code Honolulu, Hawaii 96813

D Employer identification number 99-0080329

E Telephone number (808) 536-4587

G Gross receipts $ 194,558

F Name and address of principal officer Thomas Yamachika
126 Queen Street, #304, Honolulu, Hawaii 96813

H(a) Is this a group return for subordinates? ☐ Yes ☑ No

H(b) Are all subordinates included? ☐ Yes ☐ No
If "No," attach a list (see instructions)

I Tax-exempt status ☑ 501(c)(3) ☐ 501(c) ( ) ◄ (insert no) ☐ 4947(a)(1) or ☐ 527

J Website ▶ www.tfhawaii.org

H(c) Group exemption number ▶

K Form of organization ☑ Corporation ☐ Trust ☐ Association ☐ Other ▶ — L Year of formation 1953 — M State of legal domicile HI

Part I Summary

Activities & Governance

1 Briefly describe the organization's mission or most significant activities. Research and evaluate tax/spending policies of state/local governments, track state/local governments tax collections and spending and assess impact on local economy Train other nonprofit directors to understand intersection of economic and social well being so they can be active in civic arena

2 Check this box ▶ ☐ if the organization discontinued its operations or disposed of more than 25% of its net assets

3	Number of voting members of the governing body (Part VI, line 1a)	3	18
4	Number of independent voting members of the governing body (Part VI, line 1b)	4	17
5	Total number of individuals employed in calendar year 2014 (Part V, line 2a)	5	3
6	Total number of volunteers (estimate if necessary)	6	18
7a	Total unrelated business revenue from Part VIII, column (C), line 12	7a	-0-
b	Net unrelated business taxable income from Form 990-T, line 34	7b	-0-

			Prior Year	Current Year
Revenue	8	Contributions and grants (Part VIII, line 1h)	248,107	176,389
	9	Program service revenue (Part VIII, line 2g)	18,682	8,870
	10	Investment income (Part VIII, column (A), lines 3, 4, and 7d)	203	1,214
	11	Other revenue (Part VIII, column (A), lines 5, 6d, 8c, 9c, 10c, and 11e)		8,085
	12	Total revenue—add lines 8 through 11 (must equal Part VIII, column (A), line 12)	266,992	194,558
Expenses	13	Grants and similar amounts paid (Part IX, column (A), lines 1–3)		
	14	Benefits paid to or for members (Part IX, column (A), line 4)		
	15	Salaries, other compensation, employee benefits (Part IX, column (A), lines 5–10)	197,190	196,690
	16a	Professional fundraising fees (Part IX, column (A), line 11e)		
	b	Total fundraising expenses (Part IX, column (D), line 25) ▶		
	17	Other expenses (Part IX, column (A), lines 11a–11d, 11f–24e)	38,169	45,619
	18	Total expenses Add lines 13–17 (must equal Part IX, column (A), line 25)	235,359	242,309
	19	Revenue less expenses Subtract line 18 from line 12	31,633	(47,751)
Net Assets or Fund Balances			**Beginning of Current Year**	**End of Year**
	20	Total assets (Part X, line 16)	106,150	58,399
	21	Total liabilities (Part X, line 26)		
	22	Net assets or fund balances Subtract line 21 from line 20	106,150	58,399

Part II Signature Block

Under penalties of perjury, I declare that I have examined this return including accompanying schedules and statements and to the best of my knowledge and belief it is true, correct, and complete Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge

Sign Here

Thomas Yamachika — 5/4/2015
Signature of officer — Date

Thomas Yamachika, President
Type or print name and title

Paid Preparer Use Only

Print/Type preparer's name	Preparer's signature	Date	Check ☐ if self-employed	PTIN

Firm's name ▶ — Firm's EIN ▶

Firm's address ▶ — Phone no

May the IRS discuss this return with the preparer shown above? (see instructions) ☐ Yes ☐ No

G21

SCANNED JUN 08 2015

MAY 19 2015

EXHIBIT 1

8

Part III Statement of Program Service Accomplishments

Check if Schedule O contains a response or note to any line in this Part III . . . ☑

1 Briefly describe the organization's mission:

Our purpose is to research and evaluate tax and spending policies of state and local governments; track how state and local governments collect taxes and spend money and assess the impact these financial policies have on the economic climate in Hawaii Train other local nonprofit directors to enable them to understand the intersection of economic and social well being so they can be active in the civic arena

2 Did the organization undertake any significant program services during the year which were not listed on the prior Form 990 or 990-EZ? . . . ☑ Yes ☐ No

If "Yes," describe these new services on Schedule O

3 Did the organization cease conducting, or make significant changes in how it conducts, any program services? . . . ☐ Yes ☑ No

If "Yes," describe these changes on Schedule O

4 Describe the organization's program service accomplishments for each of its three largest program services, as measured by expenses. Section 501(c)(3) and 501(c)(4) organizations are required to report the amount of grants and allocations to others, the total expenses, and revenue, if any, for each program service reported

4a (Code) (Expenses $ 96,392 including grants of $ -0-) (Revenue $)

Summary and analysis of government finance legislation under consideration circulated to approximately 400 members, institutions, and public officials Conduct briefings during state legislative session to inform members and the general public of pending finance and tax proposals Collection and analysis of statistical information about state/local government finances disseminated to public statewide through weekly commentaries sent to members, media and made available to the general public on the Foundation's website

4b (Code) (Expenses $ 55,966 including grants of $ -0-) (Revenue $ 4,070)

Overhauled the Foundation's website and migrated to a new platform that allows it to be easily viewed on desktop computers, tablets, and smartphones; allows for more transparency for the Foundation with updated listings of Foundation policies, Board representation, and sharing of financial information and means of support; and provides easily searchable on-line records for use by members and the general public Conducted classes on relevant topics that were made available to the general public including lawmakers

4c (Code) (Expenses $ 6,759 including grants of $ -0-) (Revenue $ 4,800)

Provide training for nonprofit executive directors to enable them to understand the intersection of economic and social well being to enable them to be more active participants in the civic arena and to insure that public dollars are used efficiently

4d Other program services (Describe in Schedule O.)
(Expenses $ including grants of $) (Revenue $)

4e Total program service expenses ▶ 159,117

Part IV Checklist of Required Schedules

			Yes	No
1	Is the organization described in section 501(c)(3) or 4947(a)(1) (other than a private foundation)? *If "Yes," complete Schedule A*	1	✓	
2	Is the organization required to complete *Schedule B, Schedule of Contributors* (see instructions)?	2	✓	
3	Did the organization engage in direct or indirect political campaign activities on behalf of or in opposition to candidates for public office? *If "Yes," complete Schedule C, Part I*	3		✓
4	**Section 501(c)(3) organizations.** Did the organization engage in lobbying activities, or have a section 501(h) election in effect during the tax year? *If "Yes," complete Schedule C, Part II*	4		✓
5	Is the organization a section 501(c)(4), 501(c)(5), or 501(c)(6) organization that receives membership dues, assessments, or similar amounts as defined in Revenue Procedure 98-19? *If "Yes," complete Schedule C, Part III*	5		✓
6	Did the organization maintain any donor advised funds or any similar funds or accounts for which donors have the right to provide advice on the distribution or investment of amounts in such funds or accounts? *If "Yes," complete Schedule D, Part I*	6		✓
7	Did the organization receive or hold a conservation easement, including easements to preserve open space, the environment, historic land areas, or historic structures? *If "Yes," complete Schedule D, Part II*	7		✓
8	Did the organization maintain collections of works of art, historical treasures, or other similar assets? *If "Yes," complete Schedule D, Part III*	8		✓
9	Did the organization report an amount in Part X, line 21, for escrow or custodial account liability, serve as a custodian for amounts not listed in Part X; or provide credit counseling, debt management, credit repair, or debt negotiation services? *If "Yes," complete Schedule D, Part IV*	9		✓
10	Did the organization, directly or through a related organization, hold assets in temporarily restricted endowments, permanent endowments, or quasi-endowments? *If "Yes," complete Schedule D, Part V*	10		✓
11	If the organization's answer to any of the following questions is "Yes," then complete Schedule D, Parts VI, VII, VIII, IX, or X as applicable.			
a	Did the organization report an amount for land, buildings, and equipment in Part X, line 10? *If "Yes," complete Schedule D, Part VI*	11a		✓
b	Did the organization report an amount for investments—other securities in Part X, line 12 that is 5% or more of its total assets reported in Part X, line 16? *If "Yes," complete Schedule D, Part VII*	11b		✓
c	Did the organization report an amount for investments—program related in Part X, line 13 that is 5% or more of its total assets reported in Part X, line 16? *If "Yes," complete Schedule D, Part VIII*	11c		✓
d	Did the organization report an amount for other assets in Part X, line 15 that is 5% or more of its total assets reported in Part X, line 16? *If "Yes," complete Schedule D, Part IX*	11d		✓
e	Did the organization report an amount for other liabilities in Part X, line 25? *If "Yes," complete Schedule D, Part X*	11e		✓
f	Did the organization's separate or consolidated financial statements for the tax year include a footnote that addresses the organization's liability for uncertain tax positions under FIN 48 (ASC 740)? *If "Yes," complete Schedule D, Part X*	11f		✓
12 a	Did the organization obtain separate, independent audited financial statements for the tax year? *If "Yes," complete Schedule D, Parts XI and XII*	12a		✓
b	Was the organization included in consolidated, independent audited financial statements for the tax year? *If "Yes," and if the organization answered "No" to line 12a, then completing Schedule D, Parts XI and XII is optional*	12b		✓
13	Is the organization a school described in section 170(b)(1)(A)(ii)? *If "Yes," complete Schedule E*	13		✓
14 a	Did the organization maintain an office, employees, or agents outside of the United States?	14a		✓
b	Did the organization have aggregate revenues or expenses of more than $10,000 from grantmaking, fundraising, business, investment, and program service activities outside the United States, or aggregate foreign investments valued at $100,000 or more? *If "Yes," complete Schedule F, Parts I and IV.*	14b		✓
15	Did the organization report on Part IX, column (A), line 3, more than $5,000 of grants or other assistance to or for any foreign organization? *If "Yes," complete Schedule F, Parts II and IV*	15		✓
16	Did the organization report on Part IX, column (A), line 3, more than $5,000 of aggregate grants or other assistance to or for foreign individuals? *If "Yes," complete Schedule F, Parts III and IV.*	16		✓
17	Did the organization report a total of more than $15,000 of expenses for professional fundraising services on Part IX, column (A), lines 6 and 11e? *If "Yes," complete Schedule G, Part I* (see instructions)	17		✓
18	Did the organization report more than $15,000 total of fundraising event gross income and contributions on Part VIII, lines 1c and 8a? *If "Yes," complete Schedule G, Part II*	18		✓
19	Did the organization report more than $15,000 of gross income from gaming activities on Part VIII, line 9a? *If "Yes," complete Schedule G, Part III*	19		✓
20 a	Did the organization operate one or more hospital facilities? *If "Yes," complete Schedule H*	20a		✓
b	If "Yes" to line 20a, did the organization attach a copy of its audited financial statements to this return?	20b		

Part IV Checklist of Required Schedules *(continued)*

			Yes	No
21	Did the organization report more than $5,000 of grants or other assistance to any domestic organization or domestic government on Part IX, column (A), line 1? *If "Yes," complete Schedule I, Parts I and II*	21		✓
22	Did the organization report more than $5,000 of grants or other assistance to or for domestic individuals on Part IX, column (A), line 2? *If "Yes," complete Schedule I, Parts I and III*	22		✓
23	Did the organization answer "Yes" to Part VII, Section A, line 3, 4, or 5 about compensation of the organization's current and former officers, directors, trustees, key employees, and highest compensated employees? *If "Yes," complete Schedule J*	23		✓
24a	Did the organization have a tax-exempt bond issue with an outstanding principal amount of more than $100,000 as of the last day of the year, that was issued after December 31, 2002? *If "Yes," answer lines 24b through 24d and complete Schedule K If "No," go to line 25a*	24a		✓
b	Did the organization invest any proceeds of tax-exempt bonds beyond a temporary period exception?	24b		
c	Did the organization maintain an escrow account other than a refunding escrow at any time during the year to defease any tax-exempt bonds?	24c		
d	Did the organization act as an "on behalf of" issuer for bonds outstanding at any time during the year?	24d		
25a	**Section 501(c)(3), 501(c)(4), and 501(c)(29) organizations.** Did the organization engage in an excess benefit transaction with a disqualified person during the year? *If "Yes," complete Schedule L, Part I*	25a		✓
b	Is the organization aware that it engaged in an excess benefit transaction with a disqualified person in a prior year, and that the transaction has not been reported on any of the organization's prior Forms 990 or 990-EZ? *If "Yes," complete Schedule L, Part I*	25b		✓
26	Did the organization report any amount on Part X, line 5, 6, or 22 for receivables from or payables to any current or former officers, directors, trustees, key employees, highest compensated employees, or disqualified persons? *If "Yes," complete Schedule L, Part II*	26		✓
27	Did the organization provide a grant or other assistance to an officer, director, trustee, key employee, substantial contributor or employee thereof, a grant selection committee member, or to a 35% controlled entity or family member of any of these persons? *If "Yes," complete Schedule L, Part III*	27		✓
28	Was the organization a party to a business transaction with one of the following parties (see Schedule L, Part IV instructions for applicable filing thresholds, conditions, and exceptions).			
a	A current or former officer, director, trustee, or key employee? *If "Yes," complete Schedule L, Part IV*	28a		✓
b	A family member of a current or former officer, director, trustee, or key employee? *If "Yes," complete Schedule L, Part IV*	28b		✓
c	An entity of which a current or former officer, director, trustee, or key employee (or a family member thereof) was an officer, director, trustee, or direct or indirect owner? *If "Yes," complete Schedule L, Part IV*	28c		✓
29	Did the organization receive more than $25,000 in non-cash contributions? *If "Yes," complete Schedule M*	29		✓
30	Did the organization receive contributions of art, historical treasures, or other similar assets, or qualified conservation contributions? *If "Yes," complete Schedule M*	30		✓
31	Did the organization liquidate, terminate, or dissolve and cease operations? *If "Yes," complete Schedule N, Part I*	31		✓
32	Did the organization sell, exchange, dispose of, or transfer more than 25% of its net assets? *If "Yes," complete Schedule N, Part II*	32		✓
33	Did the organization own 100% of an entity disregarded as separate from the organization under Regulations sections 301.7701-2 and 301 7701-3? *If "Yes," complete Schedule R, Part I*	33		✓
34	Was the organization related to any tax-exempt or taxable entity? *If "Yes," complete Schedule R, Part II, III, or IV, and Part V, line 1*	34		✓
35a	Did the organization have a controlled entity within the meaning of section 512(b)(13)?	35a		✓
b	If "Yes" to line 35a, did the organization receive any payment from or engage in any transaction with a controlled entity within the meaning of section 512(b)(13)? *If "Yes," complete Schedule R, Part V, line 2*	35b	N/	A
36	**Section 501(c)(3) organizations.** Did the organization make any transfers to an exempt non-charitable related organization? *If "Yes," complete Schedule R, Part V, line 2*	36		✓
37	Did the organization conduct more than 5% of its activities through an entity that is not a related organization and that is treated as a partnership for federal income tax purposes? *If "Yes," complete Schedule R, Part VI*	37		✓
38	Did the organization complete Schedule O and provide explanations in Schedule O for Part VI, lines 11b and 19? **Note.** All Form 990 filers are required to complete Schedule O	38	✓	

Part V Statements Regarding Other IRS Filings and Tax Compliance

Check if Schedule O contains a response or note to any line in this Part V . . . ☐

					Yes	No
1a	Enter the number reported in Box 3 of Form 1096. Enter -0- if not applicable	1a	-0-			
b	Enter the number of Forms W-2G included in line 1a Enter -0- if not applicable	1b	-0-			
c	Did the organization comply with backup withholding rules for reportable payments to vendors and reportable gaming (gambling) winnings to prize winners?			1c		
2a	Enter the number of employees reported on Form W-3, Transmittal of Wage and Tax Statements, filed for the calendar year ending with or within the year covered by this return	2a	3			
b	If at least one is reported on line 2a, did the organization file all required federal employment tax returns? **Note.** If the sum of lines 1a and 2a is greater than 250, you may be required to *e-file* (see instructions)			2b	✓	
3a	Did the organization have unrelated business gross income of $1,000 or more during the year?			3a		✓
b	If "Yes," has it filed a Form 990-T for this year? *If "No" to line 3b, provide an explanation in Schedule O*			3b		
4a	At any time during the calendar year, did the organization have an interest in, or a signature or other authority over, a financial account in a foreign country (such as a bank account, securities account, or other financial account)?			4a		✓
b	If "Yes," enter the name of the foreign country ▶ See instructions for filing requirements for FinCEN Form 114, Report of Foreign Bank and Financial Accounts (FBAR)					
5a	Was the organization a party to a prohibited tax shelter transaction at any time during the tax year?			5a		✓
b	Did any taxable party notify the organization that it was or is a party to a prohibited tax shelter transaction?			5b		✓
c	If "Yes" to line 5a or 5b, did the organization file Form 8886-T?			5c		
6a	Does the organization have annual gross receipts that are normally greater than $100,000, and did the organization solicit any contributions that were not tax deductible as charitable contributions?			6a		✓
b	If "Yes," did the organization include with every solicitation an express statement that such contributions or gifts were not tax deductible?			6b		
7	**Organizations that may receive deductible contributions under section 170(c).**					
a	Did the organization receive a payment in excess of $75 made partly as a contribution and partly for goods and services provided to the payor?			7a	✓	
b	If "Yes," did the organization notify the donor of the value of the goods or services provided?			7b	✓	
c	Did the organization sell, exchange, or otherwise dispose of tangible personal property for which it was required to file Form 8282?			7c		✓
d	If "Yes," indicate the number of Forms 8282 filed during the year	7d				
e	Did the organization receive any funds, directly or indirectly, to pay premiums on a personal benefit contract?			7e		✓
f	Did the organization, during the year, pay premiums, directly or indirectly, on a personal benefit contract?			7f		✓
g	If the organization received a contribution of qualified intellectual property, did the organization file Form 8899 as required?			7g	N/A	
h	If the organization received a contribution of cars, boats, airplanes, or other vehicles, did the organization file a Form 1098-C?			7h	N/A	
8	**Sponsoring organizations maintaining donor advised funds.** Did a donor advised fund maintained by the sponsoring organization have excess business holdings at any time during the year?			8	N/A	
9	**Sponsoring organizations maintaining donor advised funds.**					
a	Did the sponsoring organization make any taxable distributions under section 4966?			9a	N/A	
b	Did the sponsoring organization make a distribution to a donor, donor advisor, or related person?			9b	N/A	
10	**Section 501(c)(7) organizations.** Enter					
a	Initiation fees and capital contributions included on Part VIII, line 12	10a	N/A			
b	Gross receipts, included on Form 990, Part VIII, line 12, for public use of club facilities	10b	N/A			
11	**Section 501(c)(12) organizations.** Enter:					
a	Gross income from members or shareholders	11a	N/A			
b	Gross income from other sources (Do not net amounts due or paid to other sources against amounts due or received from them)	11b	N/A			
12a	**Section 4947(a)(1) non-exempt charitable trusts.** Is the organization filing Form 990 in lieu of Form 1041?			12a	N/A	
b	If "Yes," enter the amount of tax-exempt interest received or accrued during the year	12b				
13	**Section 501(c)(29) qualified nonprofit health insurance issuers.**					
a	Is the organization licensed to issue qualified health plans in more than one state? **Note.** See the instructions for additional information the organization must report on Schedule O			13a	N/A	
b	Enter the amount of reserves the organization is required to maintain by the states in which the organization is licensed to issue qualified health plans	13b	N/A			
c	Enter the amount of reserves on hand	13c	N/A			
14a	Did the organization receive any payments for indoor tanning services during the tax year?			14a		✓
b	If "Yes," has it filed a Form 720 to report these payments? *If "No," provide an explanation in Schedule O*			14b		

Part VI **Governance, Management, and Disclosure** *For each "Yes" response to lines 2 through 7b below, and for a "No" response to line 8a, 8b, or 10b below, describe the circumstances, processes, or changes in Schedule O. See instructions.*
Check if Schedule O contains a response or note to any line in this Part VI . . . ☑

Section A. Governing Body and Management

			Yes	No
1a	Enter the number of voting members of the governing body at the end of the tax year . . **1a** 18 If there are material differences in voting rights among members of the governing body, or if the governing body delegated broad authority to an executive committee or similar committee, explain in Schedule O			
b	Enter the number of voting members included in line 1a, above, who are independent **1b** 17			
2	Did any officer, director, trustee, or key employee have a family relationship or a business relationship with any other officer, director, trustee, or key employee?	2		✓
3	Did the organization delegate control over management duties customarily performed by or under the direct supervision of officers, directors, or trustees, or key employees to a management company or other person?	3		✓
4	Did the organization make any significant changes to its governing documents since the prior Form 990 was filed?	4		✓
5	Did the organization become aware during the year of a significant diversion of the organization's assets?	5		✓
6	Did the organization have members or stockholders?	6		✓
7a	Did the organization have members, stockholders, or other persons who had the power to elect or appoint one or more members of the governing body?	7a		✓
b	Are any governance decisions of the organization reserved to (or subject to approval by) members, stockholders, or persons other than the governing body?	7b		✓
8	Did the organization contemporaneously document the meetings held or written actions undertaken during the year by the following			
a	The governing body?	8a	✓	
b	Each committee with authority to act on behalf of the governing body?	8b	✓	
9	Is there any officer, director, trustee, or key employee listed in Part VII, Section A, who cannot be reached at the organization's mailing address? *If "Yes," provide the names and addresses in Schedule O*	9		✓

Section B. Policies *(This Section B requests information about policies not required by the Internal Revenue Code.)*

			Yes	No
10a	Did the organization have local chapters, branches, or affiliates?	10a		✓
b	If "Yes," did the organization have written policies and procedures governing the activities of such chapters, affiliates, and branches to ensure their operations are consistent with the organization's exempt purposes?	10b		
11a	Has the organization provided a complete copy of this Form 990 to all members of its governing body before filing the form?	11a	✓	
b	Describe in Schedule O the process, if any, used by the organization to review this Form 990			
12a	Did the organization have a written conflict of interest policy? *If "No," go to line 13*	12a	✓	
b	Were officers, directors, or trustees, and key employees required to disclose annually interests that could give rise to conflicts?	12b	✓	
c	Did the organization regularly and consistently monitor and enforce compliance with the policy? *If "Yes," describe in Schedule O how this was done*	12c	✓	
13	Did the organization have a written whistleblower policy?	13	✓	
14	Did the organization have a written document retention and destruction policy?	14	✓	
15	Did the process for determining compensation of the following persons include a review and approval by independent persons, comparability data, and contemporaneous substantiation of the deliberation and decision?			
a	The organization's CEO, Executive Director, or top management official	15a	✓	
b	Other officers or key employees of the organization If "Yes" to line 15a or 15b, describe the process in Schedule O (see instructions).	15b		✓
16a	Did the organization invest in, contribute assets to, or participate in a joint venture or similar arrangement with a taxable entity during the year?	16a		✓
b	If "Yes," did the organization follow a written policy or procedure requiring the organization to evaluate its participation in joint venture arrangements under applicable federal tax law, and take steps to safeguard the organization's exempt status with respect to such arrangements?	16b		

Section C. Disclosure

17 List the states with which a copy of this Form 990 is required to be filed ▶ Hawaii

18 Section 6104 requires an organization to make its Forms 1023 (or 1024 if applicable), 990, and 990-T (Section 501(c)(3)s only) available for public inspection. Indicate how you made these available. Check all that apply.

☑ Own website ☑ Another's website ☑ Upon request ☐ Other *(explain in Schedule O)*

19 Describe in Schedule O whether (and if so, how) the organization made its governing documents, conflict of interest policy, and financial statements available to the public during the tax year

20 State the name, address, and telephone number of the person who possesses the organization's books and records. ▶
Tax Foundation of Hawaii - 126 Queen Street, #304, Honolulu, Hawaii 96813 - (808) 536-4587

Part VII Compensation of Officers, Directors, Trustees, Key Employees, Highest Compensated Employees, and Independent Contractors

Check if Schedule O contains a response or note to any line in this Part VII . . . . ☐

Section A. Officers, Directors, Trustees, Key Employees, and Highest Compensated Employees

1a Complete this table for all persons required to be listed. Report compensation for the calendar year ending with or within the organization's tax year.

- List all of the organization's **current** officers, directors, trustees (whether individuals or organizations), regardless of amount of compensation Enter -0- in columns (D), (E), and (F) if no compensation was paid.
- List all of the organization's **current** key employees, if any See instructions for definition of "key employee."
- List the organization's five **current** highest compensated employees (other than an officer, director, trustee, or key employee) who received reportable compensation (Box 5 of Form W-2 and/or Box 7 of Form 1099-MISC) of more than $100,000 from the organization and any related organizations.
- List all of the organization's **former** officers, key employees, and highest compensated employees who received more than $100,000 of reportable compensation from the organization and any related organizations
- List all of the organization's **former directors or trustees** that received, in the capacity as a former director or trustee of the organization, more than $10,000 of reportable compensation from the organization and any related organizations

List persons in the following order: individual trustees or directors, institutional trustees; officers, key employees, highest compensated employees; and former such persons.

☐ Check this box if neither the organization nor any related organization compensated any current officer, director, or trustee

(A) Name and Title	(B) Average hours per week (list any hours for related organizations below dotted line)	(C) Position (do not check more than one box, unless person is both an officer and a director/trustee): Individual trustee or director	Institutional trustee	Officer	Key employee	Highest compensated employee	Former	(D) Reportable compensation from the organization (W-2/1099-MISC)	(E) Reportable compensation from related organizations (W-2/1099-MISC)	(F) Estimated amount of other compensation from the organization and related organizations
(1) Richard Anzai Director	-1 hour	✓						-0-	-0-	-0-
(2) Jay Chen Director	-1 hour	✓						-0-	-0-	-0-
(3) Helen Chang Director	-1 hour	✓						-0-	-0-	-0-
(4) Brent Flygar Director	-1 hour	✓						-0-	-0-	-0-
(5) Scott W Hayashi Director	-1 hour	✓						-0-	-0-	-0-
(6) Ronald I Heller Director	-1 hour	✓						-0-	-0-	-0-
(7) Laurie Kawasaki Director	-1 hour	✓						-0-	-0-	-0-
(8) Ross Kohara Director	-1 hour	✓						-0-	-0-	-0-
(9) Deneen Nakashima Director	-1 hour	✓						-0-	-0-	-0-
(10) Cyrus Oda Director	-1 hour	✓						-0-	-0-	-0-
(11) Manoj Samaranayake Director	-1 hour	✓						-0-	-0-	-0-
(12) Glenn Shigetomi Director	-1 hour	✓						-0-	-0-	-0-
(13) Kieran Yap Director	-1 hour	✓						-0-	-0-	-0-
(14) Michael J O'Malley Director	-1 hour	✓		✓				-0-	-0-	-0-

Part VII **Section A. Officers, Directors, Trustees, Key Employees, and Highest Compensated Employees** *(continued)*

(A) Name and title	(B) Average hours per week (list any hours for related organizations below dotted line)	(C) Position: Individual trustee or director	Institutional trustee	Officer	Key employee	Highest compensated employee	Former	(D) Reportable compensation from the organization (W-2/1099-MISC)	(E) Reportable compensation from related organizations (W-2/1099-MISC)	(F) Estimated amount of other compensation from the organization and related organizations
(15) Chris Mashiba Vice Chair	-1 hour	✓		✓				-0-	-0-	-0-
(16) Denice Goto Director	-1 hour	✓		✓				-0-	-0-	-0-
(17) Lon K Okada Director	-1 hour	✓		✓				-0-	-0-	-0-
(18) Thomas Yamachika President/Secretary	38 hours	✓			✓			73,893	-0-	-0-
(19) Justina Desuacido Vice President/Treasurer	38 hours				✓			48,265	-0-	-0-
(20)										
(21)										
(22)										
(23)										
(24)										
(25)										
1b Sub-total ▶								122,158	-0-	-0-
c Total from continuation sheets to Part VII, Section A ▶								-0-	-0-	-0-
d Total (add lines 1b and 1c) ▶								122,158	-0-	-0-

2 Total number of individuals (including but not limited to those listed above) who received more than $100,000 of reportable compensation from the organization ▶

		Yes	No
3 Did the organization list any **former** officer, director, or trustee, key employee, or highest compensated employee on line 1a? *If "Yes," complete Schedule J for such individual*	3		✓
4 For any individual listed on line 1a, is the sum of reportable compensation and other compensation from the organization and related organizations greater than $150,000? *If "Yes," complete Schedule J for such individual*	4		✓
5 Did any person listed on line 1a receive or accrue compensation from any unrelated organization or individual for services rendered to the organization? *If "Yes," complete Schedule J for such person*	5		✓

Section B. Independent Contractors

1 Complete this table for your five highest compensated independent contractors that received more than $100,000 of compensation from the organization. Report compensation for the calendar year ending with or within the organization's tax year

(A) Name and business address	(B) Description of services	(C) Compensation
N/A		

2 Total number of independent contractors (including but not limited to those listed above) who received more than $100,000 of compensation from the organization ▶ -0-

Part VIII Statement of Revenue

Check if Schedule O contains a response or note to any line in this Part VIII . . . . ☐

				(A) Total revenue	(B) Related or exempt function revenue	(C) Unrelated business revenue	(D) Revenue excluded from tax under sections 512-514
Contributions, Gifts, Grants and Other Similar Amounts	1a Federated campaigns	1a					
	b Membership dues	1b	167,168				
	c Fundraising events	1c					
	d Related organizations	1d					
	e Government grants (contributions)	1e					
	f All other contributions, gifts, grants, and similar amounts not included above	1f	9,221				
	g Noncash contributions included in lines 1a-1f $						
	h **Total.** Add lines 1a–1f ▶			176,389			
Program Service Revenue		Business Code					
	2a Nonprofit Training	611430		4,800	4,800		
	b Educational Presentations	611430		4,070	4,070		
	c						
	d						
	e						
	f All other program service revenue						
	g **Total.** Add lines 2a–2f ▶			8,870			
Other Revenue	3 Investment income (including dividends, interest, and other similar amounts) ▶			1,214			1,214
	4 Income from investment of tax-exempt bond proceeds ▶						
	5 Royalties ▶						
		(i) Real	(ii) Personal				
	6a Gross rents						
	b Less rental expenses						
	c Rental income or (loss)						
	d Net rental income or (loss) ▶						
	7a Gross amount from sales of assets other than inventory	(i) Securities	(ii) Other				
	b Less cost or other basis and sales expenses						
	c Gain or (loss)						
	d Net gain or (loss) ▶						
	8a Gross income from fundraising events (not including $ of contributions reported on line 1c). See Part IV, line 18	a					
	b Less direct expenses	b					
	c Net income or (loss) from fundraising events ▶						
	9a Gross income from gaming activities. See Part IV, line 19	a					
	b Less direct expenses	b					
	c Net income or (loss) from gaming activities ▶						
	10a Gross sales of inventory, less returns and allowances	a					
	b Less cost of goods sold	b					
	c Net income or (loss) from sales of inventory ▶						
	Miscellaneous Revenue	Business Code					
	11a Membership Luncheon	611430		8,085	8,085		
	b						
	c						
	d All other revenue						
	e **Total.** Add lines 11a–11d ▶			8,085			
	12 **Total revenue.** See instructions. ▶			194,558	16,955		1,214

Part IX Statement of Functional Expenses

Section 501(c)(3) and 501(c)(4) organizations must complete all columns. All other organizations must complete column (A).

Check if Schedule O contains a response or note to any line in this Part IX . . . ☐

Do not include amounts reported on lines 6b, 7b, 8b, 9b, and 10b of Part VIII.	(A) Total expenses	(B) Program service expenses	(C) Management and general expenses	(D) Fundraising expenses
1 Grants and other assistance to domestic organizations and domestic governments. See Part IV, line 21				
2 Grants and other assistance to domestic individuals. See Part IV, line 22				
3 Grants and other assistance to foreign organizations, foreign governments, and foreign individuals. See Part IV, lines 15 and 16				
4 Benefits paid to or for members				
5 Compensation of current officers, directors, trustees, and key employees	122,158	72,133	50,025	
6 Compensation not included above, to disqualified persons (as defined under section 4958(f)(1)) and persons described in section 4958(c)(3)(B)				
7 Other salaries and wages	45,864	39,139	6,725	
8 Pension plan accruals and contributions (include section 401(k) and 403(b) employer contributions)	8,459	5,769	2,690	
9 Other employee benefits	7,169	4,416	2,753	
10 Payroll taxes	13,040	8,585	4,455	
11 Fees for services (non-employees)				
a Management				
b Legal				
c Accounting				
d Lobbying				
e Professional fundraising services See Part IV, line 17				
f Investment management fees				
g Other. (If line 11g amount exceeds 10% of line 25, column (A) amount, list line 11g expenses on Schedule O.)				
12 Advertising and promotion				
13 Office expenses	1,472	989	483	
14 Information technology				
15 Royalties				
16 Occupancy	28,403	19,087	9,316	
17 Travel	834	834	--	
18 Payments of travel or entertainment expenses for any federal, state, or local public officials				
19 Conferences, conventions, and meetings	1,735	--	1,735	
20 Interest				
21 Payments to affiliates				
22 Depreciation, depletion, and amortization				
23 Insurance	1,849	1,849	--	
24 Other expenses. Itemize expenses not covered above (List miscellaneous expenses in line 24e. If line 24e amount exceeds 10% of line 25, column (A) amount, list line 24e expenses on Schedule O.)				
a Equipment & Maintenance	2,400	2,400	--	
b Meals, Lodging & Entertainment	2,166	2,166	--	
c Dues	2,959	--	2,959	
d Website Development	686	686	--	
e All other expenses	3,115	1,064	2,051	
25 **Total functional expenses.** Add lines 1 through 24e	242,309	159,117	83,192	
26 **Joint costs.** Complete this line only if the organization reported in column (B) joint costs from a combined educational campaign and fundraising solicitation. Check here ▶ ☐ if following SOP 98-2 (ASC 958-720)				

Part X Balance Sheet

Check if Schedule O contains a response or note to any line in this Part X . . . ☐

			(A) Beginning of year		(B) End of year
Assets	1	Cash—non-interest-bearing	50	1	50
	2	Savings and temporary cash investments	92,495	2	44,744
	3	Pledges and grants receivable, net		3	
	4	Accounts receivable, net		4	
	5	Loans and other receivables from current and former officers, directors, trustees, key employees, and highest compensated employees Complete Part II of Schedule L		5	
	6	Loans and other receivables from other disqualified persons (as defined under section 4958(f)(1)), persons described in section 4958(c)(3)(B), and contributing employers and sponsoring organizations of section 501(c)(9) voluntary employees' beneficiary organizations (see instructions) Complete Part II of Schedule L		6	
	7	Notes and loans receivable, net		7	
	8	Inventories for sale or use		8	
	9	Prepaid expenses and deferred charges		9	
	10a	Land, buildings, and equipment. cost or other basis. Complete Part VI of Schedule D — 10a			
	b	Less accumulated depreciation — 10b		10c	
	11	Investments—publicly traded securities	13,605	11	13,605
	12	Investments—other securities See Part IV, line 11		12	
	13	Investments—program-related See Part IV, line 11		13	
	14	Intangible assets		14	
	15	Other assets See Part IV, line 11		15	
	16	**Total assets.** Add lines 1 through 15 (must equal line 34)	106,150	16	58,399
Liabilities	17	Accounts payable and accrued expenses		17	
	18	Grants payable		18	
	19	Deferred revenue		19	
	20	Tax-exempt bond liabilities		20	
	21	Escrow or custodial account liability. Complete Part IV of Schedule D		21	
	22	Loans and other payables to current and former officers, directors, trustees, key employees, highest compensated employees, and disqualified persons. Complete Part II of Schedule L		22	
	23	Secured mortgages and notes payable to unrelated third parties		23	
	24	Unsecured notes and loans payable to unrelated third parties		24	
	25	Other liabilities (including federal income tax, payables to related third parties, and other liabilities not included on lines 17-24). Complete Part X of Schedule D		25	
	26	**Total liabilities.** Add lines 17 through 25	-0-	26	-0-
Net Assets or Fund Balances		**Organizations that follow SFAS 117 (ASC 958), check here ▶ ☑ and complete lines 27 through 29, and lines 33 and 34.**			
	27	Unrestricted net assets	99,833	27	54,041
	28	Temporarily restricted net assets	6,317	28	4,358
	29	Permanently restricted net assets		29	
		Organizations that do not follow SFAS 117 (ASC 958), check here ▶ ☐ and complete lines 30 through 34.			
	30	Capital stock or trust principal, or current funds		30	
	31	Paid-in or capital surplus, or land, building, or equipment fund		31	
	32	Retained earnings, endowment, accumulated income, or other funds		32	
	33	Total net assets or fund balances	106,150	33	58,399
	34	Total liabilities and net assets/fund balances	106,150	34	58,399

Part XI Reconciliation of Net Assets

Check if Schedule O contains a response or note to any line in this Part XI . . . ☐

1	Total revenue (must equal Part VIII, column (A), line 12)	1	194,558
2	Total expenses (must equal Part IX, column (A), line 25)	2	242,309
3	Revenue less expenses Subtract line 2 from line 1	3	(47,751)
4	Net assets or fund balances at beginning of year (must equal Part X, line 33, column (A))	4	106,150
5	Net unrealized gains (losses) on investments	5	-0-
6	Donated services and use of facilities	6	-0-
7	Investment expenses	7	-0-
8	Prior period adjustments	8	-0-
9	Other changes in net assets or fund balances (explain in Schedule O)	9	-0-
10	Net assets or fund balances at end of year. Combine lines 3 through 9 (must equal Part X, line 33, column (B))	10	58,399

Part XII Financial Statements and Reporting

Check if Schedule O contains a response or note to any line in this Part XII . . . ☐

			Yes	No
1	Accounting method used to prepare the Form 990· ☑ Cash ☐ Accrual ☐ Other ______ If the organization changed its method of accounting from a prior year or checked "Other," explain in Schedule O			
2a	Were the organization's financial statements compiled or reviewed by an independent accountant? If "Yes," check a box below to indicate whether the financial statements for the year were compiled or reviewed on a separate basis, consolidated basis, or both ☑ Separate basis ☐ Consolidated basis ☐ Both consolidated and separate basis	2a	✓	
b	Were the organization's financial statements audited by an independent accountant? If "Yes," check a box below to indicate whether the financial statements for the year were audited on a separate basis, consolidated basis, or both ☐ Separate basis ☐ Consolidated basis ☐ Both consolidated and separate basis	2b		✓
c	If "Yes" to line 2a or 2b, does the organization have a committee that assumes responsibility for oversight of the audit, review, or compilation of its financial statements and selection of an independent accountant? If the organization changed either its oversight process or selection process during the tax year, explain in Schedule O.	2c		✓
3a	As a result of a federal award, was the organization required to undergo an audit or audits as set forth in the Single Audit Act and OMB Circular A-133?	3a		✓
b	If "Yes," did the organization undergo the required audit or audits? If the organization did not undergo the required audit or audits, explain why in Schedule O and describe any steps taken to undergo such audits.	3b		

SCHEDULE A
(Form 990 or 990-EZ)

Department of the Treasury
Internal Revenue Service

Public Charity Status and Public Support

Complete if the organization is a section 501(c)(3) organization or a section 4947(a)(1) nonexempt charitable trust.

▶ Attach to Form 990 or Form 990-EZ.

▶ Information about Schedule A (Form 990 or 990-EZ) and its instructions is at *www.irs.gov/form990.*

OMB No 1545-0047

2014

Open to Public Inspection

Name of the organization: Tax Foundation of Hawaii

Employer identification number: 99-0080329

Part I Reason for Public Charity Status (All organizations must complete this part.) See instructions.

The organization is not a private foundation because it is (For lines 1 through 11, check only one box.)

1 ☐ A church, convention of churches, or association of churches described in **section 170(b)(1)(A)(i).**

2 ☐ A school described in **section 170(b)(1)(A)(ii).** (Attach Schedule E)

3 ☐ A hospital or a cooperative hospital service organization described in **section 170(b)(1)(A)(iii).**

4 ☐ A medical research organization operated in conjunction with a hospital described in **section 170(b)(1)(A)(iii).** Enter the hospital's name, city, and state·

5 ☐ An organization operated for the benefit of a college or university owned or operated by a governmental unit described in **section 170(b)(1)(A)(iv).** (Complete Part II)

6 ☐ A federal, state, or local government or governmental unit described in **section 170(b)(1)(A)(v).**

7 ☐ An organization that normally receives a substantial part of its support from a governmental unit or from the general public described in **section 170(b)(1)(A)(vi).** (Complete Part II)

8 ☐ A community trust described in **section 170(b)(1)(A)(vi).** (Complete Part II.)

9 ☑ An organization that normally receives. (1) more than 33⅓% of its support from contributions, membership fees, and gross receipts from activities related to its exempt functions—subject to certain exceptions, and (2) no more than 33⅓% of its support from gross investment income and unrelated business taxable income (less section 511 tax) from businesses acquired by the organization after June 30, 1975. See **section 509(a)(2).** (Complete Part III.)

10 ☐ An organization organized and operated exclusively to test for public safety See **section 509(a)(4).**

11 ☐ An organization organized and operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more publicly supported organizations described in **section 509(a)(1)** or **section 509(a)(2).** See **section 509(a)(3).** Check the box in lines 11a through 11d that describes the type of supporting organization and complete lines 11e, 11f, and 11g.

a ☐ **Type I.** A supporting organization operated, supervised, or controlled by its supported organization(s), typically by giving the supported organization(s) the power to regularly appoint or elect a majority of the directors or trustees of the supporting organization. **You must complete Part IV, Sections A and B**

b ☐ **Type II** A supporting organization supervised or controlled in connection with its supported organization(s), by having control or management of the supporting organization vested in the same persons that control or manage the supported organization(s) **You must complete Part IV, Sections A and C**

c ☐ **Type III functionally integrated.** A supporting organization operated in connection with, and functionally integrated with, its supported organization(s) (see instructions) **You must complete Part IV, Sections A, D, and E**

d ☐ **Type III non-functionally integrated** A supporting organization operated in connection with its supported organization(s) that is not functionally integrated. The organization generally must satisfy a distribution requirement and an attentiveness requirement (see instructions). **You must complete Part IV, Sections A and D, and Part V**

e ☐ Check this box if the organization received a written determination from the IRS that it is a Type I, Type II, Type III functionally integrated, or Type III non-functionally integrated supporting organization

f Enter the number of supported organizations . . . .

g Provide the following information about the supported organization(s).

	(i) Name of supported organization	(ii) EIN	(iii) Type of organization (described on lines 1–9 above or IRC section (see instructions))	(iv) Is the organization listed in your governing document? Yes	No	(v) Amount of monetary support (see instructions)	(vi) Amount of other support (see instructions)
(A)							
(B)							
(C)							
(D)							
(E)							
Total							

Part II **Support Schedule for Organizations Described in Sections 170(b)(1)(A)(iv) and 170(b)(1)(A)(vi)**
(Complete only if you checked the box on line 5, 7, or 8 of Part I or if the organization failed to qualify under Part III. If the organization fails to qualify under the tests listed below, please complete Part III.)

Section A. Public Support

Calendar year (or fiscal year beginning in) ▶	(a) 2010	(b) 2011	(c) 2012	(d) 2013	(e) 2014	(f) Total
1 Gifts, grants, contributions, and membership fees received (Do not include any "unusual grants")						
2 Tax revenues levied for the organization's benefit and either paid to or expended on its behalf						
3 The value of services or facilities furnished by a governmental unit to the organization without charge						
4 **Total.** Add lines 1 through 3						
5 The portion of total contributions by each person (other than a governmental unit or publicly supported organization) included on line 1 that exceeds 2% of the amount shown on line 11, column (f)						
6 **Public support.** Subtract line 5 from line 4.						

Section B. Total Support

Calendar year (or fiscal year beginning in) ▶	(a) 2010	(b) 2011	(c) 2012	(d) 2013	(e) 2014	(f) Total
7 Amounts from line 4						
8 Gross income from interest, dividends, payments received on securities loans, rents, royalties and income from similar sources						
9 Net income from unrelated business activities, whether or not the business is regularly carried on						
10 Other income. Do not include gain or loss from the sale of capital assets (Explain in Part VI)						
11 **Total support.** Add lines 7 through 10						

12 Gross receipts from related activities, etc (see instructions) 12

13 **First five years.** If the Form 990 is for the organization's first, second, third, fourth, or fifth tax year as a section 501(c)(3) organization, check this box and **stop here** ▶ ☐

Section C. Computation of Public Support Percentage

14 Public support percentage for 2014 (line 6, column (f) divided by line 11, column (f)) 14 %

15 Public support percentage from 2013 Schedule A, Part II, line 14 15 %

16a **33⅓% support test—2014.** If the organization did not check the box on line 13, and line 14 is 33⅓% or more, check this box and **stop here.** The organization qualifies as a publicly supported organization ▶ ☐

b **33⅓% support test—2013.** If the organization did not check a box on line 13 or 16a, and line 15 is 33⅓% or more, check this box and **stop here.** The organization qualifies as a publicly supported organization ▶ ☐

17a **10%-facts-and-circumstances test—2014.** If the organization did not check a box on line 13, 16a, or 16b, and line 14 is 10% or more, and if the organization meets the "facts-and-circumstances" test, check this box and **stop here.** Explain in Part VI how the organization meets the "facts-and-circumstances" test The organization qualifies as a publicly supported organization ▶ ☐

b **10%-facts-and-circumstances test—2013.** If the organization did not check a box on line 13, 16a, 16b, or 17a, and line 15 is 10% or more, and if the organization meets the "facts-and-circumstances" test, check this box and **stop here** Explain in Part VI how the organization meets the "facts-and-circumstances" test. The organization qualifies as a publicly supported organization ▶ ☐

18 **Private foundation.** If the organization did not check a box on line 13, 16a, 16b, 17a, or 17b, check this box and see instructions ▶ ☐

Part III Support Schedule for Organizations Described in Section 509(a)(2)
(Complete only if you checked the box on line 9 of Part I or if the organization failed to qualify under Part II. If the organization fails to qualify under the tests listed below, please complete Part II.)

Section A. Public Support

Calendar year (or fiscal year beginning in) ▶	(a) 2010	(b) 2011	(c) 2012	(d) 2013	(e) 2014	(f) Total
1 Gifts, grants, contributions, and membership fees received. (Do not include any "unusual grants.")	223,662	217,841	297,094	248,107	176,389	1,163,093
2 Gross receipts from admissions, merchandise sold or services performed, or facilities furnished in any activity that is related to the organization's tax-exempt purpose	3,520	3,510	3,910	18,682	16,955	46,577
3 Gross receipts from activities that are not an unrelated trade or business under section 513						
4 Tax revenues levied for the organization's benefit and either paid to or expended on its behalf						
5 The value of services or facilities furnished by a governmental unit to the organization without charge						
6 **Total.** Add lines 1 through 5	227,182	221,351	301,004	266,789	193,344	1,209,670
7a Amounts included on lines 1, 2, and 3 received from disqualified persons	5,017	3,178	2,009	2,250	2,450	14,904
b Amounts included on lines 2 and 3 received from other than disqualified persons that exceed the greater of $5,000 or 1% of the amount on line 13 for the year						
c Add lines 7a and 7b	5,017	3,178	2,009	2,250	2,450	14,904
8 **Public support** (Subtract line 7c from line 6.)						1,194,766

Section B. Total Support

Calendar year (or fiscal year beginning in) ▶	(a) 2010	(b) 2011	(c) 2012	(d) 2013	(e) 2014	(f) Total
9 Amounts from line 6	227,182	221,351	301,004	266,789	193,344	1,209,670
10a Gross income from interest, dividends, payments received on securities loans, rents, royalties and income from similar sources	51	31	17	203	1,214	1,516
b Unrelated business taxable income (less section 511 taxes) from businesses acquired after June 30, 1975						
c Add lines 10a and 10b	51	31	17	203	1,214	1,516
11 Net income from unrelated business activities not included in line 10b, whether or not the business is regularly carried on						
12 Other income. Do not include gain or loss from the sale of capital assets (Explain in Part VI.)						
13 **Total support.** (Add lines 9, 10c, 11, and 12.)	227,233	221,382	301,021	266,992	194,558	1,211,186

14 **First five years.** If the Form 990 is for the organization's first, second, third, fourth, or fifth tax year as a section 501(c)(3) organization, check this box and **stop here** ▶ ☐

Section C. Computation of Public Support Percentage

15	Public support percentage for 2014 (line 8, column (f) divided by line 13, column (f))	15	99 %
16	Public support percentage from 2013 Schedule A, Part III, line 15	16	99 %

Section D. Computation of Investment Income Percentage

17	Investment income percentage for **2014** (line 10c, column (f) divided by line 13, column (f))	17	1 %
18	Investment income percentage from **2013** Schedule A, Part III, line 17	18	1 %

19a **33 1/3% support tests—2014.** If the organization did not check the box on line 14, and line 15 is more than 33 1/3%, and line 17 is not more than 33 1/3%, check this box and **stop here.** The organization qualifies as a publicly supported organization ▶ ☑

b **33 1/3% support tests—2013.** If the organization did not check a box on line 14 or line 19a, and line 16 is more than 33 1/3%, and line 18 is not more than 33 1/3%, check this box and **stop here.** The organization qualifies as a publicly supported organization ▶ ☐

20 **Private foundation.** If the organization did not check a box on line 14, 19a, or 19b, check this box and see instructions ▶ ☐

Part IV **Supporting Organizations**

(Complete only if you checked a box on line 11 of Part I. If you checked 11a of Part I, complete Sections A and B. If you checked 11b of Part I, complete Sections A and C. If you checked 11c of Part I, complete Sections A, D, and E. If you checked 11d of Part I, complete Sections A and D, and complete Part V.)

Section A. All Supporting Organizations

			Yes	No
1	Are all of the organization's supported organizations listed by name in the organization's governing documents? *If "No," describe in* ***Part VI*** *how the supported organizations are designated If designated by class or purpose, describe the designation. If historic and continuing relationship, explain*	1		
2	Did the organization have any supported organization that does not have an IRS determination of status under section 509(a)(1) or (2)? *If "Yes," explain in* ***Part VI*** *how the organization determined that the supported organization was described in section 509(a)(1) or (2)*	2		
3a	Did the organization have a supported organization described in section 501(c)(4), (5), or (6)? *If "Yes," answer (b) and (c) below.*	3a		
b	Did the organization confirm that each supported organization qualified under section 501(c)(4), (5), or (6) and satisfied the public support tests under section 509(a)(2)? *If "Yes," describe in* ***Part VI*** *when and how the organization made the determination*	3b		
c	Did the organization ensure that all support to such organizations was used exclusively for section 170(c)(2)(B) purposes? *If "Yes," explain in* ***Part VI*** *what controls the organization put in place to ensure such use*	3c		
4a	Was any supported organization not organized in the United States ("foreign supported organization")? *If "Yes" and if you checked 11a or 11b in Part I, answer (b) and (c) below*	4a		
b	Did the organization have ultimate control and discretion in deciding whether to make grants to the foreign supported organization? *If "Yes," describe in* ***Part VI*** *how the organization had such control and discretion despite being controlled or supervised by or in connection with its supported organizations*	4b		
c	Did the organization support any foreign supported organization that does not have an IRS determination under sections 501(c)(3) and 509(a)(1) or (2)? *If "Yes," explain in* ***Part VI*** *what controls the organization used to ensure that all support to the foreign supported organization was used exclusively for section 170(c)(2)(B) purposes*	4c		
5a	Did the organization add, substitute, or remove any supported organizations during the tax year? *If "Yes," answer (b) and (c) below (if applicable) Also, provide detail in* ***Part VI,*** *including (i) the names and EIN numbers of the supported organizations added, substituted, or removed, (ii) the reasons for each such action, (iii) the authority under the organization's organizing document authorizing such action, and (iv) how the action was accomplished (such as by amendment to the organizing document).*	5a		
b	**Type I or Type II only.** Was any added or substituted supported organization part of a class already designated in the organization's organizing document?	5b		
c	**Substitutions only.** Was the substitution the result of an event beyond the organization's control?	5c		
6	Did the organization provide support (whether in the form of grants or the provision of services or facilities) to anyone other than (a) its supported organizations; (b) individuals that are part of the charitable class benefited by one or more of its supported organizations, or (c) other supporting organizations that also support or benefit one or more of the filing organization's supported organizations? *If "Yes," provide detail in* ***Part VI.***	6		
7	Did the organization provide a grant, loan, compensation, or other similar payment to a substantial contributor (defined in IRC 4958(c)(3)(C)), a family member of a substantial contributor, or a 35-percent controlled entity with regard to a substantial contributor? *If "Yes," complete Part I of Schedule L (Form 990)*	7		
8	Did the organization make a loan to a disqualified person (as defined in section 4958) not described in line 7? *If "Yes," complete Part I of Schedule L (Form 990)*	8		
9a	Was the organization controlled directly or indirectly at any time during the tax year by one or more disqualified persons as defined in section 4946 (other than foundation managers and organizations described in section 509(a)(1) or (2))? *If "Yes," provide detail in* ***Part VI.***	9a		
b	Did one or more disqualified persons (as defined in line 9(a)) hold a controlling interest in any entity in which the supporting organization had an interest? *If "Yes," provide detail in* ***Part VI.***	9b		
c	Did a disqualified person (as defined in line 9(a)) have an ownership interest in, or derive any personal benefit from, assets in which the supporting organization also had an interest? *If "Yes," provide detail in* ***Part VI.***	9c		
10a	Was the organization subject to the excess business holdings rules of IRC 4943 because of IRC 4943(f) (regarding certain Type II supporting organizations, and all Type III non-functionally integrated supporting organizations)? *If "Yes," answer (b) below*	10a		
b	Did the organization have any excess business holdings in the tax year? *(Use Schedule C, Form 4720, to determine whether the organization had excess business holdings)*	10b		

Part IV Supporting Organizations *(continued)*

			Yes	No
11	Has the organization accepted a gift or contribution from any of the following persons?			
a	A person who directly or indirectly controls, either alone or together with persons described in (b) and (c) below, the governing body of a supported organization?	11a		
b	A family member of a person described in (a) above?	11b		
c	A 35% controlled entity of a person described in (a) or (b) above? *If "Yes" to a, b, or c, provide detail in* ***Part VI.***	11c		

Section B. Type I Supporting Organizations

			Yes	No
1	Did the directors, trustees, or membership of one or more supported organizations have the power to regularly appoint or elect at least a majority of the organization's directors or trustees at all times during the tax year? *If "No," describe in* ***Part VI*** *how the supported organization(s) effectively operated, supervised, or controlled the organization's activities If the organization had more than one supported organization, describe how the powers to appoint and/or remove directors or trustees were allocated among the supported organizations and what conditions or restrictions, if any, applied to such powers during the tax year.*	1		
2	Did the organization operate for the benefit of any supported organization other than the supported organization(s) that operated, supervised, or controlled the supporting organization? *If "Yes," explain in* ***Part VI*** *how providing such benefit carried out the purposes of the supported organization(s) that operated, supervised, or controlled the supporting organization*	2		

Section C. Type II Supporting Organizations

			Yes	No
1	Were a majority of the organization's directors or trustees during the tax year also a majority of the directors or trustees of each of the organization's supported organization(s)? *If "No," describe in* ***Part VI*** *how control or management of the supporting organization was vested in the same persons that controlled or managed the supported organization(s)*	1		

Section D. All Type III Supporting Organizations

			Yes	No
1	Did the organization provide to each of its supported organizations, by the last day of the fifth month of the organization's tax year, (1) a written notice describing the type and amount of support provided during the prior tax year, (2) a copy of the Form 990 that was most recently filed as of the date of notification, and (3) copies of the organization's governing documents in effect on the date of notification, to the extent not previously provided?	1		
2	Were any of the organization's officers, directors, or trustees either (i) appointed or elected by the supported organization(s) or (ii) serving on the governing body of a supported organization? *If "No," explain in* ***Part VI*** *how the organization maintained a close and continuous working relationship with the supported organization(s)*	2		
3	By reason of the relationship described in (2), did the organization's supported organizations have a significant voice in the organization's investment policies and in directing the use of the organization's income or assets at all times during the tax year? *If "Yes," describe in* ***Part VI*** *the role the organization's supported organizations played in this regard*	3		

Section E. Type III Functionally-Integrated Supporting Organizations

1 *Check the box next to the method that the organization used to satisfy the Integral Part Test during the year* **(see instructions)**

a ☐ The organization satisfied the Activities Test *Complete* ***line 2*** *below*

b ☐ The organization is the parent of each of its supported organizations *Complete* ***line 3*** *below.*

c ☐ The organization supported a governmental entity. *Describe in Part VI how you supported a government entity (see instructions)*

			Yes	No
2	Activities Test ***Answer (a) and (b) below.***			
a	Did substantially all of the organization's activities during the tax year directly further the exempt purposes of the supported organization(s) to which the organization was responsive? *If "Yes," then in* ***Part VI identify those supported organizations and explain*** *how these activities directly furthered their exempt purposes, how the organization was responsive to those supported organizations, and how the organization determined that these activities constituted substantially all of its activities*	2a		
b	Did the activities described in (a) constitute activities that, but for the organization's involvement, one or more of the organization's supported organization(s) would have been engaged in? *If "Yes," explain in* ***Part VI*** *the reasons for the organization's position that its supported organization(s) would have engaged in these activities but for the organization's involvement.*	2b		
3	Parent of Supported Organizations ***Answer (a) and (b) below.***			
a	Did the organization have the power to regularly appoint or elect a majority of the officers, directors, or trustees of each of the supported organizations? *Provide details in* ***Part VI.***	3a		
b	Did the organization exercise a substantial degree of direction over the policies, programs, and activities of each of its supported organizations? *If "Yes," describe in* ***Part VI*** *the role played by the organization in this regard*	3b		

Part V Type III Non-Functionally Integrated 509(a)(3) Supporting Organizations

1 ☐ Check here if the organization satisfied the Integral Part Test as a qualifying trust on Nov 20, 1970. **See instructions.** All other Type III non-functionally integrated supporting organizations must complete Sections A through E.

Section A - Adjusted Net Income		(A) Prior Year	(B) Current Year (optional)
1 Net short-term capital gain	1		
2 Recoveries of prior-year distributions	2		
3 Other gross income (see instructions)	3		
4 Add lines 1 through 3	4		
5 Depreciation and depletion	5		
6 Portion of operating expenses paid or incurred for production or collection of gross income or for management, conservation, or maintenance of property held for production of income (see instructions)	6		
7 Other expenses (see instructions)	7		
8 **Adjusted Net Income** (subtract lines 5, 6 and 7 from line 4)	8		

Section B - Minimum Asset Amount		(A) Prior Year	(B) Current Year (optional)
1 Aggregate fair market value of all non-exempt-use assets (see instructions for short tax year or assets held for part of year)			
a Average monthly value of securities	1a		
b Average monthly cash balances	1b		
c Fair market value of other non-exempt-use assets	1c		
d **Total** (add lines 1a, 1b, and 1c)	1d		
e **Discount** claimed for blockage or other factors (explain in detail in **Part VI**)			
2 Acquisition indebtedness applicable to non-exempt-use assets	2		
3 Subtract line 2 from line 1d	3		
4 Cash deemed held for exempt use. Enter 1-1/2% of line 3 (for greater amount, see instructions).	4		
5 Net value of non-exempt-use assets (subtract line 4 from line 3)	5		
6 Multiply line 5 by 035	6		
7 Recoveries of prior-year distributions	7		
8 **Minimum Asset Amount** (add line 7 to line 6)	8		

Section C - Distributable Amount			Current Year
1 Adjusted net income for prior year (from Section A, line 8, Column A)	1		
2 Enter 85% of line 1	2		
3 Minimum asset amount for prior year (from Section B, line 8, Column A)	3		
4 Enter greater of line 2 or line 3	4		
5 Income tax imposed in prior year	5		
6 **Distributable Amount.** Subtract line 5 from line 4, unless subject to emergency temporary reduction (see instructions)	6		

7 ☐ Check here if the current year is the organization's first as a non-functionally-integrated Type III supporting organization (see instructions).

Part V **Type III Non-Functionally Integrated 509(a)(3) Supporting Organizations** *(continued)*

Section D - Distributions		Current Year
1	Amounts paid to supported organizations to accomplish exempt purposes	
2	Amounts paid to perform activity that directly furthers exempt purposes of supported organizations, in excess of income from activity	
3	Administrative expenses paid to accomplish exempt purposes of supported organizations	
4	Amounts paid to acquire exempt-use assets	
5	Qualified set-aside amounts (prior IRS approval required)	
6	Other distributions (describe in **Part VI**). See instructions.	
7	**Total annual distributions.** Add lines 1 through 6.	
8	Distributions to attentive supported organizations to which the organization is responsive (provide details in **Part VI**) See instructions.	
9	Distributable amount for 2014 from Section C, line 6	
10	Line 8 amount divided by Line 9 amount	

	Section E - Distribution Allocations (see instructions)	(i) Excess Distributions	(ii) Underdistributions Pre-2014	(iii) Distributable Amount for 2014
1	Distributable amount for 2014 from Section C, line 6			
2	Underdistributions, if any, for years prior to 2014 (reasonable cause required-see instructions)			
3	Excess distributions carryover, if any, to 2014:			
a				
b				
c				
d				
e	From 2013			
f	**Total** of lines 3a through e			
g	Applied to underdistributions of prior years			
h	Applied to 2014 distributable amount			
i	Carryover from 2009 not applied (see instructions)			
j	Remainder Subtract lines 3g, 3h, and 3i from 3f			
4	Distributions for 2014 from Section D, line 7: $			
a	Applied to underdistributions of prior years			
b	Applied to 2014 distributable amount			
c	Remainder Subtract lines 4a and 4b from 4			
5	Remaining underdistributions for years prior to 2014, if any Subtract lines 3g and 4a from line 2 (if amount greater than zero, see instructions).			
6	Remaining underdistributions for 2014. Subtract lines 3h and 4b from line 1 (if amount greater than zero, see instructions)			
7	**Excess distributions carryover to 2015.** Add lines 3j and 4c.			
8	Breakdown of line 7			
a				
b				
c				
d	Excess from 2013			
e	Excess from 2014			

Part VI **Supplemental Information.** Provide the explanations required by Part II, line 10; Part II, line 17a or 17b; and Part III, line 12. Also complete this part for any additional information. (See instructions.)

N/A

SCHEDULE O (Form 990 or 990-EZ)

Department of the Treasury
Internal Revenue Service

Supplemental Information to Form 990 or 990-EZ

Complete to provide information for responses to specific questions on Form 990 or 990-EZ or to provide any additional information.

▶ Attach to Form 990 or 990-EZ.

▶ Information about Schedule O (Form 990 or 990-EZ) and its instructions is at *www.irs.gov/form990.*

OMB No 1545-0047

2014

Open to Public Inspection

Name of the organization	Employer identification number
Tax Foundation of Hawaii	99-0080329

Form 990 - Part III - Line 2. The Foundation staff overhauled the Foundation website and migrated to a new platform that allows it to be easily viewed on desktop computers, tablets and smartphones. This allows for more transparency for the Foundation with updated listings of Foundation policies, Board representation, and sharing of financial information and means of support, and provides easily searchable on-line records for use by members and the general public

Form 990 - Part VI - Section B - Line 11b: A draft form 990 is reviewed by the Board of Directors and approved at its April meeting If the draft 990 is not available for discussion at the April Board meeting, a copy is sent to each director for their review and comments

Form 990 - Part VI - Section B - Line 12c: The Tax Foundation of Hawaii requires Board members to disclose potential conflicts of interest in a questionnaire that is distributed to all directors each year

Form 990 - Part VI - Section B - Line 15a: The Chair of the Foundation Board distributed a survey to all Board members for their comments and opinions on how the President performed his duties during the previous year. After compilation by the Chair, there was a meeting with the Chair and the President to discuss the information compiled from the survey and discuss future compensation levels

Form 990 - Part VI - Section C - Line 19: The Tax Foundation of Hawaii's governing documents, conflict of interest policy and Form 990 and required schedules are available for inspection by the public at the Foundation office at 126 Queen Street, #304, Honolulu, Hawaii 96813 during regular business hours The Tax Foundation of Hawaii's 990s are also available for inspection on the following websites: the Tax Foundation of Hawaii's website - www.tfhawaii.org; ERI-nonprofit-salaries com, the State of Hawaii's website - www hawaii gov/ag/charities, and the Guidestar Exchange website - www guidestar org

Name of the organization	Employer identification number
Tax Foundation of Hawaii	99-0080329

DEPARTMENT OF TAXATION
ANNUAL REPORT AS REQUIRED BY ACT 213, SLH 2007, SECTION 121
For the Period July 1, 2007 Though October 31, 2007

October 2007

Act 213, SLH 2007, Section 121, required the Department of Taxation ("Department") to prepare a report detailing the level of staffing and funding necessary to administer county surcharge collections. The report shall describe:

I. The total workload related to collections of the county surcharge.
II. Provide a listing of staff that support the collections of the county surcharge.
III. The budgeted annual salary for each position.
IV. The approximate percentage of time each position spends on the task.

The report shall be submitted to the legislature no later than 20 days prior to the convening of the 2008 and 2009 regular sessions.

I. Total Workload Related to Collections of the County Surcharge

Act 247, SLH 2005, created the authority for County Surcharge tax. The Director of Taxation was charged with levying, assessing, and collecting the County Surcharge tax. The Act required the Director of Taxation to remit the revenues from the County Surcharge tax to the State Treasury quarterly within ten working days after collection. The Act authorized the Director of Finance to deduct ten percent (10%) of the gross proceeds of the County Surcharge tax to reimburse the State for the cost of assessment, collection, and disposition of the tax incurred by the State. The effective date of this new tax was January 1, 2007.

The planning and implementation the County Surcharge tax required time and resources of the entire Department, from the customer service agent level all the way to the Director's level. Due to the complexity of the tax that only applies to one county (City & County of Honolulu), the Department undertook extra steps in modifying the General Excise tax forms, its computer system, its return processing procedures, and the reporting of tax collections. In addition, the Department took a proactive approach to do extensive outreach activities to obtain inputs and to educate the public about the new law.

As of September 31, 2007, the State has collected a cumulative total of $103.4 million in County Surcharge tax.

II. Listing of Staff that Support the Collections of the County Surcharge Tax

Act 213, SLH 2007, granted the Department of Taxation nineteen (19) permanent positions and four (4) temporary positions for FY 2008, and nineteen (19) permanent positions and one (1)

EXHIBIT 2

temporary position for FY 2009. Table 1 below lists the positions granted by Act 213, SLH 2007, and the amount budgeted for each position.

Table 1. Act 213, SLH 2007, Staff that Support the Collections of the County Surcharge Tax

Position Title, SR		FY 08			FY 09		
	MOF	FTE (P)	FTE (T)	($)	FTE (P)	FTE (T)	($)
TAX SERVICE & PROCESSING DIVISION							
Taxpayer Services (TPS) Branch							
Customer Inquiry (telephone)							
Tax Information Technician III, SR17A	A	1.00		33,756	1.00		33,756
Tax Information Technician II, SR15A	A	10.00		324,240	10.00		324,240
Customer Inquiry (counter)							
Tax Information Technician II, SR15A	A	1.00		32,424	1.00		32,424
Tax Information Technician II, SR15A	A		1.00	32,424		0.00	-
Customer Inquiry (correspondence)							
Tax Information Technician II, SR15A	A	1.00		32,424	1.00		32,424
Tax Information Technician II, SR15A	A		1.00	32,424		0.00	-
Account Management							
Tax Information Technician II, SR15A	A	1.00		32,424	1.00		32,424
Revenue Accounting Branch							
Account Clerk III, SR11A	A	1.00		26,664	1.00		26,664
Account Clerk III, SR11A	A		1.00	26,664		0.00	-
SUPPORTING SVCS REV COLLECTION							
Systems Administration							
Management Analyst IV, SR 22	A	2.00		63,216	2.00		84,288
Rules Office							
Rules Specialist, Exempt	A		1.00	50,000		1.00	50,000
Tax Specialist, SR-22	A	1.00		31,608	1.00		42,144
ITSO							
ITS-IV, SR-22	A	1.00		31,608	1.00		42,144
Total Personal Service Costs		**19.00**	**4.00**	**749,876**	**19.00**	**1.00**	**700,508**

As the Director of Taxation testified before the Twenty Forth Legislature, 2007, the request for the positions to support the collection of the County Surcharge Tax did not include positions for the Department's Compliance Division (Collection Branch, Office Audit Branch, and Field Audit Branch). The Department plans to review and evaluate the compliance level of the County Surcharge tax prior to requesting positions for the Department's Compliance Division.

III. The Budgeted Salary for Each Position

Table 1 above provides the budgeted salary for each position (FY 2008 and FY 2009) that supports the collection of the County Surcharge tax. Total amount budgeted was $749,876 for FY 2008 and $700,508 for FY 2009. There was a three-month budgetary restriction (three-month hiring delay) for the Supporting Services Revenue Collection positions.

IV. The Approximate Percentage of Time Each Position Spends on the Task

The Department of Taxation does not have the resources or ability to perform cost accounting. The Department's management and overall staff promulgated rules, answered inquiries, performed outreach, and did the recruitment and hiring of staff related to the County Surcharge tax. The additional positions granted by Act 213, SLH 2007, are to support the collection of County Surcharge tax and to help alleviate the additional workloads caused by County Surcharge tax to the rest of the Department.

A three-month hiring delay was imposed on four Supporting Services Revenue Collection's positions (two Management Analysts, one Tax Specialist, and one Information Technology Specialist). As of October 22, 2007, those four positions were vacant. Of the fifteen permanent positions for the Department's Tax Services & Processing Division, two were vacant as of October 22, 2007. Of the three temporary positions for the Department's Tax Services & Processing Division, two were vacant as of October 22, 2007.

The Department roughly estimated that about 60% of the Act 213, SLH 2007, authorized employees' time was spent on General Excise/County Surcharge tax related. The other 40% was spent on Individual Income tax, Business Income tax, Tax Clearance, and other tax related matters. It must be noted, however, that due to the nature of the County Surcharge tax (a surcharge on the State's General Excise tax) a decision was made to require all Department staff, include those positions not funded via the County Surcharge tax, to work on County Surcharge matters as necessary. The Department believes that this approach provides a better efficiency and a more effective use of its limited resources.

V. Summary

The success of the implementation and administration of the County Surcharge tax on the State's general excise tax on behalf of the City and County of Honolulu was due to an extraordinary effort by the entire Department. As of September 31, 2007, the State has collected a cumulative total of $103.4 million in County Surcharge tax. The Department greatly appreciates the support provided by the Lingle-Aiona Administration and the Legislature to carry out its new responsibility. The Department plans to review and evaluate the compliance level of the County Surcharge tax prior to requesting positions for the Department's Compliance Division. When necessary, the Department will submit a request for additional resources to enhance the compliance with the new law.

IN THE CIRCUIT COURT, FIRST CIRCUIT

STATE OF HAWAII

TAX FOUNDATION OF HAWAII, a Hawaii Nonprofit Corporation, Plaintiff v. STATE OF HAWAII Defendant.	CASE NO. 15-1-2020-10 ECN DECLARATION OF JUDY DANG; EXHIBIT "3"

DECLARATION OF JUDY DANG

I JUDY DANG, DECLARE AS FOLLOWS:

1. I am a Funds Custody Manager, in the Treasury Management Branch, Financial Administration Division in the Department of Budget and Finance, State of Hawaii ("B&F").

2. I have personal knowledge of the matter set forth in this declaration.

3. Each month the Department of Taxation sends to B&F a Statement of Tax Operations ("STO").

4. Accountants at B&F use these STO reports to create a monthly Excel spreadsheet to calculate the amount of County Surcharge on State Tax that must be paid to the City and County of Honolulu and the amount to be deposited in the General Fund of the State of Hawaii under section 248-2.6, HRS.

5. Attached as Exhibit 3 is a true and correct summary of all County Surcharge Collections and deposits into the General Fund pursuant to section 248-2.6,

Hawaii Revised Statutes, from January 1, 2007 to September 30, 2015. As of September 30, 2015, B&F has paid $1.58 billion County Surcharge monies to the City and County.

6. As of September 30, 2015, the Department of Accounting and General Services has deposited $176.2 million into the General Fund as directed by B&F, as provided in section 248-2.6, Hawaii Revised Statutes.

7. B&F does not have any cost accounting system that would allow it to calculate the cost to the Department to account for and dispose of County Surcharge Tax Revenues into the General Fund of the State of Hawaii.

I declare under penalty of perjury under the laws of the State of Hawaii that the foregoing is true and correct.

DATED: Honolulu, Hawaii November 3, 2015

JUDY DANG

GET surcharge 0.5% less 10% to State * effective 1/1/2007 Per HRS 248-2.6 and 238-2.6

Transferred by B&F-Treasury to City & County of Honolulu Quarterly, in month after QE.

For the FYE:	6/30/2007*	6/30/2008	6/30/2009	6/30/2010	6/30/2011	6/30/2012	6/30/2013	6/30/2014	6/30/2015	6/30/2016
QE 9/30	n/a	$ 44,603,289.21	$ 42,379,236.30	$ 43,138,496.43	$ 41,701,315.21	$ 46,399,580.21	$ 26,613,888.11	$ 63,791,074.84	$ 48,487,037.67	$ 64,820,862.25
QE 12/31	n/a	$ 40,634,977.80	$ 37,852,570.36	$ 37,511,160.41	$ 35,171,429.17	$ 49,022,655.79	$ 41,564,953.73	$ 43,491,266.45	$ 57,829,490.70	
QE 3/31	$12,793,494.09	$ 39,980,317.88	$ 39,515,888.57	$ 40,290,869.36	$ 52,391,875.94	$ 48,253,971.34	$ 55,287,477.71	$ 61,651,177.70	$ 65,019,430.53	
QE 6/30	$35,630,888.59	$ 43,894,967.53	$ 41,108,031.69	$ 36,614,794.25	$ 49,843,952.41	$ 46,988,786.10	$ 50,356,185.28	$ 49,457,333.81	$ 52,330,383.41	
	$48,424,382.68	$169,113,552.42	$ 160,855,726.92	$ 157,555,320.45	$179,108,572.73	$ 190,664,993.44	$ 173,822,504.83	$ 218,390,852.80	$ 223,666,342.31	$ 64,820,862.25
Cumulative Totals:	$48,424,382.68	$217,537,935.10	$ 378,393,662.02	$ 535,948,982.47	$715,057,555.20	$ 905,722,548.64	$ 1,079,545,053.47	$ 1,297,935,906.27	$ 1,521,602,248.58	$ 1,586,423,110.83
% increase/(decrease) year to year		249.23% partial initial yr.	-4.88%	-2.05%	13.68%	6.45%	-8.83%	25.64%	2.42%	

GET surcharge: 10% to State

Entry by DAGS-UARB to G-00-000-1371-T(tax), in month after QE.

For the FYE:	6/30/2007*	6/30/2008	6/30/2009	6/30/2010	6/30/2011	6/30/2012	6/30/2013	6/30/2014	6/30/2015	6/30/2016
QE 9/30	n/a	$ 4,955,921.02	$ 4,708,804.04	$ 4,793,166.27	$ 4,633,479.47	$ 5,155,508.92	$ 2,957,098.69	$ 7,087,897.21	$ 5,387,448.62	$ 7,202,318.03
QE 12/31	n/a	$ 4,514,997.54	$ 4,205,841.14	$ 4,167,906.71	$ 3,907,936.57	$ 5,446,961.76	$ 4,618,328.20	$ 4,832,362.94	$ 6,425,498.97	
QE 3/31	$ 1,421,499.34	$ 4,442,257.54	$ 4,390,654.29	$ 4,476,763.26	$ 5,821,319.56	$ 5,361,552.37	$ 6,143,053.09	$ 6,850,130.86	$ 7,224,381.17	
QE 6/30	$ 3,958,987.62	$ 4,877,218.61	$ 4,567,559.08	$ 4,068,310.47	$ 5,538,216.93	$ 5,220,976.24	$ 5,595,131.69	$ 5,495,259.31	$ 5,814,487.05	
	$ 5,380,486.96	$ 18,790,394.71	$ 17,872,858.55	$ 17,506,146.71	$ 19,900,952.53	$ 21,184,999.29	$ 19,313,611.67	$ 24,265,650.32	$ 24,851,815.81	$ 7,202,318.03
Cumulative Totals:	$ 5,380,486.96	$ 24,170,881.67	$ 42,043,740.22	$ 59,549,886.93	$ 79,450,839.46	$ 100,635,838.75	$ 119,949,450.42	$ 144,215,100.74	$ 169,066,916.55	$ 176,269,234.58

GET SURCHARGE - TOTAL COLLECTED BY TAX DEPT. (PER STO)

(sum of above)	$53,804,869.64	$187,903,947.13	$ 178,728,585.47	$ 175,061,467.16	$199,009,525.26	$ 211,849,992.73	$ 193,136,116.50	$ 242,656,503.12	$ 248,518,158.12	$ 72,023,180.28

EXHIBIT 3

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

TAX FOUNDATION OF THE STATE OF HAWAII, a Hawai'i Nonprofit Corporation, Plaintiff v. STATE OF HAWAI'I, Defendant.	CASE NO. 15-1-2020-10 ECN NOTICE OF HEARING AND CERTIFICATE OF SERVICE

NOTICE OF HEARING ON MOTION

TO: PAUL ALSTON, ESQ.
TOM BUSH, ESQ.
Alston Hunt Floyd & Ing
1001 Bishop Street
Suite 1800
Honolulu, Hawai'i 96813

PLEASE TAKE NOTICE that the undersigned will bring the above motion on for hearing before the Honorable Judge Edwin C. Nacino of the above-entitled Court of the First Circuit, 777 Punchbowl Street, Honolulu, Hawai'i, on the 23rd day of December, 2015, at 11:00 am, or as soon thereafter as counsel may be heard.

DATED: Honolulu, Hawai'i, November 9, 2015.

DOUGLAS S. CHIN
Attorney General

By: [signature]
HUGH R. JONES
NATHAN S.C. CHEE
Deputy Attorneys General

Attorneys for the STATE OF HAWAI'I

CERTIFICATE OF SERVICE

I hereby certify that on November 9, 2015, a copy of the foregoing motion to dismiss complaint filed October 21, 2015 was duly served by depositing the same in the United States mail, postage prepaid, addressed as follows:

PAUL ALSTON, ESQ.
TOM BUSH, ESQ.
Alston Hunt Floyd & Ing
1001 Bishop Street
Suite 1800
Honolulu, Hawai'i 96813

Attorneys for Plaintiff

DATED: Honolulu, Hawai'i, November 9, 2015.

HUGH R. JONES
Deputy Attorney General

Attorney for the STATE OF HAWAI'I