

Subcommittee on Credits and Exemptions

Written Report for October 22, 2021 meeting

Attendees: Commissioner Foo Pham, Commissioner Winston Wong

The Subcommittee on Credits and Exemptions met via telephone calls on Wednesday, October 6, 2021 and Wednesday, October 13, 2021. Although not required, the Subcommittee provides this written report for the Commission meeting scheduled for October 22, 2021.

2019 Commission Recommendations

6 – New Accessory Dwelling Unit (“ADU”) Property Tax Exemption

The Commission recommends adoption of a property tax exemption, similar to or beyond the contents of Council Bill 63 (2018) to promote the construction of ADUs throughout Honolulu.

Discussion

- **Proposed action: Re-adopt the recommendation.**
- Exemptions for new ADUs should be awarded on condition of housing affordability perhaps like the use dedication agreement found in ROH § 8-7.6.
- The City and County shouldn’t subsidize property owners operating the ADUs as short-term vacation rentals as such use does not constitute community benefits worth awarding property tax exemptions.
- The purpose of providing such a tax benefit to the property owner should be in the spirit of the goals that enable the allowance of accessory dwelling units in the first place. If this is not being done for housing affordability, then why do ADUs deserve to be subsidized with a property tax exemption?

8 – ROH Section 8-10.10 In Two [*“Charitable Purposes”*]

The Commission reviewed, but does not support, adjusting the list of nonprofit entities as defined in ROH § 8-10.10.

Discussion

- **Ask Commission to decide between two options:**
 1. **Revise the title of Section 8-10.10 to “Exemption – Nonprofit purposes”.**
 2. **Revised Section 8.10.10 to define the term “charitable purpose” that aligns to the Internal Revenue Service’s definition of 501(c)(3) charitable organizations.**
- It is not readily apparent when viewing the county’s publicly available property data which exemptions are claimed by any particular property. The exempt values are visible as are the taxes paid for a property.
- If the “charitable purposes” definition were more specific, then publicly available property information that includes a citation for the type of exemption or section of the ordinance claimed by the property owner would allow for greater transparency to the public in debating whether a property should be exempt from property taxes.

12 – Modification of ROH § 8-10.22: Historical Residential Real Property

The Commission recommends modification of ROH § 8-10.22 relating to historic residential real property, to increase the minimum real property tax from \$300. The Commission recommends that fully exempt real property be subject to a minimum real property tax of \$1,000 and partially exempt real property be subject to real property taxes in an amount no less than \$1,000.

Discussion

- **Proposed action: Re-adopt the recommendation.**
- Discuss an overall increase in the minimum real property tax as a separate issue. See *Minimum Real Property Tax Increase* under the Additional/New Issues for 2021 section.

13 – Repeal of ROH § 8-10.24: Credit Unions

The Commission recommends repeal of ROH § 8-10.24 relating to property tax exemptions for credit union owned real property, and that federally chartered or state chartered credit unions be taxed at the same rate as commercial real property.

Discussion

- **Proposed action: Re-adopt the recommendation and the passing of Bill 11 (2020).**
- The 2021 Commission has received testimony supporting the proposed action.

14 – Modification of ROH § 8-10.30: Historical Commercial Real Property

The Commission recommends modification of ROH § 8-10.30 relating to historic commercial real property, to increase the minimum real property tax from \$300. The Commission recommends that fully exempt real property be subject to a minimum real property tax of \$1,000 and partially exempt real property be subject to real property taxes in an amount no less than \$1,000.

Discussion

- **Proposed action: Re-adopt the recommendation.**
- Discuss an overall increase in the minimum real property tax as a separate issue. See *Minimum Real Property Tax Increase* under the Additional/New Issues for 2021 section.

15 – Modification of ROH § 8-10.33: Child Care Centers

Similar to the findings of previous commissions, the Commission recommends repeal of ROH § 8-10.33 relating to for-profit Child Care Centers, with the intent of balancing for-profit enterprises from an equitable policy standpoint.

Discussion

- **The Commission should seek information from an agency that can speak to the following:**
 - Existing capacity and need for child care services in the county
 - Usefulness of the existing property tax exemption to for-profit child care service providers and their clients
 - Impact of the existing property tax to incentivize child care services if it is determined such an exemption serves the public interest and is therefore justified
- **The Commission should make a recommendation on Bill 30 (2020) after receiving the additional information.**

- The 2021 Commission has received testimony supporting the repeal of the child care center exemption.

Additional/New Issues for 2021

Minimum Real Property Tax Increase

There were two recommendations to increase the minimum real property tax for Section 8-10.22 and Section 8-10.30 historical property exemption claimants.

Discussion

- **Proposed action: Recommend an increase of the minimum real property tax.**
- The Commission should discuss whether an increase in the minimum real property tax to \$1000 for specific exemption types should instead be an increase regardless of the type of exemption that is claimed.

Nonprofit Organization Thrift Shops

Discussion

- **The Commission should provide a recommendation whether ROH § 8-10.29 should be repealed or retained in a manner that is consistent with its recommendation on regarding the definition of “charitable purposes” under ROH § 8-10.10.**

Low-Income Rental Housing

There is an annual filing requirement for claiming this exemption, however, Kaua‘i County has a one-time filing requirement tied to the regulatory agreements for the defined low-income rental housing properties.

Revised Ordinances of Honolulu Section 8-10.21(a):

“... shall be filed **annually** on or before September 30th, together with a document from the agency regulating the housing project certifying that the housing project continues to be in compliance with the initial regulatory agreements and is in compliance with the applicable low-income rental requirements in the manner provided by applicable law or rule.”

Kaua‘i County Code Section 5A-11.21(b):

“... shall correspond with the duration of the primary recorded mortgage, regulatory agreement or other encumbrance made by a qualified entity.”

Discussion

- **Proposed action: Recommend eliminating the annual filing requirement by revising Section 8-10.21 to be like Kaua‘i County Code Section 5A-11.21(b).**
- The Commission should be open to taking no action if the Department of Budget and Fiscal Services has a compelling reason to maintain this annual filing requirement.

Properties Rented To Section 8 Housing Choice Voucher Holders

The low-income rental housing property tax exemption is only available to properties with regulatory agreements and funding sources as specified in the ordinance. Other property owners providing low-

income rental housing in the community, such as Section 8 lessors, cannot claim this property tax exemption.

Discussion

- **The Commission should seek information from the Department of Community Services speaking to the following:**
 - **Need for additional Section 8 lessors, Section 8 properties available in high opportunity areas, etc.**
 - **Opinion whether a property tax credit or exemption would be a useful tool for their administration of the county's Section 8 program**
 - **Opinion whether a dedication agreement similar to the one available to Residential A property owners would be effective for sustaining Section 8 lessor participation**

Acquisition by Death of Property Owner

Bill 3 (2021)

Discussion

- **Proposed action: Recommend the passing of Bill 3 (2021).**
- Death of a loved one is a traumatizing period and a property tax credit to keep an inherited homeowner's exempt property at that tax rate for one year is a reasonable accommodation to bereaving inheritors who may need time to decide what to do with the property.

Actual Use Credit for Newly Acquired Property

Properties that have been acquired under one property tax classification but will be used for a purpose that would ultimately reclassify the property may result in higher tax liability until the property can be rededicated for a future fiscal year. Property owners could also be underpaying their property taxes with respect to actual use if shifting from a low-rate classification to a high-rate classification.

One clear example of this issue is a Residential A property that has been purchased by an owner who will be using the property as their primary residence, therefore claim a homeowner's exemption and be entitled to the lower Residential property tax rate. Currently, such a property owner would continue to pay Residential A rates until the next tax year despite using the property as their primary residence.

Discussion

- The Subcommittee initially discussed the potential for a retroactive credit to make sure property owners are ultimately paying property taxes based on their actual use.
- Property owners should be paying tax rates based on their actual use at the time of property acquisition and not wait for the next tax year.
- The Commission could recommend other solutions that are outside the scope of the Subcommittee on Credits and Exemptions.

Vacant Residential Properties

Discussion

- If the Commission is going to make a recommendation for a tax on vacant residential properties, then exemptions from that tax should be discussed.

- The Subcommittee would like an opportunity to provide discuss and report to the Commission a list of reasonable exemptions from a vacant residential property tax.

Low-Income Real Property Tax Credit

There have been multiple public testimonies regarding “low-income”, “senior” homeowners. Upon reviewing the testimonies, the Subcommittee believe these testifiers are referring to ROH § 8-13.2.

Discussion

- **The Commission should seek a response from the Department of Budget and Fiscal Services regarding the claims in public testimony that low-income property owners eligible for the low-income tax credit are being charged more than three percent of their household income.**
- The Subcommittee believes it is possible there is a lack of public knowledge about claiming the low-income real property tax credit.
- The Subcommittee believes this issue could result in recommendations from the Commission to improve public awareness of the tax credit, create an electronic filing option that makes property tax filing easier and more accessible (such as a filing form that asks simple questions and informs filers of the property tax exemptions and credits that they are qualified to claim), etc.