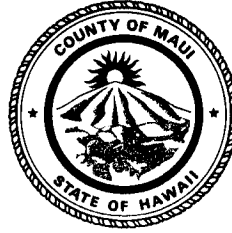


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OFFICE OF THE
COUNTY COUNSEL

2016 APR - 7 11 10 AM

RECEIVED

MEMO TO: Riki Hokama, Chair
Budget and Finance Committee

FROM: Jeffrey Ueoka, Deputy Corporation Counsel *JU*

DATE: April 7, 2016

SUBJECT: **FISCAL YEAR ("FY") 2017 BUDGET** (CC-7) (BF-1)

We are in receipt of your memorandum dated April 4, 2016, requesting a response to the following questions:

1. May the Council impose a motor vehicle weight tax for electric vehicles that is higher than for non-electric motor vehicles?
2. May the Council impose a minimum tax for electric vehicles that is higher than for non-electric motor vehicles?

As referenced in your memorandum, the framework for the County's vehicle weight tax is set forth in Sections 249-2 and 249-13, Hawaii Revised Statutes ("HRS"). Section 249-13, HRS, is clear in providing the Council the authority to establish, by ordinance, the rate and minimum tax for all vehicles and motor vehicles. The definition of "motor vehicles" is broad and does include, "every vehicle which is propelled by electric power but which is not operated upon rails," making it clear that electric vehicles are subject to the vehicle weight tax.¹ While there is no explicit limitation on the County's ability to create additional categories of rates for the motor vehicle weight tax, Section 249-13, HRS, appears to only differentiate between three categories: trucks, commercial motor vehicles, and passenger vehicles. Section 249-13, in relevant part, states:

¹ Section 249-1, HRS

- (b) **The rate and minimum tax for a truck or noncommercial motor vehicle shall be the same as provided for a passenger vehicle if:**
- (1) The truck or noncommercial motor vehicle has a net weight of six thousand five hundred pounds or less; and
 - (2) The owner submits proof to the director of finance that the truck or noncommercial motor vehicle is not being operated for compensation or commercial purposes. (Emphasis added)

At this time based on the current language of Chapter 249, HRS, we are unable to recommend, in regards to the vehicle weight tax, that the Council create a different rate or minimum tax for electric vehicles. Electric vehicles fall under the definition of "motor vehicle" and in the event that an electric vehicle was not classified as a "passenger vehicle", all noncommercial vehicles, which would include electric vehicles, that weigh six thousand five hundred pounds or less, would be required to be subject to the same rate and minimum tax as passenger vehicles.²

Please feel free to contact me if you have any questions or need further clarification.

JTU:ikk

APPROVED FOR TRANSMITTAL:


PATRICK K. WONG
Corporation Counsel

2014-3082 BF-1 CC-7 2016-04-07 Motor Vehicle Weight Tax for Electric Vehicles

² Section 249-13(b), HRS