LINDA LINGLE
GOVERNOR
MARSHA WIENERT
TOURISM LIAISON

# TOURISM LIAISON

Hawai'i State Capitol, Office of the Governor, 4th Floor
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Statement of
**MARSHA WIENERT**
**Tourism Liaison**
Office of the Governor
before the
**HOUSE COMMITTEE ON FINANCE**
Wednesday, February 10, 2010
4:00 p.m.
State Capitol, Conference Room 308

in consideration of
**HB 2700**
**RELATING TO TAXATION.**

Chair Oshiro, Vice Chair Lee and Members of the House Committee on Finance.

HB 2700 imposes the general excise tax and the transient accommodations tax on gross rental proceeds received from a rewards club central fund to the operator of a transient accommodation. While we appreciate the intent to explore all potential sources of revenue to help balance the budget, we cannot support imposing the general excise tax, nor the transient accommodations tax on proceeds received from a rewards club central fund.

Hawai'i's visitor industry and our economy have suffered tremendous hardships over the past two years because of the economic challenges we have endured and continue to face. Travelers have become very price conscious and affinity reward programs have enticed thousands of visitors to our shores. These visitors have contributed millions in spending while dining in our restaurants, shopping and participating in various activities.

To impose a general excise tax and a transient accommodations tax on the proceeds received by our properties from the rewards club central fund is just another tax burden that our businesses will have to shoulder and in today's economic climate and is not conducive to our economic recovery.

Therefore, we ask that this bill be held and we continue to encourage affinity award redeemers to our islands.

Thank you for the opportunity to provide comments against HB 2700.

Hawai'i Tourism Authority

LINDA LINGLE
Governor

MIKE MCCARTNEY
President and
Chief Executive Officer

Hawai'i Convention Center, 1801 Kalākaua Avenue, Honolulu, Hawai'i 96815
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Testimony of
**Mike McCartney**
President and Chief Executive Officer
Hawai'i Tourism Authority
On
**H.B. 2874 Relating to the Transient Accommodations Tax**
**H.B. 2699 Relating to Taxation**
**H.B. 2700 Relating to Taxation**

House Committee on Finance
Wednesday, February 10, 2010
4:00 p.m.
Conference Room 308

The Hawai'i Tourism Authority (HTA) is pleased to provide comments and information regarding the following measures:

- H.B. 2874, which temporarily increases from 7/1/2010 to 6/30/2015 the transient accommodations tax (TAT) rate on time share units;
- H.B. 2699, which provides that the TAT rate shall be assessed and collected at a minimum rate of $8 per day, effective 7/1/2010; and
- H.B. 2700, which imposes the general excise tax (GET) and the TAT on gross rental proceeds received from a rewards club central fund to the operator of a transient accommodation.

The HTA is tasked with marketing and promoting Hawai'i as a visitor destination. In this global competitive environment, the HTA is concerned that the imposition of any new taxes on the visitor industry would not result in the generation of more revenues for the state as intended and instead, result in negative unintended consequences. Some examples below:

- An $8/day minimum TAT rate will raise the TAT on rooms that are usually more affordable hotel rooms as well as those rooms sold at the kama'āina rate, thereby disproportionately impacting those hotel businesses, Hawai'i resident and business travelers.

- Complimentary rooms are used by the visitor industry to attract meeting planners to bring their events to Hawai'i, educate and encourage travel agents to book Hawai'i for their clients' vacations, and give travel journalists the opportunity to publish and air stories about Hawai'i as a meeting and vacation destination. Complimentary rooms are also used by the state to attract film crews to the islands. If the TAT is imposed on complimentary rooms, this would increase costs to individual hotels and to the state which will bear the additional costs for the rooms.

- Taxing rewards club programs could have a negative impact on those visitors who would normally redeem their points for a Hawai'i vacation, thereby causing those visitors to vacation at destinations other than Hawai'i.

- As far as the HTA is aware, there is no other destination in the country that taxes complimentary rooms. Furthermore, the tax on reward program payments to hotels was just overturned in New York, calling into question the efficacy of that measure. As a result, this could impact the state's overall marketing efforts by hampering its ability to compete with other destinations during this crisis period.

In today's economic times, the travel market is very price sensitive. An increase in any segment of the visitor industry may be detrimental to the recovery of the industry and the state's overall economic picture.

Therefore, we urge you to hold these measures. Thank you for the opportunity to comment.

L E G I S L A T I V E

# TAXBILLSERVICE

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

SUBJECT: GENERAL EXCISE, TRANSIENT ACCOMMODATION, Taxation of rewards club central fund

BILL NUMBER: HB 2700

INTRODUCED BY: Yamashita, Awana, Carroll, Chong, Keith-Agaran, Manahan, Mizuno, Morita, Tokioka, Tsuji, Wakai, Yamane

BRIEF SUMMARY: Adds a new section to HRS chapter 237 to impose a general excise tax of 4% on the gross rental proceeds from a rewards club central fund received by the operator of a transient accommodation provided that the tax imposed under this section shall be in addition to any other tax liability imposed on the operator under the GET.

Amends HRS section 237D-1 to add a definition of "gross rental proceeds" as the compensation received from a rewards club central fund to the operator of a transient accommodation when: (1) a rewards club member occupies the transient accommodation; and (2) the compensation was not contributed by the operator; provided the gross rental proceeds shall be calculated on an annual basis as the difference between the amount contributed by the operator of the transient accommodation to the rewards club central fund during a taxable year and the amount received by the operator from the rewards club central fund when a rewards club member occupies a transient accommodation during that taxable year.

EFFECTIVE DATE: Upon approval

STAFF COMMENTS: This measure proposes to subject the gross rental proceeds of a rewards club central fund received by the operator of a transient accommodation to the general excise and transient accommodations (TAT) taxes. While the measure further provides that the amount subject to taxation is the difference between the amount contributed by the operator of a transient accommodation to the rewards club central fund during a taxable year and the amount received by the operator from the rewards club central fund when a rewards club member occupies a transient accommodation during the same taxable year, it should be noted that awards made to rewards club members are in the form of points and such points may be of different values depending on the incentives offered by the rewards club central fund to attract rewards club members to utilize the transient accommodation.

While the intent of this measure is to ensure that the transient accommodation units provided through a rewards club central fund pay their share of the general excise and TAT, the determination of the value of such transient accommodation would result in an administrative nightmare for the department of taxation who would have to verify such transactions. In this case, this proposal violates one of the principles of a good tax policy, that a tax should be easy to administer and with which to comply insuring that the cost of administration and compliance does not exceed the amount of the tax collected.

It should be also noted that while this measure appears to be aimed at members of a hotel loyalty program, it may also apply to owners of time share accommodations. As such, at least for Hawaii, the TAT is already collected on the week of ownership from the timeshare owner. If the timeshare owner places it back into the pool because the owner will not be using the unit for his week and the unit is subsequently rented to an independent traveler or a member of the hotels reward program, will the TAT imposition proposed in this bill be a double taxation of the same week?

Digested 2/9/10

**HOUSE COMMITTEE ON FINANCE**

February 10, 2010

House Bill 2700 Relating to Taxation

Chair Oshiro and members of the House Committee on Finance, I am Rick Tsujimura, representing Marriott International, Inc. (Marriott).

Marriott opposes House Bill 2700 Relating to Taxation for the following reasons:

(1) The language in the bill is very vague and could lead to different results for competing taxpayers.

(2) The bill should limit the language to cover 'award redemptions for transient accommodation' or some similar term received from a loyalty program to which the operator is a member.

(3) If the intent of the measure is to clarify that these transactions are taxable, it needs to be clear that the form of the loyalty program does not determine the outcome. The measure should define the transaction as payment received in compensation for loyalty plan award redemptions. While we believe that each plan has a 'central fund', they are structured differently.

(4) The measure of the tax base needs to clearly be what the operator receives - not what some hypothetical room is worth on the market.

(5) If taxable at all, the operator should pay TAT and GET only on the amount the operator receives from the program over the amount that they contribute to the program.

Marriott believes that tax bills must be clear, fair to all companies and makes the tax payable only to the extent that payments from the loyalty program exceed payments to the loyalty program.

For the foregoing reasons Marriott believes the bill should be held until clarifying language is included to account for these issues.

Thank you for the opportunity to present this testimony.

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February 10, 2010

**TO:** House Finance Committee
Representative Marcus Oshiro, Chair
Representative Marilyn B. Lee, Vice Chair

**FROM:** Linda Anthony
Regional Vice President
Shell Management Hawaii, Inc.

**DATE:** Wednesday, February 10, 2010
Conference Room 308
4:00 p.m.

**RE:** **HB 2700, Relating to Taxation**

Chair Oshiro and Members of the Committee:

My name is Linda Anthony and I am Regional Vice President of Shell Management Hawaii, Inc. which manages five resorts throughout the state (Holua Resort at Mauna Loa Village, Kona Coast Resort and Paniolo Greens Resort on the Big Island; Waikiki Marina Resort at the Ilikai on Oahu and Kauai Coast Resort at the Beachboy on Kauai). Shell Management Hawaii, Inc. also manages the points based Shell Owners Association-Hawaii. We oppose HB 2700. This bill will impose the general excise tax and the transient accommodations tax on gross rental proceeds received from a rewards club central fund to the operator of a transient accommodation.

Generally, states do not tax the redemption of loyalty points as there is no consideration given to the issuer of the points in exchange for the points. By passing this legislation, this will be another added expense to the hotel operator, which will be passed on to Hawaii visitors, either directly (i.e. a surcharge) or by valuing Hawaii resorts at a higher point level.

HB2700 could increase the costs of a Hawaii visit and will cause visitor s to look elsewhere for their vacations. I respectfully ask that you hold this bill in committee.

Thank you for allowing me to offer testimony on this measure.

Linda Lee Anthony

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**TESTIMONY OF MURRAY TOWILL**
**PRESIDENT**
**HAWAI'I HOTEL & LODGING ASSOCIATION**

**February 10, 2010**

**RE: HB 2700 Relating to Taxation**

Good afternoon Chairman Oshiro and members of the House Committee on Finance. I am Murray Towill, President of the Hawai'i Hotel & Lodging Association.

The Hawai'i Hotel & Lodging Association is a statewide association of hotels, condominiums, timeshare companies, management firms, suppliers, and other related firms and individuals. Our membership includes over 150 hotels representing over 48,000 rooms. Our hotel members range from the 2,680 rooms of the Hilton Hawaiian Village to the 4 rooms of the Bougainvillea Bed & Breakfast on the Big Island.

The Hawai'i Hotel & Lodging Association opposes HB 2700 Relating to Taxation. We believe this proposal would be bad for our economy and be an obstacle to attracting visitors to Hawaii. Hawaii is a major beneficiary of the marketing strength of these programs. They are a powerful force in increasing visitor arrivals. We must remember that it is the spending of our visitors that is critical for Hawaii's economy.

The visitor market is currently very price sensitive. Hotels and other visitor businesses are providing discounts and deals to attract visitors. Any added costs passed on to the consumer will hurt business. If the added cost is absorbed by the hotel, it would be an added cost that makes successful operations more difficult.

We believe an important contributor to Hawaii's economic recovery will be to increase visitor arrivals and spending. This type of measure will not help in these efforts. We believe public policy should focus on ways to stimulate travel and not be increasing costs. It is critical for us to be attracting visitors to keep businesses operating and people working.

We urge you to hold this bill. Mahalo again for this opportunity to testify.

American Resort Development Association
c/o PMCI Hawaii 84 N. King Street Honolulu, HI 96817 (808) 536-5688

February 10, 2010

**TO:** House Finance Committee
Representative Marcus Oshiro, Chair
Representative Marilyn B. Lee, Vice Chair

**FROM:** Ed Thompson
ARDA-Hawaii

**DATE:** Wednesday, February 10, 2010
Conference Room 308
4:00 p.m.

**RE:** **HB 2700, RELATING TO TAXATION**

Chair Oshiro and Members of the Committee:

ARDA-Hawaii is the local chapter of the national timeshare trade association. Hawaii's timeshare industry currently accounts for ten percent of the State's lodging inventory with 7,700 timeshare units. Timeshare has had consistent occupancy rates, even during the current tough economic times. This has made our industry a vital partner and a diverse component of the visitor industry in Hawaii.

ARDA-Hawaii opposes HB 2700. This bill will impose the general excise tax and transient accommodations tax on gross rental proceeds received from a rewards club central fund to the operator of a transient accommodation.

Generally, states do not tax the redemption of loyalty points as there is no consideration given to the issuer of the points in exchange for the points. By passing this legislation, this will be another added expense to the hotel operator, which will be passed on to Hawaii visitors, either directly (i.e. a surcharge) or by valuing Hawaii resorts at a higher point level.

HB2700 could increase the costs of a Hawaii visit and will cause visitors to look elsewhere for their vacations. I respectfully ask that you hold this bill in committee.

Thank you for allowing me to offer testimony on this measure.

*TIMESHARE WITH ALOHA*

ARDA

February 9, 2010

Representative Marcus R. Oshiro
Chair, House Finance Committee
Hawaii State Capitol
415 South Beretania Street
Honolulu, HI 96813

Re: **Hawaii State Legislature 2010 Regular Session**
**HB2700, Relating to the Transient Accommodations Tax**

Dear Chairperson Oshiro and Members of the Committee:

Please permit me to submit this testimony in OPPOSITION to the captioned measure. This measure seeks to increase taxes.

This measure sends the wrong message, not only to the business community, but to those who seek to travel here. Accordingly, I respectfully oppose this measure.

Very truly yours,

Mitchell A. Imanaka
Past Chair
American Resort Development Association Hawaii

MAI:anlb

cc: Ed Thompson
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