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SUBJECT: GENERAL EXCISE, Exempt amounts received by submanager and suboperators

BILL NUMBER: HB 2783, HD-1

INTRODUCED BY: House Committee on Tourism, Culture and International Affairs

BRIEF SUMMARY: Amends Act 239, SLH 2007, to repeal its December 31, 2010 sunset date and amends Act 196, SLH 2009, to clarify that the aggregate amount of tax exempted shall not exceed \$400,000 per calendar year.

EFFECTIVE DATE: Upon approval

STAFF COMMENTS: Act 239, SLH 2007, provided that amounts received by a submanager of an association of apartment owners of a condominium property regime or nonprofit homeowners or community association as reimbursement for payment of common expenses shall not be subject to general excise taxation. Act 239 also provided that the general excise tax shall not be applicable to amounts received by a timeshare association and by the suboperator of a hotel from a timeshare association or from the operator of the hotel that are disbursed for employee wages, salaries, payroll taxes, insurance premiums and benefits.

While Act 239, SLH 2007, was scheduled to sunset on 12/31/09, Act 196, SLH 2009, extended this exemption until 12/31/10 and provided that the amount of the tax exemption shall not exceed \$400,000 per taxable year. This measure would make the exemption permanent and clarify that the exemption is applicable to the amount of tax and not gross receipts.

Digested 2/22/10



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February 20, 2010

The Honorable Marcus Oshiro, Chair

House Committee on Finance
State Capitol, Room 308
Honolulu, Hawaii 96813

RE: H.B. 2783, H.D.1, Relating to General Excise Tax

HEARING: Monday, February 22, 2010 at 4:00 p.m.

Aloha Chair Oshiro, Vice Chair Lee and Members of the Committee:

I am Myoung Oh, Government Affairs Director, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 8,800 members in Hawai'i. HAR **supports** H.B. 2783, H.D.1 to the extent that it makes permanent the reference to Chapter 514A, Hawai'i Revised Statutes, in HRS Section 237-24.3(3)(A) as amended in Section 1 of Act 239, Session Laws of Hawai'i 2007.

Act 237, Session laws of Hawaii 2007, amends HRS 237-24.3 by extending the GET exemption for amounts received by certain apartment of association owners in reimbursement for common expenses to submanagers. Act 237 took effect on January 1, 2008 and was scheduled to be repealed on December 31, 2009.

Section 1 of Act 239 also includes a housekeeping amendment which was intended to clarify that amounts received by associations of apartment owners ("AOAO") of condominium property regimes established under HRS Chapter 514A and 514B are both exempt from GET. HRS Chapter 514A applies to condominium property regimes established prior to July 1, 2006 and HRS Chapter 514B applies to condominiums established after July 1, 2006.

HAR believes that the GET exemption for association of apartment owners under HRS Chapter 514A, as amended in Section 1 of Act 239, should be permanently retained. The attached language, which is the same language adopted by the Senate Committee on Commerce and Consumer Protection in S.B. 2643, S.D.1, permanently retains the GET exemption for AOAO's, addresses the various stakeholders' concerns, and carries out the intent of the Act 237.

Mahalo for the opportunity to testify.



A BILL FOR AN ACT

RELATING TO GENERAL EXCISE TAX.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Act 239, Session Laws of Hawaii 2007, as amended by Act 196, Session Laws of Hawaii 2009, section 5, is amended by amending section 4 to read as follows:

"SECTION 4. This Act shall take effect on January 1, 2008 [~~; provided that this Act shall be repealed on December 31, 2010, and section 237-24.3, Hawaii Revised Statutes, and section 237-24.7, Hawaii Revised Statutes, shall be reenacted in the form in which they read on December 31, 2007~~]."

SECTION 2. Act 196, Session Laws of Hawaii 2009, is amended by amending section 6 to read as follows:

"SECTION 6. The aggregate amount of tax [~~exemption from~~] exempted by the amendment to section 237-24.7(1) in section 2 of Act 239, Session Laws of Hawaii 2007, shall not exceed \$400,000 per [~~taxable~~] calendar year [~~ending on or between January 1, 2010 and January 1, 2011~~]."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

Report Title:

General Excise Tax

Description:

Makes permanent the general excise tax exemptions for condominium common expenses paid by managers, submanagers, and suboperators, and for hotel employee expenses paid by hotel operators and timeshare projects. Clarifies the maximum allowable tax exemption. (SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent



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

February 22, 2010

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

FROM: Ed Thompson
ARDA-Hawaii

DATE: Monday, February 22, 2010
Conference Room 308
4:00 p.m.

RE: **HB 2783, HD1, RELATING TO GENERAL EXCISE TAX**

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 supports HB 2783, HD1. The amendments were designed to level the playing field with regards to operators and sub-operators of hotels and timeshares. This bill seeks to remove the sunset clause of Act 239, and make these provisions permanent.

Thank you very much for the opportunity to offer testimony in support of this measure.

TIMESHARE WITH ALOHA

STARWOOD

9002 San Marco Court
Orlando, Florida 32819
(407) 418-7271

February 22, 2010

Honorable Marcus Oshiro, Chair
House Finance Committee

Re: HB2783 HD1- RELATING TO GENERAL EXCISE TAX - SUPPORT
Agenda #5 - 4PM, Hawaii State Capitol, Conference Room 308

Aloha Chair Oshiro, Vice Chair Lee and Members of the Committee:

My name is Robin Suarez, Vice President & Associate General Counsel for Starwood Vacation Ownership, ("SVO"). I am testifying on behalf of SVO in support of HB2783 HD1, Relating to General Excise Tax.

This bill makes the GET exemption amendments for timeshare operators and condominium sub-managers permanent which will encourage additional timeshare development and ensure that the cost to maintain existing Hawaii timeshare projects remains reasonable and on par with other competitive markets.

Timeshare projects with their high and consistent rates of occupancy and customer satisfaction should not be discouraged, but seen as a vital part of Hawaii's tourism industry. In addition to providing traditional resort operations jobs similar to hotel projects, timeshare projects add high skilled and high compensated sales and marketing jobs. As such, timeshare projects represent a valuable and diverse component of Hawaii's important tourism market.

For these reasons, we respectfully request your favorable support of HB2783 HD1.

As always, I thank you for the opportunity to share our views on this matter.

Sincerely,

/s/

Robin Suarez

Vice President & Associate General Counsel for Starwood Vacation Ownership

GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

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meito@goodsill.com
cznoh@goodsill.com**MEMORANDUM**

TO: Representative Marcus R. Oshiro
Chair, Committee on Finance
Via Facsimile: 586-6001

FROM: Mihoko Ito

DATE: February 21, 2010

RE: **H.B. 2783, H.D. 1 – Relating to General Excise Tax**
Hearing : Monday, February 22, 2010 at 4:00 p.m.; Agenda #5

Dear Chair Oshiro and Members of the Committee:

I am Mihoko Ito, testifying on behalf of **Wyndham Worldwide** (“**Wyndham**”), a timeshare company with substantial interests in Hawaii that include Wyndham Vacation Ownership, with its resort at Waikiki Beach Walk.

We **support** H.B. 2783, H.D.1, which repeals the sunset provisions with respect to general excise tax exemptions and condominium submanagers, suboperators, and timeshare associations. The measure also specifies that the \$400,000 cap is based on the taxable amount due and not the gross receipts.

This exemption applies to certain sums that are transferred from the owner of the properties to the operator of the properties. Included in these sums are amounts paid that reflect what is owed to employees in the way of salary and benefits. The exemption from tax on these amounts would either take away from the amounts available to be paid to employees both in salary and benefits and, in most cases, actually result in the owner paying sums directly to employees and other persons to whom these sums are due rather than having those sums paid by the operator here in Hawaii. It is to everyone’s benefit that those sums pass directly from the local operator to the local employees and local vendors.

February 21, 2010

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We support this measure because it will continue to level the playing field with regard to similarly situated entities for the payment of monies to a hotel operator for employee wages and benefits. We note that we also support the language of S.B. 2643 S.D1, which contains additional clarifying language which effectuates the intent of this exemption, first enacted as Act 237, Session Laws of Hawaii 2007 and extended by Act 196, Session Laws of Hawaii, 2009.

Thank you very much for the opportunity to submit testimony.



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HOUSE OF REPRESENTATIVES
25th LEGISLATURE
REGULAR SESSION of 2010

COMMITTEE ON FINANCE
Representative Marcus Oshiro, Chair

2/22/10
4:00 PM – Room 308

HB 2783, HD 1
Relating to General Excise Tax

My name is Max J Sword, here on behalf of Outrigger Hotels, to offer our support of this bill.

HB 2783 HD 1 makes permanent the current GET exemptions for monies received by timeshare operators and sub-operators for employee wages, salaries, payroll taxes, insurance premiums and benefits (retirement, vacation, sick pay and health benefits).

The hotel industry is constantly changing, not only in the physical looks of a property and services it provides the customer, also in how they are operated and managed.

Just as you will see more time-share, resort condos or condo-tels, with less traditional type hotels being built, you will also see changes in how those properties will be managed.

This section is important to the industry, especially local management companies, because it levels the playing field when it comes to managing a hotel, timeshare or a condo-tel.

Mahalo for considering my testimony and urge your positive support for this bill!

**HOUSE COMMITTEE ON
FINANCE**

February 22, 2010

House Bill 2783, HD 1 Relating to General Excise Tax

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

Marriott supports House Bill 2783, HD 1 Relating to General Excise Tax. The legislature passed Act 239 in 2007. House Bill 2783, HD 1 eliminates the sunset provisions of Act 239 and makes the amendments permanent.

We ask for your support for the removal of the sunset date. Thank you for the opportunity to present this testimony.