

HB 2783

CPN/TSM

**SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION**

AND

**SENATE COMMITTEE ON
TOURISM**

March 18, 2010

House Bill 2783, HD 2 Relating to General Excise Tax

Chair Baker, Chair Nishihara, members of the Senate Committee on Commerce and Consumer Protection and members of the Senate Committee on Tourism, I am Rick Tsujimura, representing Marriott Vacation Club International (Marriott).

Marriott supports House Bill 2783, HD 2 Relating to General Excise Tax. The legislature passed Act 239 in 2007. House Bill 2783, HD 2 extends the sunset provisions of Act 239. We request that the sunset provision be eliminated entirely.

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

TAXBILLSERVICE

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TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

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

BILL NUMBER: HB 2783, HD-2

INTRODUCED BY: House Committee on Finance

BRIEF SUMMARY: Amends HRS section 237-24.7 to provide that the aggregate tax due and owing on amounts received by the operator of a hotel from a time share association and on amounts received by the suboperator of a hotel from the owner of the hotel, a time share association, or the operator of the hotel, shall not exceed \$400,000 per calendar year beginning after December 31, 2009. This section shall take effect for tax years beginning after December 31, 2009.

Amends Act 239, SLH 2007, as amended by Act 196, SLH 2009, to: (1) repeal the December 31, 2010 sunset date; and (2) provide 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 be effective retroactive to July 1, 2006.

Amends Act 196, SLH 2009, to repeal section 6 that provides that the aggregate tax exemption shall not exceed \$400,000. This section shall take effect for tax years beginning after December 31, 2009.

This act shall be repealed on June 30, 2015.

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 a 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 exemption shall not exceed \$400,000 per taxable year. This measure would: (1) statutorily provide that aggregate tax exemption shall not exceed \$400,000 per taxable year; (2) provide that exemption for a submanager of an association of apartment owners of a condominium property regime or nonprofit homeowners or community association shall be retroactive to July 1, 2006; and (3) extend the general excise tax exemption for submanagers and suboperators until June 30, 2015.

Digested 3/16/10



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

March 18, 2010

TO: Senate Commerce and Consumer Protection Committee
Senator Rosalyn H. Baker, Chair
Senator David Y. Ige, Vice Chair

Senate Tourism Committee
Senator Clarence K. Nishihara, Chair
Senator Brickwood Galuteria, Vice Chair

FROM: Ed Thompson
ARDA-Hawaii

DATE: Thursday, March 18, 2010
Conference Room 229
10:00 a.m.

RE: **HB 2783, HD2, RELATING TO GENERAL EXCISE TAX**

Chairs Baker and Nishihara and Members of the Committees:

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 the intent of HB 2783, HD2. 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. However, ARDA-Hawaii prefers the language in SB2643, SD1.

Thank you very much for the opportunity to offer testimony on this measure.

TIMESHARE WITH ALOHA

GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

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MEMORANDUM

TO: Senator Rosalyn H. Baker
Chair, Committee on Commerce and Consumer Protection
Senator Clarence K. Nishihara
Chair, Committee on Tourism
Via Email: CPNTestimony@Capitol.hawaii.gov

FROM: Mihoko Ito

DATE: March 16, 2010

RE: **H.B. 2783, H.D. 2 – Relating to General Excise Tax**
Hearing: Thursday, March 18, 2010 at 10:00 a.m.

Dear Chairs Baker and Nishihara and Members of the Committees:

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.

Wyndham supports H.B. 2783, H.D.2, which caps and removes the sunset date of the GET exemption for certain hotel and timeshare association transactions, with a sunset date of June 30, 2015.

These amounts are presently exempted from GET, as a result of a law first enacted by Act 239, SLH 2007, and extended in Act 196, SLH 2009. 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 be paid by the local operator to the local employees and local vendors.

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.

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We also support the language in this measure insofar as it clarifies that the aggregate cap on the tax exemption applies to the tax amount rather than gross receipts, and extends the exemption through 2015.

Thank you very much for the opportunity to submit testimony.

STARWOOD

VACATION OWNERSHIP

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

March 18, 2010

Honorable Rosalyn H. Baker, Chair
Senate Committee on Commerce and Consumer Protection

Honorable Clarence K. Nishihara, Chair
Senate Committee on Tourism

Re: HB2783 HD2– Relating to General Excise Tax – Support with Amendments
CPN-TSM – March 18, 2010, 10 AM, Conference Room 229

Aloha Chair Baker, Chair Nishihara and Members of the Committees:

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 HD2, Relating to General Excise Tax.

This bill extends the GET exemption amendments for timeshare operators and condominium sub-managers, 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.

We respectfully request that your committees consider reverting to HD1 language in this bill, which would make those exemptions permanent.

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 HD2 with amendments.

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