DAVID Y. IGE
GOVERNOR

SHANTSUTSUI
LT. GOVERNOR

MARIA E. ZIELINSKI
DIRECTOR OF TAXATION

JOSEPH K. KIM
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
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To: The Honorable Tom Brower, Chair
and Members of the House Committee on Tourism

Date: February 10, 2016
Time: 10:00 A.M.
Place: Conference Room 312, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: H.B. 2702, Relating to Taxation.

The Department of Taxation (Department) provides the following comments regarding H.B. 2702 for your consideration.

H.B. 2702 amends chapters 237, 237D, and 243 of the Hawaii Revised Statutes (HRS) by: (1) adding a new general excise tax rate for food and medical expenses at an unspecified rate; (2) increasing the transient accommodations tax (TAT) rate from 9.25% to 13% beginning July 1, 2016; (3) increasing the TAT allocation to the counties to 50% of collection beginning July 1, 2016; and (4) adjusting the fuel license taxes. The bill is effective January 1, 2017.

First, the Department has serious concern regarding the definition of food in section 328-1, HRS, as defined in this bill, because it is too broad. That section defines "food" as articles used for food or drink by humans, dogs, or cats; chewing gum; or articles used for components of any such article. If the intent of this section of H.B. 2702 is to provide tax relief for certain products, the definition of “food” should be narrowly defined as such.

Second, the Department notes that the proposed TAT allocation is not complete and cannot be administered as written. It is not clear how often the proportion to be allocated to each county should be determined and how often the payments to the counties should be made. It should also be noted that taxpayers are not currently required to allocate their gross proceeds from furnishing of transient accommodations by county. The Department recommends that the intent of the allocation provisions be clarified in the language of this measure.

Third, the Department is opposed to the provision beginning at line 18 of page 7 of H.B.2702. This provision requires the Department to ensure that the balance of the TAT, after the allocation to the counties, is applied to reducing the excise tax on fuel tax, fuel license taxes under section 243-4, HRS, and county fuel taxes under section 243-5, HRS. It is outside the authority of the Department to decide how tax revenue is allocated. These types of allocations are properly enacted in law. Furthermore, as written, it is unclear how to comply with these provisions as it not clear what action is required. The Department suggests deletion of this provision.

Fourth, the Department suggests deletion or clarification of Section 4 which requires that fuel tax licenses be adjusted in accordance with section 237D-6.5(b), HRS. It is not clear what action is required under this provision.

Fifth, the amendment to section 243-5, HRS, should be deleted. The county fuel tax rates are determined by county ordinance. The Department does not have the authority to set these county rates or any other tax rate.

Finally, the effective date of this measure should be amended to January 1, 2018 as the changes proposed to the tax laws are significant and will require that the Department have sufficient time to make the required changes to the forms, instructions and computer system.

Thank you for the opportunity to provide comments.

LEGISLATIVE TAX BILL SERVICE

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304 Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: GENERAL EXCISE, TRANSIENT ACCOMMODATIONS, FUEL, Change GET Rate on Food and Medical Expenses, Increase TAT Rate, Use TAT Proceeds to Reduce Fuel Taxes

BILL NUMBER: HB 2702

INTRODUCED BY: Choy by request

EXECUTIVE SUMMARY: This bill would change the GET rate on food and medical services to an unspecified amount, increase the TAT rate to 13%, and use the proceeds to lower the GET on fuel sold to consumers, fuel taxes, and county fuel taxes.

BRIEF SUMMARY: Adds a new section to HRS chapter 237 to provide that GET on the sale of food or medical expenses will be at the rate of ___%. Defines "food" as the same as in HRS section 328-1. Defines "medical expenses" as any cost incurred in the prevention or treatment of injury or disease, including health and dental insurance premiums, doctor and hospital visits, co-payments, glasses and contacts, and wheelchairs; but excludes "nonprescription drug", "over-the-counter drug", or "nonlegend drug", as those terms are defined in HRS section 328-1.

Amends HRS section 237D-2 to provide that the TAT rate on transient accommodations will be 13% effective July 1, 2016, and that the TAT rate on transient occupancy will be 13% effective January 1, 2017.

Amends HRS section 237D-6.5 to provide that after the earmarks to the Turtle Bay conservation easement special fund, the convention center enterprise special fund, and the tourism special fund, one-half of the TAT revenues, with no ceiling, shall be distributed to the counties in proportion to the TAT revenue generated by each county. After satisfaction of the earmark of $3 million to the special land and development fund, the balance is to be applied to reducing the GET on fuel, fuel license taxes under HRS section 243-4, and county fuel taxes under HRS section 243-5. Makes conforming amendments to HRS sections 243-4 and 243-5.

EFFECTIVE DATE: July 1, 2016, provided that the GET rate on food and medical services takes effect on January 1, 2017.

STAFF COMMENTS: If it is intended to reduce the GET rate on food and medical services, it should be noted that certain food and medical services, as defined, is now exempt from GET, including food purchased with food stamps under HRS section 237-24.3(5), prescription drugs and prostheses under HRS section 237-24.3(6), and insurance premiums under HRS section 431:7-204(4).

As for the TAT increase, although the bill's proponents may think that this is simply a Robin Hood transfer of money, namely picking the pockets of our tourists to give to the poor, beleaguered locals who need to drive to and from their jobs, there may be ripple effects from further squeezing our tourists. What policy makers need to realize is that the more they extract from the economy in taxes and fees, the more economic performance declines. To put it specifically, tourists can't vote for our lawmakers at the ballot box but they can vote with their feet. We aren't the only resort island destination in the world, and the tourists know this. As economic performance declines, so do tax revenues.

Digested 2/6/16

ARDA
American Resort Development Association
HAWAI'I

February 10, 2015

TO: COMMITTEE ON TOURISM
Representative Tom Brower, Chair
Representative Takashi Ohno, Vice Chair

FR: Blake Oshiro, Executive Director, ARDA-Hawaii

RE: H.B. 2702 Relating to Taxation
Position: **STRONG OPPOSITION**

Dear Chair Brower and Vice Chair Ohno and members,

The American Resort Development Association (ARDA) Hawaii, the local chapter of the national timeshare trade association, **strongly opposes HB 2702**, a bill Relating to Taxation. This bill:

1. increases transient accommodation tax (TAT) rate from 9.25% to 13% starting 7/1/16;

2. increases TOT rate from 9.25% to 13% starting 1/1/17;

3. requires distribution of one-half of TAT revenue collections to each county based on the proportion of TAT revenues generated by each county;

4. reduces the general excise tax rate for gross proceeds received on the sale of food or on the provision of medical expenses; and

5. requires one-half of TAT revenues after distribution to the counties to be applied to reducing general excise tax on fuel sold to consumer, fuel taxes, and county fuel taxes.

This proposal represents a major shift in the tax policy of the state and does so by burdening our tourism and hospitality industry. While we can appreciate the need to have an important discussion to address some of these issues, this is a matter much better suited to a studied and methodical approach via an interim task force or larger group discussion with input and data from economists, experts, and stake-holders.

The TAT was first created back in 1986 in Act 340 at a rate of 5% on transient accommodations. Since that time, the rate has steadily increased to where it stands now at 9.25%. When first proposed to be raised during the recent economic recession, the increase was done temporarily, and then later, made permanent.

Whereas, a tax increase during times of serious and desperate needs for revenues is one discussion, doing a significant tax increase when all economic indicators are positive, when there is a positive state revenue balance and carry-over, and when there is no dire revenue needs is entirely another matter altogether.

To now increase this rate by another 3.75% represents a forty-percent (40%) increase in the tax rate. This is not just exorbitant, but it is unreasonable and unduly burdens the number one economic industry for our state with little understanding of the potential adverse impacts. Tourism has recently enjoyed record occupancy rates, and therefore revenues to the state, and a proposal like this, if enacted in the various counties could have serious adverse consequences to that high rate of visitors.

Finally, we continue to note that time share owners pay general excise taxes, pay real property taxes, and even transient accommodation taxes (TAT) when the rooms are held out like traditional transient accommodations. Hawaii is the only state that uniquely assesses time share owners for ***occupancy*** of property that they already own, based on a calculation of a daily maintenance fee factoring in maintenance costs, operational costs, insurance, and other related expenses. The time share tax rate was just increased last year from 7.25 percent to 8.25 percent and starting next year to 9.25 percent (7.25% to 9.25%) over a two year period. While ARDA did not support this raise in the rate, but we also recognized there was some degree of equity and so we did not fight the increase. However, this 40% jump in the tax rate is excessive and besides shifting the burden all upon our tourism industry, there appears to be little other justification.

Thank you for the opportunity to submit testimony.

Rental By Owner Awareness Association

House of Representatives
The Twenty-Eighth Legislature
Regular Session of 2016

To: Rep. Tom Brower, Chair
Rep. Clift Tsuji, Chair
Rep. Takashi Ohno, Vice Chair
Rep. Richard Onishi, Vice Chair

Date: February 10, 2016

Time: 10:00 a.m.

Place: Conference Room 312
Hawaii State Capitol

RE: **House Bill 2702, Relating to Taxation**

Chairs Brower and Tsuji, Vice Chairs Ohno and Onishi and Members of the Committees:

Rental By Owner Awareness Association (RBOAA) is a Hawaii non-profit corporation whose mission is to provide Hawaii property owners with information to help them comply with the applicable State and County regulations, support the Hawaii economy by offering visitors choice in accommodation, and to advocate for the rights of Hawaii vacation property owners. RBOAA members provide transient vacation rentals in full compliance with existing tax and county regulations. RBOAA fully supports full enforcement of existing regulations.

RBOAA would like to comment on the proposed 40.5% increase in the TAT rate from 9.25% to 13%.

1. Including the GET, with this proposal, Hawaii will have the highest Hotel Tax in the nation, beating Houston at 17%. And we all know the only people who go to Houston are on corporate expense reports. Florida, by comparison, averages 13% Hotel Taxes.

2. While it is politically expedient to transfer the tax burden to visitors, it is important to remember that visitors to Hawaii have choices about where they vacation, unlike the unfortunate folk who have to go to Houston. There are other

beautiful and tropical destinations for visitors to choose from and visitors usually have budgets to manage. The same costs which make Hawaii an expensive place to live also make Hawaii an expensive place to visit. High cost is one of the most common complaints we receive from our guests.

a. Tourists may choose to go to other locations.
b. Tourists may choose to re-allocate their accommodation budget and instead of staying in hotels, choose a condo with a kitchen and pay less for rent and for tax.
c. Tourists may choose to spend less money while in Hawaii, negatively impacting restaurant owners and staff, negatively affecting tour operators and staff, negatively affecting retail purchases.

Please take care not to strangle the goose which lays the golden egg.

Thank you for the opportunity to testify on this measure.

Sincerely,

Neal Halstead
President,
Rentals by Owner Awareness Association

Testimony of
Gary M. Slovin / Mihoko Ito
on behalf of
Wyndham Vacation Ownership

DATE: February 9, 2016

TO: Representative Tom Brower
Chair, Committee on Tourism

Submitted Via TOUtestimony@capitol.hawaii.gov

RE: **H.B. 2702 - Relating to Taxation**
Hearing Date: Wednesday, February 10, 2016 at 10:00 a.m.
Conference Room 312

Dear Chair Brower and Members of the Committee on Tourism,

We submit this testimony on behalf of Wyndham Vacation Ownership. Wyndham offers individual consumers and business-to-business customers a broad suite of hospitality products and services through its portfolio of world-renowned brands. Wyndham Vacation Ownership has a substantial presence in Hawaii through its Wyndham Vacation Resorts and WorldMark by Wyndham and Shell Vacations brands.

Wyndham **strongly opposes** H.B. 2702, which would raise the transient accommodations tax on time share to 13% on July 1, 2017. The transient accommodations tax on time share vacation units, also known as the "transient occupancy tax" or "TOT," is a tax on a percentage of property maintenance fees that are paid by a time share owner. Hawaii is the only state that taxes owners of time shares for occupancy of property they already own.

In 2015, the TOT on time share was amended to be gradually phased-in from 7.25% to 9.25% over a period of several years. H.B. 2702 would dramatically raise the TOT to 13% in 2017, representing a 40% increase in just one year over the current rate of 8.25%.

Raising the TOT would negatively impact an industry that already contributes significantly to the state. The timeshare industry is a strong and consistent source of economic growth, and brings stability to the visitor industry by providing reliable and consistent occupancy. Time share owners, which include kama'aina, are loyal and repeat visitors who have made long-term commitments to the islands. In economic downturns,

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Gary M. Slovin
Mihoko E. Ito
C. Mike Kido
Tiffany N. Yajima

999 Bishop Street, Floor 1400
Honolulu, HI 96813
(808) 539-0840

time shares stabilize the economy and mitigate potential adverse effects on the community. For these reasons, we respectfully urge this committee to hold H.B. 2702. Thank you for the opportunity to submit testimony on this measure.

STARWOOD
VACATION OWNERSHIP

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

February 10, 2016

To: Honorable Tom Brower, Chair
Honorable Takashi Ohno, Vice Chair
House Committee on Tourism

RE: **HB 2702 – Relating to Taxation – In Opposition**
Conference Room 312; 10:00 AM

Chair Brower, Vice Chair Ohno, and members of the Committee:

Starwood Vacation Ownership ("Starwood") appreciates the opportunity to offer testimony in opposition of HB 2702. This measure increases the Transient Accommodations Tax (TAT) and requires the distribution of one-half of TAT revenue collections to each county based on the proportion of TAT revenues generated by each county. Furthermore, this measure reduces the general excise tax (GET) rate for gross proceeds received on the sale of food or on the provision of medical expenses, while requiring one-half of TAT revenues after distribution to the counties to be applied to reducing the GET on fuel sold to consumer, fuel taxes, and county fuel taxes.

This measure creates a tremendous modification to the tax policy of the State of Hawaii, causing an undue burden on the tourism and hospitality industry. Such a dramatic alteration should perhaps first require a detailed study by experts and stakeholders, as an increase of 3.75% could result in unforeseen adverse impacts to the industry.

Furthermore, time share owners already pay general excise taxes, real property taxes, and transient accommodation taxes. Last year, the time share tax rate was increased from 7.25% to 8.25%, and will again be increased to 9.25% next year. Additional financial obligations not only negatively affect the time share industry, but the tourism industry as a whole.

Thank you for the opportunity to testify on HB 2702.

Robin Suarez
Vice President/General Counsel
Starwood Vacation Ownership

The Twenty-Eighth Legislature
Regular Session of 2016

HOUSE OF REPRESENTATIVES
Committee on Tourism
Rep. Tom Brower, Chair
Rep. Takashi Ohno, Vice Chair
State Capitol, Conference Room 312
Wednesday, February 10, 2016; 10:00 a.m.

LATE

STATEMENT OF THE ILWU LOCAL 142 ON H.B. 2702
RELATING TO TAXATION

The ILWU Local 142 **supports** H.B. 2702, which increases the transient accommodation tax (TAT) and requires distribution of one-half of TAT revenue collections to each county based on the proportion of TAT revenues generated by each county. Also reduces the general excise tax (GET) rate for food and medical expenses and requires one-half of TAT revenues after distribution to the counties to be applied to reducing the GET on fuel sales and fuel taxes.

Tourism is the main industry driving Hawaii's economy on all islands. Visitors come from around the world to Hawaii as a destination, not just to Oahu but to all islands. The Transient Accommodations Tax (TAT) is assessed to visitors staying at hotels throughout the state and should be used not just to market for more visitors but also to ensure that visitors will have a pleasant, safe experience here.

Toward that end, counties play a hugely important role. When visitors drive around any of the islands, they want to see beautiful beaches with lifeguards, clean streets and parks, police protecting the public's safety, and fire and emergency personnel available to assist in emergency situations. Counties provide these services, yet their taxing power is limited. They must rely, hat in hand, on the State.

The original intent of the TAT was to provide counties with a percentage of the TAT to offset the impact of visitors on services provided by the counties. As visitor numbers increase, visitor impact will increase, but TAT revenue will also increase. By restoring the counties' share of the TAT to a proportion of TAT revenues generated by each county, TAT revenues to the counties will be in line with increased visitor counts and increased impacts on county services.

The ILWU urges passage of H.B. 2702. Thank you for considering our testimony.

HAWAI'I TOURISM AUTHORITY

Hawai'i Convention Center
1801 Kalākaua Avenue, Honolulu, Hawai'i 96815
kelepona tel 808 973 2255
kelepa'i fax 808 973 2253
kahua pa'a web hawaiitourismauthority.org

David Y. Ige
Governor

George D. Szigeti
President and Chief Executive Officer

LATE

Statement of
George D. Szigeti
Chief Executive Officer
Hawai'i Tourism Authority
on
HB 2702
Relating to Taxation
House Committee on Tourism
Wednesday, February 10, 2016
10:00am
Conference Room 312

The Hawai'i Tourism Authority (HTA) offers the following **testimony opposing** HB 2702's attempt to increase the Transient Accommodations Tax (TAT) to 13.00% percent indefinitely.

An increase in the TAT would negatively affect Hawai'i's largest and most critical industry. Forcing our visitors to bear an additional tax burden would result in unintended negative consequences. Hawai'i is a leisure destination where a guest's spending is discretionary and unlike a business traveler's expenditures, cannot be expensed. When traveling to Hawai'i, visitors know they will have high airfare, hotel and accommodations expenses, ground transportation cost, food and beverage costs, and miscellaneous expenses that all come out of their own pockets. With the price-sensitive nature of our tourism market, any increase in visitor costs could drive travelers to competing locations. Developing destinations such as Mexico, Caribbean, and Puerto Rico also offer sun, sand, and surf, but for a much lower price because they often receive substantial government funding. Coupled with combating inherent challenges of high cost and distance, our visitor industry already has its hands full with maintaining the state's competitive position in the marketplace.

Furthermore, higher TAT rates in other cities should not be a justification for raising rates here. Like Hawai'i, cities such as New York City, Washington D.C., San Francisco, and Chicago also have high room tax rates. However, those cities have a steady source of visitor inflow, due to their proximity to higher concentrations of population, and benefit from a large volume of business travel.

From its efforts to market Hawai'i worldwide, HTA knows firsthand that Hawai'i faces stiff competition in a volatile industry from other global destinations. Keeping taxes low can only make Hawaii vacations more attractive, while raising taxes would be counter-productive. It is important for Hawai'i that we remain committed to keeping our visitor industry competitive with the rest of the world without increasing TAT rates.

Mahalo for the opportunity to offer this testimony.

Chamber of Commerce HAWAII
The Voice of Business

Testimony to the House Committee on Tourism and Committee on Agriculture
Wednesday, February 10, 2016 at 10:00 A.M.
Conference Room 312, State Capitol

LATE

<u>RE: HOUSE BILL 2702 RELATING TO TAXATION</u>

Chairs Brower and Tsuji, Vice Chairs Ohno and Onishi, and Members of the Committees:

The Chamber of Commerce Hawaii ("The Chamber") **opposes** HB 2702, which increases TAT and requires distribution of one-half of TAT revenue collections to each county based on the proportion of TAT revenues generated by each county and reduces the general excise tax rate for gross proceeds received on the sale of food or on the provision of medical expenses. Also requires one-half of TAT revenues after distribution to the counties to be applied to reducing general excise tax on fuel sold to consumer, fuel taxes and county fuel taxes.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

The Chamber feels that this increase on the transient accommodations tax is unnecessary. HB 2702 proposes a steep increase of 3.75% for transient accommodations and of 4.75% on time share units. While we understand the need to provide the counties with the original funding, we oppose this large increase in taxes.

This tax increase could affect the robust tourism growth that Hawaii has had. This in turn could reduce job growth or even reduce jobs in the tourism and related sectors. Many restaurants, retail shops, transportation, and many other related companies benefit from our strong tourism industry.

We ask that this bill be held in committee.

Thank you for the opportunity to testify.

1132 Bishop Street, Suite 2105 • Honolulu, Hawaii 96813 • Phone: (808) 545-4300 • Facsimile: (808) 545-4369

LATE

HAWAI'I LODGING & TOURISM ASSOCIATION

Testimony of

Mufi Hannemann
President and CEO
Hawai‘i Lodging & Tourism Association

Committee on Tourism

House Bill 2702: Relating to Taxation

Chairman Brower and members of the Committee on Tourism:

The Hawaii Lodging & Tourism Association opposes House Bill 2702, which proposes to raise the transient accommodations tax, establish an allocation of transient accommodations tax revenues between the state and county governments, use the revenues to reduce fuel taxes, and reduce the general excise tax on food and drugs.

The thrust of this legislation is that the transient accommodations tax would be raised from the current 9.25 percent to 13 percent beginning this July, and this does not include the 4 percent general excise tax.

Hawai‘i hotels in Fiscal Year 2015 paid $423 million in extra taxes that were paid by no other industry, with $205 million going into the general fund. Coupled with the GET, guests pay a 13.41 percent tax on the Neighbor Islands and 13.96 percent on O‘ahu. Based on the annual average cost of a hotel room and the 13.41 percent tax rate, the average tax alone is $30 per night, more than double the average nightly room tax in the entire nation and one of the highest tax rates in the country for visitor destinations.

Taxes hurt business in Hawai‘i. Destinations with the highest room taxes (often only slightly higher than Hawai‘i’s) are business destinations like New York, Washington, D.C., San Francisco, Chicago, and Seattle. Most travelers to these destinations are charging the hotel bill to their businesses. The larger tax fails to detract business visitors like it does leisure visitors. In other resort destinations like Hawai‘i (our competitors), tax rates are often lower (e.g., San Diego at 10.5 percent or Orlando at 12.5 percent). Additionally, our competitors often have lower room rates due to the lower overall cost of doing business (property taxes, utilities, labor, etc.). In Hawai‘i, high business costs and tax rates make it increasingly difficult for businesses to be profitable and competitive, both domestically and internationally.

Instead of looking to raise the already high transient accommodations tax, we suggest supporting means to collect the millions of dollars in missed taxes from transient vacation units that aren’t in compliance with the Department of Taxation.

For these reasons, the HLTA opposes this legislation.

Mahalo.