

JAN 28 2009

A BILL FOR AN ACT

RELATING TO GENERAL EXCISE TAX.

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

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

3 "SECTION 4. This Act shall take effect on January 1,
4 2008 [~~; provided that this Act shall be repealed on December 31,~~
5 ~~2009, and section 237-24.3, Hawaii Revised Statutes, and section~~
6 ~~237-24.7, Hawaii Revised Statutes, shall be reenacted in the~~
7 ~~form in which they read on December 31, 2007]."~~

8 SECTION 2. Statutory material to be repealed is bracketed
9 and stricken.

10 SECTION 3. This Act shall take effect upon its approval.

11

INTRODUCED BY:

Clarena K. Waiakira
Gene Mervado K.
Michelle N. Kildani



Report Title:

General Excise Tax; Additional Tax Exemptions

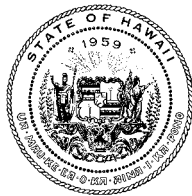
Description:

Makes the GET exemption amendments for timeshare operators and condominium submanagers permanent.



LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR



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**SENATE COMMITTEE ON COMMERCE & CONSUMER PROTECTION
TESTIMONY REGARDING SB 1165
RELATING TO GENERAL EXCISE TAX**

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)

DATE: FEBRUARY 11, 2009

TIME: 8:30AM

ROOM: 229

This bill proposes to make the general excise tax (GET) exemptions for reimbursements from managers of condominium associations to submanagers of condominium associations and hotel operators to timeshare associations or suboperators, distributed as employee costs, permanent.

The Department of Taxation takes **no position on the merits** measure; however must **oppose the revenue loss**.

This bill merely extends the current common reimbursements exemption from the general excise tax.

The Department cannot support the revenue loss in this measure because it is not factored into the budget. The Department must be cognizant of the biennium budget and financial plan. This measure has not been factored into either. Given the forecasted decrease in revenue projections, this measure would add to the budget shortfall.

The cost of making these GET exemptions permanent will result in a revenue loss of approximately \$3.6 million per year.

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MEMORANDUM

TO: Senator Rosalyn H. Baker
Chair, Committee on Commerce and Consumer Protection

FROM: Mihoko Ito

DATE: February 11, 2009

RE: **S.B. No. 1165 – Relating to General Excise Tax
Hearing on Thursday, February 12, 2009 at 8:30 p.m.**

Dear Chair Baker and Members of the Committee on Commerce and Consumer Protection:

I am Mihoko Ito, testifying on behalf of Wyndham Worldwide. Wyndham Worldwide offers individual consumers and business-to-business customers a broad suite of hospitality products and services across various accommodation alternatives and price ranges through its portfolio of world-renowned brands. Wyndham Worldwide has substantial interests in Hawaii that include Wyndham Vacation Ownership, with its new resort at Waikiki Beach Walk.

We support S.B. 1165, which makes the GET exemption amendments for timeshare operators and condominium submanagers permanent. This GET exemption, which exists under the present law, was adopted during the 2007 legislative session as Act 239 Session Laws of Hawaii, 2007. The 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 the 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. For this reason, the tax exemption was extended in 2007.

February 11, 2009

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The tax exemption sought in S.B. 1165 would continue the same tax exemption that presently exist in the law.

Because of the circumstances of the present situation, the passage of this legislation will make things much better for both employees and vendors as well as the owners and the local operators.

Thank you very much for the opportunity to submit testimony.



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

February 12, 2009

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

FROM: Ed Thompson
ARDA-Hawaii

DATE: Thursday, February 12, 2009
Conference Room 229
8:30 a.m.

RE: **SB 1165, RELATING TO GENERAL EXCISE TAX**

Chair Baker and Members of the Committee:

ARDA-Hawaii is the local chapter of the national timeshare trade association. Hawaii's timeshare industry currently accounts for over eight percent of the State's lodging inventory.

ARDA-Hawaii supports SB 1165, which makes the GET exemption amendments for timeshare operators and condominium submanagers permanent.

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

**SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION**

February 12, 2009

SB 1165 Relating to General Excise Tax

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

Marriott supports Senate Bill 1165 Relating to General Excise Tax. The legislature passed Act 239 (SLH 2007) which added the following amendments to section 237-24.7:

"§237-24.7 Additional amounts not taxable. In addition to the amounts not taxable under section 237-24, this chapter shall not apply to:

(1) Amounts received by the operator of a hotel from the owner of the hotel or from a timeshare association, and amounts received by the suboperator of a hotel from the owner of the hotel, from a timeshare association, or from the operator of the hotel, in amounts equal to and which are disbursed by the operator or suboperator for employee wages, salaries, payroll taxes, insurance premiums, and benefits, including retirement, vacation, sick pay, and health benefits. As used in this paragraph:

"Employee" means employees directly engaged in the day-to-day operation of the hotel and employed by the operator~~[-]~~ or suboperator.

"Hotel" means an operation as defined in section 445-90~~[-]~~ or a timeshare plan as defined in section 514E-1.

"Operator" means any person who, pursuant to a written contract with the owner of a hotel~~[-]~~ or timeshare association, operates or manages the hotel for the owner~~[-]~~ or timeshare association.

"Owner" means the fee owner or lessee under a recorded lease of a hotel~~[-]~~.

"Suboperator" means any person who, pursuant to a written contract with the operator, operates or manages the hotel as a subcontractor of the operator.

"Timeshare association" means an "association" as that term is defined in section 514E-1;"

These amendments were designed to level the playing field with regards to operators and suboperators of hotels and timeshares. This bill seeks to remove the sunset clause of Act 239, and make these provisions permanent. We ask for your support for the removal of the sunset date.

Thank you for the opportunity to present this testimony.

THE SENATE
25th LEGISLATURE
REGULAR SESSION of 2009

COMMITTEE ON COMMECE AND CONSUMER PROTECTION
Senator Rosalyn H. Baker, Chair

02/12/09
8:30 AM, Room 229

SB 1165
Relating to General Excise Tax (GET)

Chair Baker and Members.

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

SB 1165 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.

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

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: GENERAL EXCISE, Taxation of timeshare operators and condominium managers

BILL NUMBER: SB 1165; HB 1404 (Identical)

INTRODUCED BY: SB by Nishihara and 2 Democrats; HB by Tokioka

BRIEF SUMMARY: Amends Act 239, SLH 2007, to delete the provision sunsetting this act on December 31, 2009.

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 provides 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 which are disbursed for employee wages, salaries, payroll taxes, insurance premiums and benefits. While this provision is scheduled to sunset on 12/31/09, this measure would make it permanent.

Digested 2/10/09