

# TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

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

**BILL NUMBER:** SB 2643, SD-1

**INTRODUCED BY:** Senate Committees on Commerce and Consumer Protection and Tourism

**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 2/19/10

**GOODSILL ANDERSON QUINN & STIFEL**

A LIMITED LIABILITY LAW PARTNERSHIP LLP

ALI PLAGE, SUITE 1800 • 1099 ALAKEA STREET  
HONOLULU, HAWAII 96813MAIL ADDRESS: P.O. BOX 3196  
HONOLULU, HAWAII 96801TELEPHONE (808) 547-5600 • FAX (808) 547-5880  
info@goodsill.com • www.goodsill.comINTERNET:  
gslovin@goodsill.com  
ahoriuchi@goodsill.com  
melto@goodsill.com  
cznoh@goodsill.comGOVERNMENT RELATIONS TEAM:  
GARY M. SLOVIN  
ANNE T. HORIUCHI  
MIHOKO E. ITO  
CHRISTINA Z. NOH**MEMORANDUM**

**TO:** Representative Marcus R. Oshiro  
Chair, Committee on Finance  
*VIA FACSIMILE: 586-6001*

**FROM:** Gary Slovin / Mihoko Ito

**DATE:** March 16, 2010

**RE:** S.B. 2643, SD2 – Relating to General Excise Tax  
Hearing: Wednesday, March 17, 2010 at 4:00 p.m. (Agenda #3)

---

Dear Chair Oshiro and Members of the Committee:

We submit the following comments on behalf of **Wyndham Worldwide** (“Wyndham”), a timeshare company with substantial interests in Hawaii including Wyndham Vacation Ownership, with its resort at Waikiki Beach Walk.

**Wyndham supports S.B. 2463, SD2**, which 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 and clarifies the maximum allowable tax exemption.

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.

March 16, 2010

Page 2

We also specifically support the language in S.B. 2643, SD2, which repeals the sunset date for the exemption and clarifies that the aggregate cap on the tax exemption applies to the tax amount rather than gross receipts.

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



The REALTOR® Building  
1136 12<sup>th</sup> Avenue, Suite 220  
Honolulu, Hawaii 96816

Phone: (808) 733-7060  
Fax: (808) 737-4977  
Neighbor Islands: (888) 737-9070  
Email: har@hawaiiirealtors.com

March 16, 2010

**The Honorable Marcus R. Oshiro, Chair**

House Committee on Finance

State Capitol, Room 308

Honolulu, Hawaii 96813

**RE: S.B. 2643, S.D.1 Relating to General Excise Tax**

**HEARING: Wednesday, March 17, 2010 at 4:00 p.m.**

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

I am Myoung Oh, Government Affairs Director of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, here to testify on behalf of its 8,800 members in Hawai'i. HAR **supports** S.B. 2643, S.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 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 supports S.B. 2643, S.D. 1, because it permanently retains the GET exemption for association of apartment owners under HRS Chapter 514A. This measure also reflects language that addresses the various stakeholders' concerns and carries out the intent of Act 237, SLH 2007.

For these reasons, we respectfully request that the Committee pass this measure.

However, should this Committee be inclined to replace S.B. 2643, S.D.1 with the contents of H.B. 2783, H.D.2, which previously passed out of this Committee, Section 2 of H.B. 2783, H.D.2 should remain permanent by amending the effective date in Section 5 to read as follows:





**Hawai'i  
Association of  
REALTORS®**  
www.hawaii Realtors.com

The REALTOR® Building  
1136 12<sup>th</sup> Avenue, Suite 220  
Honolulu, Hawaii 96816

Phone: (808) 733-7060  
Fax: (808) 737-4977  
Neighbor Islands: (888) 737-9070  
Email: har@hawaii Realtors.com

“Section 5. This Act shall take effect upon its approval and sections 1 and 3 shall apply to taxable years beginning after December 31, 2009[; provided that this Act shall] and be repealed on June 30, 2015.

**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.**

Mahalo for the opportunity to testify.





**OUTRIGGER\***  
**ENTERPRISES GROUP**  
*Hospitality • Retail • Development*

HOUSE OF REPRESENTATIVES  
25<sup>th</sup> LEGISLATURE  
REGULAR SESSION of 2010

COMMITTEE ON FINANCE  
Representative Marcus Oshiro, Chair

3/17/10  
4:00 PM – Room 308

SB 2643, SD 1  
Relating to General Excise Tax

Chair Oshiro, my name is Max Sword, here on behalf of Outrigger Hotels to offer testimony in support of this measure, which retains the imposed cap of \$400,000, but eliminates the sunset date stated in Act 196.

The Hawaii Revised Statutes currently grants a tax exemption on employee's wages and benefits when a management company receives funds to pay its employees from the owner of a hotel property. This bill extends those same exemptions to time-shares & condo-tels.

The original HRS providing an exemption to hotels was enacted by the Legislature about 20 years ago, with the intention of protecting Hawaii employees when a hotel property is sold.

The employee is protected because hotel owners tend to own only one or two properties and management companies tend to manage multiple properties. So if a hotel is sold, the employees from that property can be relocated to another or receive money owed them, such as vacation, severance pay, etc. The same situation can be said of time-shares and condo-tels.

The management company does not make any money off of the funds to pay their employees, because those funds are a pure pass thru from the property owner to employees.

This is important to the industry, especially local management companies, because it levels the playing field when it comes to managing a timeshare or a condo tel. It allows the local companies to compete with the larger out-of state companies.

Mahalo for considering my testimony, and we urge your support for the number one industry in Hawaii and this bill.



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

March 17, 2010

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

**FROM:** Ed Thompson  
ARDA-Hawaii

**DATE:** Wednesday, March 17, 2010  
Conference Room 308  
4:00 p.m.

**RE:** **SB2643, SD1, 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 SB 2643, SD1. 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*

**HOUSE COMMITTEE ON  
FINANCE**

March 17, 2010

Senate Bill 2643, SD 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 Senate Bill 2643, SD 1 Relating to General Excise Tax. The legislature passed Act 239 in 2007. Senate Bill 2643, SD 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.



**STARWOOD**

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

March 17, 2010

Honorable Marcus R. Oshiro, Chair  
House Committee on Finance

**Re: SB 2643 SD1 – RELATING TO GENERAL EXCISE TAX – SUPPORT**  
Hawaii State Capitol, Conference Room 308. 4 PM; Agenda #3

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 SB 2643, SD1 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 SB 2643, SD1.

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