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MEMORANDUM

TO: Senator Donna Mercado Kim
Chair, Committee on Ways and Means
VIA EMAIL: WAMTestimony@Capitol.hawaii.gov

FROM: Gary Slovin / Mihoko Ito

DATE: February 21, 2010

RE: **S.B. 2643, SD1 – Relating to General Excise Tax**
Hearing: Monday, February 22, 2010 at 10:00 a.m.

Dear Chair Kim 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, SD1, which repeals the sunset provisions with respect to general excise tax exemptions and condominium submanagers, suboperators, and timeshare associations, first enacted by Act 239, SLH 2007, and extended by 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.

February 21, 2010

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We further note our support for the language in S.B. 2643, SD1, which clarifies the maximum allowable tax exemption, and which we feel gives the measure the effect it was intended to have.

Thank you very much for the opportunity to submit comments.

February 20, 2010

The Honorable Donna Mercado Kim, Chair
Senate Committee on Ways and Means
State Capitol, Room 211
Honolulu, Hawaii 96813

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

HEARING: Monday, February 22, 2010 at 10:00 a.m.

Aloha Chair Kim, Vice Chair Tsutsui and Members of the Committee:

I am Myoung Oh, Government Affairs Director, offering comments 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** 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. Mahalo for the opportunity to submit comments on this measure.

**SENATE COMMITTEE ON
WAYS AND MEANS**

February 22, 2010

Senate Bill 2643, SD 1 Relating to General Excise Tax

Chair Kim and members of the Senate Committee on Ways and Means, 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.



THE SENATE
25th LEGISLATURE
REGULAR SESSION of 2010

COMMITTEE ON WAYS & MEANS
Senator Donna Mercado Kim, Chair

2/22/10
10:00 AM – Room 211

SB 2643, SD 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.

SB 2643, SD 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). These monies are pass thru expenses which the management companies do not profit from.

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.

This exemption allows local companies, such as Outrigger Hotels, to obtain contracts, such as our arrangement with Wyndam Timeshares and Embassy Suites at our Waikiki Beachwalk project.

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



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

February 22, 2010

Honorable Donna Mercado Kim, Chair
Senate Committee on Ways and Means

Re: SB 2643 SD1 – RELATING TO GENERAL EXCISE TAX – SUPPORT
Hawaii State Capitol, Conference Room 211, 10 AM

Aloha Chair Kim 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

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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