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Testimony of
Mike McCartney
President and Chief Executive Officer
Hawai'i Tourism Authority
on
S.B. 3017, S.D. 2
Relating to Transient Accommodations

House Committee on Tourism
Monday, March 12, 2012
9:30 a.m.
Conference Room 312

The Hawai'i Tourism Authority (HTA) supports the intent of S.B. 3017, S.D.2, which attempts to clarify those transient accommodations that are furnished on a "complimentary or gratuitous" basis, on which a \$10 per day tax is assessed.

S.B. 3017 excludes from "transient accommodations furnished on a complimentary or gratuitous basis," accommodations furnished as part of an industry promotional or marketing program, such as familiarization or FAM for travel agents tours, promotions to meeting and event planners, and the marketing program of the respective property. This will help the industry by removing a cost for its promotion and marketing programs imposed by the \$10 tax.

S.B. 3017, S.D. 2, includes in transient accommodations furnished on a "complimentary or gratuitous basis", "prize giveaways, contestant winnings, charitable gifts, and complimentary or gratuitous rooms furnished as part of a travel package." If those prize giveaways, contestant winnings, charitable gifts, and complimentary or gratuitous rooms furnished as part of a travel package are furnished at "no charge", are they exempt from the tax under section 237D-3, which lists exemptions from the TAT and lists as exempt "[a]ccommodations furnished without charge."

With about 42,461 hotel rooms statewide, using 2011 statistics, there are 15,498,265 available hotel room-nights statewide annually. With a statewide occupancy rate of 83.2 percent, an average of 35,327 rooms should be occupied on any day, with 12,894,355 occupied room-nights statewide annually. Is it worth collecting this tax? The question that should be asked of the Department of Taxation is, "Since 2011, when Act 105 went into effect, how much in TAT was collected from the \$10 tax on complimentary or gratuitous accommodations?"

Thank you for the opportunity to offer these comments.



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**TESTIMONY OF MUFI HANNEMANN
PRESIDENT & CEO
HAWAII LODGING & TOURISM ASSOCIATION**

March 12, 2012

RE: SB 3017 SD 2 Relating to the Transient Accommodations Tax

Good morning Chairperson Brower and members of the House Committee on Tourism. I am Mufi Hannemann, President & CEO of the Hawai'i Lodging & Tourism Association (fka The Hawaii Hotel & Lodging Association).

The Hawai'i Lodging & Tourism Association is a statewide association of hotels, condominiums, timeshare companies, management firms, suppliers, and other related firms and individuals. Our membership includes over 150 lodging properties representing over 48,000 rooms. Our lodging members range from the 2,680 rooms of the Hilton Hawaiian Village to the 4 rooms of the Bougainvillea Bed & Breakfast on the Big Island.

Senate Bill 3017 SD 2 amends Section 237D-2 of the Hawaii Revised Statutes regarding the \$10 tax on complimentary hotel rooms.

The members of the Hawaii Lodging & Tourism Association support this measure, which recognizes the complexities of the complimentary room program and supports the industry's need to provide these services as a necessary element of our marketing and promotion efforts.

Mahalo for this opportunity to testify.

TAXBILLSERVICE

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SUBJECT: TRANSIENT ACCOMMODATIONS, Tax on complimentary rooms

BILL NUMBER: SB 3017, SD-2

INTRODUCED BY: Senate Committee on Ways and Means

BRIEF SUMMARY: Amends HRS section 237D-2 to clarify the imposition of the daily tax of \$10 for every transient accommodation that is furnished on a complimentary or gratuitous basis, or at no charge, by providing that “complimentary or gratuitous basis:” (1) includes transient accommodations such as prize giveaways, contestant winnings, charitable gifts, and complimentary or gratuitous rooms furnished as part of a travel package; and (2) does not include transient accommodations furnished as part of a tourism industry promotional or marketing activity, including familiarization tours, promotions to meeting and event planners, and publicizing the property as part of a marketing program.

The amendments made by this act to HRS chapter 237D-2 shall not be repealed when this section is reenacted on June 30, 2015 as a result of Act 61, SLH 2009.

EFFECTIVE DATE: July 1, 2012

STAFF COMMENTS: The legislature by Act 103, SLH 2011, provided for the imposition of a tax on transient accommodations (TAT) that are furnished on a complimentary or gratuitous basis, or otherwise at no charge, at the rate of \$10 per night. This measure clarifies what type of rooms are to be applicable to the \$10 per night rate. The measure also proposes that the \$10 per night rate shall not be applicable to complimentary rooms that are provided for familiarization tours or “fams” which are generally extended to travel agents, travel writers, VIP’s, and meeting planners so that the hotel can sell its property to those who will be selling travel to their clients or who will be writing about a vacation in Hawaii. For these properties, such accommodations and amenities are charged against the hotel’s marketing budget as it represents a cost of publicizing the property. Thus, since no income is received from a source outside the hotel, therefore, there is no gross income against which the TAT can properly be charged.

While this measure would clarify the imposition of the daily TAT of \$10 for certain “complimentary” rooms, it should be noted that in a recent Tax Information Release (2011-05) issued on November 10, 2011 **attempts** are made to clarify what constitutes a transient accommodation which is furnished on a complimentary or gratuitous basis.

The legislature’s attempt to “squeeze blood out of the stone” by taxing complimentary accommodations flies in the face of the philosophy of this particular tax. The TAT is clearly a tax on the gross proceeds received for the provision of a transient accommodation or hotel room. As any fifth grader knows, zero times any number is still zero which obviously is not in the intellectual repertoire of lawmakers. As this measure highlights, such “complimentary” rooms are provided in the interest of the hotel in either generating more business upon which the TAT will be imposed or to create goodwill that will generate return business for the hotel in the future.

Digested 3/9/12