

# SB3017

Measure Title: RELATING TO THE TRANSIENT ACCOMMODATIONS TAX.

Report Title: Transient Accommodations Tax; Complimentary Rooms; Daily \$10 Tax

Description: Clarifies that the daily \$10 tax on a transient accommodation furnished on a complimentary or gratuitous basis includes transient accommodations furnished without tangible industry development or promotional purposes, but does not include transient accommodations furnished as part of a tourism industry promotional or marketing activity.

NEIL ABERCROMBIE  
GOVERNOR

BRIAN SCHATZ  
LT. GOVERNOR



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To: The Honorable Donna Mercado Kim, Chair  
and Members of the Senate Committee on Tourism

Date: Thursday, February 2, 2012  
Time: 1:15 p.m.  
Place: Conference Room 224, State Capitol

From: Frederick D. Pablo, Director  
Department of Taxation

Re: S.B. No. 3017 Relating to Transient Accommodations Tax

The Department of Taxation (Department) appreciates the intent of S.B. 3017 and provides the following comments for your consideration.

S.B. 3017 amends HRS § 237D-2(c), which levies a \$10 per day tax on complimentary transient accommodations, by providing a definition for the term "complimentary or gratuitous basis." As written, S.B. 3017 proposes new terminology, which has not been defined, making it difficult to administer. For instance, it is unclear what constitutes "tangible industry development," or what it means for a transient accommodation to be furnished as "a part of a travel package" or "on a rewards program."

The Department appreciates the intent of S.B. 3017 to amend HRS § 237D-2(c). However, without additional clarifying language, the bill in its current form will only add confusion and create more difficulties for enforcement.

Thank you for the opportunity to provide comments.



NEIL ABERCROMBIE  
Governor

MIKE MCCARTNEY  
President and  
Chief Executive Officer

# Hawai'i Tourism Authority

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

Senate Committee on Tourism  
Thursday, February 2, 2012  
1:15 p.m.  
Conference Room 224

The Hawai'i Tourism Authority (HTA) supports S.B. 3017, which describes 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 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.

We would like to point out that there is a conflict between the \$10 tax imposed by Act 103, SLH 2011, which amended section 237D-2 to impose the tax, and section 237D-3, which lists exemptions from the TAT and lists as exempt in paragraph (7):

“(7) Accommodations furnished without charge...”

Thank you for the opportunity to offer these comments.



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

**February 2, 2012**

**RE: SB 3017 Relating to the Transient Accommodations Tax**

Good afternoon Chairperson Kim and members of the Senate Committee on Tourism. I am Mufi Hannemann, President & CEO of the Hawaii Lodging & Tourism Association (fka The Hawaii Hotel & Lodging Association).

The Hawaii 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 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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TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: TRANSIENT ACCOMMODATIONS, Tax on complimentary rooms

BILL NUMBER: SB 3017

INTRODUCED BY: Kim, Kouchi and Tsutsui

**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 furnished without tangible industry development or promotional purposes, such as prize giveaways, contestant winnings, charitable gifts, part of a travel package, and rewards programs; 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 to by this act to HRS chapter 237D-2 shall not be repealed when this section is reenacted on June 30, 2005 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 1/31/12