L E G I S L A T I V E

TAXBILLSERVICE

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SUBJECT: INCOME, GENERAL EXCISE, Employer tax credit; hotel construction and remodeling tax exemption

BILL NUMBER: SB 3048, SD-1

INTRODUCED BY: Senate Committee on Tourism

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to provide that each qualified employer shall be allowed a tax credit of 4.5% of the wages paid to each qualified employee during a tax year. The tax credit allowed under this section shall be available for the seven tax years following the end of the taxable year in which the certified facility was substantially completed as defined under HRS section 237-____. The tax credit shall be applicable to tax years beginning after December 31, 2011.

Credits in excess of a taxpayer's income tax liability may be refunded to the taxpayer provided such amount is over $1. Claims for the credit, including any amended claims, must be filed on or before the end of the twelfth month following the close of the taxable year. The director of taxation may adopt rules pursuant to HRS chapter 91 and prepare the necessary forms to claim the credit and may require proof of the claim for the credit.

Defines "certified facility" as a hotel facility or resort facility that was the subject of a pre-certification issued by the department under section 237- ___. Also defines "department," "qualified employee," "qualified employer" and "wages" for purposes of the measure.

Adds a new section to HRS chapter 237 to provide that gross income earned from the construction or renovation of the hotel or resort facility shall be exempt from the general excise tax. Defines "construction or renovation of a hotel facility or a resort facility" as the planning, design, construction, furniture and fixtures above routine maintenance, materials, and equipment related to new construction, alterations, remediation, or modifications of a hotel facility or resort facility in the state that is substantially completed by June 30, 2017; provided that: (1) the costs exceed $50 million by June 30, 2017; and (2) the general contractor and any subcontractors of the construction or renovation are signatory parties to collective bargaining agreements with the appropriate construction trade unions covering construction work in the state. The general excise tax exemption shall be applicable to taxable periods beginning after June 30, 2012.

The exemption shall be conditioned on the department of business, economic development and tourism (DBEDT) pre-certifying the construction or renovation of a hotel facility or resort facility based upon an application that: (1) is submitted by the owner, developer, or general contractor of the hotel facility or resort facility at any time before or during construction or renovation of the hotel facility or resort facility; (2) describes, in sufficient detail, the construction or renovation of the hotel facility or resort facility; (3) estimates the costs of construction or renovation and tax exemptions and credits to be claimed under this section and HRS section 235- ; and (4) includes all other information prescribed by the department.

Requires DBEDT to maintain records of the names of taxpayers claiming the exemption, the amount of the exemption claimed, and prepare an annual report of the records that shall be made public.

Defines "department," "hotel facility," "resort facility" and "substantially completed" for purposes of the measure.

EFFECTIVE DATE: July 1, 2012; applicable to tax years beginning after December 31, 2011

STAFF COMMENTS: The legislature by Act 195, SLH 2000, enacted a hotel construction and renovation income tax credit of 4% for hotel renovations effective for tax years beginning after 12/31/98 but before 12/31/02. Act 10 of the Third Special Session of 2001 increased the hotel renovation tax credit to 10% for construction costs incurred before 7/1/03. Act 10 also provided that the credit shall revert back to 4% on 7/1/03 and sunset on 12/31/05.

The original income tax credit was promoted on the argument that the tax credit would be an incentive for hotels to refurbish their properties in order to remain competitive with other destinations around the world. The credit amount was set at 4% to seemingly offset the 4% general excise tax. When 9/11 hit, the momentum of the crisis fostered support for an increase in the credit to 10% to supposedly keep projects which were already in progress going. However, the governor objected and threatened to veto the sweetened credit. The legislature compromised and provided that the 10% credit would be nonrefundable.

Rather than an income tax credit, this measure proposes a general excise tax exemption for: (1) the gross income earned from the construction or renovation of a hotel facility or resort facility in the state that is completed by June 30, 2017; and (2) an income tax credit for the hiring of employees for the newly constructed or renovated hotel facility for a period of seven years after the completion of such construction or renovation.

It should be noted that no evaluation has been done to validate the effectiveness of previous income tax credits in spurring substantial renovations of hotel resort properties. While some may argue that this credit is necessary to make their upcoming renovations pencil out, one must ask whether or not it is the role of government to subsidize private investments. While the credit might be viewed as critical to a taxpayer's project or to the continued renovation of the resort plant, one must ask how long must all other taxpayers suffer the heavy burden of taxation so that this subsidy can be extended to a few?

It would be a very different picture if those who are asking for the subsidy would be willing to forgo other public services or make recommendations on how government can rein in spending, but that is not the case. Now, more than ever, lawmakers need to recognize that they need to set priorities for what precious few dollars taxpayers can part with to run state and local government. One must ask how lawmakers can provide subsidies like this proposal while they raised the general excise tax on all other taxpayers to pay for a transit system in Honolulu? Taking care of a few taxpayers at the expense of all other taxpayers is certainly a cavalier attitude.

It should be remembered that exemptions from the general excise tax that are not predicated on providing tax relief tend to skew the economic landscape, shifting not only tax burdens but economic activity from one period to another. Such was the case for the general excise tax exemption for the building of affordable housing in the early 1990's. The incentive was that the first 10,000 affordable housing units built before December 31, 1994 would be exempt from the state general excise tax. As a result, developers rushed in to build as many affordable housing units as they could before that deadline. Unfortunately, just as the deadline arrived, the Japanese bubble burst and the developers were left holding huge unsold inventories of housing as there were no buyers in the market for those units.

How the economic recovery will shake up is anyone's guess. Many of the hotel renovation projects which were shuttered are a by-product of not only tight capital markets but also a sluggish visitor market. Why renovate hotel rooms when the prospect for a pick-up in visitor count is dour?

Instead of subsidizing construction in order to get construction workers off the bench, government can assist in a number of other ways. Streamlining the permitting process, allowing certification of building plans by professional architects and engineers instead of approval by the building departments are but a few ways construction activity can be rejuvenated. For government subsidized housing, the approval process for bond financing and issuance of low-income housing tax credits could be enhanced rather than drawn through the lengthy approval process.

Thus, rather than tinkering with the economy, lawmakers should rein back the role of government, or in other words, get out of the way and let the market lead the way to recovery. If nothing else, this measure demonstrates that lawmakers do not understand what makes the economy run and how businesses make their decisions. It is certainly sad that groups of people who have little, if any, business experience are attempting to tell businesses how they should be run.

While the measure also proposes an income tax credit for a portion of the wages of employees hired for the newly constructed or renovated hotel or resort facility, it should be remembered that the tax system is a poor means of achieving such social goals. Providing such credits against the state income tax merely reduces state revenues which may necessitate a shift in the tax burden to other taxpayers who are not able to claim the credit. The proposed tax credits have absolutely no relationship to the burden of taxes imposed on the employer/taxpayer or the taxpayer's ability or inability to pay those taxes and cannot be justified. The credit is nothing more than a partial subsidy to an employer with state funds.

Digested 2/23/12

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TO: Senator David Y. Ige
Chair, Committee on Ways and Means
Via Email: WAMTestimony@Capitol.hawaii.gov

FROM: Gary M. Slovin / Mihoko E. Ito

DATE: February 23, 2012

RE: **S.B. 3048, SD1 – Relating to Travel and Tourism Stimulus Initiatives**
Hearing: February 24, 2012 at 9:00 a.m.
Conference Room 211

Dear Chair Ige and Members of the Committee on Ways and Means:

Wyndham Vacation Ownership offers individual consumers and business-to-business customers a broad suite of hospitality products and services through its portfolio of world-renowned brands. Wyndham has a substantial presence in Hawaii through its Wyndham Vacation Resorts and WorldMark by Wyndham brands.

Wyndham supports S.B. 3048, SD1 which provides an employer tax credit of 4.5 per cent of the wages paid by a qualified employer to certain employees for seven years after completion of hotel and resort construction and renovation, and provides a general excise tax exemption for hotel and resort construction and renovation and for the operation of these hotels and resorts for seven years after substantial completion of construction and renovation under certain conditions.

Timeshare is important for the State of Hawaii and is an important component of a strong visitor industry. Timeshare provides stability for the visitor industry through its occupancy rates, which mitigates negative economic impacts during periods of uncertainty. Timeshare properties have been a key to investment in new construction and renovation projects. In order for Hawaii to continue to attract visitors in the global marketplace, resorts must offer a quality experience to our visitors and maintain and improve their physical infrastructure. S.B. 3048, SD1 provide the private sector with investment incentives to develop new and improved existing visitor properties throughout the State.

For these reasons, Wyndham strongly supports this bill.

Thank you very much for the opportunity to submit comments regarding this measure.

The Pacific Resource
PARTNERSHIP

Testimony of C. Mike Kido
External Affairs
The Pacific Resource Partnership

Senate Committee on Ways and Means
Senator David Y. Ige, Chair
Senator Michelle N. Kidani, Vice Chair

Friday, February 24, 2012
9:00 AM
Conference Room 211

SB 3048, SD1 – RELATING TO TRAVEL AND TOURISM STIMULUS INITIATIVES

Aloha Chair Ige, Vice Chair Kidani and Members of the Committee:

My name is C. Mike Kido, External Affairs of the Pacific Resource Partnership (PRP), a labor-management consortium representing over 240 signatory contractors and the Hawaii Regional Council of Carpenters, formerly the Hawaii Carpenters Union.

PRP supports SB 3048, SD1 – Relating to Travel and Tourism Stimulus Initiatives which provides an employer tax credit paid by a qualified employer to certain employees after completion of hotel and resort construction and renovation. This measure also provides general excise tax exemption for hotel and resort construction and renovation and for the operation of these hotels and resorts for seven years after completion of construction and renovation; requires construction and renovation of a hotel facility or resort facility to be completed by 6/30/2017 to be eligible for the exemption.

Senate Concurrent Resolution No.132 (2009) established a Construction Industry Task Force to determine the economic contributions of the construction industry in Hawaii and to develop a series of proposals for state actions to preserve as well as to create new jobs.

As an active participant in the Construction Industry Task Force, PRP believes it was and still is crucial to jump start Hawaii's economy with active pursuit in new construction and renovation plans that would otherwise be delayed by the prevailing financial climate.

With our economy in recession, stimulus and other initiatives are needed to counteract the negative impact on our state. A hotel construction and resort general excise tax exemption can provide excellent means to boost Hawaii's tourism and construction industries.

Thank you for the opportunity to share our views with you and we respectfully ask for your support on SB 3048, SD1 – Relating to Travel and Tourism Stimulus Initiatives.