

TAXBILLSERVICE

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Honolulu, Hawaii 96813 Tel. 536-4587

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

BILL NUMBER: SB 1360; HB 334 (Similar)

INTRODUCED BY: SB by Galuteria; HB by Brower, 3 Democrats and 1 Republican

BRIEF SUMMARY: Amends Act 239, SLH 2007, as amended by Act 196, SLH 2009, as amended by Act 91, SLH 2010 to make the exemption permanent.

EFFECTIVE DATE: SB - Upon approval; HB - July 1, 2013

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 which 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. Act 191, SLH 2010, extended the sunset date of the exemption to 12/31/14 and clarified that the aggregate amount of the tax exempted shall not exceed \$40,000. This measure would make this exemption permanent.

Note well that any amounts paid as remuneration to the person or persons undertaking the maintenance or common area expenses are still subject to the general excise tax. The exemption that this bill proposes to make permanent recognizes that imposing the tax on such reimbursed costs merely increases the cost of the shelter being maintained. Given that the exemption has been in place for more than five years, making the exemption permanent will lend certainty to the tax treatment of this particular provision.

Digested 2/1/13

February 21, 2013

The Honorable Sylvia Luke, Chair

House Committee on Finance
State Capitol, Room 308
Honolulu, Hawaii 96813

RE: H.B. 334, Relating to Taxation

HEARING: AGENDA #3, Thursday, February 21, 2013 at 4:00 p.m.

Aloha Chair Luke, Vice Chair Nishimoto, Vice Chair Johanson, and Members of the Committee:

I am Myoung Oh, Government Affairs Director, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 8,000 members. **HAR supports H.B. 334 to the extent that it makes permanent the reference to HRS Chapter 514A in HRS Section 237-24.3(3)(A) as amended in Section 1 of Act 239, Session Laws of Hawai'i ("SLH") 2007, as amended by Act 196, SLH 2009, and Act 91, SLH 2010.**

Section 1 of Act 239, SLH 2007, amends HRS 237-24.3 by extending the General Excise Tax ("GET") exemption for amounts received by certain Associations of Apartment Owners ("AOAOs") in reimbursement for common expenses to submanagers. Act 239 took effect on January 1, 2008, and was scheduled to be repealed on December 31, 2009. Act 196, SLH 2009, extended the repeal date to December 31, 2010, and Act 91, SLH 2010, further extended the repeal date to December 31, 2014.

Section 1 of Act 239 also includes a housekeeping amendment which was intended to clarify that amounts received by AOAOs of condominium property regimes established under HRS Chapter 514A as well as under HRS Chapter 514B are exempt from the 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 H.B. 334 to the extent that it permanently retains the GET exemption for amounts received by AOAOs established under both HRS Chapter 514A and HRS Chapter 514B.

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

Mahalo for the opportunity to testify.

**Testimony of
Gary M. Slovin/Mihoko Ito
on behalf of
Wyndham Vacation Ownership**

DATE: February 20, 2013

TO: Representative Sylvia Luke
Chair, House Committee on Finance
FINtestimony@capitol.hawaii.gov

RE: **H.B. 334 – Relating to Taxation**
Hearing Date: Thursday, February 21, 2013 at 4:00 p.m.
Conference Room 308

Dear Chair Luke and Members of the Committee on Finance:

We present this testimony on behalf of Wyndham Vacation Ownership.

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** H.B. 334 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.

These amounts are presently exempted from GET, as a result of a law first enacted by Act 239, SLH 2007, extended in Act 196, SLH 2009, and further extended in Act 91, SLH 2010. 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 loss of 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

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everyone's benefit that those sums be paid by the local operator to the local employees and local vendors.

We support making this measure permanent because it will level the playing field with regard to similarly situated entities for the payment of monies to a hotel operator for employee wages and benefits.

Thank you very much for the opportunity to submit testimony.