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**LATE**

To: The Honorable Sylvia Luke, Chair  
and Members of the House Committee on Finance

Date: Thursday, February 21, 2013

Time: 4:00 P.M.

Place: Conference Room 308, State Capitol

From: Frederick D. Pablo, Director  
Department of Taxation

Re: H.B. 334 Relating to Taxation

The Department of Taxation (Department) appreciates the intent of H.B. 334 and offers the following information and comments for your consideration.

H.B. 334 would make permanent the changes enacted under Act 239, Session Laws of Hawaii 2007. Act 239 provides the following:

- Allows submanagers the same General Excise Tax (GET) exemption allowed to managers or boards of directors of associations of apartment owners (AOAOs) or homeowners associations for amounts received in reimbursement of sums paid for common expenses under HRS § 237-24.3(3).
- Allows timeshare associations and suboperators of hotels the same General Excise Tax exemption allowed to hotel operators for amounts received which are disbursed for employee wages, salaries, payroll taxes, insurance premiums and benefits under HRS § 237-24.7(1).

In both instances, Act 239 extends a GET exemption to transactions that are similar to those already exempted. A submanager of an AOAO is in a similar situation to a manager of an AOAO when it receives amounts which are in reimbursement for sums paid for common expenses such as common area maintenance of a condominium building. Likewise timeshare associations and hotel suboperators are in a similar situation to hotel operators when they receive amounts which are disbursed for employee wages.

Both amendments under Act 239 are intended to allow for consistent and uniform application of tax law for taxpayers in similar situations. Adoption of this measure will aid administration of the tax law.

The Department notes that Act 196, Session Laws of Hawaii 2009, Part II, Section 6, created an aggregate cap of \$400,000 for the taxpayers exempted by the amendment of section 237-24.7 by Act 239. Under Act 239, additionally exempted amounts (1) received by the operator of a hotel from the owner of a timeshare; and (2) amounts received by the suboperator of a hotel from the owner of the hotel, timeshare association, or from the operator of the hotel. Only these new categories of exempted amounts fall under the aggregate cap.

The administration of this aggregate cap has been a challenge for both the Department and taxpayers applying for the exemption. Administration of this aggregate cap has required the Department to manually process the tax returns of certain taxpayers in order to ensure the amount of tax credits claimed does not exceed the aggregate cap. Additionally, the aggregate cap has the inadvertent effect of treating similarly situated taxpayers inconsistently, even though the amounts are all exempted under the same subsection. In order to remedy this issue, the Department suggests removal of the aggregate cap.

The Department estimates this measure would result in a revenue loss of \$200,000 for FY 2015 and \$400,000 for FY 2016 and thereafter. Removing the \$400,000 aggregate cap would result in an additional revenue loss of \$2.6 million annually.

Thank you for the opportunity to submit testimony.



**LATE**

HOUSE OF REPRESENTATIVES  
THE TWENTY-SIXTH LEGISLATURE  
REGULAR SESSION OF 2012

COMMITTEE ON FINANCE  
Representative Sylvia Luke, Chair

2/21/13  
Rm. 308, 4:00 PM

HB 334 (HSCR 452)  
Relating to General Excise Tax

Chair Luke and Members of this Committee, my name is Max Sword, here on behalf of Outrigger Hotels Hawaii in support of this bill.

HB 334 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).

The Hawaii Revised Statutes currently grants a tax exemption on employee's wages and benefits when a management company receives funds to pay its employees from the owner of a hotel property. This bill extends those same exemptions to time-shares & condo-tels.

The original HRS providing an exemption to hotels was enacted by the Legislature about 20 years ago, with the intention of protecting Hawaii employees when a hotel property is sold. This measure will offer the same protection of employees of time-shares and condo-tels.

This is also important to the industry, especially local management companies, because it levels the playing field when it comes to managing a timeshare or a condo tel. It allows the local companies to compete with the larger out-of state companies.

We urge your favorable disposition of this bill and thank you for allowing me to testify.