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Neil Abercrombie
Governor

Mike McCartney
President and Chief Executive Officer

Testimony of
Mike McCartney
President and Chief Executive Officer
Hawai'i Tourism Authority
on
H.B. 970
Relating to Transient Accommodations Tax
House Committee on Tourism
Monday, February 11, 2013
9:30 a.m.
Conference Room 312

The Hawai'i Tourism Authority (HTA) opposes H.B. 970, which proposes to impose the transient accommodations tax (TAT) on resort fees.

The bill defines "resort fees" as "...any charge or surcharge imposed by a transient accommodations operator, owner, plan manager, or representative thereof to a transient or occupant for the use of the transient accommodation's property...", and defines "gross rental" to include "...resort fees or any other type of surcharge charged to a guest for the furnishing of a transient accommodation." Section 237D-1, however, defines "transient accommodations" as "***the furnishing of a room, apartment, suite, or the like which is customarily occupied by a transient...***" A resort fee is not for an accommodation that is occupied. It is for a service or product purchased by the guest.

Hawaii is a leisure destination, where the visitor's spending is discretionary. As such, our visitor market is price-sensitive, and any increase could drive a traveler to a competing destination. An additional charge, such as imposing the TAT on resort fees will only diminish Hawaii's ability to compete in a price-sensitive market. This could cause us to lose momentum in the significant gains in visitor arrivals and spending experienced over the past three years. We need to ensure the continued success of our industry for the state's economy to be sustainable.

Instead of imposing the TAT on resort fees, we believe that by investing in opportunities to maintain market share and diversify our tourism profile in the leisure and meetings, conventions and incentive (MCI) markets, enhancing access and neighbor island distribution, and building on the experiential assets of our people, place and culture, we can generate greater revenue that will benefit the entire state.

For these reasons we oppose H.B. 970, and request that it be held.

Mahalo for the opportunity to offer these comments.



HAWAII LODGING & TOURISM

ASSOCIATION

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**TESTIMONY OF GEORGE SZIGETI
PRESIDENT & CEO
HAWAII LODGING & TOURISM ASSOCIATION**

February 11, 2013

RE: HB970 Relating to the Transient Accommodations Tax

Good afternoon Chair Brower, Vice Chair Cachola and members of the House Committee on Tourism.
I am George Szigeti, President & CEO of the Hawaii Lodging & Tourism Association.

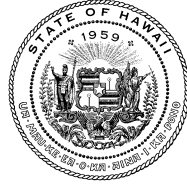
The Hawaii Lodging & Tourism Association is a statewide association of hotels, condominiums, timeshare companies, management firms, suppliers, and other related firms and individuals. Our membership includes over 150 lodging properties representing over 48,000 rooms. Our lodging members range from the 3,499 rooms of the Hilton Hawaiian Village Waikiki Beach Resort to the 4 rooms of the Bougainvillea Bed & Breakfast on the Big Island.

The Hawaii Lodging & Tourism Association strongly opposes SB 1201 Relating to Transient Accommodation Tax. This measure would impose the Transient Accommodation Tax onto resort fees. The resort fee is not part of the guest room accommodation. The resort fees are for ancillary benefits like the use of the gym and spa facilities, WiFi, and shuttle services to name a few. These tax increases make a Hawaiian vacation more expensive and target the visitor industry at time when increased visitor arrivals are our best opportunity to increase revenue flowing to our state and to have more people working.

I appreciate this opportunity to testify.

NEIL ABERCROMBIE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
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FREDERICK D. PABLO
DIRECTOR OF TAXATION

JOSHUA WISCH
DEPUTY DIRECTOR

To: The Honorable Tom Brower, Chair
and Members of the House Committee on Tourism

Date: Monday, February 11, 2013
Time: 9:30 A.M.
Place: Conference Room 312, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: H.B. 970, Relating to Transient Accommodations Tax

The Department strongly supports H.B. 970, and offers the following information and comments for your consideration.

H.B. 970 clarifies that resort fees and other surcharges charged to guests at a hotel or other transient accommodation are subject to transient accommodations tax (TAT).

The TAT is imposed on gross rental proceeds derived from furnishing transient accommodations. "Gross rental" or "gross rental proceeds" is defined as the gross receipts, cash or accrued, of the taxpayer received as compensation for the furnishing of transient accommodations and the value proceeding or accruing from the furnishing of such accommodations without any deductions.

To the extent resort fees are paid by a person in exchange for being furnished a transient accommodation, resort fees constitute gross rental proceeds and are subject to the TAT. Merely stating resort fees as a separate line item on a bill is not sufficient to demonstrate that resort fees are not charged in exchange for the furnishing of the transient accommodation.

More specifically, if resort fees are a mandatory part of the guest's bill, they clearly constitute gross rental proceeds subject to TAT. Where the resort fees are not mandatory, a determination of whether those fees constitute gross rental proceeds subject to TAT depends on whether they are paid in exchange for the furnishing of the transient accommodation, or whether they were paid as part of a wholly separate transaction.

Thank you for the opportunity to provide testimony.

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: TRANSIENT ACCOMMODATIONS, Resort fee

BILL NUMBER: SB 1201; HB 970 (Identical)

INTRODUCED BY: SB by Kim by request; HB by Souki by request

BRIEF SUMMARY: Amends HRS section 237D-1 to amend the definition of “gross rental” or “gross rental proceeds” to include resort fees or other type of surcharges charged to a guest. Adds a definition of resort fee as any charge or surcharge imposed by a transient accommodation operator, owner, plan manager, or representative thereof to a transient or occupant for the use of the transient accommodation’s property, services or both.

These charges or surcharges are considered a resort fee even when the charges to the transient or occupant are: (1) negotiated in a transaction subsequent to, or separate from, the initial transaction for the stay in the transient accommodation; (2) separately itemized on the transient’s or occupant’s bill or invoice; (3) stated on a separate bill or invoice; (4) charged by the operator, owner, plan manager, or representative thereof to the transient or occupant for property or services rendered by a third party; (5) optional, if the property or service is intrinsic to the furnishing of a transient accommodation; or (6) mandatory, irrespective of whether the transient or occupant uses the property or service in whole or in part. Resort fees do not include charges for property or services sold in transactions unrelated to the furnishing of transient accommodations.

EFFECTIVE DATE: July 1, 2013

STAFF COMMENTS: This is an administration measure submitted by the department of taxation TAX-22 (13). It appears that this measure is proposed to extract additional tax revenues from the visitor industry, in this case by the imposition of the transient accommodations tax (TAT) on resort fees. It should be noted that while some resorts and hotels impose such a “resort fee” to provide guests access to certain areas of the resort including swimming pools, health spas, tennis courts, etc., others may include it in the cost of the room. If the guest has no interest in these recreational “extras,” he or she can choose not to pay the resort fee. The point is that renting a hotel accommodation does not necessarily require the guest to pay the resort fee, but is often an option and is not implicit in the cost of the room rental.

Other than a grab for more revenues, this proposal makes little sense in that it attempts to extend the TAT to services that are not a prerequisite of renting a hotel room. Even when a visitor buys a vacation package from a packager of rooms and activities, the TAT is collected only on the amount that is determined to be for the rental of the hotel room and not on tours, meals, and transportation. This is the start of a slippery slope. For example, as a promotion a hotel offers the guest free breakfast for two. But the daily hotel room rate is the same as that for someone off the street. Will this proposal set a precedent and give the department basis to impute the cost of the breakfast and impose both the general excise tax and the TAT on that imputed amount because it is being offered by the hotel?

The TAT was adopted with the rationale that the tax is imposed on the gross income received from the rental of a hotel room and not from any charges that have nothing to do with that rental.

Should lawmakers insist on imposing the TAT on such charges, the bright line should be whether or not such charges are discretionary as opposed to mandatory. Where the guest has a choice in paying such charges and making use of the services offered, the resort charge should not be imposed as obviously the resort charge does not prevent the rental of the room. On the other hand, if the resort charge is mandatory, then the department might be able to argue that the charge is an implicit part of the room charge and subject to the TAT.

Digested 2/1/13

starwood

Hotels and
Resorts

2155 kalakaua avenue, suite 300
honolulu, hi 96815
united states

February 11, 2013

To: Honorable Tom Brower, Chair
Honorable Romy M. Cachola, Vice Chair
House Committee on Tourism
State Capitol, Honolulu, Hawaii 96813

RE: **HB 970 - Relating to Transient Accommodations Tax - Oppose**
Conference Room 312, 9:30 am

Aloha Chair Brower, Vice Chair Cachola, and Members of the Committee:

My name is Keith Vieira, Senior Vice President of Operations for Starwood Hotels and Resorts (“Starwood”) in Hawai’i and in French Polynesia. We appreciate the opportunity to provide testimony in opposition to HB 970, Relating to Transient Accommodations Tax (“TAT”).

Resort fees include parking charges and internet access free of charge as standards. Our hotels add additional products and services based upon customer feedback. Resort fees began because customers did not like additional charges affixed to their bills. Based upon customer satisfaction surveys and comments, guests see the value in a resort charge.

We object to amending the existing TAT law, to make “gross rental” or “gross rental proceeds” subject to this tax. Resort fees are ancillary services, not part of the guest room accommodation and should not subject to a TAT.

This bill strays away from the original intent of the TAT and sends an unwelcome message to visitors that our state is making a grab for more revenues from the visitor industry, which is in recovery after the Great Recession. Unlike other large markets, Hawai’i is a leisure destination. Because we compete against other leisure markets that offer a greater value, Hawai’i’s market is price sensitive since visitor spending here is discretionary.

The imposition of increased taxes and fees on the visitor industry may not result in the generation of more revenues for the state as intended and may have perverse consequences by causing a visitor to choose another less costly destination than Hawai’i, which competes with other destinations world-wide. Let’s not reverse the positive momentum our state is enjoying by passing unnecessary fee and tax increases to our visitor industry.

For these reasons, we urge the Committee to HOLD this bill.

Sincerely,

Keith Vieira
Senior Vice President of Operations
Starwood Hotels and Resorts - Hawai’i and French Polynesia



Maui Hotel & Lodging
ASSOCIATION

Testimony of
Lisa H. Paulson
Executive Director
Maui Hotel & Lodging Association
on
HB970
Relating To Transient Accommodations Tax

COMMITTEE ON TOURISM
Monday, February 11, 2013, 9:30am
Room 312

The Maui Hotel & Lodging Association (MHLA) is the legislative arm of the visitor industry. Our membership includes over 140 property and allied business members in Maui County – all of whom have an interest in the visitor industry. Collectively, MHLA’s membership employs over 20,000 local residents.

MHLA opposes HB970 which clarifies fees that are subject to the transient accommodations tax.

The bill defines “resort fees” as “...any charge or surcharge imposed by a transient accommodations operator, owner, plan manager, or representative thereof to a transient or occupant for the use of the transient accommodation’s property...”, and defines “gross rental” to include “...resort fees or any other type of surcharge charged to a guest for the furnishing of a transient accommodation.” Section 237D-1, however, defines “transient accommodations” as “the furnishing of a room, apartment, suite, or the like which is customarily occupied by a transient...” A resort fee is not for an accommodation that is occupied. It is for a service or product purchased by the guest.

The visitor industry is the economic driver for Maui County. We are the largest employer of residents on the Island - directly employing approximately 40% of all residents (indirectly, the percentage increases to 75%).

In 2009, the state government raised the TAT with a 1% increase effective July 1, 2009, and an additional 1%, 2010. Since the July 1, 2010, guests and locals have paid a TAT of 9.25%. Coupled with the GET, guests pay a 13.41% tax on Maui. Based on the annual average cost of a hotel room and the 13.41% tax rate, the average tax bill is \$32 per night. This is more than double the average nightly room tax in the United States, and the highest tax rate in the country for Visitor destinations.

An additional charge, such as imposing the TAT on resort fees will only diminish Maui’s ability to compete in a price-sensitive market. This could cause us to lose momentum in the significant gains in visitor arrivals and spending experienced over the past three years. We need to ensure the continued success of our industry for the state’s economy to be sustainable.

We urge you to oppose HB970.

Thank you for the opportunity to testify.