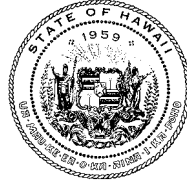


NEIL ABERCROMBIE  
GOVERNOR

SHAN TSUTSUI  
LT. GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF TAXATION**  
P.O. BOX 259  
HONOLULU, HAWAII 96809  
PHONE NO: (808) 587-1530  
FAX NO: (808) 587-1584

FREDERICK D. PABLO  
DIRECTOR OF TAXATION

JOSHUA WISCH  
DEPUTY DIRECTOR

**LATE**

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

Date: Thursday, March 14, 2013  
Time: 2:00 p.m.  
Place: Conference Room 308, State Capitol

From: Frederick D. Pablo, Director  
Department of Taxation

Re: S.B. No. 1360 S.D. 1 Relating to General Excise Tax

The Department of Taxation (Department) **appreciates the intent** of S.B. 1360 S.D. 1 and offers the following information and comments for your consideration.

S.B. 1360 S.D. 1 would make permanent the changes enacted under Act 239, Session Laws of Hawaii 2007. It would also repeal the aggregate cap of \$400,000 for taxpayers eligible for the exemption due to the amendment of section 237-24.7 in Act 196, Session Laws of Hawaii 2009.

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 the administration of tax law.

Part II, Section 6 of Act 196, Session Laws of Hawaii 2009, created an aggregate cap of \$400,000 for taxpayers eligible for the exemption due to the amendment of section 237-24.7 in Act 239. The administration of this aggregate cap is a challenge for both the Department and for the taxpayers applying for the exemption as it requires manual processing of eligible taxpayer returns so that the Department can ensure that the aggregate cap is not exceeded. Additionally, the amount of tax credit available to each taxpayer is dependent on the number of taxpayers applying for the tax credit each year; taxpayers receive a pro-rata share of the \$400,000 aggregate amount. An aggregate cap also has the inadvertent effect of treating similarly situated taxpayers inconsistently even though the amounts are all exempted under the same subsection.

The revenue impact of this measure is indeterminate due to the effective date. However, if the measure were effective upon approval, the Department estimates that the revenue loss will be \$13 million per year. However, it should be noted that if the \$400,000 aggregate cap were removed, the estimated revenue loss based on the current level of applications for exemption would reflect a loss of approximately \$3 million per year.

Thank you for the opportunity to submit testimony.

**LATE**

**SB1360**

Submitted on: 3/13/2013

Testimony for FIN on Mar 14, 2013 14:00PM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
George Szigeti	Hawaii Lodging & Tourism Association	Comments Only	No

Comments: Dear Chair Luke, Vice Chairs Nishimoto and Ling Johanson and members of the House Finance Committee. My name is George Szigeti, I am President and 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 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 is in support of S.B. 1360 which makes permanent the general excise tax exemptions for condominium common expenses paid by managers, sub managers, and sub operators 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 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, and we thank you for the opportunity to submit comment.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)



**LATE**

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

COMMITTEE ON FINANCE  
Representative Sylvia Luke, Chair

3/14/13  
Rm. 308, 2:00 PM

SB 1360, SD 1 (SSCR 705)  
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.

SB 1360 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).

This bill also eliminates the aggregate cap for the taxpayer eligible for the exemption.

The original HRS which provided a tax exemption to hotels, on employee's wages and benefits when a management company receives funds to pay its employees from the owner of a hotel property, 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 condotel.

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 condotel.

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



9002 San Marco Court  
Orlando, Florida 32819  
(407) 418-7271

**LATE**

March 14, 2013

To: Honorable Sylvia Luke, Chair  
Honorable Scott Nishimoto, Vice Chair  
Honorable Aaron Johanson, Vice Chair  
House Committee on Finance

RE: **SB 1360 SD1 – Relating to General Excise Tax - Support**  
Hawaii State Capitol; conference room 308; 2:00 PM

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

Starwood Vacation Ownership (“Starwood”) appreciates the opportunity to offer comments on SB 1360 SD1, 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.

We support the provisions offered in the bill. The GET exemptions were passed beginning in 2007 and extended thereafter. The exemptions are beneficial and should be made permanent. The exemptions make it clear that funds paid between a hotel operator and hotel owner for the basic operation of a property, including the payment of employee salaries and benefits, are not subject to GET. This is logical and will preserve the recognized relationship between owner and manager. This bill will ensure consistency and transparency with the entity relationships and makes Hawaii competitive with how these transfers are handled in other jurisdictions.

For the aforementioned reasons, we respectfully request you to pass this bill.

Sincerely,

Robin Suarez  
Vice President/Associate General Counsel  
Starwood Vacation Ownership