

SB 1360

Measure Title: RELATING TO GENERAL EXCISE TAX.

Report Title: General Excise Tax Exemption; Hotel Operators; Timeshare Projects

Description: 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.

Companion:

Package: None

Current Referral: THA/CPN, WAM

Introducer(s): GALUTERIA

<u>Sort by Date</u>		Status Text
1/24/2013	S	Introduced.
1/28/2013	S	Passed First Reading.
1/28/2013	S	Referred to THA/CPN, WAM.
1/28/2013	S	The committee(s) on THA/CPN has scheduled a public hearing on 02-04-13 2:45PM in conference room 224.

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

DATE: February 3, 2013

TO: Senator Brickwood Galuteria
Chair, Committee on Tourism and Hawaiian Affairs
Senator Rosalyn H. Baker
Chair, Committee on Commerce and Consumer Protection
THAtestimony@capitol.hawaii.gov

RE: **S.B. 1360 – Relating to General Excise Tax**
Hearing Date: Monday, February 4, 2013 at 2:45 pm
Conference Room 224

Dear Chair Galuteria, Chair Baker, and Members of the Joint Committees on Tourism and Hawaiian Affairs and Commerce and Consumer Protection:

I am Gary Slovin, testifying 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** S.B. 1360 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

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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 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.



THE SENATE
27th LEGISLATURE
REGULAR SESSION of 2013

COMMITTEE TOURISM & HAWAIIAN AFFAIRS
Senator Brickwood Galuteria, Chair

COMMITTEE COMMERCE & CONSUMER AFFAIRS
Senator Rosalyn H Baker, Chair

2/4/2013
Rm 224, 2:45 PM

SB 1360
Relating to General Excise Tax

Chair Galuteria & Chair Baker, 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).

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.

February 4, 2013

The Honorable Brickwood Galuteria, Chair

Senate Committee on Tourism and Hawaiian Affairs

The Honorable Rosalyn H. Baker, Chair

Senate Committee on Commerce and Consumer Protection

State Capitol, Room 224

Honolulu, Hawaii 96813

RE: S.B. 1360, Relating to General Excise Tax

HEARING: Monday, February 4, 2013, at 2:45 p.m.

Aloha Chair Galuteria, Chair Baker, and Members of the Joint Committees:

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 S.B. 1360 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 S.B. 1360 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.



P.O. Box 976
Honolulu, Hawaii 96808

February 2, 2013

Honorable Brickwood Galuteria
Honorable Gilbert S.C. Keith-Agaran
Commerce and Consumer Protection
415 South Beretania Street
Honolulu, Hawaii 96813

and

Honorable Rosalyn H. Baker
Honorable Brickwood Galuteria
Commerce and Consumer Protection
415 South Beretania Street
Honolulu, Hawaii 96813

Re: **SB 1360/SUPPORT**

Dear Chairs Galuteria and Baker, Vice-Chairs Galuteria and Keith-Agaran and Committee Members:

I Chair the CAI Legislative Action Committee. CAI supports SB 1360.

Common expense payments should be exempt from the general excise tax. Owners pay the common expenses of associations, and those payments are merely received by managers, etc. as a conduit for the payment of bills. This is not the sort of activity that should be taxed.

Imposition of a tax on common expense amounts would unfairly burden consumers because the tax amount would, in turn, increase common expenses. CAI respectfully requests that the Committees pass SB1360.

Very truly yours,

Philip Nerney

Philip Nerney

SB1360

Submitted on: 2/2/2013

Testimony for THA/CPN on Feb 4, 2013 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Eric Matsumoto	Individual	Support	No

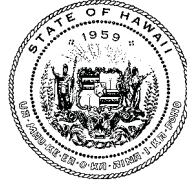
Comments: The permanent exemption of general excise taxes on monies collected from homeowners for common expenses of non-profit community associations is the proper course of action since the funds are used for management and operations of the association and maintenance of common areas, for the benefit of the homeowners in the association.

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.

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NEIL ABERCROMBIE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR



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FREDERICK D. PABLO
DIRECTOR OF TAXATION

JOSHUA WISCH
DEPUTY DIRECTOR

To: The Honorable Brickwood Galuteria, Chair
and Members of the Senate Committee on Tourism and Hawaiian Affairs

The Honorable Rosalyn H. Baker, Chair
And Members of the Senate Committee on Commerce and Consumer Protection

Date: Monday, February 4, 2013
Time: 2:45 p.m.
Place: Conference Room 224, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

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

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

S.B. 1360 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 tax 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 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.

Thank you for the opportunity to testify.

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

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