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GOVERNOR

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To: The Honorable David Y. Ige, Chair
and Members of the Senate Committee on Ways and Means

Date: Friday, March 28, 2014
Time: 9:15 A.M.
Place: Conference Room 211, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: H.B. 2170, H.D. 2, S.D. 1, Relating to Taxation

The Department of Taxation (Department) appreciates the intent of H.B. 2170, H.D. 2, S.D. 1, to support our State's tourism industry.

H.B. 2170, H.D. 2, S.D. 1, creates a nonrefundable income tax credit equal to an unspecified percentage of construction or renovation costs incurred for new hotel facilities, provided the construction or renovation costs are incurred during taxable years beginning after December 31, 2014, but not during taxable years beginning after December 31, 2019, and further provides that the costs are pre-certified by the Department of Business, Economic Development and Tourism (DBEDT). The S.D. 1 draft has a defective effective date of July 1, 2030.

Previous committees adopted all of the Department's suggested amendments to the previous version of this bill. The Department appreciates consideration of its suggested amendments and defers to DBEDT regarding the pre-certification requirements of subsection (g).

Thank you for the opportunity to provide comments.

HAWAI'I TOURISM AUTHORITY

Hawai'i Convention Center
1801 Kalākaua Avenue, Honolulu, Hawai'i 96815
kelepona tel 808 973 2255
kelepa'i fax 808 973 2253
kahua pa'a web hawaiitourismauthority.org

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. 2170, H.D.2, S.D.1
Relating to Taxation

Senate Committee on Ways and Means
Friday, March 28, 2014
9:15 a.m.
Conference Room 211

The Hawai'i Tourism Authority (HTA) supports H.B. 2170, H.D.2, S.D. 1, which proposes a tax credit for new hotel construction.

The HTA is tasked with marketing and promoting Hawaii as a visitor destination, with the goal of increasing visitor spending. One of the keys to branding the Hawaii visitor industry product and increasing visitor spending is the improvement and enhancement of the tourism product, which includes the physical infrastructure. As such, the HTA supports the proposal in H.B. 2170, which provides the private sector with investment incentives for new hotel facilities. How the incentives are to be implemented and the amount and duration of the incentives are a matter for the Legislature to determine.

Thank you for the opportunity to offer these comments.

HAWAI'I LODGING & TOURISM ASSOCIATION

Testimony of George Szigeti
President & CEO
HAWAIʻI LODGING & TOURISM ASSOCIATION
Committee on Ways and Means
Hearing on March 28, 2014, 9:15 a.m.
HB 2170 HD2 SD1 Relating to Taxation

Dear Chair Ige, Vice Chair Kidani, and Members of the Committee. My name is George Szigeti and I am the President and CEO of the Hawaiʻi Lodging & Tourism Association.

The Hawaiʻi Lodging & Tourism Association (HLTA) is a statewide association of hotels, condominiums, timeshare companies, management firms, suppliers, and other related firms that benefit from and strengthen Hawai`i's visitor industry. Our membership includes over 150 lodging properties, representing over 48,000 rooms, and approximately 470 other Allied members. The lodging industry alone employs over 38,000 workers across the state of Hawai`i. As part of the broader visitor industry – which employees 1/6 of all workers and 1/5 of those in the private sector, and generated $14.5 billion in visitor spending in 2013 – we represent one of Hawai`i's largest industries and a critical sector of the economy.

On behalf of HLTA, permit me to offer this testimony regarding HB 2170 HD2 Relating to Taxation, which provides for an income tax credit for new construction.

The Hawaiʻi Lodging & Tourism Association **supports** this measure because it provides an incentive to encourage investment that would stimulate the revitalization of the state's inventory of aging hotel properties. Investing in our infrastructure is critical to our ability to compete against other destinations. Additionally, hotel construction and renovation would have the added benefit of generating construction and hospitability jobs throughout the state.

This measure can provide important incentives for new investment in our visitor industry and we urge their favorable consideration.

Thank you for this opportunity to testify.

Hawai`i Lodging & Tourism Association
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Maui Hotel & Lodging
ASSOCIATION

Testimony of
Lisa H. Paulson
Executive Director
Maui Hotel & Lodging Association
on
HB2170 HD2 SD1
.**Relating To Taxation**

COMMITTEE ON WAYS AND MEANS
Friday, March 28, 2014, 9:15am
Room 211

Dear Chair Ige, Vice Chair Kidani and Members of the Committee,

The Maui Hotel & Lodging Association (MHLA) is the legislative arm of the visitor industry. Our membership includes over 150 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 and represents over 19,500 rooms. 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%).

MHLA **supports** HB2170 HD2 SD1 which provides an income tax credit for costs incurred in new hotel construction.

This Bill would stimulate the revitalization many of the state's aging hotel properties. Investing in our infrastructure is critical to our ability to compete against other sun destinations, especially now when we are seeing a slight softening of our future bookings. Hotel construction and renovation would have the added benefit of generating construction and hospitability jobs throughout the state. Furthermore, new properties would generate additional tax revenues to support the State and Counties.

We urge you to support House Bill 2170 HD2 SD1 as it would provide an important incentive for new investment in our visitor industry.

Thank you for the opportunity to testify.

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L E G I S L A T I V E

TAXBILLSERVICE

126 Queen Street, Suite 304 TAX FOUNDATION OF HAWAII Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Hotel construction tax credit

BILL NUMBER: HB 2170, SD-1

INTRODUCED BY: Senate Committee on Tourism

EXECUTIVE SUMMARY: This bill establishes a hotel construction tax credit as a percentage of costs incurred on or between January 1, 2015 and December 31, 2019.

As a policy matter, an evaluation should be done to ascertain the effectiveness of this credit as it existed before, in order to make sure that lawmakers know that is effective.

We also suggest technical amendments and clarification. First, in order to prevent unintended leakage, we recommend that the credit be based on basis of the qualified hotel facility improvements as opposed to costs, so there is no double benefit (deduction plus credit) and so as to ensure that the costs are reliably linked to the improvements to real estate. Second, the credit, as drafted, appears to be nonrefundable but does not contain a carryover provision so, unless the provision is amended, the credit would be lost if not used.

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to allow taxpayers subject to HRS chapter 235 to claim a hotel construction tax credit for the construction costs incurred after 12/31/14 and before 1/1/20. The credit shall be ___% of the construction costs incurred during the taxable year and shall not be applicable to costs of construction for which another income tax credit was claimed for the taxable year. Defines "construction costs" as those incurred for plans, design, construction, and equipment related to construction of a new hotel facility located in the state.

In the case of a partnership, S corporation, estate or trust, the credit shall be based on qualified costs incurred by the entity with costs on which the credit is computed determined at the entity level. If a deduction is taken under IRC section 179 (with respect to election to expense depreciable business assets), no tax credit shall be allowed for such qualified costs for which the deduction was taken. The basis of eligible property for depreciation or accelerated cost recovery system purposes shall be reduced by the amount of credit allowable and claimed.

Requires the taxpayer to obtain precertification from the department of business, economic development and tourism prior to claiming the credit.

Defines "net income tax liability," "hotel facility" and "taxpayer" for purposes of the measure.

EFFECTIVE DATE: July 1, 2030; applicable to tax years beginning after December 31, 2014

STAFF COMMENTS: The legislature by Act 195, SLH 2000, enacted a hotel construction and renovation tax credit of 4% for hotel renovations effective for tax years beginning after 12/31/98 but before 12/31/02. Act 10 of the Third Special Session of 2001 increased the hotel renovation tax credit to 10% for construction costs incurred before 7/1/03. Act 10 also provided that the credit revert back to 4% on 7/1/03 and sunset on 12/31/05. This measure proposes a similar credit for new hotel construction costs incurred in a taxable year.

The original tax credit was promoted as an incentive for hotels to refurbish their properties in order to remain competitive with other destinations around the world. The credit amount was set at a refundable 4%, perhaps to offset the 4% general excise tax. When 9/11 hit, the momentum of the crisis fostered support for an increase in the credit to 10% to supposedly keep projects that were already in progress going. However, the governor objected and threatened to veto the sweetened credit. The legislature compromised and provided that the 10% credit would be nonrefundable.

This measure proposes to establish a hotel construction tax credit. No evaluation has been done to validate the effectiveness of these types of credits in spurring new hotel construction or substantial renovations of hotel resort properties. Some may argue that this credit is necessary for the hotel industry, but is it the role of government to subsidize private investments? While the credit might be viewed as critical to a taxpayer's project, how long must all other taxpayers suffer the heavy burden of taxation so that this subsidy can be extended to a few? Now, more than ever, lawmakers need to recognize that they need to set priorities for what precious few dollars taxpayers can part with to run state and local government.

More importantly, if the intent of this measure is to entice new hotel construction, then the sponsors do not understand what is happening to the nation's economy. In order to undertake large scale construction, either the developer or hotel owner has to be cash rich or else have access to the credit markets. As the nation now knows, the credit markets froze beginning in late 2007 and hit a crisis at the end of 2008. The phenomenon was a major reason for the demise of Aloha Airlines and ATA which were highly dependent on credit lines to meet on-going expenditures. When the credit markets froze, there was no way to secure cash advances to meet current liabilities and the two airlines, along with thousands of other businesses, had to shut their doors.

Instead of subsidizing construction in order to get construction workers off the bench, government can assist in a number of other ways. For private projects, the permitting and planning process can be accelerated. One developer recently reported that it had taken two years to subdivide two parcels into seven house lots in rural Oahu at which time the planning and permitting department deferred approval citing eight issues to be addressed regarding subdivision approval. The interest on the seller had amounted to more than $500,000 to that point and going forward, both the buyer and seller were shelling out more than $27,000 a month for interest alone, not to mention the other planning and engineering costs. These are costs that could be mitigated if permitting officials would just work with developers and owners in streamlining these requirements. Apparently officials are reluctant to make decisions in fear that they might make the wrong decision. The result is costly delays while construction work goes begging.

Thus, rather than tinkering with the economy, lawmakers should rein back the role of government, or in other words, get out of the way and let the market lead the way to recovery.

While the proposed measure would base the credit on construction costs, rather than focusing on costs, we suggest that the credit be awarded on *tax basis* of the new construction, alterations, or modifications to the facility, thereby limiting the credit to costs properly capitalized into the basis of the hotel facility and disallowing double benefits (taxpayer deducts the costs and claims a credit as well). That language would also be more consistent with the other provisions in the bill that would require the basis of eligible property to be reduced by the amount of credit allowable and claimed. If the costs were simply deductible, there would be no "eligible property" for which basis would need to be reduced.

This measure is similar to others proposing a hotel construction tax credit. However, while it is a nonrefundable credit it does not contain language allowing unused credits to be carried forward. Thus, if the measure is passed as is, any credit earned by a taxpayer that is unable to use it is permanently lost. This would mean that a taxpayer that builds a renovation and makes a profit during the year the renovation costs are incurred is eligible for the credit, while a taxpayer that builds a renovation and loses money during the year would get no credit. That would not seem to be consistent with the intent of the bill.

Digested 3/25/14

Comments of
Gary M. Slovin / Mihoko E. Ito
on behalf of
Wyndham Vacation Ownership

DATE: March 26, 2014

TO: Senator David Ige
Chair, Committee on Ways and Means
Submitted Via WAMtestimony@capitol.hawaii.gov

RE: **H.B. 2170 H.D.2, S.D.1– Relating to Taxation**
Decision Making: Friday, March 28, 2014 at 9:15 a.m.
Conference Room: 211

Dear Chair Ige and Members of the Committee on Ways and Means,

We submit these comments 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. 2170 H.D.2, S.D.1 which would provide tax credits for hotel construction.

Rejuvenating our resort inventory is critical if Hawaii is to remain competitive in the global tourism market. For both hotel and timeshare construction, attracting investment dollars is challenging, and tax credits are a proven means of attracting those investment funds. Accordingly, Wyndham respectfully requests that the Committee pass H.B. 2170 H.D.2, S.D.1 for further consideration.

Thank you for the opportunity to submit comments in support of this measure.

Gary M. Slovin
Mihoko E. Ito
Tiffany N. Yajima
Jennifer C. Taylor

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