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

Date: Thursday, February 20, 2014

Time: 9:05 a.m.

Place: Conference Room 211, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: S.B. No. 2968, S.D. 1, Relating to Tourism Stimulus Initiatives

The Department of Taxation (Department) appreciates the intent of S.B. 2968, S.D. 1, to support our State's tourism industry and provides the following comments for your consideration.

S.B. 2968, S.D. 1, creates a nonrefundable income tax credit equal to 10% of construction or renovation costs incurred for qualified hotel facilities, provided the construction or renovation costs are incurred during taxable years beginning on or after January 1, 2015, but not during taxable years beginning after December 31, 2019.

The previous committee made several amendments the Department had suggested in its prior testimony; however, the Department suggests the following outstanding technical comment for your consideration:

The purpose clause and subsection (i) are not consistent. The Department suggests the following amendment to the last paragraph of Section 1 to provide clarification:

The purpose of this Act is to provide an income tax credit for hotel construction and renovation for taxable years beginning on or after January 1, 2015, [~~and ending on or before~~] but not for taxable years beginning after December 31, 2019.

Additionally, the Committee may want to consider adding pre-certification requirements for claiming the credit which can be verified by a State agency with the capacity to determine whether the proposed construction or renovation is the type of activity the State wishes to incentivize. The Department has no expertise in determining whether certain construction activities and expenditures are of the type intended to be included under this tax incentive.

Thank you for the opportunity to provide comments.



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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
S.B. 2968, S.D.1
Relating to Taxation



Senate Committee on Ways and Means
Thursday, February 20, 2014
9:05 a.m.
Conference Room 211

The Hawai'i Tourism Authority (HTA) supports S.B. 2968, S.D. 1, which proposes a 10 percent tax credit for construction and renovation costs of qualified hotel facilities incurred after January 1, 2015 and before December 31, 2019.

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 S.B. 2968, S.D.1, which provides the private sector with investment incentives to improve hotel facilities.

Thank you for the opportunity to offer these comments.

TAXBILLSERVICE

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TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Hotel construction and renovation tax credit

BILL NUMBER: SB 2968, SD-1

INTRODUCED BY: Senate Committee on Tourism

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to allow taxpayers to claim a nonrefundable hotel construction and renovation tax credit of the construction or renovation costs incurred on or after January 1, 2015 and ending before 12/31/19. The credit shall be 10% of the construction and renovation costs and shall not be applicable to costs of construction or improvements for which another income tax credit was claimed for the taxable year. Defines “construction or renovation costs” as those incurred for plans, design, construction, and equipment related to new construction, alterations, or modifications to a qualified hotel facility.

In the case of a partnership, S corporation, estate or trust, association of apartment owners of a qualified hotel facility, time share owners’ association, or any developer of a time share project, 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. To qualify for the credit, the taxpayer shall be in compliance with all applicable federal, state, and county statutes, rules, and regulations. 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.

Credits in excess of a taxpayer’s income tax liability shall be applied to subsequent tax liability. Claims for the credit, including any amended claims, must be filed on or before the end of the twelfth month following the close of the taxable year.

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

EFFECTIVE DATE: Upon approval

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 shall revert back to 4% on 7/1/03 and sunset on 12/31/05. This measure proposes a similar credit of 10% for hotel renovation 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 4% to seemingly 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.

While this measure proposes to reestablish a hotel renovation tax credit, no evaluation has been done to validate the effectiveness of this credit in spurring substantial renovations of hotel resort properties. Some may argue that this credit is necessary to make their upcoming renovations pencil out, but is it the role of government to subsidize private investments? While the credit might be viewed as critical to a taxpayer's project or to the continued renovation of the resort plant, 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 hotel owners to undertake major renovations, then the sponsors do not understand what is happening to the nation's economy. In order to undertake large scale construction or renovations, either the hotel owner has to be cash rich or 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.

We also offer the following technical comments.

Subsection (g) of the proposed new code section requires a taxpayer to be in compliance with all applicable federal, state, and county statutes, rules, and regulations. This requirement is not administrable and probably is not necessary because the other statutes, rules, and regulations probably will contain their own sanctions for violations. Adding forfeiture of what may be a very large credit to the existing sanctions may produce a penalty grossly out of proportion to any violation that may occur.

Subsection (h) of the proposed new code section defines "construction or renovation costs" loosely as "any costs incurred ... for plans, design, construction, and equipment related to new construction, alternations [sic], or modifications to a qualified hotel facility." A tighter way to define it would be in terms of costs properly capitalized into the basis of a qualified hotel facility under section 263 of the Internal Revenue Code.

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

DATE: February 18, 2014

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

RE: **S.B. 2968, S.D. 1 – Relating to Tourism Stimulus Initiatives
Decision Making: Thursday, February 20, 2014 at 9:05 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 offers individual consumers and business-to-business customers a broad suite of hospitality products and services through its portfolio of world-renowned brands. Wyndham Vacation Ownership has a substantial presence in Hawaii through its Wyndham Vacation Resorts and WorldMark by Wyndham brands.

Wyndham **supports S.B. 2968 S.D. 1**, which provides an income tax credit for hotel construction and renovation. The visitor industry is a very significant part of Hawaii's economy, which creates and supports many jobs for our State. Hawaii's hotel and resort infrastructure is aging, and traditional financing has not spurred necessary renovations and new construction. Providing this tax incentive will not only create new jobs, but will help create and maintain facilities that attract tourists and keep Hawaii's principal industry competitive in the global market.

Wyndham notes that the Senate Committee on Tourism amended the bill to remove the application of the tax credit against the TAT, to authorize the income tax credit from January 1, 2015 to December 31, 2019, and to remove the requirement that construction or renovation costs be incurred between specific dates. We support the measure as amended, and respectfully request that the Committee pass it for further consideration. Thank you for the opportunity to submit testimony on this measure.

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

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From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for SB2968 on Feb 20, 2014 09:05AM*
Date: Tuesday, February 18, 2014 10:44:01 AM

SB2968

Submitted on: 2/18/2014

Testimony for WAM on Feb 20, 2014 09:05AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Oppose	No

Comments:

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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