

MAR 11 2016

SENATE RESOLUTION

REQUESTING THE TAX REVIEW COMMISSION TO ANALYZE GENERAL EXCISE
TAX PYRAMIDING AS APPLIED TO TRANSIENT ACCOMMODATIONS.

1 WHEREAS, the Hawaii general excise tax (GET) was studied
2 extensively by, among others, the Tax Review Commissions of 1989
3 and 1995, both of which recommended structural changes to the
4 GET because of excessive pyramiding, namely where the retail tax
5 rate is applied multiple times to the same product, service, or
6 other economic activity before it reaches the ultimate consumer;
7 and

8
9 WHEREAS, the sublease deduction enacted by Act 353, Session
10 Laws of Hawaii (SLH) 1997, and codified as Hawaii Revised
11 Statutes section 237-16.5, represented the first steps in
12 mitigating the impacts of pyramiding, to be followed by Acts 70
13 and 71, SLH 1999, and Act 198, SLH 2000, which fundamentally
14 changed the GET by eliminating much of the pyramiding as it
15 related to the furnishing of services; and

16
17 WHEREAS, the sublease deduction is currently applied so
18 that where both a sublessor and sublessee pay rent on the same
19 leased property, both parties do not also pay the standard GET
20 rate on rents received; and

21
22 WHEREAS, the Department of Taxation has taken the position
23 that the sublease deduction cannot be applied to mitigate the
24 impact of pyramiding where an operator of transient
25 accommodations, such as a hotel, pays rent to a landlord and the
26 guest pays room charges to the operator, although the room
27 charge paid to the operator represents, at least in substantial
28 part, a charge for occupancy of real estate, and the rent paid
29 by the operator to the landlord is a charge for occupancy of the
30 same real estate; and



S.R. NO. 110

1 WHEREAS, it is expected that the Tax Review Commission will
2 be appointed this year pursuant to Article VII, Section 3 of the
3 Constitution of the State of Hawai'i, and that the mission of the
4 Commission is to submit to the Legislature an evaluation of the
5 State's tax structure, and recommend revenue and tax policy;
6 now, therefore,
7

8 BE IT RESOLVED by the Senate of the Twenty-eighth
9 Legislature of the State of Hawaii, Regular Session of 2016,
10 that the Tax Review Commission is requested to analyze whether
11 the sublease deduction can and should be applied to hotels in a
12 manner similar to other subleased real estate, and to report its
13 findings and recommendations to the Legislature no later than
14 twenty days prior to the convening of the 2017 Regular Session;
15 and
16

17 BE IT FURTHER RESOLVED that certified copies of this
18 Resolution be transmitted to the Chairperson of the Tax Review
19 Commission, the Governor, and the Director of Taxation.
20
21
22

OFFERED BY: 

