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To: The Honorable Tom Brower, Chair
and Members of the House Committee on Tourism

Date: February 3, 2016

Time: 10:00 A.M.

Place: Conference Room 312, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: H.B. 1584, Relating to Taxation.

The Department of Taxation (Department) provides the following comments regarding H.B. 1584 for your consideration.

H.B. 1584 authorizes each county to adopt an ordinance that will allow it to levy, assess, and collect a surcharge on the gross rental proceeds derived from furnishing transient accommodations. If a county adopts the surcharge, every operator of a transient accommodation or plan manager of a resort time share vacation unit will be required to pay the surcharge to the applicable county. The bill is effective July 1, 2016.

First, the Department notes that because of confidentiality laws, including the disclosure provisions set forth in section 237D-13, Hawaii Revised Statutes, the Department is unable to share taxpayer information with the counties. Accordingly, the counties will not have access to information such as the amount of gross rental proceeds reported to the Department.

Second, the Department notes that the bill is unclear as to whether transient accommodations operators must file a separate tax return with the counties (as opposed to the tax return filed with the Department which asks for county surcharge information on its returns). Because the surcharge will be administered and collected by the counties, the Department requests that the bill is amended to specify that the counties are responsible for prescribing the necessary forms to report and remit the surcharge to the counties. The Department also notes, however, that adoption of additional county surcharge forms will create confusion for taxpayers and affect accurate compliance.

Third, the Department notes that in subsection (a), the bill authorizes the counties to impose a surcharge on the gross rental or gross rental proceeds derived from furnishing transient accommodations, but does not authorize the counties to impose a surcharge on the fair market

rental value of resort time share vacation units. Although subsection (c) provides that the surcharge shall apply to resort time share vacation units, to avoid ambiguity, the Department suggests amending subsection (a) to specify that the counties are also authorized to impose a surcharge on the fair market rental value of resort time share vacation units.

Fourth, the Department suggests that subsection (a) is amended to clarify that each county is authorized to adopt a surcharge for gross proceeds from transient accommodations derived from units located within its county boundaries. As currently drafted, it is unclear as to how the gross proceeds would be allocated amongst the counties.

Finally, the Department notes that the bill does not provide any limits as to the surcharge amount that the counties may adopt. As a result, the surcharge may exceed the existing transient accommodation tax rate (currently at 9.25 percent for transient accommodations and 8.25 percent for resort time share vacation units). To minimize tax enforcement issues, the Department recommends that all counties adopt the same tax rate.

Thank you for the opportunity to provide comments.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, County Transient Accommodations Tax

BILL NUMBER: HB 1584 (Identical)

INTRODUCED BY: Choy by request

EXECUTIVE SUMMARY: Authorizes each county to impose a transient accommodations tax. That could result in the creation of four additional taxes, each in a county that may not be institutionally equipped to police and collect the taxes. Pandemonium could result.

BRIEF SUMMARY: Adds a new section to HRS chapter 237D that provides that each county is authorized to levy, assess, and collect a monthly surcharge on both transient accommodation taxable revenues and on time share occupancy. The county tax would take effect beginning in the taxable year after the adoption of the county ordinance authorizing it.

EFFECTIVE DATE: July 1, 2016.

STAFF COMMENTS: This bill apparently is submitted in response to the constant wrangling between the State and the counties as to how much of the TAT should be distributed to the counties. The proponents of the bill seem to want to end the argument by telling the counties to go pass their own TAT and collect it by themselves if they want it so much.

By making the county TAT a surcharge rather than an independent tax, taxpayers are spared the pains of having different counties establish different tax bases, exemptions, and interpretations of the law.

Here, unlike the rail surcharge on the GET, the Department of Taxation won't be collecting the surcharge on the counties' behalf; the counties will have to rustle up their own dollars. Unfortunately, they are ill equipped to do that. The counties do collect property taxes, for which they are and have been geared up. They also collect a portion of the Public Service Company Tax, but because of the smallish taxpayer population, namely public utilities, most counties have not invested in audit or collection staff equipped to handle anything other than property taxes. If this measure were to pass, administrative pandemonium could result.

Digested 1/29/2016



Chamber of Commerce HAWAII
The Voice of Business

**Testimony to the House Committee on Tourism
Wednesday, February 3, 2016 at 10:00 A.M.
Conference Room 312, State Capitol**

RE: HOUSE BILL 1584 RELATING TO TAXATION

Chair Brower, Vice Chair Ohno, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") would like to **strongly oppose** HB 1584, which authorizes each county to levy a transient accommodations tax at a rate to be determined by county ordinance.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

We strongly oppose allowing the counties to levy the Transient Accommodation Tax. The state already levies the tax upon lodging and we do not believe it is fair that the county will have the same power. We believe that this will increase taxes for the lodging industry and will be another tax burden to business. We understand that there is some frustration with the present allocation of the revenues from this tax, but do not believe that this is a correct or fair solution.

We ask that this bill be held.

Thank you for the opportunity to testify.



February 3, 2015

TO: COMMITTEE ON TOURISM
Representative Tom Brower, Chair
Representative Takashi Ohno, Vice Chair

FR: Blake Oshiro, Executive Director, ARDA-Hawaii

RE: H.B. 1584 Relating to Taxation
Position: STRONG OPPOSITION

Dear Chair Brower and Vice Chair Ohno and members,

The American Resort Development Association (ARDA) Hawaii, the local chapter of the national timeshare trade association, **strongly opposes HB 1584**, a bill Relating to Taxation. This bill would give the counties the authority to impose their own transient accommodations tax.

First, it is important to note that the applicable "transient" taxes paid by time share owners is more commonly called a "transient occupancy tax" (TOT) because time share owners already pay their share of taxes. Time share owners pay general excise taxes, pay real property taxes, and even transient accommodation taxes (TAT) when the rooms are held out like traditional transient accommodations. Hawaii is the only state that uniquely assesses time share owners for occupancy of property that they already own, based on a calculation of a daily maintenance fee factoring in maintenance costs, operational costs, insurance, and other related expenses.

Second, the TOT tax rate was just increased last year from 7.25 percent to 9.25 percent (7.25% to 9.25%) over a two year period and into the future to stay at 9.25%. ARDA did not support this raise in the rate, but we also recognized there was some degree of equity and so we did not fight the increase.

But most importantly, authorizing the counties to assess their own transient accommodations tax is not prudent public policy. Tourism continues to enjoy record occupancy rates and a proposal like this, if enacted in the various counties could have serious adverse consequences to that high rate of visitors.

The TAT was first created back in 1986 in Act 340 at a rate of 5% on transient accommodations. Since that time, the rate has steadily increased to where it stands now at 9.25%. Thus, for over 30 years, the TAT has generated a steady income to the state, although it now has more specific set-asides as that prescribes where some of the funds are to be

appropriated (HRS § 237D-6.5(b) includes funds to Turtle Bay, Convention Center, Tourism Special Fund, public facilities and beaches). The portion that goes to the counties has been the subject of various changes, for where it started with a specific percentage, more recently, it has been capped by dollar amount. HRS § 237D-6.5(b)(4).

By authorizing the counties now to assess their own tax, this is not only on top of what they already receive (since the allocation under HRS §237D-6.5(b)(4) is not being eliminated), but there is no cap on the rate of the tax the county could assess, and there is no check or monitoring on where such resources are to be spent. Moreover, similar with the 0.5% general excise tax currently assessed in the City and County of Honolulu, it is our understanding that the counties do not have the means, resources or enforcement mechanism and infrastructure necessary to collect any such new tax.

Thank you for the opportunity to submit testimony.

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

DATE: February 2, 2016

TO: Representative Tom Brower
Chair, Committee on Tourism
Submitted Via TOUTestimony@capitol.hawaii.gov

RE: **H.B. 1584 - Relating to Taxation**
Hearing Date: Wednesday, January 3, 2016 at 10:00 a.m.
Conference Room 312

Dear Chair Brower and Members of the Committee on Tourism,

We submit this testimony 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 and Shell Vacations brands.

Wyndham **opposes** H.B. 1584, which would authorize the counties to levy, assess and collect a monthly surcharge on gross rental or gross rental proceeds derived from furnishing transient accommodations. The transient accommodations tax on time share vacation units, also known as the “transient occupancy tax” or “TOT,” is a tax on a percentage of property maintenance fees that are paid by a time share owner.

Granting this authority to the counties could result in a patch work of ordinances that would create uncertainty for time share operators, many of whom have properties across all four counties, and timeshare owners. Wyndham prefers the current calculative approach that is determined at the State level and applied equitably across the counties.

Thank you for the opportunity to submit testimony on this measure.

Gary M. Slovin
Mihoko E. Ito
C. Mike Kido
Tiffany N. Yajima

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THE TWENTY-EIGHTH LEGISLATURE
REGULAR SESSION OF 2016

COMMITTEE ON TOURISM
Rep. Tom Brower, Chair

2/3/2016
Rm. 312, 10:00 AM

HB 1584
Relating to Taxation

Chair Brower and Members of this Committees, my name is Max Sword, here on behalf of Outrigger Hotels & Resorts in opposition to HB 1584.

HB 1584 authorizes each county to levy a transient accommodations tax (TAT) at a rate to be determined by county ordinance.

As it stands now, the hotels are the highest tax businesses in the state. Our property taxes are 4 times the normal home and we pay more then the average commercial property. Our state taxes are higher, 4% compared to 13%.

Adding additional TAT would make Hawaii hotels have the highest TAT in the nation, which would top high taxed cities such as New York, Chicago and San Francisco, which if you haven't noticed are primarily business cities.

Our visitors come to Hawaii on discretionary income. So where do you draw the line on increased TAT before they stop coming? Where is the tipping point?

If you want to give the counties TAT revenue, give them a percentage of what is now assessed by the State.

Tourism is the only industry, besides the military that is keeping this State from going backwards, why do you keep trying to bleed it to death.

We urge you not pass this bill and mahalo for allowing me to testify.

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 02, 2016 9:42 AM
To: TOUtestimony
Cc: mnotestone@gmail.com
Subject: Submitted testimony for HB1584 on Feb 3, 2016 10:00AM

HB1584

Submitted on: 2/2/2016

Testimony for TOU on Feb 3, 2016 10:00AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Michele Notestone	Individual	Comments Only	No

Comments: I DISAGREE WITH THIS BILL.

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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