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

DATE: February 3, 2015

TO: Senator Gil Kahele
Chair, Committee on Tourism and International Affairs
Submitted Via TSItestimony@capitol.hawaii.gov

RE: **S.B. 536 – Relating to Tourism Stimulus Initiatives**
Hearing: Wednesday, February 4, 2015 at 2:45 p.m.
Conference Room: 225

Dear Chair Kahele and Members of the Committee,

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 has a substantial presence in Hawaii through its Wyndham Vacation Resorts and WorldMark by Wyndham brands.

Wyndham **supports** S.B. 536, which would provide an income tax credit for new hotel construction and renovations, including time share projects.

Rejuvenating Hawaii's resort inventory is critical to our remaining competitive in the global tourism market and continuing to hold a place as a top tourist destination. For both hotel and timeshare construction, attracting investment dollars is challenging, and tax credits are a proven means of attracting those investment funds.

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

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HAWAI‘I LODGING & TOURISM ASSOCIATION

Testimony of George Szigeti
President & CEO
HAWAI‘I LODGING & TOURISM ASSOCIATION
Committee on Tourism and International Affairs
Hearing on February 04, 2015, 2:45 P.M.
SB536 Relating to Tourism Stimulus Initiatives

Dear Chair Kahele, Vice Chair English, and Members of the Committee. My name is George Szigeti and I am the President and CEO of the Hawai‘i Lodging & Tourism Association.

The Hawai‘i 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 50,000 rooms, and over 400 other Allied members. The visitor industry was responsible for generating $14.9 billion in visitor spending in 2014 and supported 170,000 jobs statewide – 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 SB 536 Relating to Tourism Stimulus Initiatives, which provides an income tax credit for hotel construction and renovation for taxable years.

The Hawai‘i Lodging & Tourism Association **supports** this measure because it provides incentives 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 on a global scale (i.e. Mexico, Caribbean, etc.). 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 its favorable consideration.

Thank you for this opportunity to testify.

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To: The Honorable Gilbert Kahele, Chair
and Members of the Senate Committee on Tourism and International Affairs

Date: Wednesday, February 4, 2015
Time: 2:45 P.M.
Place: Conference Room 225, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: S.B. 536, Relating to Tourism Stimulus Initiatives

The Department of Taxation (Department) appreciates the intent of S.B. 536 to support our State's tourism industry.

S.B. 536, 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 Department recommends the bill be amended to apply to taxable years beginning after December 31, 2015 rather than 2014. If the intent of this tax credit is to incentivize hotel construction or renovation, there is no need for it to be effective for expenditures that have already taken place this year. Since this is a new tax credit, if adopted, the Department will need to create new instructions and forms as well as any necessary computer system enhancements.

The Department appreciates this measure's inclusion of the DBEDT survey and certification language because it will give the State the opportunity to gather data for use in future determinations of whether this measure's proposed construction and renovation is the type of activity the State wishes to incentivize. DBEDT, through the use of the survey, can gather and share this information, whereas any data the Department of Taxation collects would be confidential.

Finally, the Department notes that the construction or renovation of a timeshare facility would also qualify for this credit as currently written.

Thank you for the opportunity to provide comments.

OUTRIGGER
ENTERPRISES GROUP
Hospitality • Retail • Development

HOUSE OF REPRESENTATIVES
THE TWENTY-EIGHTH LEGISLATURE
REGULAR SESSION OF 2015

COMMITTEE ON TOURISM & INTERNATIONAL AFFAIRS
Senator Kahele, Chair

2/4/2015
Rm. 225, 2:45 PM

SB 536
Relating to Tourism Stimulus Initiatives

Chair Kahele and Members of this Committee, my name is Max Sword, here on behalf of Outrigger Hotels Hawaii, in support of SB 536.

The promotion of construction activity is very important to any economy—it is a significant component of overall economic activity especially in a small island state such as Hawaii. Investment in physical assets in the visitor industry, however, reaps even more benefits than straight construction alone—it provides the means by which future economic activity will take place. The visitor industry cannot be competitive without an attractive, up-to-date physical plant in the form of hotels and recreational facilities.

Construction of hotels brings more revenues back into the economy, and taxes, because the hotel/tourist industry continues to bring in revenues beyond construction. Such projects result in higher hotel occupancies, visitor-days, and room rates. It is estimated that 30% of room rates goes back to employee salaries. Both the GET and TAT is paid by the industry thru the 13+ percent assessed each hotel room.

However, even with the number of jobs, taxes etc. that a hotel project will provide, the bottom line is that it is very hard to get financing to either rebuild or to build a new hotel facility in the financial marketplace today. Tax credit such as these being proposed, will help a hotel project to either a build or rebuild.

Mahalo for allowing me to testify.

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Governor

Ronald Williams
Chief Executive Officer

Testimony of
Ronald Williams
President and Chief Executive Officer
Hawai'i Tourism Authority
on
S.B. No. 536
Relating to Tourism Stimulus Initiatives
Senate Committee on Tourism and International Affairs
Wednesday, February 4, 2015
2:45 a.m.
Conference Room 225

The Hawaii Tourism Authority supports S.B. No. 536, which proposes an income tax credit for hotel and resort property construction and renovation.

The HTA supports measures that provide the private sector with investment incentives to improve visitor facilities including hotel and resort facilities throughout the state. This measure proposes incentives for the owners of qualified hotel facilities to revitalize Hawaii's visitor product, and create new jobs in Hawaii's construction industry.

The HTA is guided by its Hawai'i Tourism Strategic Plan, which identifies nine strategic initiatives needed to implement a shared vision of a sustainable visitor industry. The Tourism Product Development initiative includes the following direction, "develop new, and rejuvenate existing physical elements of the tourism product by supporting those who undertake such efforts through tax incentives, land use and planning policies…and other like programs." As such, the HTA supports these efforts that share a similar direction.

We defer to the Legislature, the visitor industry, and development industry to determine the amount and administrative mechanism of the tax credit to create this incentive.

For these reasons, we support S.B. 536.

Mahalo for the opportunity to present these comments.

L E G I S L A T I V E

TAXBILLSERVICE

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SUBJECT: INCOME, Hotel construction and renovation tax credit

BILL NUMBER: SB 536

INTRODUCED BY: Kahele, Chun Oakland, Galuteria, Inouye, 4 Democrats and 1 Republican

EXECUTIVE SUMMARY: This bill establishes a nonrefundable hotel construction and renovation tax credit as a percentage of costs incurred on or between 1/1/15 and 12/31/19.

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 it is effective.

We also suggest technical amendments. First, the requirement that a project be in compliance with all laws, rules, and regulations is not administrable at best, and should be deleted. Second, 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.

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 1/1/15 and ending before 12/31/19. The credit shall be ___% 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. Requires the taxpayer to receive certification from the department of business, economic development and tourism prior to claiming the credit.

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

EFFECTIVE DATE: July 1, 2015; 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 shall revert back to 4% on 7/1/03 and sunset on 12/31/05. This measure proposes a similar credit 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.

This measure proposes to reestablish a hotel renovation tax credit. However, no evaluation has been done to validate the effectiveness of the prior credit in spurring substantial renovations of hotel resort properties. Thus, it is difficult for taxpayers to know whether they are getting any bang for their bucks.

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 (h) 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.

Subsection (I) 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." 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).

Digested 2/3/15