



EXECUTIVE CHAMBERS

HONOLULU

LINDA LINGLE
GOVERNOR

July 16, 2009

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

Re: Senate Bill No. 1461 SD2 HD1 CD2

On July 15, 2009, Senate Bill No. 1461, entitled "A Bill for an Act Relating to Taxation" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

The purpose of this law is to advance the general excise tax filing and payment deadline from the last day of the month to the twentieth of the month. This bill also allows the Department of Taxation to require electronic filing and payment of taxes if the taxpayer is already doing the same for federal taxes. Finally, this bill extends the sunset of Act 239, SLH 2007, the general excise tax exemption for common expense reimbursements received by timeshare sub-operators and condominium association managers and sub-managers, by instituting an aggregate cap on exempted amounts for one year.

This bill contains a number of technical and administrative flaws that adversely impact the fair and impartial administration of tax laws in the State of Hawaii.

First, while I supported the concept of advancing the general excise tax filing and payment date from the last day of the month to the twentieth of the month, it is of concern to me that the Department of Taxation and business community are expected to implement this measure for payments due after May 31, 2009. This timeframe is too short and unrealistic for the Department of Taxation to adequately implement this change, as it does not allow taxpayers throughout the State adequate time to prepare for and implement the new payment schedules.

Second, the bill also contains unrealistic deadlines for taxpayers to comply with the requirements to remit their tax payments electronically to the State Department of Taxation. Unrealistic and overzealous timetables create confusion among the taxpaying public and result in additional, unnecessary work for public employees who are helping them to comply.

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Third, in attempting to control the general fund revenue impact of the extension, the Legislature put a cap of \$400,000 in aggregate tax exemptions on all eligible timeshare owners and condo managers. The cap, if it is to be applied, should have been a cap on the tax credit, not the tax exemption, since the exemption reduces the gross proceeds on which the GET tax is calculated, effectively lowering how much is due the State.

It is also unfortunate and unfair that the general excise tax exemption will be unequally applied to condominium associations governed by Chapter 514A, Hawaii Revised Statutes. Condominium associations created after July 1, 2006 are governed by Chapter 514B and already had the excise tax exemption for reimbursements prior to Act 239. Therefore, the \$400,000 exemption cap will be applied to condominium associations created before July 1, 2006, but not those created thereafter. As a result, I am concerned with the unequal treatment of condominium associations created by this provision.

For the foregoing reasons, I allowed Senate Bill No. 1461 to become law as Act 196, effective July 15, 2009, without my signature.

Sincerely,

A handwritten signature in black ink, appearing to read 'Linda Lingle', with a stylized flourish at the end.

LINDA LINGLE