

JAN 19 2007

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# A BILL FOR AN ACT

RELATING TO TAXATION.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 235-111, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:  
3           "(a) General rule. The amount of income taxes imposed by  
4 this chapter (also the amount of income taxes imposed by any  
5 preceding law of the State) and the liability of any employer in  
6 respect of wages, shall be assessed or levied and the  
7 overpayment, if any, shall be credited within three years after  
8 filing of the return for the taxable year, or within three years  
9 of the due date prescribed for the filing of the return,  
10 whichever is later. No proceeding in court without assessment  
11 for the collection of the taxes or the enforcement of the  
12 liability shall be begun after the expiration of the period.  
13 Where the assessment of the tax imposed by this chapter has been  
14 made within the period of limitation properly applicable  
15 thereto, the tax may be collected by levy or by a proceeding in  
16 court, but only if the levy is made or the proceeding was begun  
17 within ten years after the assessment of the tax. For any tax



1 that has been assessed prior to July 1, 2007, the levy or  
2 proceeding shall be barred after June 30, 2017."

3 SECTION 2. Section 237-40, Hawaii Revised Statutes, is  
4 amended by amending subsections (a) and (b) to read as follows:

5 "(a) General rule. The amount of excise taxes imposed by  
6 this chapter shall be assessed or levied within three years  
7 after the annual, semiannual, quarterly, or monthly return was  
8 filed, whichever is earlier, or within three years of the due  
9 date prescribed for the filing of [said] the return, whichever  
10 is later, and no proceeding in court without assessment for the  
11 collection of any such taxes shall be begun after the expiration  
12 of the period. Where the assessment of the tax imposed by this  
13 chapter has been made within the period of limitation properly  
14 applicable thereto, the tax may be collected by levy or by a  
15 proceeding in court, but only if the levy is made or the  
16 proceeding was begun within ten years after the assessment of  
17 the tax. For any tax that has been assessed prior to July 1,  
18 2007, the levy or proceeding shall be barred after June 30,  
19 2017.

20 (b) Exceptions. In the case of a false or fraudulent  
21 return with intent to evade tax, or of a failure to file the  
22 annual, semiannual, quarterly, or monthly return, as the case



1 may be, the tax may be assessed or levied at any time; however,  
2 in the case of a return claimed to be false or fraudulent with  
3 intent to evade tax, the determination as to the claim shall  
4 first be made by a judge of the circuit court as provided in  
5 section 235-111(c), which shall apply to the tax imposed by this  
6 chapter."

7 SECTION 3. Section 237D-9, Hawaii Revised Statutes, is  
8 amended by amending subsections (c) and (d) to read as follows:

9 "(c) Except as otherwise provided by this section, the  
10 amount of taxes imposed by this chapter shall be assessed or  
11 levied within three years after the annual, semiannual,  
12 quarterly, or monthly return, whichever is earlier, was filed,  
13 or within three years of the due date prescribed for the filing  
14 of the return, whichever is later, and no proceeding in court  
15 without assessment for the collection of any such taxes shall be  
16 begun after the expiration of the period. Where the assessment  
17 of the tax imposed by this chapter has been made within the  
18 period of limitation properly applicable thereto, the tax may be  
19 collected by levy or by a proceeding in court, but only if the  
20 levy is made or the proceeding was begun within ten years after  
21 the assessment of the tax. For any tax that has been assessed



1 prior to July 1, 2007, the levy or proceeding shall be barred  
2 after June 30, 2017.

3 (d) In the case of a false or fraudulent return with  
4 intent to evade tax, or of a failure to file the annual,  
5 semiannual, quarterly, or monthly return, as the case may be,  
6 the tax may be assessed or levied at any time; however, in the  
7 case of a return claimed to be false or fraudulent with intent  
8 to evade tax, the determination as to the claim shall first be  
9 made by a judge of the circuit court as provided in section  
10 235-111(c), which shall apply to the tax imposed by this  
11 chapter."

12 SECTION 4. Section 238-7, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 "§238-7 Audits; additional assessments; refunds. Sections  
15 237-36 to 237-40 of the general excise tax law are hereby made  
16 applicable to the taxes imposed by this chapter, to the  
17 refunding of overpayments thereof, and to assessments,  
18 investigations, and audits in connection therewith, for which  
19 purpose any references therein to "gross income" or "gross  
20 proceeds of sale" shall be deemed to refer to the purchase price  
21 or value, as the case may be, subject to tax under this  
22 chapter[, and any references to the "annual return" shall, if



1 ~~the taxpayer is not required to file an annual return under this~~  
2 ~~chapter, be deemed to refer to the monthly return mentioned in~~  
3 ~~the first paragraph of section 238-5]."~~

4 SECTION 5. Section 243-14, Hawaii Revised Statutes, is  
5 amended by amending subsection (b) to read as follows:

6 "(b) The amount of license taxes imposed by this chapter  
7 shall be assessed or levied, or the overpayment, if any, shall  
8 be credited within three years after filing of the monthly  
9 statement, or within three years of the due date prescribed for  
10 the filing of the statement, whichever is later. No proceeding  
11 in court without assessment for the collection of the taxes or  
12 the enforcement of the liability shall begin after the  
13 expiration of the three-year period. Where the assessment of  
14 the tax imposed by this chapter has been made within the period  
15 of limitation properly applicable thereto, the tax may be  
16 collected by levy or by a proceeding in court, but only if the  
17 levy is made or the proceeding was begun within ten years after  
18 the assessment of the tax. For any tax that has been assessed  
19 prior to July 1, 2007, the levy or proceeding shall be barred  
20 after June 30, 2017. As to all tax payments for which a refund  
21 or credit is not authorized by this section (including, without  
22 prejudice to the generality of the foregoing, cases of



1 unconstitutional), the remedies provided by appeal or by  
2 section 40-35 are exclusive."

3 SECTION 6. Section 247-6.5, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "[+]§247-6.5[+] Limitation period for assessment, levy,  
6 collection, or credit. The amount of conveyance taxes imposed  
7 by this chapter shall be assessed or levied, and the  
8 overpayment, if any, shall be credited within three years after  
9 filing of the certificate prescribed by section 247-6. No  
10 proceeding in court without assessment for the collection of the  
11 taxes shall be begun after the expiration of the three-year  
12 period. Where the assessment of the tax imposed by this chapter  
13 has been made within the period of limitation properly  
14 applicable thereto, the tax may be collected by levy or by a  
15 proceeding in court, but only if the levy is made or the  
16 proceeding was begun within ten years after the assessment of  
17 the tax. For any tax that has been assessed prior to July 1,  
18 2007, the levy or proceeding shall be barred after June 30,  
19 2017.

20 In the case of a false or fraudulent certificate filed with  
21 the intent to evade tax, or of a failure to file a certificate,  
22 the tax may be assessed or levied at any time."



1 SECTION 7. Section 251-8, Hawaii Revised Statutes, is  
 2 amended by amending subsection (c) to read as follows:  
 3 "(c) Except as otherwise provided by this section, the  
 4 amount of surcharge taxes imposed by this chapter shall be  
 5 assessed or levied within three years after the annual return  
 6 was filed, or within three years of the due date prescribed for  
 7 the filing of the return, whichever is later, and no proceeding  
 8 in court without assessment for the collection of any such  
 9 surcharge taxes shall begin after the expiration of the period.  
 10 Where the assessment of the tax imposed by this chapter has been  
 11 made within the period of limitation properly applicable  
 12 thereto, the tax may be collected by levy or by a proceeding in  
 13 court, but only if the levy is made or the proceeding was begun  
 14 within ten years after the assessment of the tax. For any tax  
 15 that has been assessed prior to July 1, 2007, the levy or  
 16 proceeding shall be barred after June 30, 2017."

17 SECTION 8. Section 346E-6, Hawaii Revised Statutes, is  
 18 amended by amending subsections (c) and (d) to read as follows:

19 "(c) Except as otherwise provided by this section, the  
 20 amount of taxes imposed by this chapter shall be assessed or  
 21 levied within three years after the annual, quarterly or  
 22 semiannual return, whichever is earlier, was filed, or within



1 three years of the due date prescribed for the filing of the  
2 return, whichever is later. No proceeding in court without  
3 assessment for the collection of any such taxes shall be begun  
4 after the expiration of the period. Where the assessment of the  
5 tax imposed by this chapter has been made within the period of  
6 limitation properly applicable thereto, the tax may be collected  
7 by levy or by a proceeding in court, but only if the levy is  
8 made or the proceeding was begun within ten years after the  
9 assessment of the tax. For any tax that has been assessed prior  
10 to July 1, 2007, the levy or proceeding shall be barred after  
11 June 30, 2017.

12 (d) In the case of a false or fraudulent return with  
13 intent to evade tax, or a failure to file the annual, quarterly  
14 or semiannual return, as the case may be, the tax may be  
15 assessed or levied at any time."

16 SECTION 9. Section 431:7-204.6, Hawaii Revised Statutes,  
17 is amended by amending subsection (a) to read as follows:

18 "(a) The amount of insurance taxes imposed by this chapter  
19 shall be assessed or levied within three years after the annual  
20 return was filed, or within three years of the due date  
21 prescribed for the filing of the return, whichever is later, and  
22 no proceeding in court without assessment for the collection of



1 any [~~such~~] taxes shall be begun after the expiration of the  
 2 period. Where the assessment of the tax imposed by this chapter  
 3 has been made within the period of limitation properly  
 4 applicable thereto, the tax may be collected by levy or by a  
 5 proceeding in court, but only if the levy is made or the  
 6 proceeding was begun within ten years after the assessment of  
 7 the tax. For any tax that has been assessed prior to July 1,  
 8 2007, the levy or proceeding shall be barred after June 30,  
 9 2017."

10 SECTION 10. Statutory material to be repealed is bracketed  
 11 and stricken. New statutory material is underscored.

12 SECTION 11. This Act does not affect rights and duties  
 13 that matured, penalties that were incurred, and proceedings that  
 14 were begun, before its effective date.

15 SECTION 12. This Act shall take effect on July 1, 2007;  
 16 provided that sections 2, 3, and 8, relating to provisions  
 17 therein for statutes of limitations on assessments of tax for  
 18 periodic tax returns, upon approval, shall be effective for tax  
 19 returns filed after June 30, 2007.

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INTRODUCED BY:

*Amil Y. [Signature]*

*Rosey [Signature]*

*Carol Fuhsman*  
*John [Signature]*  
*Will [Signature]*



**Report Title:**

Taxation; Statutes of Limitations

**Description:**

Establishes a ten-year statute of limitations on tax collections. Clarifies that the three-year statute of limitations on tax assessments for the general excise tax, use tax, and other period taxes begins running from the filing of each periodic return.

