

JAN 28 2009

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## A BILL FOR AN ACT

RELATING TO THE RATE OF INTEREST APPLICABLE TO OVERPAYMENTS OF  
TAX.

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

1           SECTION 1. Section 231-23, Hawaii Revised Statutes, is  
2 amended by amending subsection (d) to read as follows:

3           "(d) This subsection shall apply to a refund for an  
4 overpayment of a tax.

5           (1) If the tax return as filed by a taxpayer shows the  
6 amount already paid, whether or not on the basis of  
7 installments, exceeds the amount determined to be the  
8 correct amount of the tax due, and the taxpayer  
9 requests a refund of the overpayment, the amount of  
10 overpayment together with interest, if any, shall be  
11 refunded in the manner provided in subsection (c).

12           The interest shall be allowed and paid at the rate of  
13 [~~two-thirds~~] one-third of one per cent for each month  
14 or fraction thereof, beginning with the first calendar  
15 day after the due date of the return or, if the return  
16 is filed after the prescribed due date, the first  
17 month following the month the return is received, and



1 continuing until the date that the director approves  
2 the refund voucher. If the director approves the  
3 refund voucher within ninety days from the due date or  
4 the date the return is received, whichever is later,  
5 and the comptroller of the State sends the taxpayer a  
6 refund warrant within forty-five days from the date of  
7 the director's approval, no interest on the  
8 overpayment will be allowed or paid. However, if  
9 either the director or the comptroller exceeds the  
10 time allowed herein, interest will be computed from  
11 the first calendar day after the due date of the  
12 return or from the first month following the month the  
13 return is received by the director if the return is  
14 filed after the prescribed due date, until the date  
15 that the comptroller sends the refund warrant to the  
16 taxpayer.

- 17 (2) If any overpayment of taxes results or arises from (A)  
18 the taxpayer filing an amended return, or from (B) a  
19 determination made by the director and such  
20 overpayment is not shown on the original return as  
21 filed by the taxpayer, interest on the overpayment  
22 shall be allowed and paid from the first calendar day



1 after the due date of the original return or, if the  
2 original return is filed after the prescribed due  
3 date, the first month following the month the return  
4 is received, to the date that the director signs the  
5 refund voucher. If the comptroller does not send the  
6 refund warrant to the taxpayer within forty-five days  
7 after the director's approval, interest will continue  
8 until the date that the comptroller sends the refund  
9 warrant to the taxpayer.

10 (3) For purposes of a net income tax return, if any  
11 overpayment of any taxes results from a carryback of a  
12 net operating loss, the overpayment shall be deemed to  
13 have been made at the close of the taxable year in  
14 which the net operating loss arises. To the extent  
15 that the carryback of net operating loss results in  
16 reducing the amount of underpayment of taxes for prior  
17 taxable year or years, interest which would be  
18 chargeable because of the underpayment shall not be  
19 applicable with respect to that amount or amounts  
20 which are carried back.

21 (4) In the case of credit, interest shall be allowed and  
22 paid from the first calendar day after the due date of



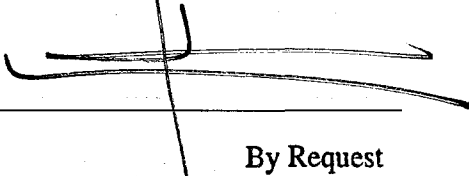
1 the return, the first month following the month the  
2 return is received by the director, or the date of  
3 payment, whichever is later, to the date the credit is  
4 taken; provided that the director may make a refund of  
5 any credit to a taxpayer where the taxpayer has no  
6 underpayment against which to apply the credit."

7 SECTION 2. Statutory material to be repealed is bracketed  
8 and stricken. New statutory material is underscored.

9 SECTION 3. This Act shall take effect upon its approval  
10 and apply to claims for refund made on or after January 1, 2009.

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INTRODUCED BY: \_\_\_\_\_

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By Request



**Report Title:**

Tax Administration; Interest Rate Modification

**Description:**

Amends the current interest rate payable on overpayments of tax to the rate of one-third of one per cent for each month or fraction thereof.

