HOUSE OF REPRESENTATIVES TWENTY-FIFTH LEGISLATURE, 2010 STATE OF HAWAII H.B. NO. <sup>1948</sup> H.D. 1 S.D. 1 C.D. 1

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## A BILL FOR AN ACT

RELATING TO TAXATION.

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

1	1 SECTION 1. Section 231-23	3, Hawaii Revised Statutes, is
2	2 amended by amending subsection	(d) to read as follows:
3	3 "(d) This subsection shall	ll apply to a refund for an
4	4 overpayment of a tax $[-,]$ :	
5	5 (1) If the tax return as	filed by a taxpayer shows the
6	6 amount already paid[-	, whether or not on the basis of
7	7 installments, exceed	ds the amount determined to be the
8	8 correct amount of the	e tax due, whether or not the tax
9	9 was paid by installme	ents, and the taxpayer requests a
10	0 refund of the overpay	ment, the amount of the
11	1 overpayment [together	<del>r with interest, if any,</del> ] shall be
12	2 refunded in the manne	er provided in subsection (c)[ $\div$
13	.3 The] within ninety da	ays of the due date of the tax
14	4 return or the date the	ne tax return is filed, whichever
15	5 <u>is later; provided th</u>	nat interest <u>on the overpayment</u>
16	6 shall be [allowed and	<del>l paid at</del> ] <u>paid:</u>
17	.7 (A) To the taxpayer	if the amount overpaid is not
18	8 refunded within	ninety days; and



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1	<u>(B)</u>	<u>At</u> the rate of one-third of one per cent <u>of the</u>
2		refund amount for each month or fraction
3		thereof[ <del>,-beginning with the first-calendar day</del>
4		after the due date of the return or, if the
5		return is filed after the prescribed due date,
6		the first month following the month the return is
7		received, and continuing until the date that the
8		director approves the refund voucher. If the
9		director approves the refund voucher within
10		nincty days from the due date or the date the
11		return is received, whichever is later, and the
12		comptroller of the State-sends-the taxpayer a
13		refund warrant within forty-five days-from the
14		date of the director's approval, no interest on
15		the overpayment shall be allowed or paid.
16		However, if either the director or the
17		comptroller exceeds the time allowed herein,
18		interest will be computed from the first calendar
19		day after the due date of the return or from the
20		first month following the month the return is
21		received by the director if the return is filed
22		after the prescribed due date, until the date





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1		that the comptroller-sends the refund-warrant to
2		the taxpayer.] after the ninety-day period, until
3		the refund and any applicable interest is paid to
4		the taxpayer;
5	(2)	If any overpayment of taxes results or arises from:
6		(A) [the] The taxpayer filing an amended return[ <del>, or</del>
7		from]; or
8		(B) $[a] \underline{A}$ determination made by the director; and
9		the overpayment is not shown on the original return as
10		filed by the taxpayer, [ <del>interest on the overpayment</del>
11		shall be allowed and paid from the first calendar-day
12		after] the amount overpaid shall be refunded to the
13		taxpayer within ninety days from the due date of the
14		original return or[ <del>, if the original return is filed</del>
15		after the prescribed due date, the first month
16		following the month the return is received, to the
17		date that the director signs the refund voucher. If
18		the comptroller does not send the refund warrant to
19	r	the taxpayer within forty-five days after-the
20		director's approval, interest will continue until the
21		date that the comptroller sends the refund warrant to
22		the taxpayer.] the date the overpayment is discovered
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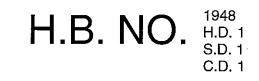
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1		under subparagraphs (A) or (B), whichever occurred
2		later; provided that interest shall be paid to the
3		taxpayer if the amount overpaid is not refunded within
4		ninety days and at the rate of one-third of one per
5		cent of the refund amount for each month or fraction
6		thereof after the ninety-day period, until the refund
7		and any applicable interest is paid to the taxpayer;
8	(3)	For purposes of a net income tax return, if any
9		overpayment of any taxes results from a carryback of a
10		net operating loss, the overpayment shall be deemed to
11		have been made at the close of the taxable year in
12		which the net operating loss arises. To the extent
13		that the carryback of net operating loss results in
14		reducing the amount of underpayment of taxes for prior
15		taxable year or years, interest that would be
16		chargeable because of the underpayment shall not be
17		applicable with respect to that amount or amounts that
18		are carried back [-]; and
19	(4)	In the case of credit, interest shall be [allowed and
20		paid from the first calendar day after the due date of
21		the return, the first month following the month the
22		return is received by the director, or the date of
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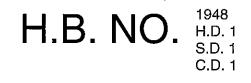


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1	payment, whichever is later, to the date-the credit is	
2	taken; provided that the director may-make a refund of	
3	any credit to a taxpayer-where the taxpayer-has-no	
4	underpayment against which to apply the credit.] paid	
5	in the same manner as paragraph (1)."	
6	SECTION 2. All general revenues collected after an	
7	increase of any general excise or use tax rate shall be used	
8	first to pay tax refunds delayed from fiscal year 2009-2010 to	
9	fiscal year 2010-2011.	
10	As used in this section, "general revenues collected after	
11	an increase of any general excise or use tax rate" means the	
12	difference between the following:	
13	(1) The revenues actually collected from the entire	
14	general excise or use tax after the increase of the	
15	rate; and	
16	(2) The revenues that would have been collected from the	
17	entire general excise or use tax at the rate before	
18	the increase.	
19	This section shall apply only until all tax refunds delayed	
20	from fiscal year 2009-2010 to fiscal year 2010-2011 have been	
21	paid.	







1	SECTION 3. Statutory material to be repealed is bracketed
2	and stricken. New statutory material is underscored.
3	SECTION 4. This Act shall take effect July 1, 2010, and
4	shall apply to taxable years beginning after December 31, 2009.



Report Title: Income Tax; Refund

## Description:

Requires the Department of Taxation to provide refunds to taxpayers within 90 days of the later of (1) the due date of the tax return; or (2) the date the tax return is filed. Requires that all general revenues collected from an increase of any general excise or use tax rate be used first to pay tax refunds delayed from fiscal year 2009-2010 to fiscal year 2010-2011. Effective July 1, 2010. (HB1948 CD1)

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