

JAN 18 2019

A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Section 231-3, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§231-3 Department, general duties and powers. The
4 department of taxation shall have the following duties and
5 powers, in addition to any others prescribed or granted by this
6 chapter:

7 (1) Assessment: To make any assessment by law required to
8 be made by the department;

9 (2) Collections: To be responsible for the collection of
10 all taxes imposed under title 14, except those which
11 by law are to be collected by county treasurers, and
12 for such other duties as are provided by law;

13 (3) Construction of revenue laws: To construe the tax and
14 revenue laws, the administration of which is within
15 the scope of the department's duties, whenever
16 requested by any officer acting under those laws, or
17 by an interested person;



1 (4) Enforcement of penalties: To see that penalties are
2 enforced when prescribed by any tax or revenue law of
3 the State (the administration of which is within the
4 scope of the department's duties) for disobedience or
5 evading of its provisions, and to see that complaint
6 is made against persons violating any such law; in the
7 execution of these powers and duties the department
8 may call upon the attorney general or any of the
9 attorney general's deputies, including the county
10 attorneys or public prosecutors, whose duties it shall
11 be to assist in the institution and conduct of all
12 proceedings or prosecutions for penalties and
13 forfeitures, liabilities, and punishments for
14 violation of the laws administered by the department;
15 (5) Forms: To prescribe forms to be used in or in
16 connection with any assessment, including forms to be
17 used in the making of returns by taxpayers or in any
18 other proceedings connected with the assessment, and
19 to change the same from time to time as deemed
20 necessary;

- 1 (6) Inspection, examination of records: To inspect and
2 examine the records of all public officers without
3 charge, and to examine the books and papers of account
4 of any person for the purpose of enabling the
5 department to obtain all information that could in any
6 manner aid the department in discharging its duties
7 under any tax law;
- 8 (7) Recommendations for legislation: To recommend to the
9 governor any amendments, changes, or modifications of
10 the laws as may seem proper or necessary to remedy
11 injustice or irregularity in taxation or to facilitate
12 the assessment of taxes;
- 13 (8) Report to governor: To report to the governor
14 annually, and at such other times and in such manner
15 as the governor may require, concerning the acts and
16 doings and the administration of the department, and
17 any other matters of information concerning taxation
18 as may be deemed of general interest;
- 19 (9) Rules: To adopt such rules as the department may deem
20 proper effectually to carry out the purposes for which

1 the department is constituted and to regulate matters
2 of procedure by or before the department;
3 (10) Compromises: With the approval of the governor, to
4 compromise any claim where the tax exceeds \$50,000
5 (exclusive of penalties and interest) arising under
6 any tax law the administration of which is within the
7 scope of the department's duties, and to compromise
8 any tax claim where the tax is \$50,000 or less
9 (exclusive of penalties and interest) without seeking
10 the approval of the governor; provided that the
11 director shall have the discretion to seek the
12 approval of the governor to compromise any tax claim
13 where the director deems it appropriate; and in each
14 case the department shall post each proposed
15 compromise, as set forth in subparagraphs (A) to (D),
16 on the department's internet website for five calendar
17 days before the director signs the compromise, and
18 there shall be placed on file in the department's
19 office a statement of:
20 (A) The name of the taxpayer and the amount and type
21 of tax assessed, or proposed to be assessed;



1 (B) The amount of penalties and interest imposed or
2 which could have been imposed by law with respect
3 to the amount of tax assessed, as computed by the
4 department;

5 (C) The total amount of liability as determined by
6 the terms of the compromise, and the actual
7 payments made thereon with the dates thereof; and

8 (D) The reasons for the compromise.

9 Notwithstanding the provisions of any law making
10 unlawful the disclosure of tax returns or return
11 information, statements on file and included in the
12 department's internet website in respect of
13 compromises shall be open to public inspection;

14 (11) Retroactivity of rulings: To prescribe the extent, if
15 any, to which any ruling, rule, or construction of the
16 tax laws, of general application, shall be applied
17 without retroactive effect;

18 (12) Remission of delinquency penalties and interest:
19 Except in cases of fraud or wilful violation of the
20 laws or wilful refusal to make a return setting forth
21 the information required by law (but inclusion in a



1 return of a claim of nonliability for the tax shall
2 not be deemed a refusal to make a return), the
3 department may remit any amount of penalties or
4 interest added, under any law administered by the
5 department, to any tax that is delinquent, in a case
6 of excusable failure to file a return or pay a tax
7 within the time required by law, or in a case of
8 uncollectibility of the whole amount due; and in that
9 case there shall be placed on file in the department's
10 office a statement showing the name of the person
11 receiving the remission, the principal amount of the
12 tax, and the year or period involved;

13 (13) Closing agreements: To enter into an agreement in
14 writing with any taxpayer or other person relating to
15 the liability of the taxpayer or other person, under
16 any law the administration of which is within the
17 scope of the department's duties, in respect of any
18 taxable period, or in respect of one or more separate
19 items affecting the liability for any taxable period;
20 the agreement, signed by or on behalf of the taxpayer
21 or other person concerned, and by or on behalf of the



1 department, shall be final and conclusive, and except
2 upon a showing of fraud or malfeasance, or
3 misrepresentation of a material fact:

4 (A) The matters agreed upon shall not be reopened,
5 and the agreement shall not be modified, by any
6 officer or employee of the State; and

7 (B) In any suit, action, or proceeding, the
8 agreement, or any determination, assessment,
9 collection, payment, refund, or credit made in
10 accordance therewith, shall not be annulled,
11 modified, set aside, or disregarded;

12 (14) Tracking and reporting: Beginning after December 31,
13 2021, to track tax revenues generated by each industry
14 in the State and submit a report of its findings to
15 the legislature no later than twenty days prior to the
16 convening of the regular session of 2023 and each
17 regular session thereafter; and

18 [~~14~~] (15) Other powers and duties: In addition to the
19 powers and duties contained in this chapter, the
20 powers and duties contained in other chapters of the
21 law under title 14 administered by the department for

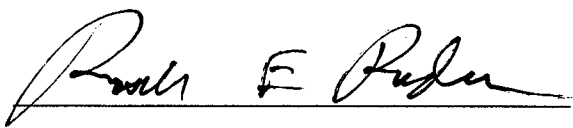

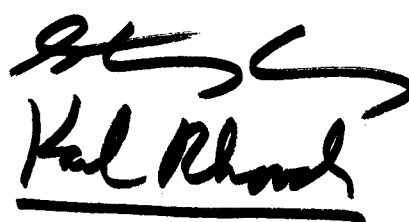


1 levying, assessing, collecting, receiving, and
 2 enforcing payments of the tax imposed thereunder, and
 3 otherwise relating thereto, shall be severally and
 4 respectively conferred, granted, practiced, and
 5 exercised for levying, assessing, collecting,
 6 receiving, and enforcing payment of the taxes imposed
 7 under the authority of those chapters as far as the
 8 provisions are consistent with the express provisions
 9 of those chapters, as fully and effectually to all
 10 intents and purposes as if the same powers and
 11 authorities were repeated in those chapters, with
 12 reference to those taxes, and all of the provisions
 13 shall be applied, construed, deemed, and taken to
 14 refer to the taxes imposed under the authority of
 15 those chapters, in like manner."

16 SECTION 2. Statutory material to be repealed is bracketed
 17 and stricken. New statutory material is underscored.

18 SECTION 3. This Act shall take effect upon its approval.

19

INTRODUCED BY: Paul F. Puder



Kal Rhoad

S.B. NO. 458

A handwritten signature in black ink, appearing to read "Michael Huber", written in a cursive style.

S.B. NO. 458

Report Title:

Department of Taxation; Revenues; Tracking; Report

Description:

Beginning after December 31, 2021, requires the department of taxation to track the revenues generated by each industry in the State and requires a report of its findings to be submitted to the legislature no later than twenty days prior to the convening of each regular session.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

