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# A BILL FOR AN ACT

RELATING TO TAX ADMINISTRATION.

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

1           SECTION 1. Section 231-8.5, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§231-8.5 Electronic filing of tax returns.** (a) The  
4 department may allow filing by electronic, telephonic, or  
5 optical means of any tax return, application, report, or other  
6 document required under the provisions of title 14 administered  
7 by the department.

8           (b) If the requirements of subsection (c) are satisfied,  
9 the department may require electronic filing of any tax return,  
10 application, report, or other document required under the  
11 provisions of title 14 administered by the department for the  
12 following taxpayers:

13           (1) For withholding tax filings required under chapter  
14 235, only employers whose total tax liability under  
15 sections 235-61 and 235-62 for the calendar or fiscal  
16 year exceeds \$40,000;



- 1           (2) For income tax filings required under chapter 235,  
2           only taxpayers who are [subject]:
  - 3           (A) Subject to tax under section 235-71, 235-71.5,  
4           or 235-72;
  - 5           (B) Required to file partnership returns under  
6           section 235-95; provided that the partnership's  
7           gross income exceeds \$250,000 for the taxable  
8           year;
  - 9           (C) Required to file S corporation returns under  
10           section 235-128; provided that the S corporation's  
11           gross income exceeds \$250,000 for the taxable  
12           year; or
  - 13           (D) Subject to tax under section 235-51, 235-52,  
14           or 235-53; provided that the taxpayer's federal  
15           adjusted gross income, as reported on the  
16           taxpayer's Hawaii income tax return, exceeds  
17           \$100,000 for the taxable year;
- 18           (3) For general excise tax filings required under  
19           chapter 237, only taxpayers whose total tax liability  
20           under chapter 237 for the calendar or fiscal year  
21           exceeds \$4,000;



- 1 (4) For transient accommodations tax filings required  
2 under chapter 237D, only operators and plan managers  
3 whose total tax liability under chapter 237D for the  
4 calendar or fiscal year exceeds \$4,000; and
- 5 (5) For filings required under the following chapters, all  
6 taxpayers subject to tax under those chapters:
- 7 (A) 236E;
  - 8 (B) 239;
  - 9 (C) 241;
  - 10 (D) 243;
  - 11 (E) 244D;
  - 12 (F) 245; and
  - 13 (G) 251.
- 14 (c) As a prerequisite to requiring electronic filing under  
15 subsection (b), the department shall provide:
- 16 (1) An electronic filing option to the taxpayer; and
  - 17 (2) No less than ninety days prior written notice to the  
18 general public of the department's intention to  
19 require electronic filing.
- 20 (d) Notwithstanding subsections (b) and (c), any return  
21 that is prepared by a tax return preparer, as defined in



1 section 231-36.5, shall be filed electronically; provided that  
2 this subsection shall only apply if an electronic filing option  
3 is available and the tax return preparer reasonably expects to  
4 prepare more than ten returns of that same tax type in the  
5 calendar year.

6 If a return that is required to be filed electronically  
7 under this subsection is not filed electronically, the tax  
8 return preparer who prepared the return and the taxpayer shall  
9 each be subject to a penalty of \$50 for every failure to  
10 electronically file a return, unless it is shown that the  
11 failure is due to reasonable cause and not to neglect.

12 [~~(d)~~] (e) The date of filing shall be the date the tax  
13 return, application, report, or other document is transmitted to  
14 the department in a form and manner prescribed by departmental  
15 rules adopted pursuant to chapter 91. The department may  
16 determine alternative methods for the signing, subscribing, or  
17 verifying of a tax return, application, report, or other  
18 document that shall have the same validity and consequences as  
19 the actual signing by the taxpayer. A filing under this section  
20 shall be treated in the same manner as a filing subject to the  
21 penalties under section 231-39.



1           ~~[-(e)]~~ (f) If a person who is required by the department  
2 under subsection (b) to electronically file any tax return fails  
3 to file using an approved method, unless it is shown that the  
4 failure is due to reasonable cause and not to neglect, the  
5 person shall be liable for a penalty of two per cent of the  
6 amount of the tax required to be shown on the return. If no tax  
7 is required to be shown on the return, the department may  
8 determine the penalty imposed by administrative rule."

9           SECTION 2. Section 231-9.9, Hawaii Revised Statutes, is  
10 amended as follows:

11           1. By amending subsection (a) to read:

12           "(a) The director of taxation is authorized to require  
13 every person or tax return preparer subject to mandatory  
14 electronic filing under section 231-8.5 and every person whose  
15 tax liability for any one taxable year exceeds \$100,000 and who  
16 files a tax return for any tax, including consolidated filers,  
17 to remit taxes by one of the means of electronic funds transfer  
18 approved by the department; provided that for withholding taxes  
19 under section 235-62, electronic funds transfers shall apply to  
20 annual tax liabilities that exceed \$40,000. [~~Notwithstanding~~  
21 ~~the tax liability thresholds in this subsection, the director of~~



1 ~~taxation is authorized to require any person who is required to~~  
 2 ~~electronically file a federal return or electronically remit any~~  
 3 ~~federal taxes to the federal government, to electronically file~~  
 4 ~~a state return and electronically remit any state taxes under~~  
 5 ~~title 14 to the department. The director is authorized to grant~~  
 6 ~~an exemption to the electronic filing and payment requirements~~  
 7 ~~for good cause.] "~~

8 2. By amending subsections (c) and (d) to read:

9 "(c) If a person who is required under subsection (a) to  
 10 ~~[file a return electronically or]~~ remit taxes by one of the  
 11 means of electronic funds transfer approved by the department  
 12 fails ~~[to file electronically or]~~ to remit the taxes using an  
 13 approved method ~~[on or before the date prescribed therefor],~~  
 14 unless it is shown that the failure is due to reasonable cause  
 15 and not to neglect, there shall be added to the tax required to  
 16 be so remitted a penalty of two per cent of the amount of the  
 17 tax. The penalty under this subsection is in addition to any  
 18 penalty set forth in section 231-39.

19 (d) No later than twenty days prior to the convening of  
 20 each regular session, the department shall submit a report to  
 21 the legislature containing:



1 (1) The number of taxpayers who were assessed the two per  
 2 cent penalty pursuant to subsection (c); and  
 3 ~~[-(2) The amounts of each assessment; and~~  
 4 ~~[-(3)]~~ (2) The total amount of assessments ~~[collected]~~ for  
 5 the previous year."

6 SECTION 3. Section 231-10.8, Hawaii Revised Statutes, is  
 7 amended to read as follows:

8 "[+]§231-10.8[+] **Tax clearance fees.** The department may  
 9 charge a fee of \$20 for each tax clearance application submitted  
 10 ~~[and \$5 for each certified copy of a tax clearance]."~~

11 SECTION 4. Section 231-28, Hawaii Revised Statutes, is  
 12 amended to read as follows:

13 "**§231-28 Tax clearance before procuring liquor licenses.**  
 14 No liquor licenses shall be issued or renewed unless the  
 15 applicant therefor shall present to the issuing agency, a  
 16 certificate ~~[signed]~~ issued by the ~~[director of taxation,]~~  
 17 department, showing that the applicant does not owe the State  
 18 any delinquent taxes, penalties, or interest; or that the  
 19 applicant has entered into and is complying with an installment  
 20 plan agreement with the department of taxation for the payment  
 21 of delinquent taxes in installments. Notwithstanding any law to



1 the contrary, the department may disclose tax information  
2 relevant to the applicant's state tax compliance to the issuing  
3 agency."

4 SECTION 5. Section 232-24, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "**§232-24 Taxes paid pending appeal.** (a) The tax paid  
7 upon the amount of any assessment, actually in dispute and in  
8 excess of that admitted by the taxpayer, and covered by an  
9 appeal to the tax appeal court duly taken, shall, pending the  
10 final determination of the appeal, be paid by the director of  
11 finance into the "litigated claims fund". If the final  
12 determination is in whole or in part in favor of the appealing  
13 taxpayer, the director of finance shall repay to the taxpayer  
14 out of the fund, or if investment of the fund should result in a  
15 deficit therein, out of the general fund of the State, the  
16 amount of the tax paid upon the amount held by the court to have  
17 been excessive or nontaxable, together with from the date of  
18 each payment into the litigated claims fund, the interest to be  
19 paid from the general fund of the State. [~~For purposes of this~~  
20 ~~section, the rate of interest shall be computed by reference to~~  
21 ~~section 6621(a) (with respect to interest rate determination) of~~



1 ~~the Internal Revenue Code of 1986, as of January 1, 2010.]~~ The  
2 balance, if any, of the payment made by the appealing taxpayer,  
3 or the whole of the payment, in case the decision is wholly in  
4 favor of the assessor, shall, upon the final determination  
5 become a realization under the tax law concerned.

6 (b) For purposes of this section, the interest shall be  
7 computed using the following interest rates:

8 (1) For corporations, 3.0 per cent;

9 (2) For corporations whose overpayments exceed \$10,000,  
10 1.5 per cent; and

11 (3) For all other taxpayers, 4.0 per cent.

12 (c) In a case of an appeal to a board of review, the tax  
13 paid, if any, upon the amount of the assessment actually in  
14 dispute and in excess of that admitted by the taxpayer, shall  
15 during the pendency of the appeal and until and unless an appeal  
16 is taken to the tax appeal court, be held by the director of  
17 finance in a special deposit. In the event of final  
18 determination of the appeal in the board of review, the director  
19 of finance shall repay to the appealing taxpayer out of the  
20 deposit the amount of the tax paid upon the amount held by the  
21 board to have been excessive or nontaxable, if any, the balance,



1 if any, or the whole of the deposit, in case the decision is  
2 wholly in favor of the assessor, to become a realization under  
3 the tax law concerned."

4 SECTION 6. If any provision of this Act, or the  
5 application thereof to any person or circumstance, is held  
6 invalid, the invalidity does not affect other provisions or  
7 applications of this Act that can be given effect without the  
8 invalid provision or application, and to this end the provisions  
9 of this Act are severable.

10 SECTION 7. Statutory material to be repealed is bracketed  
11 and stricken. New statutory material is underscored.

12 SECTION 8. This Act shall take effect on July 1, 2050.



**Report Title:**

Tax Administration; Electronic Filing; Electronic Funds Transfer; Tax Clearances; Interest Rate

**Description:**

Authorizes the department of taxation to mandate the electronic filing for certain partnerships, S-corporations, and individual tax returns. Requires certain tax return preparers to file returns electronically. Amends the requirements for filing and payment of taxes by electronic funds transfer. Amends the penalty for failure to file electronically. Removes the fee for certified copies of tax clearances. Authorizes the limited disclosure of liquor licensees' tax clearances. Clarifies the interest rate for payments made to taxpayers out of the litigated claims fund. Effective 7/1/2050. (HD1)

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

