
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, or
4 235-72;

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, or
14 235-53; 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 chapter
19 237, only taxpayers whose total tax liability under
20 chapter 237 for the calendar or fiscal year exceeds
21 \$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 subsection (b), any return that is
21 prepared by a tax return preparer, as defined in section



1 231-36.5, shall be filed electronically; provided that this
2 subsection shall only apply if an electronic filing option is
3 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 due 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 by administrative rule the penalty imposed."

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 whose overpayments are \$10,000 or
9 less, 3 per cent;

10 (2) For corporations whose overpayments exceed \$10,000,
11 1.5 per cent; and

12 (3) For all other taxpayers, 4 per cent.

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



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

5 SECTION 6. Section 235-20.5, Hawaii Revised Statutes, is
6 amended by amending subsection (b) to read as follows:

7 "(b) The moneys in the fund shall be used for the
8 following purposes:

- 9 (1) Issuing comfort letters, letter rulings, written
10 opinions, and other guidance to taxpayers;
- 11 (2) Issuing certificates under [section] 235-110.9;
- 12 (3) Administering the operations of the special
13 enforcement section;
- 14 (4) Funding support staff positions in the special
15 enforcement section; [~~and~~]
- 16 (5) Developing, implementing, and providing taxpayer
17 education programs, including tax publications[-];
- 18 (6) Funding information technology and related positions
19 that are exempt from chapter 76;
- 20 (7) Funding the operations of the criminal investigation
21 section, including support staff positions; and



1 (8) Funding the operations of the administrative rules
2 office."

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

9 SECTION 8. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 9. This Act shall take effect on July 1, 2050;
12 provided that section 2 shall take effect on January 1, 2022.



Report Title:

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

Description:

Allows the Department of Taxation to mandate the electronic filing of partnership and S-corporation returns if the taxpayer's gross receipts exceed \$250,000 and individual tax returns if the federal adjusted gross income, as shown on the taxpayer's Hawaii return, exceeds \$100,000. Requires certain tax return preparers to file returns electronically. Amends the rules for electronic funds transfer to remove the authorization to require electronic funds transfer or electronic filing if the federal government required that person to file or pay electronically. Requires electronic funds transfers for tax return preparers and any person subject to mandatory electronic filing. Removes the timeliness requirement from the electronic funds transfer penalty. Removes the authority of the department to charge for certified copies of tax clearances. Amends the statute that mandates tax clearances for liquor license holders. Clarifies the interest rate for payments made to taxpayers out of the litigated claims fund. Expands the permissible uses of the tax administration special fund. Effective 7/1/2050. (SD2)

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