

S.B. NO. 1203

JAN 27 2021

A BILL FOR AN ACT

RELATING TO TITLE 14, HAWAII REVISED STATUTES.

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

SECTION 1. The purpose of this Act is to make numerous amendments to title 14, Hawaii Revised Statutes, for the purpose of simplifying and streamlining administration of the tax law.

SECTION 2. Section 231-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

""Director" means the director of taxation, unless the context clearly indicates otherwise."

SECTION 3. Section 231-15.7, Hawaii Revised Statutes, is amended to read as follows:

"§231-15.7 Returns by fiduciaries. The returns, statements, or answers required under chapters of the law under title 14 administered by the department shall be made, in such form and manner as prescribed by the department, by the personal representative, trustee, guardian, or other fiduciary in such capacity ~~[in any taxation district in which returns are required]~~."

S.B. NO. 1203

SECTION 4. Section 231-31, Hawaii Revised Statutes, is amended to read as follows:

"§231-31 Nonresidents engaged in business, etc., service of process on, designation of agent for service of process.

Every nonresident individual who, jointly, severally, or jointly and severally, is subject to a tax upon the gross or net income from, or sales of, an occupation, trade, or business carried on in the State, in whole or in part, or upon the carrying on of such occupation, trade, or business, or upon the use or keeping for use of property therein, shall file with the department of taxation ~~[in the district in which the occupation, trade, or business is carried on,]~~ in the form and manner as prescribed by the department, the name and address of a person residing within the State upon whom process may be served, and in default of such designation, and if the nonresident individual cannot be found in the State, service of process in any action for the collection of the taxes may be made on any manager, superintendent, or other person in charge, employed in the carrying on of the occupation, trade, or business, with like effect as if the person so served had been designated by the nonresident as the nonresident's agent for such purpose;

S.B. NO. 1203

provided that nothing therein shall preclude the service of process in any other manner provided by law."

SECTION 5. Section 235-7, Hawaii Revised Statutes, is amended by amending subsections (c) and (d) to read as follows:

"(c) The deductions of or based on dividends paid or received, allowed to a corporation under chapter 1, subchapter B, part VIII of the Internal Revenue Code, shall not be allowed. In lieu thereof there shall be allowed as a deduction the entire amount of ~~[dividends]~~;

(1) Dividends received by any corporation upon the shares of stock of a national banking association~~[,~~
~~qualifying]~~;

(2) Qualifying dividends, as defined in section 243(b) of the Internal Revenue Code, received by members of an affiliated group~~[,~~or dividends]; provided that "includible corporation" as used therein shall include domestic and foreign corporations;

(3) Dividends received by a small business investment company operating under the Small Business Investment Act of 1958 (Public Law 85-699) ~~[upon shares of stock qualifying under paragraph (3), seventy]~~

S.B. NO. 1203

- 1 (4) Seventy per cent of the amount received by any
2 corporation as dividends[÷
3 ~~(1)~~ ~~Upon~~] upon the shares of stock of another corporation,
4 if ~~[at the date of payment of the dividend at least~~
5 ~~ninety-five per cent of the other corporation's~~
6 ~~capital stock is owned by one or more corporations~~
7 ~~doing business in this State and if the other~~
8 ~~corporation is subjected to an income tax in another~~
9 ~~jurisdiction (but subsection to federal tax does not~~
10 ~~constitute subsection to income tax in another~~
11 ~~jurisdiction); and~~
12 ~~(2)~~ ~~Upon the shares of stock of a bank or insurance~~
13 ~~company organized and doing business under the laws of~~
14 ~~the State;~~
15 ~~(3)~~ ~~Upon the shares of stock of another corporation, if at~~
16 ~~least fifteen per cent of the latter corporation's~~
17 ~~business, for the taxable year of the latter~~
18 ~~corporation preceding the payment of the dividend, has~~
19 ~~been attributed to this State.~~

20 ~~However, except for national bank dividends, the deductions~~
21 ~~under this subsection are not allowed when they would not have~~
22 ~~been]~~ otherwise allowed under section 243 of the Internal

S.B. NO. 1203

1 Revenue Code[, ~~as amended by Public Law 85-866, by reason of~~
2 ~~subsections (b) and (c) of section 246 of the Internal Revenue~~
3 ~~Code. For the purposes of this subsection fifteen per cent of a~~
4 ~~corporation's business shall be deemed to have been attributed~~
5 ~~to this State if fifteen per cent or more of the entire gross~~
6 ~~income of the corporation as defined in this chapter (which for~~
7 ~~the purposes of this subsection shall be computed without regard~~
8 ~~to source in the State and shall include income not taxable by~~
9 ~~reason of the fact that it is from property not owned in the~~
10 ~~State or from a trade or business not carried on in the State in~~
11 ~~whole or in part), under section 235-5 and the other provisions~~
12 ~~of this chapter, shall have been attributed to the State and~~
13 ~~subjected to assessment of the taxable income therefrom~~
14 ~~(including the determination of the resulting net loss, if~~
15 ~~any)] .~~

16 (d) [(1) ~~For taxable years ending before January 1, 1967,~~
17 ~~the net operating loss deductions allowed as carrybacks and~~
18 ~~carryovers by the Internal Revenue Code shall not be allowed.~~
19 ~~In lieu thereof the net operating loss deduction shall consist~~
20 ~~of the excess of the deductions allowed by this chapter over the~~
21 ~~gross income, computed with the modifications specified in~~
22 ~~paragraphs (1) to (4) of section 172(d) of the Internal Revenue~~

S.B. NO. 1203

1 ~~Code, and with the further modification stated in paragraph (3)~~
2 ~~hereof; and shall be allowed as a deduction in computing the~~
3 ~~taxable income of the taxpayer for the succeeding taxable year;~~

4 ~~(2) (A)]~~ With respect to net operating loss deductions
5 resulting from net operating losses for taxable
6 years ending after December 31, 1966, the net
7 operating loss deduction provisions of the
8 Internal Revenue Code shall apply[~~; provided that~~
9 ~~there shall be no net operating loss deduction~~
10 ~~carried back to any taxable year ending prior to~~
11 ~~January 1, 1967;~~

12 ~~(B)~~ In the case of a taxable year beginning in 1966
13 and ending in 1967, the entire amount of all net
14 operating loss deductions carried back to the
15 taxable year shall be limited to that portion of
16 taxable income for such taxable year which the
17 number of days in 1967 bears to the total days in
18 the taxable year ending in 1967; and

19 ~~(C)~~ The computation of any net operating loss
20 deduction for a taxable year covered by this
21 subsection shall require the further

S.B. NO. 1203

~~modifications stated in paragraphs (3), (4), and~~
~~(5) of this subsection;].~~

[+3+] (1) In computing the net operating loss deduction allowed by this subsection, there shall be included in gross income the amount of interest which is excluded from gross income by subsection (a), decreased by the amount of interest paid or accrued which is disallowed as a deduction by subsection (e). In determining the amount of the net operating loss deduction under this subsection of any corporation, there shall be disregarded the net operating loss of such corporation for any taxable year for which the corporation is an electing small business corporation;

[+4+] (2) No net operating loss carryback or carryover shall be allowed by this chapter if not allowed under section 172 of the Internal Revenue Code; and

[+5+] (3) The election to relinquish the entire carryback period with respect to a net operating loss allowed under section 172(b)(3)(C) of the Internal Revenue Code shall be operative for the purposes of this chapter; provided that no taxpayer shall make such an election as to a net operating loss of a business

S.B. NO. 1203

where such net operating loss occurred in the taxpayer's business prior to the taxpayer entering business in this State[~~;~~ and

~~(6) The five-year carryback period for net operating losses for any taxable year ending during 2001 and 2002 in section 172(b)(1)(H) of the Internal Revenue Code as it read on December 31, 2008, shall not be operative for purposes of this chapter; and~~
~~(7) The election for the carryback for 2008 or 2009 net operating losses of small businesses as provided in section 172(b)(1)(H) of the Internal Revenue Code as it read on December 31, 2009, shall not be operative for purposes of this chapter]."~~

SECTION 6. Section 235-12.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) [~~When the requirements of subsection (d) are met, each]~~ Each individual or corporate taxpayer that files an individual or corporate net income tax return for a taxable year may claim a tax credit under this section against the Hawaii state individual or corporate net income tax. The tax credit may be claimed for every eligible renewable energy technology system that is installed and placed in service in the State by a

S.B. NO. 1203

1 taxpayer during the taxable year. The tax credit may be claimed
2 as follows:

3 (1) For each solar energy system: thirty-five per cent of
4 the actual cost or the cap amount determined in
5 subsection (b), whichever is less; or

6 (2) For each wind-powered energy system: twenty per cent
7 of the actual cost or the cap amount determined in
8 subsection (b), whichever is less;

9 provided that multiple owners of a single system shall be
10 entitled to a single tax credit; and provided further that the
11 tax credit shall be apportioned between the owners in proportion
12 to their contribution to the cost of the system.

13 In the case of a partnership, S corporation, estate, or
14 trust, the tax credit allowable is for every eligible renewable
15 energy technology system that is installed and placed in service
16 in the State by the entity. The cost upon which the tax credit
17 is computed shall be determined at the entity level.

18 Distribution and share of credit shall be determined pursuant to
19 section 235-110.7(a)."

20 SECTION 7. Section 235-51, Hawaii Revised Statutes, is
21 amended by amending subsections (a), (b), and (c) to read as
22 follows:

S.B. NO. 1203

"(a) There is hereby imposed on the taxable income of
every:

(1) Taxpayer who files a joint return under section 235-
93; and

(2) Surviving spouse,
a tax determined in accordance with the following table:

~~[In the case of any taxable year beginning after December
31, 2001:~~

If the taxable income is:	The tax shall be:
Not over \$4,000	1.40% of taxable income
Over \$4,000 but not over \$8,000	\$56.00 plus 3.20% of excess over \$4,000
Over \$8,000 but not over \$16,000	\$184.00 plus 5.50% of excess over \$8,000
Over \$16,000 but not over \$24,000	\$624.00 plus 6.40% of excess over \$16,000
Over \$24,000 but not over \$32,000	\$1,136.00 plus 6.80% of excess over \$24,000
Over \$32,000 but not over \$40,000	\$1,680.00 plus 7.20% of excess over \$32,000
Over \$40,000 but not over \$60,000	\$2,256.00 plus 7.60% of excess over \$40,000

S.B. NO. 1203

1 ~~Over \$60,000 but~~ ~~\$3,776.00 plus 7.90% of~~
 2 ~~not over \$80,000~~ ~~excess over \$60,000~~
 3 ~~Over \$80,000~~ ~~\$5,356.00 plus 8.25% of~~
 4 ~~excess over \$80,000.~~

5 ~~In the case of any taxable year beginning after December~~
 6 ~~31, 2006:~~

7	If the taxable income is:	The tax shall be:
8	Not over \$4,800	1.40% of taxable income
9	Over \$4,800 but	\$67.00 plus 3.20% of
10	not over \$9,600	excess over \$4,800
11	Over \$9,600 but	\$221.00 plus 5.50% of
12	not over \$19,200	excess over \$9,600
13	Over \$19,200 but	\$749.00 plus 6.40% of
14	not over \$28,800	excess over \$19,200
15	Over \$28,800 but	\$1,363.00 plus 6.80% of
16	not over \$38,400	excess over \$28,800
17	Over \$38,400 but	\$2,016.00 plus 7.20% of
18	not over \$48,000	excess over \$38,400
19	Over \$48,000 but	\$2,707.00 plus 7.60% of
20	not over \$72,000	excess over \$48,000
21	Over \$72,000 but	\$4,531.00 plus 7.90% of
22	not over \$96,000	excess over \$72,000

S.B. NO. 1203

~~1 Over \$96,000 \$6,427.00 plus 8.25% of~~

~~2 excess over \$96,000.]~~

3 In the case of any taxable year beginning after December
4 31, 2017:

5	If the taxable income is:	The tax shall be:
6	Not over \$4,800	1.40% of taxable income
7	Over \$4,800 but	\$67.00 plus 3.20% of
8	not over \$9,600	excess over \$4,800
9	Over \$9,600 but	\$221.00 plus 5.50% of
10	not over \$19,200	excess over \$9,600
11	Over \$19,200 but	\$749.00 plus 6.40% of
12	not over \$28,800	excess over \$19,200
13	Over \$28,800 but	\$1,363.00 plus 6.80% of
14	not over \$38,400	excess over \$28,800
15	Over \$38,400 but	\$2,016.00 plus 7.20% of
16	not over \$48,000	excess over \$38,400
17	Over \$48,000 but	\$2,707.00 plus 7.60% of
18	not over \$72,000	excess over \$48,000
19	Over \$72,000 but	\$4,531.00 plus 7.90% of
20	not over \$96,000	excess over \$72,000
21	Over \$96,000 but	\$6,427.00 plus 8.25% of
22	not over \$300,000	excess over \$96,000

S.B. NO. 1203

1	Over \$300,000 but	\$23,257.00 plus 9.00% of
2	not over \$350,000	excess over \$300,000
3	Over \$350,000 but	\$27,757.00 plus 10.00% of
4	not over \$400,000	excess over \$350,000
5	Over \$400,000	\$32,757.00 plus 11.00% of
6		excess over \$400,000.

7 (b) There is hereby imposed on the taxable income of every
8 head of a household a tax determined in accordance with the
9 following table:

10 ~~[In the case of any taxable year beginning after December~~
11 ~~31, 2001:~~

12	If the taxable income is:	The tax shall be:
13	Not over \$3,000	1.40% of taxable income
14	Over \$3,000 but	\$42.00 plus 3.20% of
15	not over \$6,000	excess over \$3,000
16	Over \$6,000 but	\$138.00 plus 5.50% of
17	not over \$12,000	excess over \$6,000
18	Over \$12,000 but	\$468.00 plus 6.40% of
19	not over \$18,000	excess over \$12,000
20	Over \$18,000 but	\$852.00 plus 6.80% of
21	not over \$24,000	excess over \$18,000
22	Over \$24,000 but	\$1,260.00 plus 7.20% of

S.B. NO. 1203

1	not over \$30,000	excess over \$24,000
2	Over \$30,000 but	\$1,692.00 plus 7.60% of
3	not over \$45,000	excess over \$30,000
4	Over \$45,000 but	\$2,832.00 plus 7.90% of
5	not over \$60,000	excess over \$45,000
6	Over \$60,000	\$4,017.00 plus 8.25% of
7		excess over \$60,000.
8	In the case of any taxable year beginning after December	
9	31, 2006:	
10	If the taxable income is:	The tax shall be:
11	Not over \$3,600	1.40% of taxable income
12	Over \$3,600 but	\$50.00 plus 3.20% of
13	not over \$7,200	excess over \$3,600
14	Over \$7,200 but	\$166.00 plus 5.50% of
15	not over \$14,400	excess over \$7,200
16	Over \$14,400 but	\$562.00 plus 6.40% of
17	not over \$21,600	excess over \$14,400
18	Over \$21,600 but	\$1,022.00 plus 6.80% of
19	not over \$28,800	excess over \$21,600
20	Over \$28,800 but	\$1,512.00 plus 7.20% of
21	not over \$36,000	excess over \$28,800
22	Over \$36,000 but	\$2,030.00 plus 7.60% of

S.B. NO. 1203

~~1 not over \$54,000 excess over \$36,000~~
~~2 Over \$54,000 but \$3,398.00 plus 7.90% of~~
~~3 not over \$72,000 excess over \$54,000~~
~~4 Over \$72,000 \$4,820.00 plus 8.25% of~~
~~5 excess over \$72,000.]~~

6 In the case of any taxable year beginning after December
7 31, 2017:

8	If the taxable income is:	The tax shall be:
9	Not over \$3,600	1.40% of taxable income
10	Over \$3,600 but	\$50.00 plus 3.20% of
11	not over \$7,200	excess over \$3,600
12	Over \$7,200 but	\$166.00 plus 5.50% of
13	not over \$14,400	excess over \$7,200
14	Over \$14,400 but	\$562.00 plus 6.40% of
15	not over \$21,600	excess over \$14,400
16	Over \$21,600 but	\$1,022.00 plus 6.80% of
17	not over \$28,800	excess over \$21,600
18	Over \$28,800 but	\$1,512.00 plus 7.20% of
19	not over \$36,000	excess over \$28,800
20	Over \$36,000 but	\$2,030.00 plus 7.60% of
21	not over \$54,000	excess over \$36,000
22	Over \$54,000 but	\$3,398.00 plus 7.90% of

S.B. NO. 1203

1	not over \$72,000	excess over \$54,000
2	Over \$72,000 but	\$4,820.00 plus 8.25% of
3	not over \$225,000	excess over \$72,000
4	Over \$225,000 but	\$17,443.00 plus 9.00% of
5	not over \$262,500	excess over \$225,000
6	Over \$262,500 but	\$20,818.00 plus 10.00% of
7	not over \$300,000	excess over \$262,500
8	Over \$300,000	\$24,568.00 plus 11.00% of
9		excess over \$300,000.

10 (c) There is hereby imposed on the taxable income of (1)
 11 every unmarried individual (other than a surviving spouse, or
 12 the head of a household) and (2) on the taxable income of every
 13 married individual who does not make a single return jointly
 14 with the individual's spouse under section 235-93 a tax
 15 determined in accordance with the following table:

16 ~~[In the case of any taxable year beginning after December~~
 17 ~~31, 2001:]~~

18	If the taxable income is:	The tax shall be:
19	Not over \$2,000	1.40% of taxable income
20	Over \$2,000 but	\$28.00 plus 3.20% of
21	not over \$4,000	excess over \$2,000
22	Over \$4,000 but	\$92.00 plus 5.50% of

S.B. NO. 1203

1	not over \$8,000	excess over \$4,000
2	Over \$8,000 but	\$312.00 plus 6.40% of
3	not over \$12,000	excess over \$8,000
4	Over \$12,000 but	\$568.00 plus 6.80% of
5	not over \$16,000	excess over \$12,000
6	Over \$16,000 but	\$840.00 plus 7.20% of
7	not over \$20,000	excess over \$16,000
8	Over \$20,000 but	\$1,128.00 plus 7.60% of
9	not over \$30,000	excess over \$20,000
10	Over \$30,000 but	\$1,888.00 plus 7.90% of
11	not over \$40,000	excess over \$30,000
12	Over \$40,000	\$2,678.00 plus 8.25% of
13		excess over \$40,000.
14	In the case of any taxable year beginning after December	
15	31, 2006:	
16	If the taxable income is:	The tax shall be:
17	Not over \$2,400	1.40% of taxable income
18	Over \$2,400 but	\$34.00 plus 3.20% of
19	not over \$4,800	excess over \$2,400
20	Over \$4,800 but	\$110.00 plus 5.50% of
21	not over \$9,600	excess over \$4,800
22	Over \$9,600 but	\$374.00 plus 6.40% of

S.B. NO. 1203

1	not over \$14,400	excess over \$9,600
2	Over \$14,400 but	\$682.00 plus 6.80% of
3	not over \$19,200	excess over \$14,400
4	Over \$19,200 but	\$1,008.00 plus 7.20% of
5	not over \$24,000	excess over \$19,200
6	Over \$24,000 but	\$1,354.00 plus 7.60% of
7	not over \$36,000	excess over \$24,000
8	Over \$36,000 but	\$2,266.00 plus 7.90% of
9	not over \$48,000	excess over \$36,000
10	Over \$48,000	\$3,214.00 plus 8.25% of
11		excess over \$48,000.]

12 In the case of any taxable year beginning after December
 13 31, 2017:

14	If the taxable income is:	The tax shall be:
15	Not over \$2,400	1.40% of taxable income
16	Over \$2,400 but	\$34.00 plus 3.20% of
17	not over \$4,800	excess over \$2,400
18	Over \$4,800 but	\$110.00 plus 5.50% of
19	not over \$9,600	excess over \$4,800
20	Over \$9,600 but	\$374.00 plus 6.40% of
21	not over \$14,400	excess over \$9,600
22	Over \$14,400 but	\$682.00 plus 6.80% of

S.B. NO. 1203

1	not over \$19,200	excess over \$14,400
2	Over \$19,200 but	\$1,008.00 plus 7.20% of
3	not over \$24,000	excess over \$19,200
4	Over \$24,000 but	\$1,354.00 plus 7.60% of
5	not over \$36,000	excess over \$24,000
6	Over \$36,000 but	\$2,266.00 plus 7.90% of
7	not over \$48,000	excess over \$36,000
8	Over \$48,000 but	\$3,214.00 plus 8.25% of
9	not over \$150,000	excess over \$48,000
10	Over \$150,000 but	\$11,629.00 plus 9.00% of
11	not over \$175,000	excess over \$150,000
12	Over \$175,000 but	\$13,879.00 plus 10.00% of
13	not over \$200,000	excess over \$175,000
14	Over \$200,000	\$16,379.00 plus 11.00% of
15		excess over \$200,000."

16 SECTION 8. Section 235-62, Hawaii Revised Statutes, is
 17 amended by amending subsection (b) to read as follows:

18 "(b) The return shall be in such form, including computer
 19 printouts or other electronic formats, and contain such
 20 information as may be prescribed by the director of taxation.

21 The return shall be filed [~~with the director at the first~~]

S.B. NO. 1203

1 ~~taxation district in Honolulu.]~~ in the form and manner
2 prescribed by the department."

3 SECTION 9. Section 235-99, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§235-99 [~~Same;~~] **Returns; place for filing.** Returns shall
6 be filed [~~with the collector for the taxation district in which~~
7 ~~is located the legal residence or principal place of business of~~
8 ~~the person making the return, or, if such person has no legal~~
9 ~~residence or principal place of business in the State, then with~~
10 ~~the collector at Honolulu.]~~ in the form and manner prescribed by
11 the department."

12 SECTION 10. Section 237-30, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) The taxes levied hereunder shall be payable in
15 monthly installments on or before the twentieth day of the
16 calendar month following the month in which they accrue. The
17 taxpayer, on or before the twentieth day of the calendar month
18 following the month in which the taxes accrue, shall make out
19 and sign a return of the installment of tax for which the
20 taxpayer is liable for the preceding month and transmit the
21 same, together with a remittance, in the form required by
22 section 237-31, for the amount of the tax, to [~~the office of]~~

S.B. NO. 1203

1 the department of taxation in the [~~appropriate district~~
2 ~~hereinafter designated.~~] form and manner prescribed by the
3 department."

4 SECTION 11. Section 237-33, Hawaii Revised Statutes, is
5 amended to read as follows:

6 **"§237-33 Annual return, payment of tax.** On or before the
7 twentieth day of the fourth month following the close of the
8 taxable year, each taxpayer shall make a return showing the
9 value of products, gross proceeds of sales or gross income, and
10 compute the amount of tax chargeable against the taxpayer in
11 accordance with this chapter and deduct the amount of monthly
12 payments (as hereinbefore provided), and transmit with the
13 taxpayer's report a remittance in the form required by section
14 237-31 covering the residue of the tax chargeable against the
15 taxpayer [~~to the district office of the department of taxation~~
16 ~~hereinafter designated~~]. The return shall be signed by the
17 taxpayer, if made by an individual, or by the president, vice-
18 president, secretary, or treasurer of a corporation, if made on
19 behalf of a corporation. If made on behalf of a partnership,
20 firm, society, unincorporated association, group, hui, joint
21 adventure, joint stock company, corporation, trust estate,
22 decedent's estate, trust, or other entity, any individual

S.B. NO. 1203

1 delegated by the entity shall sign the same on behalf of the
2 taxpayer. If for any reason it is not practicable for the
3 individual taxpayer to sign the return, it may be done by any
4 duly authorized agent. The department, for good cause shown,
5 may extend the time for making the return on the application of
6 any taxpayer and grant such reasonable additional time within
7 which to make the same as may, by it, be deemed advisable.

8 Section 232-2 applies to the annual return, but not to a
9 monthly return."

10 SECTION 12. Section 237-34, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) All monthly and annual returns shall be transmitted
13 ~~[to the office of the taxation district in which the privilege~~
14 ~~upon which the tax accrued is exercised. Where the privilege is~~
15 ~~exercised in more than one taxation district the returns shall~~
16 ~~be transmitted to the office of the first district.]~~ in the form
17 and manner prescribed by the department."

18 SECTION 13. Section 237-37, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§237-37 Refunds and credits.** If the amount already paid
21 exceeds that which should have been paid on the basis of the tax
22 recomputed as provided in section 237-36, the excess so paid

S.B. NO. 1203

1 shall be immediately refunded to the taxpayer in the manner
2 provided in section 231-23(c). The taxpayer may, at the
3 taxpayer's election, apply an overpayment credit to taxes
4 subsequently accruing hereunder. ~~[All refunds and the details~~
5 ~~thereof, including the names of the persons receiving the refund~~
6 ~~and the amount refunded shall be accessible for the inspection~~
7 ~~of the public in the office of the department of taxation in the~~
8 ~~taxation district in which the person receiving the refund made~~
9 ~~the person's returns.]~~

10 No recourse may be had except under section 40-35 or by
11 appeal for refunds of taxes paid pursuant to an assessment by
12 the director of taxation, provided that if the assessment by the
13 director shall contain clerical errors, transposition of
14 figures, typographical errors, and errors in calculation or if
15 there shall be an illegal or erroneous assessment, the usual
16 refunds procedures shall apply. No refund or overpayment credit
17 may be had under this section in any event unless the original
18 payment of the tax was due to the law having been interpreted or
19 applied in respect of the taxpayer concerned differently than in
20 respect of taxpayers generally. As to all tax payment for which
21 a refund or credit is not authorized by this section (including
22 without prejudice to the generality of the foregoing cases of

S.B. NO. 1203

1 unconstitutional) the remedies provided by appeal or under
2 section 40-35 are exclusive."

3 SECTION 14. Section 237D-6.5, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) All remittances of taxes imposed under this chapter
6 shall be made by cash, bank drafts, cashier's check, money
7 order, or certificate of deposit [~~to the office of the taxation~~
8 ~~district to which the return was transmitted.~~] in the form and
9 manner prescribed by the department."

10 SECTION 15. Section 237D-7, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§237D-7 Annual return.** On or before the twentieth day of
13 the fourth month following the close of the taxable year, every
14 person who has become liable for the payment of the taxes under
15 this chapter during the preceding tax year shall file a return
16 summarizing that person's liability under this chapter for the
17 year, in such form as the director prescribes. The operator or
18 plan manager shall transmit with the return a remittance
19 covering the residue of the tax chargeable to the operator or
20 plan manager, if any, [~~to the office of the appropriate state~~
21 ~~district tax assessor designated in section 237D-8~~]. The return
22 shall be signed by the taxpayer, if made by an individual, or by

S.B. NO. 1203

1 the president, vice-president, secretary, or treasurer of a
2 corporation, if made on behalf of a corporation. If made on
3 behalf of a partnership, firm, society, unincorporated
4 association, group, hui, joint adventure, joint stock company,
5 corporation, trust estate, decedent's estate, trust, or other
6 entity, any individual delegated by the entity shall sign the
7 same on behalf of the taxpayer. If for any reason it is not
8 practicable for the individual taxpayer to sign the return, it
9 may be done by any duly authorized agent. The department, for
10 good cause shown, may extend the time for making the return on
11 the application of any taxpayer and grant such reasonable
12 additional time within which to make the return as the
13 department may deem advisable.

14 Section 232-2 applies to the annual return, but not to a
15 monthly return."

16 SECTION 16. Section 237D-8, Hawaii Revised Statutes, is
17 amended to read as follows:

18 **"§237D-8 Filing of returns.** All monthly, quarterly,
19 semiannual, and annual returns shall be transmitted ~~[to the~~
20 ~~office of the taxation district in which the taxes arose or to~~
21 ~~the office of the first taxation district in Honolulu.]~~ in the
22 form and manner prescribed by the department."

S.B. NO. 1203

SECTION 17. Section 238-5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) On or before the twentieth day of each calendar month, any person who has become liable for the payment of a tax under this chapter during the preceding calendar month in respect of any property, services, or contracting, or the use thereof, shall file a return ~~[with the assessor of the taxation district in which the property was held or the services or contracting were received when the tax first became payable, or with the director of taxation at Honolulu,]~~ in the form and manner prescribed by the department, setting forth a description of the property, services, or contracting and the character and quantity thereof in sufficient detail to identify the same or otherwise in such reasonable detail as the director by rule shall require, and the purchase price or value thereof as the case may be. The return shall be accompanied by a remittance in full of the tax, computed at the rate specified in section 238-2 or 238-2.3 upon the price or value so returned. Any tax remaining unpaid after the twentieth day following the end of the calendar month during which the tax first became payable shall become delinquent; provided that a receipt from a seller required or authorized to collect the tax, given to a taxpayer

S.B. NO. 1203

1 in accordance with section 238-6, shall be sufficient to relieve
2 the taxpayer from further liability for the tax to which the
3 receipt may refer, or for the return thereof."

4 SECTION 18. Section 239-4, Hawaii Revised Statutes, is
5 amended to read as follows:

6 **"§239-4 Returns.** Each public service company, on or
7 before the twentieth day of the fourth month following the close
8 of the taxable year, shall file [~~with the office of the~~
9 ~~department of taxation for the district within which the~~
10 ~~principal office of the public service company is maintained]~~ a
11 return in such form and manner as prescribed by the department
12 [~~may prescribe~~], showing its taxable gross income for the
13 preceding taxable year. In case any public service company
14 engages in lines of business other than its public service
15 company business, the receipts therefrom shall not be subject to
16 tax under this chapter, but the same tax liabilities shall
17 attach to the public service company on account of the other
18 lines of business as would exist if no public service company
19 business were engaged in. In the case of a public utility
20 subject to the rate of tax imposed by section 239-5(a) or (b),
21 if the public utility engages in lines of business other than
22 its public utility business the real property used in connection

S.B. NO. 1203

1 with the other lines of business shall be taxed, in accordance
 2 with the applicable county tax ordinance, the same as if no
 3 public utility business were done. In the case of a public
 4 utility remitting payments to a county of a portion of the
 5 revenues generated from the tax imposed by section 239-5(a), the
 6 public utility shall also file with the director of finance of
 7 the county to which such payment is paid, a statement showing
 8 all gross income from the public utility business upon which the
 9 tax is calculated and the allocation of that gross income among
 10 the counties."

11 SECTION 19. Section 243-3.5, Hawaii Revised Statutes, is
 12 amended by amending subsection (e) to read as follows:

13 "(e) Each distributor subject to the tax imposed by
 14 subsection (a) or (b), on or before the last day of each
 15 calendar month, shall file [~~with the director, on forms~~
 16 ~~prescribed, prepared, and furnished by the director,~~] in the
 17 form and manner prescribed by the department, a return statement
 18 of the tax under this section for which the distributor is
 19 liable for the preceding month. The form and payment of the tax
 20 shall be transmitted to the department [~~of taxation in the~~
 21 ~~appropriate district.~~] in the form and manner prescribed by the
 22 department."

S.B. NO. 1203

SECTION 20. Section 243-10, Hawaii Revised Statutes, is amended to read as follows:

"§243-10 Statements and payments. Each distributor and each person subject to section [~~243-4(b),~~] 243-4, on or before the twentieth day of each calendar month, shall file with the [~~director of taxation,~~] department, on forms prescribed[~~prepared, and furnished~~] by the [~~director,~~] department, a statement, authenticated as provided in section 231-15, showing separately for each county and for the island of Lanai and the island of Molokai within which and whereon fuel is sold or used during each preceding month of the calendar year, the following:

(1) The total number of gallons of fuel refined, manufactured, or compounded by the distributor or person within the State and sold or used by the distributor or person, and if for ultimate use in another county or on either island, the name of that county or island;

(2) The total number of gallons of fuel acquired by the distributor or person during the month from persons not subject to the tax on the transaction or only subject to tax thereon at the rate of 1 cent per gallon, as the case may be, and sold or used by the

S.B. NO. 1203

distributor or person, and if for ultimate use in another county or on either island, the name of that county or island;

(3) The total number of gallons of fuel sold by the distributor or person to the United States or any department or agency thereof, or to any other person or entity, or used in any manner, the effect of which sale or use is to exempt the fuel from the tax imposed by this chapter;

(4) Additional information relative to the acquisition, purchase, manufacture, or importation into the State, and the sale, use, or other disposition, of diesel oil by the distributor or person during the month, as prescribed by the department [~~of taxation~~] by rule [~~shall prescribe~~].

At the time of submitting the foregoing report to the department, each distributor and person shall pay the tax on each gallon of fuel (including diesel oil) sold or used by the distributor or person in each county and on the island of Lanai and the island of Molokai during the preceding month, as shown by the statement and required by this chapter; provided that the tax shall not apply to any fuel exempted and so long as the same

S.B. NO. 1203

1 is exempted from the imposition of the tax by the Constitution
2 or laws of the United States; and the tax shall be paid only
3 once upon the same fuel; provided further that a licensed
4 distributor shall be entitled, in computing the tax the licensed
5 distributor is required to pay, to deduct from the gallons of
6 fuel reported for the month for each county or for the island of
7 Lanai or the island of Molokai, as the case may be, one gallon
8 for each ninety-nine gallons of like liquid fuel sold by retail
9 dealers in that county or on that island during the month, as
10 shown by certificates furnished by the retail dealers to the
11 distributor and attached to the distributor's report. All taxes
12 payable for any month shall be delinquent after the expiration
13 of the twentieth day of the following month.

14 Statements filed under this section concerning the number
15 of gallons of fuel refined, manufactured, compounded, imported,
16 sold or used by the distributor or person are public records."

17 SECTION 21. Section 244D-4, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

19 "(a) Every person who sells or uses any liquor in the
20 State not taxable under this chapter, in respect of the
21 transaction by which the person or the person's vendor acquired
22 the liquor, shall pay a gallonage tax which is hereby imposed at

S.B. NO. 1203

1 the following rates for the various liquor categories defined in
2 section 244D-1:

3 ~~[For the period July 1, 1997, to June 30, 1998, the tax~~
4 ~~rate shall be:~~

5 ~~(1) \$5.92 per wine gallon on distilled spirits;~~

6 ~~(2) \$2.09 per wine gallon on sparkling wine;~~

7 ~~(3) \$1.36 per wine gallon on still wine;~~

8 ~~(4) \$0.84 per wine gallon on cooler beverages;~~

9 ~~(5) \$0.92 per wine gallon on beer other than draft beer;~~

10 ~~(6) \$0.53 per wine gallon on draft beer;]~~

11 On July 1, 1998, and thereafter, the tax rate shall be:

12 (1) \$5.98 per wine gallon on distilled spirits;

13 (2) \$2.12 per wine gallon on sparkling wine;

14 (3) \$1.38 per wine gallon on still wine;

15 (4) \$0.85 per wine gallon on cooler beverages;

16 (5) \$0.93 per wine gallon on beer other than draft beer;

17 (6) \$0.54 per wine gallon on draft beer;

18 and at a proportionate rate for any other quantity so sold or
19 used."

20 SECTION 22. Section 244D-6, Hawaii Revised Statutes, is
21 amended to read as follows:

S.B. NO. 1203

1 **"§244D-6 Return, form, contents.** Every taxpayer shall, on
2 or before the twentieth day of each month, file with the
3 department ~~[of taxation in the taxation district in which the~~
4 ~~taxpayer's business premises are located, or with the department~~
5 ~~in Honolulu,]~~ a return showing all sales of liquor by gallonage
6 and dollar volume in each liquor category defined in section
7 244D-1 and taxed under section 244D-4(a) made by the taxpayer
8 during the preceding month, showing separately the amount of the
9 nontaxable sales, and the amount of the taxable sales, and the
10 tax payable thereon. ~~[The return shall also show the amount of~~
11 ~~liquor by gallonage and dollar volume in each liquor category~~
12 ~~defined in section 244D-1 and taxed under section 244D-4(a) used~~
13 ~~during the preceding month which is subject to tax, and the tax~~
14 ~~payable thereon.]~~ The form and manner of return shall be
15 prescribed by the department and shall contain such information
16 as it may deem necessary for the proper administration of this
17 chapter."

18 SECTION 23. Section 245-2.5, Hawaii Revised Statutes, is
19 amended as follows:

20 1. By amending subsections (a) and (b) to read:

21 "(a) ~~[Beginning December 1, 2006, every]~~ Every retailer
22 engaged in the retail sale of cigarettes and other tobacco

S.B. NO. 1203

products upon which a tax is required to be paid under this chapter shall obtain a retail tobacco permit.

(b) [~~Beginning March 1, 2007, it~~] It shall be unlawful for any retailer engaged in the retail sale of cigarettes and other tobacco products upon which a tax is required to be paid under this chapter to sell, possess, keep, acquire, distribute, or transport cigarettes or other tobacco products for retail sale unless a retail tobacco permit has been issued to the retailer under this section and the retail tobacco permit is in full force and effect."

2. By amending subsection (1) to read:

"(1) A permittee shall keep a complete and accurate record of the permittee's cigarette or tobacco product inventory. The records shall:

(1) Include:

(A) A written statement containing the name and address of the permittee's source of its cigarettes and tobacco products;

(B) The date of delivery, quantity, trade name or brand, and price of the cigarettes and tobacco products; and

S.B. NO. 1203

1 (C) Documentation in the form of any purchase orders,
2 invoices, bills of lading, other written
3 statements, books, papers, or records in whatever
4 format, including electronic format, which
5 substantiate the purchase or acquisition of the
6 cigarettes and tobacco products stored or offered
7 for sale; and

8 (2) Be offered for inspection and examination within
9 twenty-four hours of demand by the department or the
10 attorney general, and shall be preserved for a period
11 of [~~three~~] five years; provided that:

12 (A) Specified records may be destroyed if the
13 department and the attorney general both consent
14 to their destruction within the [~~three-year~~]
15 five-year period; and

16 (B) Either the department or the attorney general may
17 adopt rules pursuant to chapter 91 that require
18 specified records to be kept longer than a period
19 of [~~three~~] five years."

20 SECTION 24. Section 245-9, Hawaii Revised Statutes, is
21 amended by amending subsections (a) and (b) to read as follows:

S.B. NO. 1203

1 "(a) The department and the attorney general may examine
2 all records, including tax returns [~~and reports under section~~
3 ~~245-317,~~] required to be kept or filed under this chapter, and
4 books, papers, and records of any person engaged in the business
5 of wholesaling or dealing cigarettes and tobacco products, to
6 verify the accuracy of the payment of the taxes imposed by this
7 chapter. Every person in possession of any books, papers, and
8 records, and the person's agents and employees, are directed and
9 required to give the department and the attorney general the
10 means, facilities, and opportunities for the examinations.

11 (b) The department and the attorney general may inspect
12 the operations, premises, and storage areas of any entity
13 engaged in the sale of cigarettes, or the contents of a specific
14 vending machine, during regular business hours. This inspection
15 shall include inspection of all statements, books, papers, and
16 records in whatever format, including electronic format,
17 pertaining to the acquisition, possession, transportation, sale,
18 or use of packages of cigarettes and tobacco products other than
19 cigarettes, to verify the accuracy of the payment of taxes
20 imposed by this chapter, and of the contents of cartons and
21 shipping or storage containers to ascertain that all individual
22 packages of cigarettes have an affixed stamp of proper

S.B. NO. 1203

1 denomination as required by this chapter. This inspection may
2 also verify that all stamps were produced under the authority of
3 the department. Every entity in possession of any books,
4 papers, and records, and the entity's agents and employees, are
5 directed and required to give the department and the attorney
6 general the means, facilities, and opportunities for the
7 examinations. [~~For purposes of this chapter "entity" means one~~
8 ~~or more individuals, a company, corporation, a partnership, an~~
9 ~~association, or any other type of legal entity.~~]"

10 SECTION 25. Section 245-41, Hawaii Revised Statutes, is
11 amended by amending subsection (c) to read as follows:

12 "(c) Where the attorney general [~~initiates and~~] conducts
13 an investigation resulting in the imposition and collection of a
14 criminal fine pursuant to this part, one hundred per cent of the
15 fine shall be distributed to the attorney general to be
16 deposited to the credit of the department of the attorney
17 general's tobacco enforcement special fund; provided that if the
18 attorney general engages the prosecuting attorney for the
19 investigation or prosecution, or both, resulting in the
20 imposition and collection of a criminal fine under this part,
21 the fine shall be shared equally between the attorney general
22 and the prosecuting attorney."

S.B. NO. 1203

SECTION 26. Section 251-5, Hawaii Revised Statutes, is amended to read as follows:

"§251-5 Remittances. All remittances of surcharge taxes imposed under this chapter shall be made by cash, bank draft, cashier's check, money order, or certificate of deposit ~~[to the office of the taxation district to which the return was transmitted.]~~ in the form and manner prescribed by the department. The department shall deposit the moneys into the state treasury to the credit of the state highway fund."

SECTION 27. Section 251-7, Hawaii Revised Statutes, is amended to read as follows:

"[f]§251-7[f] Filing of returns. All monthly, quarterly, semiannual, and annual returns shall be transmitted ~~[to the office of the taxation district in which the person's place of business is situated or to the office of the first taxation district in Honolulu.]~~ in the form and manner prescribed by the department."

SECTION 28. Section 235-5.6, Hawaii Revised Statutes, is repealed.

"[§235-5.6] Individual development account contribution tax credit. ~~(a) There shall be allowed to each taxpayer subject to the tax imposed under this chapter, an individual~~

S.B. NO. 1203

~~development account contribution tax credit certified under chapter 257 which shall be applied against the taxpayer's net income tax liability, if any, imposed by this chapter for the taxable year in which the credit is properly claimed.~~

~~(b) The individual development account contribution tax credit shall be equal to fifty per cent of the amount contributed by the taxpayer to a fiduciary organization as defined by and in the manner prescribed in chapter 257. If a deduction is taken under section 170 (with respect to charitable contributions and gifts) of the Internal Revenue Code, no tax credit shall be allowed for that portion of the contribution for which the deduction was taken.~~

~~(c) If the tax credit under this section exceeds the taxpayer's income tax liability, the excess of the tax credit over liability may be used as a credit against the taxpayer's income tax liability in subsequent years until exhausted. All claims, including any amended claims, for tax credits under this section shall be filed on or before the end of the twelfth month following the close of the taxable year for which the credit may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit.~~

S.B. NO. 1203

1 ~~(d) Application for the credit under this section shall be~~
2 ~~upon forms provided by the department.~~

3 ~~(e) The credit under this section shall be available for~~
4 ~~taxable years beginning after December 31, 1999, but shall not~~
5 ~~be available for taxable years beginning after December 31,~~
6 ~~2004."]~~

7 SECTION 29. Section 235-111.5. Hawaii Revised Statutes, is
8 repealed.

9 ~~["**S235-111.5 High technology; sale of unused net operating**~~
10 ~~**loss carryover.** (a) A qualified high technology business as~~
11 ~~defined in section 235-7.3 may apply to the department to sell~~
12 ~~its unused net operating loss carryover to another taxpayer. If~~
13 ~~approved by the department, a qualified high technology business~~
14 ~~may sell its unused net operating loss carryover to another~~
15 ~~taxpayer in an amount equal to at least seventy-five per cent of~~
16 ~~the amount of the surrendered tax benefit, computed at the~~
17 ~~corporate rate pursuant to section 235-71; provided that the~~
18 ~~qualified high technology business may sell no more than~~
19 ~~\$500,000 of its unused net operating loss carryover to another~~
20 ~~taxpayer per year. In the case of partnerships, limited~~
21 ~~liability partnerships, limited liability companies classified~~
22 ~~as partnerships, and S corporations, each partner, member, or~~

S.B. NO. 1203

~~shareholder may sell its share of the entity's total net operating loss. The tax benefit purchased by the buyer shall be claimed in the year for which the sale is approved by the department. Any use of the purchased net operating loss carryover for tax carryback or carryforward purposes shall comply with applicable law. The income from the sale of the net operating loss carryover received by the seller shall be reported on its tax return in the taxable year received but shall not be considered taxable income.~~

~~(b) No application for the sale of unused net operating losses shall be approved if the seller is a qualified high technology business that:~~

~~(1) Has demonstrated positive net income in either of the two previous full years of ongoing operations as determined on its financial statements;~~

~~(2) Has demonstrated a ratio of one hundred ten per cent or greater of operating revenues divided by operating expenses in either of the two previous full years of operations as determined on its financial statements;~~
~~or~~

~~(3) Is directly or indirectly at least fifty per cent owned or controlled by another corporation that has~~

S.B. NO. 1203

1 ~~demonstrated positive net income in either of the two~~
2 ~~previous full years of ongoing operations as~~
3 ~~determined on its financial statements or is part of a~~
4 ~~consolidated group of affiliate corporations, as filed~~
5 ~~for federal income tax purposes, that in the aggregate~~
6 ~~has demonstrated positive net income in either of the~~
7 ~~two previous full years of ongoing operations as~~
8 ~~determined on its combined financial statements.~~

9 ~~In the case of partnerships, limited liability~~
10 ~~partnerships, limited liability companies classified as~~
11 ~~partnerships, and S corporations, the application for the sale~~
12 ~~of unused net operating losses shall only be approved to the~~
13 ~~extent that all partners, members, or shareholders certify that~~
14 ~~they have not received a tax benefit from the losses.~~

15 ~~(c) As used in this section:~~

16 ~~"Net operating loss" means a net operating loss for income~~
17 ~~tax purposes occurring in the two taxable years preceding the~~
18 ~~year in which the sale of net operating loss carryover occurs.~~

19 ~~"Surrendered tax benefit" means the tax liability saved if~~
20 ~~the net operating loss carryforward could have been used by the~~
21 ~~qualified high technology business.~~

S.B. NO. 1203

~~(d) This section shall only apply to sales of net operating loss carryovers after December 31, 2000, and before January 1, 2004."]~~

SECTION 30. Section 237D-1, Hawaii Revised Statutes, is amended by repealing the definition of "director".

~~["Director" means the director of taxation."]~~

SECTION 31. Section 239-11, Hawaii Revised Statutes, is repealed.

~~["§239-11 Exemption of certain contract carriers. (a) There shall be exempted and excluded from the measure of the tax imposed by this chapter the gross income from any contract carrier by water which is engaged primarily in the business of transporting persons between harbors or wharves of the various counties for interisland cruises within the State; provided that such exemption shall be applicable for the period July 1, 1981, to June 30, 1996.~~

~~(b) Any contract carrier and related partners, if any, claiming an exemption under subsection (a) shall submit an annual financial report, prepared by an independent certified public accountant, to the department of taxation and to the department of business, economic development, and tourism on or before the fifteenth day of the fifth month following the close~~

S.B. NO. 1203

~~of each taxable year for which the exemption is being claimed;
provided that in addition to reports in 1992, 1993, 1994, and
1995, an annual financial report shall be due on or before March
1, 1996. The annual financial report, prepared in a form
approved by the director of taxation, shall include but not be
limited to:~~

- ~~(1) A balance sheet of assets and liabilities;~~
- ~~(2) A statement of income and expenses;~~
- ~~(3) Supplementary information to financial statements;~~
- ~~(4) A summary of financial condition; and~~
- ~~(5) An apportionment of income and expenses of the
contract carrier and related partners, if any, within
and without the State.~~

~~Within thirty days of the receipt of the financial report
from the contract carrier and related partners, if any, the
director of taxation shall submit relevant financial data to the
legislature. Failure to comply with this subsection by the
contract carrier or related partners, if any, as determined by
the director of taxation, shall constitute a waiver of the right
to claim the exemption."]~~

SECTION 32. Section 239-12, Hawaii Revised Statutes, is
repealed.

S.B. NO. 1203

1 ~~["§239-12] Call centers; exemption; engaging in business;~~
2 ~~definitions.~~ (a) ~~This chapter shall not apply to amounts~~
3 ~~received from a person operating a call center by a person~~
4 ~~engaged in business as a telecommunications common carrier for~~
5 ~~interstate or foreign telecommunications services, including~~
6 ~~toll-free telecommunications, telecommunications capabilities~~
7 ~~for electronic mail, voice and data telecommunications,~~
8 ~~computerized telephone support, facsimile, wide area~~
9 ~~telecommunications services, or computer to computer~~
10 ~~communication.~~

11 ~~(b) The department, by rule, may provide that the person~~
12 ~~providing the telecommunications service may take from the~~
13 ~~person operating a call center a certificate, in a form that the~~
14 ~~department shall prescribe, certifying that the amounts received~~
15 ~~for telecommunications services are for operating a call center.~~
16 ~~If the certificate is required by rule of the department, the~~
17 ~~absence of the certificate in itself shall give rise to the~~
18 ~~presumption that the amounts received from the sale of~~
19 ~~telecommunications services are not for operating a call center.~~

20 ~~(c) As used in this section:~~

21 ~~"Call center" means a physical or electronic operation that~~
22 ~~focuses on providing customer service and support for computer~~

S.B. NO. 1203

1 ~~hardware and software companies, manufacturing companies,~~
2 ~~software service organizations, and telecommunications support~~
3 ~~services, within an organization in which a managed group of~~
4 ~~individuals spend most of their time engaging in business by~~
5 ~~telephone, usually working in a computer-automated environment;~~
6 ~~provided that the operation shall not include telemarketing or~~
7 ~~sales.~~

8 ~~"Customer service and support" means product support,~~
9 ~~technical assistance, sales support, phone or computer-based~~
10 ~~configuration assistance, software upgrade help lines, and~~
11 ~~traditional help desk services.~~

12 ~~(d) This section shall not apply to income received after~~
13 ~~June 30, 2010."]~~

14 SECTION 33. Section 243-1, Hawaii Revised Statutes, is
15 amended by repealing the definition of "director".

16 ~~["Director" means the director of finance of the State."]~~

17 SECTION 34. Section 243-8, Hawaii Revised Statutes, is
18 repealed.

19 ~~["§243-8 License taxes payable monthly. License taxes~~
20 ~~imposed by this chapter shall be paid in monthly installments to~~
21 ~~the department of taxation.]~~

S.B. NO. 1203

SECTION 35. Section 245-31, Hawaii Revised Statutes, is repealed.

~~["§245-31 Monthly report on distributions of cigarettes and tobacco products, and purchases of stamps. (a) On or before the twentieth day of each month, every licensee shall file on forms prescribed by the department:~~

~~(1) A report of the licensee's distributions of cigarettes and purchases of stamps during the preceding month; and~~

~~(2) Any other information that the department may require to carry out this part.~~

~~(b) On or before the twentieth day of each month, every licensee shall file on forms prescribed by the department:~~

~~(1) A report of the licensee's distributions of tobacco products and the wholesale costs of tobacco products during the preceding month; and~~

~~(2) Any other information that the department may require to carry out this part."]~~

SECTION 36. Section 251-1, Hawaii Revised Statutes, is amended by repealing the definition of "director."

~~[""Director" means the director of taxation."]~~

S.B. NO. 1203

1 SECTION 37. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 38. This Act shall take effect upon its approval.

INTRODUCED BY: 

BY REQUEST

S.B. NO. 1203

Report Title:

Taxation

Description:

Amends title 14, Hawaii Revised Statutes, to make nonsubstantive changes for clarity and to delete obsolete provisions.

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

JUSTIFICATION SHEET

DEPARTMENT: Taxation.

TITLE: A BILL FOR AN ACT RELATING TO TITLE 14,
HAWAII REVISED STATUTES.

PURPOSE: To amend or repeal various provisions of
Title 14 of the Hawaii Revised Statutes
(HRS) for the purposes of correcting errors
and references, clarifying language, or
deleting obsolete or unnecessary provisions.

MEANS: Amend sections 231-1, 231-15.7, 231-31, 235-
7(c) and (d), 235-12.5(a), 235-51(a), (b),
and (c), 235-62(b), 235-99, 237-30(a), 237-
33, 237-34(a), 237-37, 237D-1, 237D-6.5(a),
237D-7, 237D-8, 238-5(a), 239-4, 243-1, 243-
3.5(e), 243-10, 244D-4(a), 244D-6, 245-
2.5(a), (b), and (l), 245-9(a) and (b), 245-
41(c), 251-1, 251-5, and 251-7, HRS, and
repeal sections 235-5.6, 235-111.5, 239-11,
239-12, 243-8, and 245-31, HRS.

JUSTIFICATION: The Department, having reviewed Title 14,
HRS, believes the amendments contained in
this bill add clarity to the law and allow
for more effective administration. This
bill: (1) adds a definition of "director" in
chapter 231 and repeals all other
definitions of "director" in the remainder
of title 14 to add conformity of the term in
the title; (2) amends section 235-7, HRS, to
amend unconstitutional limitations on the
dividends received deduction and to delete
obsolete provisions relating to previous
taxable years; (3) amends sections 235-12.5
and 235-51, HRS, to delete an obsolete
provision; (4) repeals sections 235-5.6 and
235-111.5, HRS, containing an expired tax
credit and expired rules allowing the sale
of unused net operating losses,
respectively; (5) amends sections 231-15.7,
231-31, 235-62, 235-99, 237-30(a), 237-33,

237-34, 237D-6.5, 237D-7, 237D-8, 238-5(a), 239-4, 243-3.5(e), 244D-6, 251-5, and 251-7, HRS, to delete obsolete provisions relating to filing and remitting taxes to the separate taxation districts, because all forms and remittances are delivered to Oahu now; (6) amends section 237-37, HRS, to delete an obsolete law allowing members of the public to see tax information that is now confidential under law; (7) repeals sections 239-11 and 239-12, HRS, because the provisions are obsolete; (8) repeals section 243-8, HRS, which established the taxable period of the fuel license tax and amends section 243-10, HRS, to create the taxable period; (9) amends section 244D-2, HRS, to remove unnecessary and onerous forty-eight hour notice requirements for the Department of Taxation and the county liquor commissions to communicate with each other, and, additionally, makes amendments to clarify the period for which a liquor permit is valid; (10) amends section 244D-4, HRS, by deleting outdated tax rates; (11) amends section 244D-6, HRS, with technical, clarifying amendments; (12) amends section 245-2.5(a) and (b) to delete outdated effective date language; (13) amends section 245-2.5(1), HRS, by amending the recordkeeping requirements to reflect the five-year statute of limitations in chapter 245, HRS; (14) amends section 245-9, HRS, with technical and conforming amendments related to other amendments made by this bill; (15) repeals section 245-31, HRS, which requires a redundant report; and (16) amends section 245-41(c), HRS, with technical amendments.

Impact on the public: Adds clarity to the law.

Impact on the department and other agencies: This bill will allow the Department to more effectively administer the tax law.

GENERAL FUND:

None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: None.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.