

# H. B. NO. 1150

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## A BILL FOR AN ACT

RELATING TO TAX COLLECTIONS.

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

1           SECTION 1. Section 235-111, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:  
3           "(a) General rule. The amount of income taxes imposed by  
4 this chapter (also the amount of income taxes imposed by any  
5 preceding law of the State) and the liability of any employer in  
6 respect of wages, shall be assessed or levied and the  
7 overpayment, if any, shall be credited within three years after  
8 filing of the return for the taxable year, or within three years  
9 of the due date prescribed for the filing of the return,  
10 whichever is later. No proceeding in court without assessment  
11 for the collection of the taxes or the enforcement of the  
12 liability shall be begun after the expiration of the period.  
13 Where the assessment of the tax imposed by this chapter has been  
14 made within the period of limitation applicable thereto, the tax  
15 may be collected by levy or by a proceeding in court under  
16 chapter 231; provided that the levy is made or the proceeding  
17 was begun within fifteen years after the assessment of the tax.

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1 For any tax that has been assessed prior to July 1, 2009, the  
2 levy or proceeding shall be barred after June 30, 2024.

3 Notwithstanding any other provision to the contrary in this  
4 section, the limitation on collection after assessment in this  
5 section shall be suspended for the period:

6 (1) The taxpayer agrees to suspend the period;

7 (2) The assets of the taxpayer are in control or custody  
8 of a court in any proceeding before any court of the  
9 United States or any state, and for six months  
10 thereafter;

11 (3) An offer in compromise under section 231-3(10) is  
12 pending; ~~and~~

13 (4) During which the taxpayer is outside the State for a  
14 continuous period of at least six months; provided  
15 that if at the time of the taxpayer's return to the  
16 State the period of limitations on collection after  
17 assessment would expire before the expiration of six  
18 months from the date of the taxpayer's return, the  
19 period shall not expire before the expiration of the  
20 six months ~~[and]~~; and

21 (5) An appeal of the assessment is pending before the  
22 taxation board of review or the tax appeal court,

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1           beginning on the date the notice of appeal is filed  
2           and concluding on the date a final decision is issued  
3           or the case is withdrawn or dismissed."

4           SECTION 2. Section 237-40, Hawaii Revised Statutes, is  
5 amended by amending subsection (a) to read as follows:

6           "(a) General rule. The amount of excise taxes imposed by  
7 this chapter shall be assessed or levied within three years  
8 after the annual return was filed, or within three years of the  
9 due date prescribed for the filing of the return, whichever is  
10 later, and no proceeding in court without assessment for the  
11 collection of any of the taxes shall be begun after the  
12 expiration of the period. Where the assessment of the tax  
13 imposed by this chapter has been made within the period of  
14 limitation applicable thereto, the tax may be collected by levy  
15 or by a proceeding in court under chapter 231; provided that the  
16 levy is made or the proceeding was begun within fifteen years  
17 after the assessment of the tax. For any tax that has been  
18 assessed prior to July 1, 2009, the levy or proceeding shall be  
19 barred after June 30, 2024.

20           Notwithstanding any other provision to the contrary in this  
21 section, the limitation on collection after assessment in this  
22 section shall be suspended for the period:

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- 1 (1) The taxpayer agrees to suspend the period;
- 2 (2) The assets of the taxpayer are in control or custody
- 3 of a court in any proceeding before any court of the
- 4 United States or any state, and for six months
- 5 thereafter;
- 6 (3) An offer in compromise under section 231-3(10) is
- 7 pending; ~~and~~
- 8 (4) During which the taxpayer is outside the State if the
- 9 period of absence is for a continuous period of at
- 10 least six months; provided that if at the time of the
- 11 taxpayer's return to the State the period of
- 12 limitations on collection after assessment would
- 13 expire before the expiration of six months from the
- 14 date of the taxpayer's return, the period shall not
- 15 expire before the expiration of the six months ~~[-]~~; and
- 16 (5) An appeal of the assessment is pending before the
- 17 taxation board of review or the tax appeal court,
- 18 beginning on the date the notice of appeal is filed
- 19 and concluding on the date a final decision is issued
- 20 or the case is withdrawn or dismissed."

21 SECTION 3. Section 237D-9, Hawaii Revised Statutes, is

22 amended by amending subsection (c) to read as follows:

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1           "(c) Except as otherwise provided by this section, the  
2 amount of taxes imposed by this chapter shall be assessed or  
3 levied within three years after the annual return was filed, or  
4 within three years of the due date prescribed for the filing of  
5 the return, whichever is later, and no proceeding in court  
6 without assessment for the collection of any of the taxes shall  
7 be begun after the expiration of the period. Where the  
8 assessment of the tax imposed by this chapter has been made  
9 within the period of limitation applicable thereto, the tax may  
10 be collected by levy or by a proceeding in court under chapter  
11 231; provided that the levy is made or the proceeding was begun  
12 within fifteen years after the assessment of the tax. For any  
13 tax that has been assessed prior to July 1, 2009, the levy or  
14 proceeding shall be barred after June 30, 2024.

15           Notwithstanding any other provision to the contrary in this  
16 section, the limitation on collection after assessment in this  
17 section shall be suspended for the period:

- 18           (1) The taxpayer agrees to suspend the period;  
19           (2) The assets of the taxpayer are in control or custody  
20           of a court in any proceeding before any court of the  
21           United States or any state, and for six months  
22           thereafter;

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- 1           (3) An offer in compromise under section 231-3(10) is  
2           pending; [~~and~~]
- 3           (4) During which the taxpayer is outside the State if the  
4           period of absence is for a continuous period of at  
5           least six months; provided that if at the time of the  
6           taxpayer's return to the State the period of  
7           limitations on collection after assessment would  
8           expire before the expiration of six months from the  
9           date of the taxpayer's return, the period shall not  
10          expire before the expiration of the six months[-]; and
- 11          (5) An appeal of the assessment is pending before the  
12          taxation board of review or the tax appeal court,  
13          beginning on the date the notice of appeal is filed  
14          and concluding on the date a final decision is issued  
15          or the case is withdrawn or dismissed."

16          SECTION 4. Section 238-7, Hawaii Revised Statutes, is  
17          amended by amending subsection (b) to read as follows:

18          "(b) Where the assessment of the tax imposed by this  
19          chapter has been made within the period of limitation applicable  
20          thereto, the tax may be collected by levy or by a proceeding in  
21          court under chapter 231; provided that the levy is made or the  
22          proceeding was begun within fifteen years after the assessment

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1 of the tax. For any tax that has been assessed prior to July 1,  
2 2009, the levy or proceeding shall be barred after June 30,  
3 2024.

4 Notwithstanding any other provision to the contrary in this  
5 section, the limitation on collection after assessment in this  
6 section shall be suspended for the period:

7 (1) The taxpayer agrees to suspend the period;

8 (2) The assets of the taxpayer are in control or custody  
9 of a court in any proceeding before any court of the  
10 United States or any state, and for six months  
11 thereafter;

12 (3) An offer in compromise under section 231-3(10) is  
13 pending; ~~and~~

14 (4) During which the taxpayer is outside the State if the  
15 period of absence is for a continuous period of at  
16 least six months; provided that if at the time of the  
17 taxpayer's return to the State the period of  
18 limitations on collection after assessment would  
19 expire before the expiration of six months from the  
20 date of the taxpayer's return, the period shall not  
21 expire before the expiration of the six months ~~[-]~~; and

1       (5) An appeal of the assessment is pending before the  
2       taxation board of review or the tax appeal court,  
3       beginning on the date the notice of appeal is filed  
4       and concluding on the date a final decision is issued  
5       or the case is withdrawn or dismissed."

6       SECTION 5. Section 243-14, Hawaii Revised Statutes, is  
7 amended by amending subsection (b) to read as follows:

8       "(b) The amount of license taxes imposed by this chapter  
9 shall be assessed or levied, or the overpayment, if any, shall  
10 be credited within three years after filing of the monthly  
11 statement, or within three years of the due date prescribed for  
12 the filing of the statement, whichever is later. No proceeding  
13 in court without assessment for the collection of the taxes or  
14 the enforcement of the liability shall begin after the  
15 expiration of the three-year period. Where the assessment of  
16 the tax imposed by this chapter has been made within the period  
17 of limitation applicable thereto, the tax may be collected by  
18 levy or by a proceeding in court under chapter 231; provided  
19 that the levy is made or the proceeding was begun within fifteen  
20 years after the assessment of the tax. For any tax that has  
21 been assessed prior to July 1, 2009, the levy or proceeding  
22 shall be barred after June 30, 2024.

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1           Notwithstanding any other provision to the contrary in this  
2 section, the limitation on collection after assessment in this  
3 section shall be suspended for the period:

4           (1) The taxpayer agrees to suspend the period;

5           (2) The assets of the taxpayer are in control or custody  
6 of a court in any proceeding before any court of the  
7 United States or any state, and for six months  
8 thereafter;

9           (3) An offer in compromise under section 231-3(10) is  
10 pending; [~~and~~]

11           (4) During which the taxpayer is outside the State if the  
12 period of absence is for a continuous period of at  
13 least six months; provided that if at the time of the  
14 taxpayer's return to the State the period of  
15 limitations on collection after assessment would  
16 expire before the expiration of six months from the  
17 date of the taxpayer's return, the period shall not  
18 expire before the expiration of the six months[-]; and

19           (5) An appeal of the assessment is pending before the  
20 taxation board of review or the tax appeal court,  
21 beginning on the date the notice of appeal is filed

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1           and concluding on the date a final decision is issued  
2           or the case is withdrawn or dismissed.

3 As to all tax payments for which a refund or credit is not  
4 authorized by this section (including, without prejudice to the  
5 generality of the foregoing, cases of unconstitutionality), the  
6 remedies provided by appeal or by section 40-35 are exclusive."

7           SECTION 6. Section 247-6.5, Hawaii Revised Statutes, is  
8 amended to read as follows:

9           "§247-6.5 Limitation period for assessment, levy,  
10 collection, or credit. The amount of conveyance taxes imposed  
11 by this chapter shall be assessed or levied, and the  
12 overpayment, if any, shall be credited within three years after  
13 filing of the certificate prescribed by section 247-6. No  
14 proceeding in court without assessment for the collection of the  
15 taxes shall be begun after the expiration of the three-year  
16 period. Where the assessment of the tax imposed by this chapter  
17 has been made within the period of limitation applicable  
18 thereto, the tax may be collected by levy or by a proceeding in  
19 court under chapter 231; provided that the levy is made or the  
20 proceeding was begun within fifteen years after the assessment  
21 of the tax. For any tax that has been assessed prior to July 1,

1 2009, the levy or proceeding shall be barred after June 30,  
2 2024.

3 Notwithstanding any other provision to the contrary in this  
4 section, the limitation on collection after assessment in this  
5 section shall be suspended for the period:

6 (1) The taxpayer agrees to suspend the period;

7 (2) The assets of the taxpayer are in control or custody  
8 of a court in any proceeding before any court of the  
9 United States or any state, and for six months  
10 thereafter;

11 (3) An offer in compromise under section 231-3(10) is  
12 pending; ~~and~~

13 (4) During which the taxpayer is outside the State if the  
14 period of absence is for a continuous period of at  
15 least six months; provided that if at the time of the  
16 taxpayer's return to the State the period of  
17 limitations on collection after assessment would  
18 expire before the expiration of six months from the  
19 date of the taxpayer's return, the period shall not  
20 expire before the expiration of the six months ~~[ ]~~; and

21 (5) An appeal of the assessment is pending before the  
22 taxation board of review or the tax appeal court,

1 beginning on the date the notice of appeal is filed  
2 and concluding on the date a final decision is issued  
3 or the case is withdrawn or dismissed.

4 In the case of a false or fraudulent certificate filed with  
5 the intent to evade tax, or of a failure to file a certificate,  
6 the tax may be assessed or levied at any time."

7 SECTION 7. Section 251-8, Hawaii Revised Statutes, is  
8 amended by amending subsection (c) to read as follows:

9 "(c) Except as otherwise provided by this section, the  
10 amount of surcharge taxes imposed by this chapter shall be  
11 assessed or levied within three years after the annual return  
12 was filed, or within three years of the due date prescribed for  
13 the filing of the return, whichever is later, and no proceeding  
14 in court without assessment for the collection of any such  
15 surcharge taxes shall begin after the expiration of the period.  
16 Where the assessment of the tax imposed by this chapter has been  
17 made within the period of limitation applicable thereto, the tax  
18 may be collected by levy or by a proceeding in court under  
19 chapter 231; provided that the levy is made or the proceeding  
20 was begun within fifteen years after the assessment of the tax.  
21 For any tax that has been assessed prior to July 1, 2009, the  
22 levy or proceeding shall be barred after June 30, 2024.

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1           Notwithstanding any other provision to the contrary in this  
2 section, the limitation on collection after assessment in this  
3 section shall be suspended for the period:

4           (1) The taxpayer agrees to suspend the period;

5           (2) The assets of the taxpayer are in control or custody  
6 of a court in any proceeding before any court of the  
7 United States or any state, and for six months  
8 thereafter;

9           (3) An offer in compromise under section 231-3(10) is  
10 pending; ~~and~~

11           (4) During which the taxpayer is outside the State if the  
12 period of absence is for a continuous period of at  
13 least six months; provided that if at the time of the  
14 taxpayer's return to the State the period of  
15 limitations on collection after assessment would  
16 expire before the expiration of six months from the  
17 date of the taxpayer's return, the period shall not  
18 expire before the expiration of the six months[-]; and

19           (5) An appeal of the assessment is pending before the  
20 taxation board of review or the tax appeal court,  
21 beginning on the date the notice of appeal is filed

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1           and concluding on the date a final decision is issued  
2           or the case is withdrawn or dismissed."

3           SECTION 8. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5           SECTION 9. This Act shall take effect upon its approval  
6 and shall suspend the statute of limitations on collections of  
7 assessments that were on appeal before the effective date of  
8 this Act, from the filing date of the notices of appeal to the  
9 conclusion, dismissal, or withdrawal of the appeals.

10  
11  
12

INTRODUCED BY: *Nedie K. Parker*

BY REQUEST

JAN 21 2025

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**Report Title:**

Collection of Taxes; Statute of Limitations; Tax Appeal; Taxation Board of Review; Income Tax; General Excise Tax; Transient Accommodations Tax; Use Tax; Conveyance Tax; Rental Motor Vehicle, Tour Vehicle, and Car-Sharing Vehicle Surcharge Tax

**Description:**

Suspends the statute of limitations on collections during the period an assessment is pending on appeal before the taxation board of review or tax appeal court.

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

# HB NO 1150

## JUSTIFICATION SHEET

DEPARTMENT: Taxation

TITLE: A BILL FOR AN ACT RELATING TO TAX COLLECTIONS.

PURPOSE: To suspend the statute of limitations on certain collection activities during the period an assessment is pending on appeal before the taxation board of review or tax appeal court.

MEANS: Amend sections 235-111(a), 237-40(a), 237D-9(c), 238-7(b), 243-14(b), 247-6.5, and 251-8(c), Hawaii Revised Statutes.

JUSTIFICATION: Due to a backlog of cases pending in the taxation board of review and tax appeal court, the fifteen-year statute of limitations on certain collection activities has expired or will soon expire for a number of assessments currently pending on appeal. Because taxpayers currently are not required to pay an assessed tax to file a tax appeal with the taxation board of review or tax appeal court, and because collection activities are halted during the pendency of those appeals, decisions and court judgments filed after the statute of limitations expires risk being uncollectible. Suspension of the statute of limitations on collections during pending appeals ensures that taxpayers cannot avoid liabilities due to litigation delays or backlogs of tax appeals.

Impact on the public: Taxpayers who appealed an assessment to the tax appeal court or taxation board of review will be subject to an extended statute of limitations period on certain collection activities.

Impact on the department and other agencies: The suspension of the collections statute of limitations during the pendency of an appeal

to the taxation board of review or tax appeal court will ensure that the Department will have the full fifteen-year statute of limitations period to perform certain collection activities to satisfy tax debts, which will assist in the collection of taxes due.

GENERAL FUND: Indeterminate.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: None.

OTHER AFFECTED  
AGENCIES: None.

EFFECTIVE DATE: Upon approval.