

JAN 23 2025

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

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

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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,

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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,

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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 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

INTRODUCED BY: 

12

BY REQUEST

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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.

JUSTIFICATION SHEET

SB. NO. 1469

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.