

## ACT 51

H. B. NO. 338

A Bill for an Act Relating to Tax Appeals.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 232-17, Hawaii Revised Statutes, is amended to read:

**“Sec. 232-17 Appeals from boards of review to tax appeal court.** An appeal shall lie to the tax appeal court from the decision of a board of review by the filing, by the taxpayer, the county, or the tax assessor, of a written notice of appeal in the office of the tax appeal court within thirty days after the filing of the decision of the board of review and, in the case of any appealing taxpayer, the payment of the costs of court in the amount fixed by section 232-22. The taxpayer shall also file a copy of the notice of appeal in the assessor’s office and, in case of an appeal from a decision involving a county as a party, with the county clerk. If an appeal is taken by a county, a copy of the notice of appeal shall be filed in the assessor’s office and a copy shall be served upon the taxpayer or taxpayers concerned. A notice of appeal shall be sufficient if it states that the taxpayer, county, or assessor appeals from the decision of the board of review to the tax appeal court and may be amended at any time. The appeal shall bring up for determination all questions of fact and all questions of law, including constitutional questions involved in the appeal.

In case of an appeal by the assessor, a copy of the notice of appeal shall be forthwith delivered or mailed to the taxpayer concerned or to the clerk of the county concerned in the manner provided in section 232-7 for giving notice of decisions.

An appeal shall be deemed to have been taken in time if the notice thereof and costs, if any, and the copy or copies of the notice shall have been deposited in the mail, postage prepaid, properly addressed to the tax appeal court, tax assessor, taxpayer or taxpayers, and county, respectively, within the period hereinabove provided.”

SECTION 2. Section 232-19, Hawaii Revised Statutes, is amended to read:

**“Sec. 232-19 Appeals to supreme court; procedure.** Any taxpayer or county aggrieved or the assessor may appeal to the supreme court from the

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decision of the tax appeal court by filing a written notice of appeal with the tax appeal court and depositing therewith the costs of appeal within thirty days after the filing of the decision. The appeal shall be considered and treated for all purposes as a general appeal and shall bring up for determination all questions of fact and all questions of law, including constitutional questions, involved in the appeal. A notice of appeal may be amended at any time up to the final determination of the tax liability by the last court which an appeal may be taken. The supreme court shall enter a judgment in conformity with its opinion or decision.

All such appeals shall be speedily disposed of and in the hearing and disposition thereof the same shall be given preference over other litigation in the discretion of the court."

SECTION 3. Section 235-114, Hawaii Revised Statutes, is amended to read:

**"Sec. 235-114 Appeals.** Any person aggrieved by any assessment of the tax or liability imposed by this chapter may appeal from the assessment in the manner and within the time hereinafter set forth. Appeal may be made either to the district board of review or to the tax appeal court.

If the appeal is first made to the board, the appeal shall either be heard by the board or be transferred to the tax appeal court for hearing at the election of the taxpayer or employer, and if heard by the board an appeal shall lie from the decision thereof to the tax appeal court and to the supreme court in the manner and with the costs provided by chapter 232. The supreme court shall prescribe forms to be used in the appeals which shall be as nearly identical as practicable with the forms prescribed or permitted by law in the case of property tax appeals; provided, that the forms shall show the amount of taxes or liability upon the basis of the taxpayer's computation of his taxable income or the employer's computation of his liability, the amount upon the basis of the assessor's computation, the amount upon the basis of the decisions of the board of review and tax appeal court, if any, and the amount in dispute. If or when the appeal is filed with or transferred to the tax appeal court, the court shall proceed to hear and determine the appeal, subject to appeal to the supreme court as is provided in chapter 232.

Any taxpayer or employer appealing from any assessment of income taxes or liability shall lodge with the assessor or assistant assessor a notice of the appeal in writing, stating the ground of his objection to the additional assessment or any part thereof, which notice of appeal shall be filed at any time within thirty days subsequent to the date when the notice was mailed properly addressed to the taxpayer or employer at his last known residence or place of business. Except as otherwise provided, the manner of taking the appeal, the costs applicable thereto, and the hearing and disposition thereof, including the distribution of costs and of taxes paid by the taxpayer pending the appeal, shall be as provided in chapter 232."

SECTION 4. Statutory material to be repealed is bracketed. New ma-

terial is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.\*

**SECTION 5.** This Act shall take effect upon its approval.

(Approved May 7, 1973.)

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\*Edited accordingly.