

ACT 104

H.B. NO. 3159

A Bill for an Act Relating to General Excise Tax Limitation Periods.

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

SECTION 1. Section 237-40, Hawaii Revised Statutes, is amended by amending subsections (c) and (d) to read as follows:

“(c) Extension by agreement. Where, before the expiration of the period prescribed in subsection (a) [of this section,] or (d), both the department of taxation and the taxpayer have consented in writing to the assessment or levy of the tax after the date fixed by subsection (a)[, the tax may be assessed or levied] or the credit or refund of the tax after the date fixed by subsection (d), the tax may be assessed or levied or the overpayment, if any, may be credited or refunded at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(d) Refunds. No credit or refund shall be allowed for any tax imposed by this chapter, unless a claim for such credit or refund shall be filed [within three years after the annual return was filed, or in any case of payment of tax without the filing of an annual return, within three years after payment of tax, or within three years of the date prescribed for the filing of the annual return, whichever is later.] as follows:

- (1) If an annual return is timely filed, or is filed within three years after the date prescribed for filing the annual return, then the credit or refund shall be claimed within three years after the date the annual return was filed or the date prescribed for filing the annual return, whichever is later.
- (2) If an annual return is not filed, or is filed more than three years after the date prescribed for filing the annual return, a claim for credit or refund shall be filed within:
 - (A) Three years after the payment of the tax; or
 - (B) Three years after the date prescribed for the filing of the annual return,whichever is later.

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Paragraphs (1) and (2) are mutually exclusive. The limitation shall not apply to a credit or refund pursuant to an appeal[,] provided for by section 237-42.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved May 27, 1992.)