

ACT 152

H.B. NO. 1381

A Bill for an Act Relating to Tax Appeal Court Fees.

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

SECTION 1. Section 232-5, Hawaii Revised Statutes, is amended to read as follows:

“**§232-5 Small claims.** The tax appeal court shall establish by rule a small claims procedure [which,] that, to the greatest extent practicable, shall be informal. Any protesting taxpayer who would incur a total tax liability, not including penalties and interest, of less than \$1,000 by reason of the protested assessment or payment in question, may elect to employ [such] the procedure upon:

- (1) Payment per taxpayer of a [\$3] non-refundable filing fee[;] set pursuant to rules adopted by the supreme court, which shall not exceed \$25; and
- (2) Filing with the tax appeal court a written statement of the facts in the case, together with a waiver of the right to appeal to the supreme court.

The tax appeal court shall cause a notice of the appeal and a copy of [such] the statement to be served on the director of taxation.”

SECTION 2. Section 232-22, Hawaii Revised Statutes, is amended to read as follows:

“§232-22 Costs; deposit for on appeal. No costs shall be charged on appeal to the state board of review.

The non-refundable costs to be deposited [by the taxpayer] in any one case per taxpayer on any appeal to the tax appeal court shall be [five per cent of the amount of taxes in dispute but not more than \$100 nor less than \$5 in any one case.] an amount set pursuant to rules adopted by the supreme court, which shall not exceed \$100.

On appeal to the supreme court, the deposit for costs, and costs chargeable, shall be the same as in appeals to the supreme court from decisions of circuit courts, as provided by sections 607-5 and 607-6. If the decision of the supreme court is in favor of the taxpayer, the taxpayer shall pay no costs for the appeal and any payment or deposit therefor shall be returned to the taxpayer. If the decision is only partly in favor of the taxpayer, the costs shall be prorated in the manner provided by section 232-23. No costs shall be payable by, and no deposit shall be required from, the assessor or the county in any case.”

SECTION 3. Section 232-23, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) In the event of an appeal by a taxpayer to the tax appeal court, if the appeal or objection is sustained in whole, the costs deposited shall be returned to the appellant. If the appeal or objection is sustained in part only, or if an agreement or compromise is made between the appellant and the tax assessor or other proper officer, whereby a reduction is made in the total amount of the valuation assessed (in cases of real property tax appeals) or the tax assessed (in other cases), then a part of the costs proportionate to the amount for which the appellant [shall obtain] obtains a judgment or proportionate to the amount of the reduction, as the case may be, shall be returned to the appellant. In the event of dismissal of the appeal without hearing upon the merits, the costs deposited [in excess of the \$5 minimum] in the amount set pursuant to rules adopted by the supreme court shall be returned to the appellant.

In the event of a final determination of an appeal by a county to the tax appeal court or the supreme court, that a higher assessment should be made of the property involved, the additional tax due shall be collected in the same manner as the tax based upon the original assessment.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved June 16, 1997.)