

ACT 177

H.B. NO. 1643

A Bill for an Act Relating to Payments to the State by Electronic Funds Transfer.
Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 231, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§231- Annual report; assessments. No later than twenty days prior to the convening of each regular session, the department shall submit a report to the legislature containing:

- (1) The number of taxpayers who were assessed the two per cent penalty pursuant to section 231-9.9(c);
- (2) The amounts of each assessment; and
- (3) The total amount of assessments collected for the previous year.”

SECTION 2. Section 40-35.5, Hawaii Revised Statutes, is amended to read as follows:

“§40-35.5 Assessment and collection of service charges for dishonored items. (a) Unless otherwise provided by law or rules having the force and effect of law, every public accountant receiving revenue or other moneys on account of the State shall assess and collect a service charge in the amount of:

- (1) \$15 for any check[;] or electronic funds transfer; and
- (2) \$7.50 for any draft, certificate of deposit, or other negotiable instrument,

the public accountant receives that is dishonored for any reason. A public accountant shall require payment of the service charge in cash or by certified or cashier’s check or by bank or postal money order. The service charge shall be deposited with the director of finance as a realization of the general fund.

(b) The service charge shall be enforced as follows:

- (1) For charges due on dishonored checks written or electronic funds transfers made for payment of any [taxes] tax administered by the department of taxation under title 14, the charges shall be [a non-waiverable penalty] nonwaivable penalties and shall be made a part of the tax for which the payment was made in the same manner as penalties are made part of the tax under section 231-39; and
- (2) For [all other charges paid to the State by check,] charges due on other dishonored items, the public accountant shall refer the entire matter, including the [initial check] dishonored item and interest on the penalty, to the department of the attorney general for collection.

(c) Interest on the penalty at the rate of two-thirds of one per cent a month or fraction of a month shall be paid for the period beginning the first calendar day after the date of notification [from the bank that the check is dishonored to] of dishonor and ending on the date paid.

(d) All penalties, including interest thereon, for dishonored [checks] items shall be debts due the State.

(e) Penalties and interest collected for dishonored [checks] items by the department of taxation pursuant to this section shall be collected in the same manner as are taxes under chapter 231. The penalty shall be a realization of the general fund in the same manner as other penalties collected by the department[.] of taxation.”

SECTION 3. Section 231-9.9, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§231-9.9]]~~ **Payment of taxes by electronic funds transfer.** (a) The director of taxation is authorized to require every person whose tax liability for any one taxable year exceeds \$100,000 and who files a tax return for any tax, including consolidated filers, to remit taxes by one of the means of electronic funds transfer approved by the department.

(b) Any person who files a tax return for any tax and is not required by subsection (a) to remit taxes by means of electronic funds transfer may elect to remit taxes by one of the means of electronic funds transfer approved by the department with the approval of the director of taxation.

(c) If a person who is required under subsection (a), or who elects under subsection (b), to remit taxes by one of the means of electronic funds transfer approved by the department fails to remit the taxes using an approved method on or before the date prescribed therefor, unless it is shown that the failure is due to reasonable cause and not to neglect, there shall be added to the tax required to be so remitted a penalty of two per cent of the amount of the tax. The penalty under this subsection is in addition to any penalty set forth in section 231-39.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 5. This Act shall take effect upon its approval; provided that the first report required by section 1 shall be submitted to the legislature no later than twenty days prior to the regular session of 1998.

(Approved June 16, 1997.)

Note

1. Edited pursuant to HRS §23G-16.5.