

ACT 27

S.B. NO. 840

A Bill for an Act Relating to Income Tax Withholding.

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

SECTION 1. The purpose of this Act is to amend section 235-62, Hawaii Revised Statutes, to clarify the state withholding tax provisions for employers with state withholding tax liabilities exceeding \$40,000 annually.

SECTION 2. Section 235-62, Hawaii Revised Statutes, is amended to read as follows:

**“§235-62 Return and payment of withheld taxes.** (a) Every employer required by this chapter to withhold taxes on wages paid in any month shall make a return of such wages to the department of taxation on or before the fifteenth day of the calendar month following the month for which the taxes have been withheld; ~~provided that each employer required to make a return under this section whose liability for taxes withheld exceeds \$40,000 a year, shall pay the taxes withheld to~~

~~the department on or before the following Wednesday if wages were paid on the immediately preceding Wednesday, Thursday, or Friday; or on or before the following Friday if wages were paid on the immediately preceding Saturday, Sunday, Monday, or Tuesday.], except as provided in subsection (c).~~

(b) ~~The return shall be in such form, including computer printouts [and the like,] or other electronic formats, and contain such information as may be prescribed by the director of taxation. The return shall be filed with [the collector of the taxation district in which the employer has the employer's principal place of business or with] the director at the first taxation district in Honolulu [if the employer has no place of business in the State].~~

(c) Every return required under this section shall be accompanied by a remission of the complete amount of tax withheld, as reported in the return[-]; provided that each employer whose liability for taxes withheld exceeds \$40,000 annually shall remit the complete amount of tax withheld on a semi-weekly schedule.

(d) If the director believes collection of the tax may be in jeopardy, the director may require any person required to make a return under this section to make such return and pay such tax at any time.

(e) The director may grant permission to employers, whose liability to pay over the taxes withheld as provided in this section shall not exceed \$5,000 a year, to make returns and payments of the taxes due on a quarterly basis during the calendar year, the returns and payments to be made on or before the fifteenth day of the calendar month after the close of each quarter, to wit, on or before April 15, July 15, October 15, and January 15. The director may grant permission to employers to make monthly payments based on an estimated quarterly liability; provided that the employer files a reconciliation return on or before the fifteenth day of the calendar month after the close of each quarter during the calendar year as provided by this section. The director, for good cause, may extend the time for making returns and payments, but not beyond the fifteenth day of the second month following the regular due date of the return. With respect to wages paid out of public moneys, the director, in the director's discretion, may prescribe special forms for, and different procedures and times for the filing of, the returns by employers paying the wages, or may waive the filing of any returns upon the conditions and subject to rules the director may prescribe.

(f) For purposes of this section, "semi-weekly schedule" means:

- (1) On or before the following Wednesday if wages were paid on the immediately preceding Wednesday, Thursday, or Friday; or
- (2) On or before the following Friday if wages were paid on the immediately preceding Saturday, Sunday, Monday, or Tuesday.

In addition to the allowances provided under section 231-21, each employer shall have at least three banking days following the close of the semi-weekly period by which to remit the taxes withheld as provided for in section 6302 of the Internal Revenue Code."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 25, 2005.)