

## ACT 196

S.B. NO. 1461

A Bill for an Act Relating to Taxation.

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

## PART I

SECTION 1. The legislature finds that Act 355, Session Laws of Hawaii 1997, authorized the governor to convert the State of Hawaii payroll payment basis from predicted payroll to after-the-fact payroll commencing with the June 30, 1998, pay day in fiscal year 1997-1998, which was delayed to July 1, 1998, in fiscal year 1998-1999. That "payroll lag" measure delayed state expenditures to generate a one-time windfall savings of approximately \$51,500,000.

The legislature further finds that advancing the filing and payment of monthly, quarterly, and semi-annual general excise taxes due, from the last calendar day of the month following the month, quarter, or half-year in which taxes accrue to the twentieth day of that month, quarter, or half-year will generate a one-time estimated revenue of \$75,000,000 to \$100,000,000 in a way analogous to the effect of the payroll lag measure, but in reverse fashion, by advancing receipt of revenues within one fiscal year.

The purpose of this Act is to:

- (1) Advance the filing and payment of monthly, quarterly, and semi-annual general excise taxes due to an earlier date to generate a one-time windfall revenue for the State;
- (2) Require any person who is required to electronically file or remit a federal return or taxes to also electronically file and remit a state return of all state taxes to the department of taxation; and
- (3) Require any employer who is required to remit any withheld taxes to the federal government on a semi-weekly schedule, to also remit the complete amount of tax withheld to the department of taxation on a semi-weekly schedule.

SECTION 2. Section 231-9.9, Hawaii Revised Statutes, is amended to read as follows:

**"§231-9.9 [Payment] Filing and 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; provided that for withholding taxes under section 235-62, electronic funds transfers shall apply to annual tax liabilities that exceed \$40,000. Notwithstanding the tax liability thresholds in this subsection, the director of taxation is authorized to require any person who is required to electronically file a federal return or electronically remit any federal taxes to the federal government, to electronically file a state return and electronically remit any state taxes under title 14 to the department. The director is authorized to grant an exemption to the electronic filing and payment requirements for good cause.

(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) to file a return electronically or remit taxes by one of the means of electronic funds transfer ap-

proved by the department fails to file electronically or 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.

- (d) 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 subsection (c);
  - (2) The amounts of each assessment; and
  - (3) The total amount of assessments collected for the previous year.”

SECTION 3. Section 235-62, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(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. Notwithstanding the tax liability threshold in this subsection, the director of taxation is authorized to require any employer who is required to remit any withheld taxes to the federal government on a semi-weekly schedule, to remit the complete amount of tax withheld to the department on a semi-weekly schedule. The director of taxation may grant an exemption to the requirement to remit the complete amount of tax withheld on a semi-weekly schedule for good cause.”

SECTION 4. Section 237-30, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) The taxes levied hereunder shall be payable in monthly installments on or before the ~~[last]~~ twentieth day of the calendar month following the month in which they accrue. The taxpayer ~~[shall]~~, on or before the ~~[last]~~ twentieth day of the calendar month following the month in which the taxes accrue, shall make out and sign a return of the installment of tax for which the taxpayer is liable for the preceding month and transmit the same, together with a remittance, in the form required by section 237-31, for the amount of the tax, to the office of the department of taxation in the appropriate district hereinafter designated.

(b) Notwithstanding subsection (a), the director of taxation, for good cause, may permit a taxpayer to file the taxpayer’s return required under this section and make payments thereon:

- (1) On a quarterly basis during the calendar or fiscal year, the return and payment to be made on or before the ~~[last]~~ twentieth day of the calendar month after the close of each quarter, to wit: for calendar year taxpayers, on or before April ~~[30,]~~ 20, July ~~[31,]~~ 20, October ~~[31,]~~ 20, and January ~~[31]~~ 20 or, for fiscal year taxpayers, on or before the ~~[last]~~ twentieth day of the fourth month, seventh month, and tenth month following the beginning of the fiscal year and on or before the ~~[last]~~ twentieth day of the month following the close of the fiscal year; provided that the director is satisfied that the grant of the permit will not unduly jeopardize the collection of the taxes due thereon and the taxpayer’s total tax liability for the calendar or fiscal year under this chapter will not exceed \$4,000; or
- (2) On a semiannual basis during the calendar or fiscal year, the return and payment to be made on or before the ~~[last]~~ twentieth day of the

calendar month after the close of each six-month period, to wit: for calendar year taxpayers, on July ~~[31]~~ 20 and January ~~[31]~~ 20 or, for fiscal year taxpayers, on or before the ~~[last]~~ twentieth day of the seventh month following the beginning of the fiscal year and on or before the last day of the month following the close of the fiscal year; provided that the director is satisfied that the grant of the permit will not unduly jeopardize the collection of the taxes due thereon and the taxpayer's total tax liability for the calendar or fiscal year under this chapter will not exceed \$2,000.

The director, for good cause, may permit a taxpayer to make monthly payments based on the taxpayer's estimated quarterly or semiannual liability, provided the taxpayer files a reconciliation return at the end of each quarter or at the end of each six-month period during the calendar or fiscal year, as provided in this section."

## PART II

SECTION 5. Act 239, Session Laws of Hawaii 2007, is amended by amending section 4 to read as follows:

"SECTION 4. This Act shall take effect on January 1, 2008; provided that this Act shall be repealed on December 31, ~~[2009,]~~ 2010, and section 237-24.3, Hawaii Revised Statutes, and section 237-24.7, Hawaii Revised Statutes, shall be reenacted in the form in which they read on December 31, 2007."

SECTION 6. The aggregate tax exemption from the amendment in Act 239, Session Laws of Hawaii 2007, shall not exceed \$400,000 per taxable year ending on or between January 1, 2010 and January 1, 2011.

## PART III

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 8. This Act, upon its approval, shall apply to returns and payments due after May 31, 2009; provided that part II of this Act shall take effect upon approval.

(Became law on July 15, 2009, without the governor's signature, pursuant to Art. III, §16, State Constitution.)