

ACT 171

H.B. NO. 1948

A Bill for an Act Relating to Taxation.

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

SECTION 1. Section 231-23, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) This subsection shall apply to a refund for an overpayment of a tax[-]:

- (1) If the tax return as filed by a taxpayer shows the amount already paid~~[-, whether or not on the basis of installments,]~~ exceeds the amount determined to be the correct amount of the tax due, whether or not the tax was paid by installments, and the taxpayer requests a refund of the overpayment, the amount of the overpayment ~~[together with interest, if any,]~~ shall be refunded in the manner provided in subsection (c)~~[-The]~~ within ninety days of the due date of the tax return or the date the tax return is filed, whichever is later; provided that interest on the overpayment shall be [allowed and paid at] paid:

(A) To the taxpayer if the amount overpaid is not refunded within ninety days; and

(B) At the rate of one-third of one per cent of the refund amount for each month or fraction thereof~~[-, beginning with the first calendar day after the due date of the return or, if the return is filed after the prescribed due date, the first month following the month the return is received, and continuing until the date that the director approves the refund voucher. If the director approves the refund voucher within ninety days from the due date or the date the return is received, whichever is later, and the comptroller of the State sends the taxpayer a refund warrant within forty five days from the date of the director's approval, no interest on the overpayment shall be allowed or paid. However, if either the director or the comptroller exceeds the time allowed herein, interest will be computed from the first calendar day after the due date of the return or from the first month following the month the return is received by the director if the return is filed after the prescribed due date, until the date that the comptroller sends the refund warrant to~~

- the taxpayer.] after the ninety-day period, until the refund and any applicable interest is paid to the taxpayer;
- (2) If any overpayment of taxes results or arises from:
 (A) ~~[the] The taxpayer filing an amended return[, or from]; or~~
 (B) ~~[a] A determination made by the director; and~~
 the overpayment is not shown on the original return as filed by the taxpayer, ~~[interest on the overpayment shall be allowed and paid from the first calendar day after] the amount overpaid shall be refunded to the taxpayer within ninety days from the due date of the original return or[, if the original return is filed after the prescribed due date, the first month following the month the return is received, to the date that the director signs the refund voucher. If the comptroller does not send the refund warrant to the taxpayer within forty five days after the director's approval, interest will continue until the date that the comptroller sends the refund warrant to the taxpayer.] the date the overpayment is discovered under subparagraphs (A) or (B), whichever occurred later; provided that interest shall be paid to the taxpayer if the amount overpaid is not refunded within ninety days and at the rate of one-third of one per cent of the refund amount for each month or fraction thereof after the ninety-day period, until the refund and any applicable interest is paid to the taxpayer;~~
- (3) For purposes of a net income tax return, if any overpayment of any taxes results from a carryback of a net operating loss, the overpayment shall be deemed to have been made at the close of the taxable year in which the net operating loss arises. To the extent that the carryback of net operating loss results in reducing the amount of underpayment of taxes for prior taxable year or years, interest that would be chargeable because of the underpayment shall not be applicable with respect to that amount or amounts that are carried back[-]; and
- (4) In the case of credit, interest shall be ~~[allowed and paid from the first calendar day after the due date of the return, the first month following the month the return is received by the director, or the date of payment, whichever is later, to the date the credit is taken; provided that the director may make a refund of any credit to a taxpayer where the taxpayer has no underpayment against which to apply the credit.]~~ paid in the same manner as paragraph (1).”

SECTION 2. All general revenues collected after an increase of any general excise or use tax rate shall be used first to pay tax refunds delayed from fiscal year 2009-2010 to fiscal year 2010-2011.

As used in this section, “general revenues collected after an increase of any general excise or use tax rate” means the difference between the following:

- (1) The revenues actually collected from the entire general excise or use tax after the increase of the rate; and
- (2) The revenues that would have been collected from the entire general excise or use tax at the rate before the increase.

This section shall apply only until all tax refunds delayed from fiscal year 2009-2010 to fiscal year 2010-2011 have been paid.

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

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SECTION 4. This Act shall take effect July 1, 2010, and shall apply to taxable years beginning after December 31, 2009.

(Approved June 23, 2010.)