

ACT 117

S.B. NO. 1203

A Bill for an Act Relating to Title 14, Hawaii Revised Statutes.

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

PART I

SECTION 1. The purpose of this Act is to make numerous amendments to title 14, Hawaii Revised Statutes, for the purpose of simplifying and streamlining administration of the tax law.

PART II

SECTION 2. Section 231-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Director” means the director of taxation, unless the context clearly indicates otherwise.”

SECTION 3. Section 231-15.7, Hawaii Revised Statutes, is amended to read as follows:

“§231-15.7 Returns by fiduciaries. The returns, statements, or answers required under chapters of the law under title 14 administered by the department shall be made, in the form and manner prescribed by the department, by the personal representative, trustee, guardian, or other fiduciary in such capacity [~~in any taxation district in which returns are required~~].”

SECTION 4. Section 231-31, Hawaii Revised Statutes, is amended to read as follows:

“§231-31 Nonresidents engaged in business, etc., service of process on, designation of agent for service of process. Every nonresident individual who, jointly, severally, or jointly and severally, is subject to a tax upon the gross or net income from, or sales of, an occupation, trade, or business carried on in the State, in whole or in part, or upon the carrying on of [~~sueh~~] the occupation, trade, or business, or upon the use or keeping for use of property therein, shall file with the department of taxation [~~in the district in which the occupation, trade, or business is carried on,~~] in the form and manner prescribed by the department, the name and address of a person residing within the State upon whom process may be served, and in default of [~~sueh~~] the designation, and if the nonresident individual cannot be found in the State, service of process in any action for the collection of the taxes may be made on any manager, superintendent, or other person in charge, employed in the carrying on of the occupation, trade, or business, with like effect as if the person so served had been designated by the nonresident as the nonresident’s agent for such purpose; provided that nothing therein shall preclude the service of process in any other manner provided by law.”

SECTION 5. Section 235-7, Hawaii Revised Statutes, is amended by amending subsections (c) and (d) to read as follows:

“(c) The deductions of or based on dividends paid or received, allowed to a corporation under chapter 1, subchapter B, part VIII of the Internal Revenue Code, shall not be allowed. In lieu thereof there shall be allowed as a deduction the entire amount of [~~dividends~~]:

- (1) Dividends received by any corporation upon the shares of stock of a national banking association[~~, qualifying~~];

- (2) Qualifying dividends, as defined in section 243(b) of the Internal Revenue Code, received by members of an affiliated group~~[- or dividends]; provided that “includible corporation” as used therein shall include domestic and foreign corporations;~~
- (3) Dividends received by a small business investment company operating under the Small Business Investment Act of 1958 (Public Law 85-699) ~~[upon shares of stock qualifying under paragraph (3), seventy];~~
- (4) Seventy per cent of the amount received by any corporation as dividends~~[-~~
- (1) ~~Upon~~ upon the shares of stock of another corporation, if ~~[at the date of payment of the dividend at least ninety five per cent of the other corporation’s capital stock is owned by one or more corporations doing business in this State and if the other corporation is subjected to an income tax in another jurisdiction (but subsection to federal tax does not constitute subsection to income tax in another jurisdiction); and~~
- (2) ~~Upon the shares of stock of a bank or insurance company organized and doing business under the laws of the State;~~
- (3) ~~Upon the shares of stock of another corporation, if at least fifteen per cent of the latter corporation’s business, for the taxable year of the latter corporation preceding the payment of the dividend, has been attributed to this State.~~

However, except for national bank dividends, the deductions under this subsection are not allowed when they would not have been] otherwise allowed under section 243 of the Internal Revenue Code~~[- as amended by Public Law 85-866, by reason of subsections (b) and (c) of section 246 of the Internal Revenue Code. For the purposes of this subsection fifteen per cent of a corporation’s business shall be deemed to have been attributed to this State if fifteen per cent or more of the entire gross income of the corporation as defined in this chapter (which for the purposes of this subsection shall be computed without regard to source in the State and shall include income not taxable by reason of the fact that it is from property not owned in the State or from a trade or business not carried on in the State in whole or in part), under section 235-5 and the other provisions of this chapter, shall have been attributed to the State and subjected to assessment of the taxable income therefrom (including the determination of the resulting net loss, if any)].~~

~~[(d) (1) For taxable years ending before January 1, 1967, the net operating loss deductions allowed as carrybacks and carryovers by the Internal Revenue Code shall not be allowed. In lieu thereof the net operating loss deduction shall consist of the excess of the deductions allowed by this chapter over the gross income, computed with the modifications specified in paragraphs (1) to (4) of section 172(d) of the Internal Revenue Code, and with the further modification stated in paragraph (3) hereof; and shall be allowed as a deduction in computing the taxable income of the taxpayer for the succeeding taxable year;~~

- (2) (A) ~~(d)~~ With respect to net operating loss deductions resulting from net operating losses for taxable years ending after December 31, 1966, the net operating loss deduction provisions of the Internal Revenue Code shall apply~~[- provided that there shall be no net operating loss deduction carried back to any taxable year ending prior to January 1, 1967;~~
- (B) ~~In the case of a taxable year beginning in 1966 and ending in 1967, the entire amount of all net operating loss deductions carried back to the taxable year shall be limited to that portion~~

- of taxable income for such taxable year which the number of days in 1967 bears to the total days in the taxable year ending in 1967; and
- (C) ~~The computation of any net operating loss deduction for a taxable year covered by this subsection shall require the further modifications stated in paragraphs (3), (4), and (5) of this subsection; provided that:~~
- [~~(3)~~] (1) In computing the net operating loss deduction allowed by this subsection, there shall be included in gross income the amount of interest which is excluded from gross income by subsection (a), decreased by the amount of interest paid or accrued which is disallowed as a deduction by subsection (c). In determining the amount of the net operating loss deduction under this subsection of any corporation, there shall be disregarded the net operating loss of such corporation for any taxable year for which the corporation is an electing small business corporation;
- [~~(4)~~] (2) No net operating loss carryback or carryover shall be allowed by this chapter if not allowed under section 172 of the Internal Revenue Code; ~~and~~
- [~~(5)~~] (3) The election to relinquish the entire carryback period with respect to a net operating loss allowed under section 172(b)(3)(C) of the Internal Revenue Code shall be operative for the purposes of this chapter; provided that no taxpayer shall make such an election as to a net operating loss of a business where such net operating loss occurred in the taxpayer's business prior to the taxpayer entering business in this State; ~~and~~
- (6) ~~The five-year carryback period for net operating losses for any taxable year ending during 2001 and 2002 in section 172(b)(1)(H) of the Internal Revenue Code as it read on December 31, 2008, shall not be operative for purposes of this chapter; and~~
- (7) ~~The election for the carryback for 2008 or 2009 net operating losses of small businesses as provided in section 172(b)(1)(H) of the Internal Revenue Code as it read on December 31, 2009, shall not be operative for purposes of this chapter.]”~~

SECTION 6. Section 235-12.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) [~~When the requirements of subsection (d) are met, each~~] Each individual or corporate taxpayer that files an individual or corporate net income tax return for a taxable year may claim a tax credit under this section against the Hawaii state individual or corporate net income tax. The tax credit may be claimed for every eligible renewable energy technology system that is installed and placed in service in the State by a taxpayer during the taxable year. The tax credit may be claimed as follows:

- (1) For each solar energy system: thirty-five per cent of the actual cost or the cap amount determined in subsection (b); provided that:
 - (A) For taxable years beginning after December 31, 2019, and except as provided in subparagraphs (B) and (C), no tax credit may be claimed for a solar energy system that is five megawatts in total output capacity or larger and requires a power purchase agreement approved by the public utilities commission;
 - (B) A solar energy system that is five megawatts in total output capacity or larger, installed and placed in service pursuant to a power purchase agreement approved or pending approval by a

decision and order by the public utilities commission prior to December 31, 2019, shall continue to receive a tax credit equal to thirty-five per cent of the actual cost, or \$500,000 per solar energy system that has a total output capacity of at least one thousand kilowatts per system of direct current, whichever is less; and

- (C) For each solar energy system integrated with a pumped hydro-electric energy storage system, the tax credit may be claimed for thirty-five per cent of the actual cost or the cap amount determined in subsection (b), whichever is less; provided that applicable project approval filings have been made to the public utilities commission by December 31, 2021; or
- (2) For each wind-powered energy system: twenty per cent of the actual cost or the cap amount determined in subsection (b), whichever is less;

provided further that multiple owners of a single system shall be entitled to a single tax credit; and provided further that the tax credit shall be apportioned between the owners in proportion to their contribution to the cost of the system.

In the case of a partnership, S corporation, estate, or trust, the tax credit allowable is for every eligible renewable energy technology system that is installed and placed in service in the State by the entity. The cost upon which the tax credit is computed shall be determined at the entity level. Distribution and share of credit shall be determined pursuant to administrative rule.”

SECTION 7. Section 235-51, Hawaii Revised Statutes, is amended by amending subsections (a), (b), and (c) to read as follows:

- “(a) There is hereby imposed on the taxable income of every:
 - (1) Taxpayer who files a joint return under section 235-93; and
 - (2) Surviving spouse,

a tax determined in accordance with the following table:

[In the case of any taxable year beginning after December 31, 2001:

If the taxable income is:	The tax shall be:
Not over \$4,000	1.40% of taxable income
Over \$4,000 but not over \$8,000	\$56.00 plus 3.20% of excess over \$4,000
Over \$8,000 but not over \$16,000	\$184.00 plus 5.50% of excess over \$8,000
Over \$16,000 but not over \$24,000	\$624.00 plus 6.40% of excess over \$16,000
Over \$24,000 but not over \$32,000	\$1,136.00 plus 6.80% of excess over \$24,000
Over \$32,000 but not over \$40,000	\$1,680.00 plus 7.20% of excess over \$32,000
Over \$40,000 but not over \$60,000	\$2,256.00 plus 7.60% of excess over \$40,000
Over \$60,000 but not over \$80,000	\$3,776.00 plus 7.90% of excess over \$60,000
Over \$80,000	\$5,356.00 plus 8.25% of excess over \$80,000.

In the case of any taxable year beginning after December 31, 2006:

If the taxable income is:	The tax shall be:
Not over \$4,800	1.40% of taxable income
Over \$4,800 but not over \$9,600	\$67.00 plus 3.20% of excess over \$4,800

Over \$9,600 but not over \$19,200	\$221.00 plus 5.50% of excess over \$9,600
Over \$19,200 but not over \$28,800	\$749.00 plus 6.40% of excess over \$19,200
Over \$28,800 but not over \$38,400	\$1,363.00 plus 6.80% of excess over \$28,800
Over \$38,400 but not over \$48,000	\$2,016.00 plus 7.20% of excess over \$38,400
Over \$48,000 but not over \$72,000	\$2,707.00 plus 7.60% of excess over \$48,000
Over \$72,000 but not over \$96,000	\$4,531.00 plus 7.90% of excess over \$72,000
Over \$96,000	\$6,427.00 plus 8.25% of excess over \$96,000.]

In the case of any taxable year beginning after December 31, 2017:

If the taxable income is:	The tax shall be:
Not over \$4,800	1.40% of taxable income
Over \$4,800 but not over \$9,600	\$67.00 plus 3.20% of excess over \$4,800
Over \$9,600 but not over \$19,200	\$221.00 plus 5.50% of excess over \$9,600
Over \$19,200 but not over \$28,800	\$749.00 plus 6.40% of excess over \$19,200
Over \$28,800 but not over \$38,400	\$1,363.00 plus 6.80% of excess over \$28,800
Over \$38,400 but not over \$48,000	\$2,016.00 plus 7.20% of excess over \$38,400
Over \$48,000 but not over \$72,000	\$2,707.00 plus 7.60% of excess over \$48,000
Over \$72,000 but not over \$96,000	\$4,531.00 plus 7.90% of excess over \$72,000
Over \$96,000 but not over \$300,000	\$6,427.00 plus 8.25% of excess over \$96,000
Over \$300,000 but not over \$350,000	\$23,257.00 plus 9.00% of excess over \$300,000
Over \$350,000 but not over \$400,000	\$27,757.00 plus 10.00% of excess over \$350,000
Over \$400,000	\$32,757.00 plus 11.00% of excess over \$400,000.

(b) There is hereby imposed on the taxable income of every head of a household a tax determined in accordance with the following table:

[In the case of any taxable year beginning after December 31, 2001:	
If the taxable income is:	The tax shall be:
Not over \$3,000	1.40% of taxable income
Over \$3,000 but not over \$6,000	\$42.00 plus 3.20% of excess over \$3,000
Over \$6,000 but not over \$12,000	\$138.00 plus 5.50% of excess over \$6,000
Over \$12,000 but not over \$18,000	\$468.00 plus 6.40% of excess over \$12,000
Over \$18,000 but not over \$24,000	\$852.00 plus 6.80% of excess over \$18,000
Over \$24,000 but not over \$30,000	\$1,260.00 plus 7.20% of excess over \$24,000

Over \$30,000 but not over \$45,000	\$1,692.00 plus 7.60% of excess over \$30,000
Over \$45,000 but not over \$60,000	\$2,832.00 plus 7.90% of excess over \$45,000
Over \$60,000	\$4,017.00 plus 8.25% of excess over \$60,000.

In the case of any taxable year beginning after December 31, 2006:

If the taxable income is:

Not over \$3,600	The tax shall be: 1.40% of taxable income
Over \$3,600 but not over \$7,200	\$50.00 plus 3.20% of excess over \$3,600
Over \$7,200 but not over \$14,400	\$166.00 plus 5.50% of excess over \$7,200
Over \$14,400 but not over \$21,600	\$562.00 plus 6.40% of excess over \$14,400
Over \$21,600 but not over \$28,800	\$1,022.00 plus 6.80% of excess over \$21,600
Over \$28,800 but not over \$36,000	\$1,512.00 plus 7.20% of excess over \$28,800
Over \$36,000 but not over \$54,000	\$2,030.00 plus 7.60% of excess over \$36,000
Over \$54,000 but not over \$72,000	\$3,398.00 plus 7.90% of excess over \$54,000
Over \$72,000	\$4,820.00 plus 8.25% of excess over \$72,000.]

In the case of any taxable year beginning after December 31, 2017:

If the taxable income is:

Not over \$3,600	The tax shall be: 1.40% of taxable income
Over \$3,600 but not over \$7,200	\$50.00 plus 3.20% of excess over \$3,600
Over \$7,200 but not over \$14,400	\$166.00 plus 5.50% of excess over \$7,200
Over \$14,400 but not over \$21,600	\$562.00 plus 6.40% of excess over \$14,400
Over \$21,600 but not over \$28,800	\$1,022.00 plus 6.80% of excess over \$21,600
Over \$28,800 but not over \$36,000	\$1,512.00 plus 7.20% of excess over \$28,800
Over \$36,000 but not over \$54,000	\$2,030.00 plus 7.60% of excess over \$36,000
Over \$54,000 but not over \$72,000	\$3,398.00 plus 7.90% of excess over \$54,000
Over \$72,000 but not over \$225,000	\$4,820.00 plus 8.25% of excess over \$72,000
Over \$225,000 but not over \$262,500	\$17,443.00 plus 9.00% of excess over \$225,000
Over \$262,500 but not over \$300,000	\$20,818.00 plus 10.00% of excess over \$262,500
Over \$300,000	\$24,568.00 plus 11.00% of excess over \$300,000.

(c) There is hereby imposed on the taxable income of (1) every unmarried individual (other than a surviving spouse, or the head of a household) and (2) on the taxable income of every married individual who does not make a

single return jointly with the individual's spouse under section 235-93 a tax determined in accordance with the following table:

[In the case of any taxable year beginning after December 31, 2001:

If the taxable income is:	The tax shall be:
Not over \$2,000	1.40% of taxable income
Over \$2,000 but not over \$4,000	\$28.00 plus 3.20% of excess over \$2,000
Over \$4,000 but not over \$8,000	\$92.00 plus 5.50% of excess over \$4,000
Over \$8,000 but not over \$12,000	\$312.00 plus 6.40% of excess over \$8,000
Over \$12,000 but not over \$16,000	\$568.00 plus 6.80% of excess over \$12,000
Over \$16,000 but not over \$20,000	\$840.00 plus 7.20% of excess over \$16,000
Over \$20,000 but not over \$30,000	\$1,128.00 plus 7.60% of excess over \$20,000
Over \$30,000 but not over \$40,000	\$1,888.00 plus 7.90% of excess over \$30,000
Over \$40,000	\$2,678.00 plus 8.25% of excess over \$40,000.

In the case of any taxable year beginning after December 31, 2006:

If the taxable income is:	The tax shall be:
Not over \$2,400	1.40% of taxable income
Over \$2,400 but not over \$4,800	\$34.00 plus 3.20% of excess over \$2,400
Over \$4,800 but not over \$9,600	\$110.00 plus 5.50% of excess over \$4,800
Over \$9,600 but not over \$14,400	\$374.00 plus 6.40% of excess over \$9,600
Over \$14,400 but not over \$19,200	\$682.00 plus 6.80% of excess over \$14,400
Over \$19,200 but not over \$24,000	\$1,008.00 plus 7.20% of excess over \$19,200
Over \$24,000 but not over \$36,000	\$1,354.00 plus 7.60% of excess over \$24,000
Over \$36,000 but not over \$48,000	\$2,266.00 plus 7.90% of excess over \$36,000
Over \$48,000	\$3,214.00 plus 8.25% of excess over \$48,000.]

In the case of any taxable year beginning after December 31, 2017:

If the taxable income is:	The tax shall be:
Not over \$2,400	1.40% of taxable income
Over \$2,400 but not over \$4,800	\$34.00 plus 3.20% of excess over \$2,400
Over \$4,800 but not over \$9,600	\$110.00 plus 5.50% of excess over \$4,800
Over \$9,600 but not over \$14,400	\$374.00 plus 6.40% of excess over \$9,600
Over \$14,400 but not over \$19,200	\$682.00 plus 6.80% of excess over \$14,400
Over \$19,200 but not over \$24,000	\$1,008.00 plus 7.20% of excess over \$19,200
Over \$24,000 but	\$1,354.00 plus 7.60% of

not over \$36,000	excess over \$24,000
Over \$36,000 but not over \$48,000	\$2,266.00 plus 7.90% of excess over \$36,000
Over \$48,000 but not over \$150,000	\$3,214.00 plus 8.25% of excess over \$48,000
Over \$150,000 but not over \$175,000	\$11,629.00 plus 9.00% of excess over \$150,000
Over \$175,000 but not over \$200,000	\$13,879.00 plus 10.00% of excess over \$175,000
Over \$200,000	\$16,379.00 plus 11.00% of excess over \$200,000.”

SECTION 8. Section 235-62, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The return shall be in ~~such~~ the form, including computer printouts or other electronic formats, and contain ~~such~~ the information ~~[as may be]~~ prescribed by the director of taxation. The return shall be filed ~~[with the director at the first taxation district in Honolulu.]~~ in the form and manner prescribed by the department.”

SECTION 9. Section 235-99, Hawaii Revised Statutes, is amended to read as follows:

“**§235-99 [Same;] Returns; place for filing.** Returns shall be filed ~~[with the collector for the taxation district in which is located the legal residence or principal place of business of the person making the return, or, if such person has no legal residence or principal place of business in the State, then with the collector at Honolulu.]~~ in the form and manner prescribed by the department.”

SECTION 10. Section 237-30, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The taxes levied hereunder shall be payable in monthly installments on or before the twentieth day of the calendar month following the month in which they accrue. The taxpayer, on or before the 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.] form and manner prescribed by the department.”

SECTION 11. Section 237-33, Hawaii Revised Statutes, is amended to read as follows:

“**§237-33 Annual return, payment of tax.** On or before the twentieth day of the fourth month following the close of the taxable year, each taxpayer shall make a return showing the value of products, gross proceeds of sales or gross income, and compute the amount of tax chargeable against the taxpayer in accordance with this chapter and deduct the amount of monthly payments (as hereinbefore provided), and transmit with the taxpayer’s report a remittance in the form required by section 237-31 covering the residue of the tax chargeable against the taxpayer ~~[to the district office of the department of taxation hereinafter designated].~~ The return shall be signed by the taxpayer, if made by an individual, or by the president, vice-president, secretary, or treasurer of a corporation, if made on behalf of a corporation. If made on behalf of a partnership, firm, society, unincorporated association, group, hui, joint adventure,

joint stock company, corporation, trust estate, decedent's estate, trust, or other entity, any individual delegated by the entity shall sign the same on behalf of the taxpayer. If for any reason it is not practicable for the individual taxpayer to sign the return, it may be done by any duly authorized agent. The department, for good cause shown, may extend the time for making the return on the application of any taxpayer and grant such reasonable additional time within which to make the same as may, by it, be deemed advisable.

Section 232-2 applies to the annual return, but not to a monthly return.”

SECTION 12. Section 237-34, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) All monthly and annual returns shall be transmitted ~~[to the office of the taxation district in which the privilege upon which the tax accrued is exercised. Where the privilege is exercised in more than one taxation district the returns shall be transmitted to the office of the first district.]~~ in the form and manner prescribed by the department.”

SECTION 13. Section 237-37, Hawaii Revised Statutes, is amended to read as follows:

“**§237-37 Refunds and credits.** If the amount already paid exceeds that which should have been paid on the basis of the tax recomputed as provided in section 237-36, the excess so paid shall be immediately refunded to the taxpayer in the manner provided in section 231-23(c). The taxpayer may, at the taxpayer's election, apply an overpayment credit to taxes subsequently accruing hereunder. ~~[All refunds and the details thereof, including the names of the persons receiving the refund and the amount refunded shall be accessible for the inspection of the public in the office of the department of taxation in the taxation district in which the person receiving the refund made the person's returns.]~~

No recourse may be had except under section 40-35 or by appeal for refunds of taxes paid pursuant to an assessment by the director of taxation[-]; provided that if the assessment by the director shall contain clerical errors, transposition of figures, typographical errors, and errors in calculation or if there shall be an illegal or erroneous assessment, the usual refunds procedures shall apply. No refund or overpayment credit may be had under this section in any event unless the original payment of the tax was due to the law having been interpreted or applied in respect of the taxpayer concerned differently than in respect of taxpayers generally. As to all tax payment for which a refund or credit is not authorized by this section (including without prejudice to the generality of the foregoing cases of unconstitutionality) the remedies provided by appeal or under section 40-35 are exclusive.”

SECTION 14. Section 237D-6.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) All remittances of taxes imposed under this chapter shall be made by cash, bank drafts, cashier's check, money order, or certificate of deposit ~~[to the office of the taxation district to which the return was transmitted.]~~ in the form and manner prescribed by the department.”

SECTION 15. Section 237D-7, Hawaii Revised Statutes, is amended to read as follows:

“**§237D-7 Annual return.** On or before the twentieth day of the fourth month following the close of the taxable year, every person who has become liable for the payment of the taxes under this chapter during the preceding tax year

shall file a return summarizing that person's liability under this chapter for the year, in ~~[such]~~ the form [as] and manner prescribed by the [director prescribes.] department. The operator or plan manager shall transmit with the return a remittance covering the residue of the tax chargeable to the operator or plan manager, if any, ~~to the office of the appropriate state district tax assessor designated in section 237D-8].~~ The return shall be signed by the taxpayer, if made by an individual, or by the president, vice-president, secretary, or treasurer of a corporation, if made on behalf of a corporation. If made on behalf of a partnership, firm, society, unincorporated association, group, hui, joint adventure, joint stock company, corporation, trust estate, decedent's estate, trust, or other entity, any individual delegated by the entity shall sign the same on behalf of the taxpayer. If for any reason it is not practicable for the individual taxpayer to sign the return, it may be done by any duly authorized agent. The department, for good cause shown, may extend the time for making the return on the application of any taxpayer and grant such reasonable additional time within which to make the return as the department may deem advisable.

Section 232-2 applies to the annual return, but not to a monthly return."

SECTION 16. Section 237D-1, Hawaii Revised Statutes, is amended by deleting the definition of "director".

~~["Director" means the director of taxation."]~~

SECTION 17. Section 237D-8, Hawaii Revised Statutes, is amended to read as follows:

"§237D-8 Filing of returns. All monthly, quarterly, semiannual, and annual returns shall be transmitted ~~[to the office of the taxation district in which the taxes arose or to the office of the first taxation district in Honolulu.]~~ in the form and manner prescribed by the department."

SECTION 18. Section 238-5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) On or before the twentieth day of each calendar month, any person who has become liable for the payment of a tax under this chapter during the preceding calendar month in respect of any property, services, or contracting, or the use thereof, shall file a return ~~[with the assessor of the taxation district in which the property was held or the services or contracting were received when the tax first became payable, or with the director of taxation at Honolulu,]~~ in the form and manner prescribed by the department, setting forth a description of the property, services, or contracting and the character and quantity thereof in sufficient detail to identify the same or otherwise in such reasonable detail as the director by rule shall require, and the purchase price or value thereof as the case may be. The return shall be accompanied by a remittance in full of the tax, computed at the rate specified in section 238-2 or 238-2.3 upon the price or value so returned. Any tax remaining unpaid after the twentieth day following the end of the calendar month during which the tax first became payable shall become delinquent; provided that a receipt from a seller required or authorized to collect the tax, given to a taxpayer in accordance with section 238-6, shall be sufficient to relieve the taxpayer from further liability for the tax to which the receipt may refer, or for the return thereof."

SECTION 19. Section 239-4, Hawaii Revised Statutes, is amended to read as follows:

"§239-4 Returns. Each public service company, on or before the twentieth day of the fourth month following the close of the taxable year, shall file

~~[with the office of the department of taxation for the district within which the principal office of the public service company is maintained]~~ a return in ~~[such]~~ the form ~~[as]~~ and manner prescribed by the department ~~[may prescribe]~~, showing its taxable gross income for the preceding taxable year. In case any public service company engages in lines of business other than its public service company business, the receipts therefrom shall not be subject to tax under this chapter, but the same tax liabilities shall attach to the public service company on account of the other lines of business as would exist if no public service company business were engaged in. In the case of a public utility subject to the rate of tax imposed by section 239-5(a) or (b), if the public utility engages in lines of business other than its public utility business the real property used in connection with the other lines of business shall be taxed, in accordance with the applicable county tax ordinance, the same as if no public utility business were done. In the case of a public utility remitting payments to a county of a portion of the revenues generated from the tax imposed by section 239-5(a), the public utility shall also file with the director of finance of the county to which such payment is paid, a statement showing all gross income from the public utility business upon which the tax is calculated and the allocation of that gross income among the counties.”

SECTION 20. Section 243-1, Hawaii Revised Statutes, is amended by deleting the definition of “director”.

~~[““Director” means the director of finance of the State.”]~~

SECTION 21. Section 243-3.5, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) Each distributor subject to the tax imposed by subsection (a) or (b), on or before the last day of each calendar month, shall file ~~[with the director, on forms prescribed, prepared, and furnished by the director], in the form and manner prescribed by the department,~~ a return statement of the tax under this section for which the distributor is liable for the preceding month. The form and payment of the tax shall be transmitted to the department ~~[of taxation in the appropriate district.] in the form and manner prescribed by the department.”~~

SECTION 22. Section 243-10, Hawaii Revised Statutes, is amended to read as follows:

“§243-10 Statements and payments. Each distributor and each person subject to section ~~[243-4(b),]~~ 243-4, on or before the twentieth day of each calendar month, shall file with the ~~[director of taxation,]~~ department, on forms prescribed~~[- prepared, and furnished]~~ by the ~~[director,]~~ department, a statement, authenticated as provided in section 231-15, showing separately for each county and for the island of Lanai and the island of Molokai within which and whereon fuel is sold or used during each preceding month of the calendar year, the following:

- (1) The total number of gallons of fuel refined, manufactured, or compounded by the distributor or person within the State and sold or used by the distributor or person, and if for ultimate use in another county or on either island, the name of that county or island;
- (2) The total number of gallons of fuel acquired by the distributor or person during the month from persons not subject to the tax on the transaction or only subject to tax thereon at the rate of 1 cent per gallon, as the case may be, and sold or used by the distributor or person, and if for ultimate use in another county or on either island, the name of that county or island;

- (3) The total number of gallons of fuel sold by the distributor or person to the United States or any department or agency thereof, or to any other person or entity, or used in any manner, the effect of which sale or use is to exempt the fuel from the tax imposed by this chapter; and
- (4) Additional information relative to the acquisition, purchase, manufacture, or importation into the State, and the sale, use, or other disposition, of diesel oil by the distributor or person during the month, as prescribed by the department [~~of taxation~~] by rule [~~shall prescribe~~].

At the time of submitting the foregoing report to the department, each distributor and person shall pay the tax on each gallon of fuel (including diesel oil) sold or used by the distributor or person in each county and on the island of Lanai and the island of Molokai during the preceding month, as shown by the statement and required by this chapter; provided that the tax shall not apply to any fuel exempted and so long as the same is exempted from the imposition of the tax by the Constitution or laws of the United States; and the tax shall be paid only once upon the same fuel; provided further that a licensed distributor shall be entitled, in computing the tax the licensed distributor is required to pay, to deduct from the gallons of fuel reported for the month for each county or for the island of Lanai or the island of Molokai, as the case may be, one gallon for each ninety-nine gallons of like liquid fuel sold by retail dealers in that county or on that island during the month, as shown by certificates furnished by the retail dealers to the distributor and attached to the distributor's report. All taxes payable for any month shall be delinquent after the expiration of the twentieth day of the following month.

Statements filed under this section concerning the number of gallons of fuel refined, manufactured, compounded, imported, sold or used by the distributor or person [~~are~~] shall be public records.”

SECTION 23. Section 244D-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Every person who sells or uses any liquor in the State not taxable under this chapter, in respect of the transaction by which the person or the person's vendor acquired the liquor, shall pay a gallonage tax [~~which~~] that is hereby imposed at the following rates for the various liquor categories defined in section 244D-1:

[For the period July 1, 1997, to June 30, 1998, the tax rate shall be:

- (1) \$5.92 per wine gallon on distilled spirits;
- (2) \$2.09 per wine gallon on sparkling wine;
- (3) \$1.36 per wine gallon on still wine;
- (4) \$0.84 per wine gallon on cooler beverages;
- (5) \$0.92 per wine gallon on beer other than draft beer;
- (6) \$0.53 per wine gallon on draft beer;]

On July 1, 1998, and thereafter, the tax rate shall be:

- (1) \$5.98 per wine gallon on distilled spirits;
- (2) \$2.12 per wine gallon on sparkling wine;
- (3) \$1.38 per wine gallon on still wine;
- (4) \$0.85 per wine gallon on cooler beverages;
- (5) \$0.93 per wine gallon on beer other than draft beer; and
- (6) \$0.54 per wine gallon on draft beer;

and at a proportionate rate for any other quantity so sold or used.”

SECTION 24. Section 244D-6, Hawaii Revised Statutes, is amended to read as follows:

“§244D-6 Return, form, contents. Every taxpayer shall, on or before the twentieth day of each month, file with the department [of taxation in the taxation district in which the taxpayer’s business premises are located, or with the department in Honolulu,] a return showing all sales of liquor by gallonage and dollar volume in each liquor category defined in section 244D-1 and taxed under section 244D-4(a) made by the taxpayer during the preceding month, showing separately the amount of the nontaxable sales, and the amount of the taxable sales, and the tax payable thereon. [The return shall also show the amount of liquor by gallonage and dollar volume in each liquor category defined in section 244D-1 and taxed under section 244D-4(a) used during the preceding month which is subject to tax, and the tax payable thereon.] The form and manner of the return shall be prescribed by the department and shall contain [such] any information [as it] the department may deem necessary for the proper administration of this chapter.”

SECTION 25. Section 245-2.5, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (a) and (b) to read:

“(a) [~~Beginning December 1, 2006, every~~] Every retailer engaged in the retail sale of cigarettes and other tobacco products upon which a tax is required to be paid under this chapter shall obtain a retail tobacco permit.

(b) [~~Beginning March 1, 2007, it~~] It shall be unlawful for any retailer engaged in the retail sale of cigarettes and other tobacco products upon which a tax is required to be paid under this chapter to sell, possess, keep, acquire, distribute, or transport cigarettes or other tobacco products for retail sale unless a retail tobacco permit has been issued to the retailer under this section and the retail tobacco permit is in full force and effect.”

2. By amending subsection (l) to read:

“(l) A permittee shall keep a complete and accurate record of the permittee’s cigarette or tobacco product inventory. The records shall:

(1) Include:

- (A) A written statement containing the name and address of the permittee’s source of its cigarettes and tobacco products;
- (B) The date of delivery, quantity, trade name or brand, and price of the cigarettes and tobacco products; and
- (C) Documentation in the form of any purchase orders, invoices, bills of lading, other written statements, books, papers, or records in whatever format, including electronic format, which substantiate the purchase or acquisition of the cigarettes and tobacco products stored or offered for sale; and

(2) Be offered for inspection and examination within twenty-four hours of demand by the department or the attorney general, and shall be preserved for a period of [~~three~~] five years; provided that:

- (A) Specified records may be destroyed if the department and the attorney general both consent to their destruction within the [~~three-year~~] five-year period; and
- (B) Either the department or the attorney general may adopt rules pursuant to chapter 91 that require specified records to be kept longer than a period of [~~three~~] five years.”

SECTION 26. Section 245-9, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) The department and the attorney general may examine all records, including tax returns [~~and reports under section 245-31,~~] required to be kept or filed under this chapter, and books, papers, and records of any person engaged in the business of wholesaling or dealing cigarettes and tobacco products, to verify the accuracy of the payment of the taxes imposed by this chapter. Every person in possession of any books, papers, and records, and the person’s agents and employees, are directed and required to give the department and the attorney general the means, facilities, and opportunities for the examinations.

(b) The department and the attorney general may inspect the operations, premises, and storage areas of any entity engaged in the sale of cigarettes, or the contents of a specific vending machine, during regular business hours. This inspection shall include inspection of all statements, books, papers, and records in whatever format, including electronic format, pertaining to the acquisition, possession, transportation, sale, or use of packages of cigarettes and tobacco products other than cigarettes, to verify the accuracy of the payment of taxes imposed by this chapter, and of the contents of cartons and shipping or storage containers to ascertain that all individual packages of cigarettes have an affixed stamp of proper denomination as required by this chapter. This inspection may also verify that all stamps were produced under the authority of the department. Every entity in possession of any books, papers, and records, and the entity’s agents and employees, are directed and required to give the department and the attorney general the means, facilities, and opportunities for the examinations. [~~For purposes of this chapter “entity” means one or more individuals, a company, corporation, a partnership, an association, or any other type of legal entity.~~]

SECTION 27. Section 245-41, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Where the attorney general [~~initiates and~~] conducts an investigation resulting in the imposition and collection of a criminal fine pursuant to this part, one hundred per cent of the fine shall be distributed to the attorney general to be deposited to the credit of the department of the attorney general’s tobacco enforcement special fund; provided that if the attorney general engages the prosecuting attorney for the investigation or prosecution, or both, resulting in the imposition and collection of a criminal fine under this part, the fine shall be shared equally between the attorney general and the prosecuting attorney.”

SECTION 28. Section 251-1, Hawaii Revised Statutes, is amended by deleting the definition of “director”.

[~~““Director” means the director of taxation.”~~]

SECTION 29. Section 251-5, Hawaii Revised Statutes, is amended to read as follows:

“**§251-5 Remittances.** All remittances of surcharge taxes imposed under this chapter shall be made by cash, bank draft, cashier’s check, money order, or certificate of deposit [~~to the office of the taxation district to which the return was transmitted,~~] in the form and manner prescribed by the department. The department shall deposit the moneys into the state treasury to the credit of the state highway fund.”

SECTION 30. Section 251-7, Hawaii Revised Statutes, is amended to read as follows:

“**[[§251-7]] Filing of returns.** All monthly, quarterly, semiannual, and annual returns shall be transmitted [~~to the office of the taxation district in which~~

~~the person's place of business is situated or to the office of the first taxation district in Honolulu.] in the form and manner prescribed by the department."~~

SECTION 31. Section 235-5.6, Hawaii Revised Statutes, is repealed.

SECTION 32. Section 235-111.5, Hawaii Revised Statutes, is repealed.

SECTION 33. Section 239-11, Hawaii Revised Statutes, is repealed.

SECTION 34. Section 239-12, Hawaii Revised Statutes, is repealed.

SECTION 35. Section 243-8, Hawaii Revised Statutes, is repealed.

SECTION 36. Section 245-31, Hawaii Revised Statutes, is repealed.

PART III

SECTION 37. Section 235-2.45, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) Section 704 of the Internal Revenue Code (with respect to a partner's distributive share) shall be operative for purposes of this chapter; except that section 704(b)(2) shall not apply to:

- (1) Allocations of the high technology business investment tax credit allowed by section 235-110.9 for investments made before May 1, 2009;
- ~~[(2) Allocations of net operating loss pursuant to section 235-111.5;]~~ or
- ~~[(3)]~~ (2) Allocations of low-income housing tax credits among partners under section 235-110.8."

SECTION 38. Section 257-10, Hawaii Revised Statutes, is repealed.

PART IV

SECTION 39. Statutory material to be repealed is bracketed and stricken.¹ New statutory material is underscored.

SECTION 40. This Act shall take effect upon its approval.

(Approved June 28, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.