
A BILL FOR AN ACT

RELATING TO TAX ADMINISTRATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The purpose of this Act is to conform to
2 federal tax law and facilitate the ability of the department of
3 taxation to issue assessments for fraudulent tax returns.

4 SECTION 2. Section 235-111, Hawaii Revised Statutes, is
5 amended by amending subsection (c) to read as follows:

6 "(c) Exceptions; fraudulent return or no return. In the
7 case of a false or fraudulent return with intent to evade tax or
8 liability, or of a failure to file return, the tax or liability
9 may be assessed or levied at any time[; ~~provided that in the~~
10 ~~case of a return claimed to be false or fraudulent with intent~~
11 ~~to evade tax or liability, the determination as to the claim~~
12 ~~shall first be made by a judge of the circuit court for or in~~
13 ~~the circuit within which the taxpayer or employer has the~~
14 ~~taxpayer's or employer's residence or principal place of~~
15 ~~business, or if none in the State then in the first circuit,~~
16 ~~upon petition filed by the department of taxation. The petition~~
17 ~~and other pleadings and proceedings in the matter shall be~~
18 ~~governed and conducted in accordance with statutory and other~~



1 ~~requirements relating to proceedings in equity, including all~~
 2 ~~rights to appeal allowed in the proceedings. No assessment or~~
 3 ~~levy of the tax or liability after the expiration of the three-~~
 4 ~~year period shall be made unless so provided in the final decree~~
 5 ~~entered in the proceedings]."~~

6 SECTION 3. Section 237-40, Hawaii Revised Statutes, is
 7 amended by amending subsection (b) to read as follows:

8 "(b) Exceptions. In the case of a false or fraudulent
 9 return with intent to evade tax, or of a failure to file the
 10 annual return, the tax may be assessed or levied at any time[+
 11 ~~however, in the case of a return claimed to be false or~~
 12 ~~fraudulent with intent to evade tax, the determination as to the~~
 13 ~~claim shall first be made by a judge of the circuit court as~~
 14 ~~provided in section 235-111(c) which shall apply to the tax~~
 15 ~~imposed by this chapter]."~~

16 SECTION 4. Section 237D-9, Hawaii Revised Statutes, is
 17 amended by amending subsection (d) to read as follows:

18 "(d) In the case of a false or fraudulent return with
 19 intent to evade tax, or of a failure to file the annual return,
 20 the tax may be assessed or levied at any time[; ~~however, in the~~
 21 ~~case of a return claimed to be false or fraudulent with intent~~
 22 ~~to evade tax, the determination as to the claim shall first be~~

1 ~~made by a judge of the circuit court as provided in section 235-~~
2 ~~111(c) which shall apply to the tax imposed by this chapter]."~~

3 SECTION 5. Section 243-14, Hawaii Revised Statutes, is
4 amended by amending subsection (c) to read as follows:

5 "(c) In the case of a false or fraudulent statement with
6 intent to evade tax or liability, or of a failure to file a
7 statement, the tax or liability may be assessed or levied at any
8 time[; ~~provided that in the case of a statement claimed to be~~
9 ~~false or fraudulent with intent to evade tax or liability, the~~
10 ~~determination as to the claim shall first be made by a judge of~~
11 ~~the circuit court as provided in section 235-111(c) which shall~~
12 ~~apply to the tax imposed by this chapter]."~~

13 SECTION 6. Section 251-8, Hawaii Revised Statutes, is
14 amended by amending subsection (d) to read as follows:

15 "(d) In the case of a false or fraudulent return with
16 intent to evade the surcharge tax, or of a failure to file the
17 annual return, the surcharge tax may be assessed or levied at
18 any time[; ~~however, in the case of a return claimed to be false~~
19 ~~or fraudulent with intent to evade the surcharge tax, the~~
20 ~~determination as to the claim shall first be made by a judge of~~
21 ~~the circuit court as provided in section 235-111(c) which shall~~
22 ~~apply to the surcharge tax imposed by this chapter]."~~



1 SECTION 7. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun, before its effective date.

4 SECTION 8. Statutory material to be repealed is bracketed
5 and stricken.

6 SECTION 9. This Act shall take effect on July 1, 2006.



Report Title:

Taxes; fraud

Description:

Facilitates the ability of DOTAX to issue assessments for fraudulent tax returns. (HB2418 HD1)

