
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. New statutory material is underscored.

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



SB2381, SD1

Report Title:

Fraudulent Tax Returns

Description:

Conforms to federal tax law and facilitates the issuance of assessments for fraudulent tax returns. (SD1)

