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# A BILL FOR AN ACT

RELATING TO TAXATION.

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

1           SECTION 1. Section 235-111, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:  
3           "(a) General rule. The amount of income taxes imposed by  
4 this chapter (also the amount of income taxes imposed by any  
5 preceding law of the State) and the liability of any employer in  
6 respect of wages, shall be assessed or levied and the  
7 overpayment, if any, shall be credited within three years after  
8 filing of the return for the taxable year, or within three years  
9 of the due date prescribed for the filing of the return,  
10 whichever is later. No proceeding in court without assessment  
11 for the collection of the taxes or the enforcement of the  
12 liability shall be begun after the expiration of the period.  
13 Where the assessment of the tax imposed by this chapter has been  
14 made within the period of limitation properly applicable  
15 thereto, the tax may be collected by levy or by a proceeding in  
16 court; provided that the levy is made or the proceeding was  
17 begun within ten years after the assessment of the tax. For any



1 tax that has been assessed prior to July 1, 2008, the levy or  
2 proceeding shall be barred after June 30, 2018."

3 SECTION 2. Section 237-40, Hawaii Revised Statutes, is  
4 amended by amending subsections (a) and (b) to read as follows:

5 "(a) General rule. The amount of excise taxes imposed by  
6 this chapter shall be assessed or levied within three years  
7 after the annual, semiannual, quarterly, or monthly return was  
8 filed, whichever is earlier, or within three years of the due  
9 date prescribed for the filing of [~~said~~] the return, whichever  
10 is later, and no proceeding in court without assessment for the  
11 collection of any such taxes shall be begun after the expiration  
12 of the period. Where the assessment of the tax imposed by this  
13 chapter has been made within the period of limitation properly  
14 applicable thereto, the tax may be collected by levy or by a  
15 proceeding in court; provided that the levy is made or the  
16 proceeding was begun within ten years after the assessment of  
17 the tax. For any tax that has been assessed prior to July 1,  
18 2008, the levy or proceeding shall be barred after June 30,  
19 2018.

20 (b) Exceptions. In the case of a false or fraudulent  
21 return with intent to evade tax, or of a failure to file the  
22 annual, semiannual, quarterly, or monthly return, the tax may be



1 assessed or levied at any time; however, in the case of a return  
2 claimed to be false or fraudulent with intent to evade tax, the  
3 determination as to the claim shall first be made by a judge of  
4 the circuit court as provided in section 235-111(c), which shall  
5 apply to the tax imposed by this chapter."

6 SECTION 3. Section 237D-9, Hawaii Revised Statutes, is  
7 amended by amending subsections (c) and (d) to read as follows:

8 "(c) Except as otherwise provided by this section, the  
9 amount of taxes imposed by this chapter shall be assessed or  
10 levied within three years after the annual, semiannual,  
11 quarterly, or monthly return, whichever is earlier, was filed,  
12 or within three years of the due date prescribed for the filing  
13 of the return, whichever is later, and no proceeding in court  
14 without assessment for the collection of any such taxes shall be  
15 begun after the expiration of the period. Where the assessment  
16 of the tax imposed by this chapter has been made within the  
17 period of limitation properly applicable thereto, the tax may be  
18 collected by levy or by a proceeding in court; provided that the  
19 levy is made or the proceeding was begun within ten years after  
20 the assessment of the tax. For any tax that has been assessed  
21 prior to July 1, 2008, the levy or proceeding shall be barred  
22 after June 30, 2018.



1 (d) In the case of a false or fraudulent return with  
2 intent to evade tax, or of a failure to file the annual,  
3 semiannual, quarterly, or monthly return, the tax may be  
4 assessed or levied at any time; however, in the case of a return  
5 claimed to be false or fraudulent with intent to evade tax, the  
6 determination as to the claim shall first be made by a judge of  
7 the circuit court as provided in section 235-111(c), which shall  
8 apply to the tax imposed by this chapter."

9 SECTION 4. Section 238-7, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 **"§238-7 Audits; additional assessments; refunds.** Sections  
12 237-36 to 237-40 of the general excise tax law are hereby made  
13 applicable to the taxes imposed by this chapter, to the  
14 refunding of overpayments thereof, and to assessments,  
15 investigations, and audits in connection therewith, for which  
16 purpose any references therein to "gross income" or "gross  
17 proceeds of sale" shall be deemed to refer to the purchase price  
18 or value, as the case may be, subject to tax under this  
19 chapter [~~and any references to the "annual return" shall, if~~  
20 ~~the taxpayer is not required to file an annual return under this~~  
21 ~~chapter, be deemed to refer to the monthly return mentioned in~~  
22 ~~the first paragraph of section 238-5]~~."



1 SECTION 5. Section 243-14, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3 "(b) The amount of license taxes imposed by this chapter  
4 shall be assessed or levied, or the overpayment, if any, shall  
5 be credited within three years after filing of the monthly  
6 statement, or within three years of the due date prescribed for  
7 the filing of the statement, whichever is later. No proceeding  
8 in court without assessment for the collection of the taxes or  
9 the enforcement of the liability shall begin after the  
10 expiration of the three-year period. Where the assessment of  
11 the tax imposed by this chapter has been made within the period  
12 of limitation properly applicable thereto, the tax may be  
13 collected by levy or by a proceeding in court; provided that the  
14 levy is made or the proceeding was begun within ten years after  
15 the assessment of the tax. For any tax that has been assessed  
16 prior to July 1, 2008, the levy or proceeding shall be barred  
17 after June 30, 2018. As to all tax payments for which a refund  
18 or credit is not authorized by this section (including, without  
19 prejudice to the generality of the foregoing, cases of  
20 unconstitutionality), the remedies provided by appeal or by  
21 section 40-35 are exclusive."



1 SECTION 6. Section 247-6.5, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "[+]§247-6.5[+] Limitation period for assessment, levy,  
4 collection, or credit. The amount of conveyance taxes imposed  
5 by this chapter shall be assessed or levied, and the  
6 overpayment, if any, shall be credited within three years after  
7 filing of the certificate prescribed by section 247-6. No  
8 proceeding in court without assessment for the collection of the  
9 taxes shall be begun after the expiration of the three-year  
10 period. Where the assessment of the tax imposed by this chapter  
11 has been made within the period of limitation properly  
12 applicable thereto, the tax may be collected by levy or by a  
13 proceeding in court; provided that the levy is made or the  
14 proceeding was begun within ten years after the assessment of  
15 the tax. For any tax that has been assessed prior to July 1,  
16 2008, the levy or proceeding shall be barred after June 30,  
17 2018.

18 In the case of a false or fraudulent certificate filed with  
19 the intent to evade tax, or of a failure to file a certificate,  
20 the tax may be assessed or levied at any time."

21 SECTION 7. Section 251-8, Hawaii Revised Statutes, is  
22 amended by amending subsection (c) to read as follows:



1           "(c) Except as otherwise provided by this section, the  
2 amount of surcharge taxes imposed by this chapter shall be  
3 assessed or levied within three years after the annual return  
4 was filed, or within three years of the due date prescribed for  
5 the filing of the return, whichever is later, and no proceeding  
6 in court without assessment for the collection of any such  
7 surcharge taxes shall begin after the expiration of the period.  
8 Where the assessment of the tax imposed by this chapter has been  
9 made within the period of limitation properly applicable  
10 thereto, the tax may be collected by levy or by a proceeding in  
11 court; provided that the levy is made or the proceeding was  
12 begun within ten years after the assessment of the tax. For any  
13 tax that has been assessed prior to July 1, 2008, the levy or  
14 proceeding shall be barred after June 30, 2018."

15           SECTION 8. Section 346E-6, Hawaii Revised Statutes, is  
16 amended by amending subsections (c) and (d) to read as follows:

17           "(c) Except as otherwise provided by this section, the  
18 amount of taxes imposed by this chapter shall be assessed or  
19 levied within three years after the annual, quarterly, or  
20 semiannual return, whichever is earlier, was filed, or within  
21 three years of the due date prescribed for the filing of the  
22 return, whichever is later. No proceeding in court without



1 assessment for the collection of any such taxes shall be begun  
 2 after the expiration of the period. Where the assessment of the  
 3 tax imposed by this chapter has been made within the period of  
 4 limitation properly applicable thereto, the tax may be collected  
 5 by levy or by a proceeding in court; provided that the levy is  
 6 made or the proceeding was begun within ten years after the  
 7 assessment of the tax. For any tax that has been assessed prior  
 8 to July 1, 2008, the levy or proceeding shall be barred after  
 9 June 30, 2018.

10 (d) In the case of a false or fraudulent return with  
 11 intent to evade tax, or a failure to file the annual, quarterly  
 12 or semiannual return, the tax may be assessed or levied at any  
 13 time."

14 SECTION 9. Section 431:7-204.6, Hawaii Revised Statutes,  
 15 is amended by amending subsection (a) to read as follows:

16 "(a) The amount of insurance taxes imposed by this chapter  
 17 shall be assessed or levied within three years after the annual  
 18 return was filed, or within three years of the due date  
 19 prescribed for the filing of the return, whichever is later, and  
 20 no proceeding in court without assessment for the collection of  
 21 any [~~such~~] taxes shall be begun after the expiration of the  
 22 period. Where the assessment of the tax imposed by this chapter





1 has been made within the period of limitation properly  
2 applicable thereto, the tax may be collected by levy or by a  
3 proceeding in court; provided that the levy is made or the  
4 proceeding was begun within ten years after the assessment of  
5 the tax. For any tax that has been assessed prior to July 1,  
6 2008, the levy or proceeding shall be barred after June 30,  
7 2018."

8 SECTION 10. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

10 SECTION 11. This Act does not affect rights and duties  
11 that matured, penalties that were incurred, and proceedings that  
12 were begun, before its effective date.

13 SECTION 12. This Act shall take effect on July 1, 2008;  
14 provided that sections 2, 3, and 8, relating to provisions  
15 therein for statutes of limitations on assessments of tax for  
16 periodic tax returns, upon approval, shall apply to tax returns  
17 filed after June 30, 2008.



**Report Title:**

Taxation; Statutes of Limitations

**Description:**

Establishes a ten-year statute of limitations on tax collections. Clarifies that the three-year statute of limitations on tax assessments for the general excise tax, use tax, and other period taxes begins running from the filing of each periodic return. (SB711 HD1)

