

S.B. NO. 2753

JAN 25 2010

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 measure is to conform the
2 filing and payment deadlines for miscellaneous taxes with the
3 filing and payment deadline of the general excise tax, as
4 amended by Act 196, Session Laws of Hawaii 2009. This measure
5 also amends the periodic filing and payment of insurance
6 premiums taxes from quarterly to monthly.

7 SECTION 2. Section 237D-6, Hawaii Revised Statutes, is
8 amended by amending subsections (a) and (b) to read as follows:

9 "(a) On or before the [~~last~~] twentieth day of each
10 calendar month, every operator taxable, or plan manager liable
11 under this chapter during the preceding calendar month shall
12 file a sworn return with the director in such form as the
13 director shall prescribe together with a remittance for the
14 amount of the tax in the form required by section 237D-6.5.
15 Sections 237-30 and 237-32 shall apply to returns and penalties
16 made under this chapter to the same extent as if the sections
17 were set forth specifically in this section.

1 (b) Notwithstanding subsection (a), the director of
2 taxation, for good cause, may permit a taxpayer to file the
3 taxpayer's return required under this section and make payments
4 thereon:

5 (1) On a quarterly basis during the calendar or fiscal
6 year, the return and payment to be made on or before
7 the [~~last~~] twentieth day of the calendar month after
8 the close of each quarter, to wit: for calendar year
9 taxpayers, on or before April [~~30~~] 20, July [~~31~~] 20,
10 October [~~31~~] 20, and January [~~31~~] 20 or, for fiscal
11 year taxpayers, on or before the [~~last~~] twentieth day
12 of the fourth month, seventh month, and tenth month
13 following the beginning of the fiscal year and on or
14 before the [~~last~~] twentieth day of the month following
15 the close of the fiscal year; provided that the
16 director is satisfied that the grant of the permit
17 will not unduly jeopardize the collection of the taxes
18 due thereon and the taxpayer's total tax liability for
19 the calendar or fiscal year under this chapter will
20 not exceed \$4,000; or

21 (2) On a semiannual basis during the calendar or fiscal
22 year, the return and payment to be made by or before

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1 the [~~last~~] twentieth day of the calendar month after
2 the close of each six-month period, to wit: for
3 calendar year taxpayers, on July [~~31~~] 20 and January
4 [~~31~~] 20 or, for fiscal year taxpayers, on or before
5 the [~~last~~] twentieth day of the seventh month
6 following the beginning of the fiscal year and on or
7 before the [~~last~~] twentieth day of the month following
8 the close of the fiscal year; provided that the
9 director is satisfied that the grant of the permit
10 will not unduly jeopardize the collection of the taxes
11 due thereon and the taxpayer's total tax liability for
12 the calendar or fiscal year under this chapter will
13 not exceed \$2,000.

14 The director, for good cause, may permit a taxpayer to make
15 monthly payments based on the taxpayer's estimated quarterly or
16 semiannual liability; provided that the taxpayer files a
17 reconciliation return at the end of each quarter or at the end
18 of each six-month period during the calendar or fiscal year, as
19 provided in this section."

20 SECTION 3. Section 238-5, Hawaii Revised Statutes, is
21 amended by amending subsections (a) and (b) to read as follows:

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

1 the tax to which the receipt may refer, or for the return
2 thereof.

3 (b) Notwithstanding subsection (a), a taxpayer may be
4 eligible to file the taxpayer's return required under this
5 section and make payments thereon on a quarterly or semiannual
6 basis during the calendar or fiscal year, the return and payment
7 to be made on or before the [~~last~~] twentieth day of the calendar
8 month after the close of each quarter or semiannual period, to
9 wit:

- 10 (1) For calendar year taxpayers filing on a quarterly
11 basis, on or before April [~~30~~] 20, July [~~31~~] 20,
12 October [~~31~~] 20, and January [~~31~~] 20;
- 13 (2) For calendar year taxpayers filing on a semiannual
14 basis, on or before July [~~31~~] 20, and January [~~31~~]
15 20;
- 16 (3) For fiscal year taxpayers filing on a quarterly basis,
17 on or before the [~~last~~] twentieth day of the fourth
18 month, seventh month, and tenth month following the
19 beginning of the fiscal year and on or before the
20 [~~last~~] twentieth day of the month following the close
21 of the fiscal year; or

1 (4) For fiscal year taxpayers filing on a semiannual
2 basis, on or before the [~~last~~] twentieth day of the
3 seventh month following the beginning of the fiscal
4 year and on or before the [~~last~~] twentieth day of the
5 month following the close of the fiscal year;
6 if the taxpayer possesses a valid and current permit to file the
7 taxpayer's general excise tax return and to make payments
8 thereon on a quarterly or semiannual basis issued by the
9 director pursuant to section 237-30. A taxpayer may also be
10 eligible to make monthly payments based on the taxpayer's
11 estimated quarterly or semiannual liability with a
12 reconciliation return at the end of each quarter or semiannual
13 period during the calendar or fiscal year, as heretofore
14 provided, if the taxpayer possesses a valid and current permit
15 to file quarterly or semiannual reconciliation general excise
16 tax returns and to make monthly payments, issued by the director
17 pursuant to section 237-30."

18 SECTION 4. Section 243-10, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§243-10 Statements and payments.** Each distributor and
21 each person subject to section 243-4(b), on or before the [~~last~~]
22 twentieth day of each calendar month, shall file with the

1 director of taxation, on forms prescribed, prepared, and
2 furnished by the director, a statement, authenticated as
3 provided in section 231-15, showing separately for each county
4 and for the island of Lanai and the island of Molokai within
5 which and whereon fuel is sold or used during each preceding
6 month of the calendar year, the following:

- 7 (1) The total number of gallons of fuel refined,
8 manufactured, or compounded by the distributor or
9 person within the State and sold or used by the
10 distributor or person, and if for ultimate use in
11 another county or on either island, the name of that
12 county or island;
- 13 (2) The total number of gallons of fuel acquired by the
14 distributor or person during the month from persons
15 not subject to the tax on the transaction or only
16 subject to tax thereon at the rate of 1 cent per
17 gallon, as the case may be, and sold or used by the
18 distributor or person, and if for ultimate use in
19 another county or on either island, the name of that
20 county or island;
- 21 (3) The total number of gallons of fuel sold by the
22 distributor or person to the United States or any

1 department or agency thereof, or to any other person
2 or entity, or used in any manner, the effect of which
3 sale or use is to exempt the fuel from the tax imposed
4 by this chapter;

5 (4) Additional information relative to the acquisition,
6 purchase, manufacture, or importation into the State,
7 and the sale, use, or other disposition, of diesel oil
8 by the distributor or person during the month, as the
9 department of taxation by rule shall prescribe.

10 At the time of submitting the foregoing report to the
11 department, each distributor and person shall pay the tax on
12 each gallon of fuel (including diesel oil) sold or used by the
13 distributor or person in each county and on the island of Lanai
14 and the island of Molokai during the preceding month, as shown
15 by the statement and required by this chapter; provided that the
16 tax shall not apply to any fuel exempted and so long as the same
17 is exempted from the imposition of the tax by the Constitution
18 or laws of the United States; and the tax shall be paid only
19 once upon the same fuel; provided further that a licensed
20 distributor shall be entitled, in computing the tax the licensed
21 distributor is required to pay, to deduct from the gallons of
22 fuel reported for the month for each county or for the island of

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1 Lanai or the island of Molokai, as the case may be, one gallon
2 for each ninety-nine gallons of like liquid fuel sold by retail
3 dealers in that county or on that island during the month, as
4 shown by certificates furnished by the retail dealers to the
5 distributor and attached to the distributor's report. All taxes
6 payable for any month shall be delinquent after the expiration
7 of the [~~last~~] twentieth day of the following month.

8 Statements filed under this section concerning the number
9 of gallons of fuel refined, manufactured, compounded, imported,
10 sold or used by the distributor or person are public records."

11 SECTION 5. Section 244D-6, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§244D-6 Return, form, contents.** Every taxpayer shall, on
14 or before the [~~last~~] twentieth day of each month, file with the
15 department of taxation in the taxation district in which the
16 taxpayer's business premises are located, or with the department
17 in Honolulu, a return showing all sales of liquor by gallonage
18 and dollar volume in each liquor category defined in section
19 244D-1 and taxed under section 244D-4(a) made by the taxpayer
20 during the preceding month, showing separately the amount of the
21 nontaxable sales, and the amount of the taxable sales, and the
22 tax payable thereon. The return shall also show the amount of

1 liquor by gallonage and dollar volume in each liquor category
2 defined in section 244D-1 and taxed under section 244D-4(a) used
3 during the preceding month which is subject to tax, and the tax
4 payable thereon. The form of return shall be prescribed by the
5 department and shall contain such information as it may deem
6 necessary for the proper administration of this chapter."

7 SECTION 6. Section 245-5, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§245-5 Returns.** Every wholesaler or dealer, on or before
10 the [~~last~~] twentieth day of each month, shall file with the
11 department a return showing the cigarettes and tobacco products
12 sold, possessed, or used by the wholesaler or dealer during the
13 preceding calendar month and of the taxes chargeable against the
14 taxpayer in accordance with this chapter. The form of the
15 return shall be prescribed by the department and shall include:

- 16 (1) A separate statement of the number and wholesale price
17 of cigarettes;
- 18 (2) The amount of stamps purchased and used;
- 19 (3) The wholesale price of tobacco products, sold,
20 possessed, or used; and

1 (4) Any other information that the department may deem
2 necessary, for the proper administration of this
3 chapter."

4 SECTION 7. Section 245-28, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "[+]§245-28[+] **Time for payment of deferred-payment**
7 **purchases; manner of payment.** Amounts owing for stamps
8 purchased on the deferred-payment basis in any calendar month
9 shall be due and payable on or before the [~~last~~] twentieth day
10 of the following calendar month. Payment shall be made by a
11 remittance payable to the department."

12 SECTION 8. Section 245-31, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "[+]§245-31[+] **Monthly report on distributions of**
15 **cigarettes and tobacco products, and purchases of stamps.** (a)
16 On or before the [~~last~~] twentieth day of each month, every
17 licensee shall file on forms prescribed by the department:

- 18 (1) A report of the licensee's distributions of cigarettes
19 and purchases of stamps during the preceding month;
20 and
21 (2) Any other information that the department may require
22 to carry out this part.

1 (b) On or before the [~~last~~] twentieth day of each month,
2 every licensee shall file on forms prescribed by the department:

3 (1) A report of the licensee's distributions of tobacco
4 products and the wholesale costs of tobacco products
5 during the preceding month; and

6 (2) Any other information that the department may require
7 to carry out this part."

8 SECTION 9. Section 251-4, Hawaii Revised Statutes, is
9 amended by amending subsections (a) and (b) to read as follows:

10 "(a) On or before the [~~last~~] twentieth day of each
11 calendar month, every person taxable under this chapter during
12 the preceding calendar month shall file a sworn return with the
13 director in such form as the director shall prescribe together
14 with a remittance for the amount of the surcharge tax in the
15 form required by section 251-5. Sections 237-30 and 237-32
16 shall apply to returns and penalties made under this chapter to
17 the same extent as if the sections were set forth specifically
18 in this section.

19 (b) Notwithstanding subsection (a), the director, for good
20 cause, may permit a person to file the person's return required
21 under this section and make payments thereon:

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- 1 (1) On a quarterly basis during the calendar or fiscal
2 year, the return and payment to be made on or before
3 the [~~last~~] twentieth day of the calendar month after
4 the close of each quarter, to wit: for calendar year
5 taxpayers, on or before April [~~30~~] 20, July [~~31~~] 20,
6 October [~~31~~] 20, and January [~~31~~] 20 or, for fiscal
7 year taxpayers, on or before the [~~last~~] twentieth day
8 of the fourth month, seventh month, and tenth month
9 following the beginning of the fiscal year and on or
10 before the [~~last~~] twentieth day of the month following
11 the close of the fiscal year; provided that the
12 director is satisfied that the grant of the permit
13 will not unduly jeopardize the collection of the
14 surcharge taxes due thereon and that the person's
15 total surcharge tax liability for the calendar or
16 fiscal year under this chapter will not exceed \$4,000;
17 or
- 18 (2) On a semiannual basis during the calendar or fiscal
19 year, the return and payment to be made by or before
20 the [~~last~~] twentieth day of the calendar month after
21 the close of each six-month period, to wit: for
22 calendar year taxpayers, on July [~~31~~] 20 and January

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1 [~~31~~] 20 or, for fiscal year taxpayers, on or before
2 the [~~last~~] twentieth day of the seventh month
3 following the beginning of the fiscal year and on or
4 before the [~~last~~] twentieth day of the month following
5 the close of the fiscal year; provided that the
6 director is satisfied that the grant of the permit
7 will not unduly jeopardize the collection of the
8 surcharge taxes due thereon and that the person's
9 total surcharge tax liability for the calendar or
10 fiscal year under this chapter will not exceed \$2,000.

11 The director, for good cause, may permit a person to make
12 monthly payments based on the person's estimated quarterly or
13 semiannual liability; provided that the person files a
14 reconciliation return at the end of each quarter or at the end
15 of each six-month period during the calendar or fiscal year, as
16 provided in this section."

17 SECTION 10. Section 431:7-201, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§431:7-201 Annual and [~~quarterly~~] monthly tax**
20 **statements.** (a) Each authorized insurer shall file with the
21 commissioner annually, on or before March 1 in each year, a
22 statement signed by a duly authorized person on its behalf,

1 setting forth the total business transacted, and the amount of
2 gross premiums reported by the insurer, pursuant to section
3 431:7-202, during the year ending on the preceding December 31,
4 from all risks or property resident, situated, or located within
5 this State, together with such other information as may be
6 required by the commissioner to determine the taxability of
7 premiums. The term "gross premiums" as used in this part shall
8 not include consideration paid for annuities.

9 (b) Each authorized insurer shall file with the
10 commissioner [~~quarterly,~~ monthly, on or before the [~~last~~
11 twentieth day of the calendar month following the [~~quarter,~~
12 month in which the taxes accrue, a statement signed by a duly
13 authorized person on its behalf, setting forth the total
14 business transacted and the amount of gross premiums reported by
15 the insurer, pursuant to section 431:7-202, during the [~~quarter~~
16 month from all risks or property resident, situated, or located
17 within this State, together with other information as may be
18 required by the commissioner to determine the taxability of
19 premiums.

20 (c) Any insurer failing or refusing to file the annual tax
21 statement on or before March 1, or the [~~quarterly~~ monthly
22 statement on or before the [~~last~~ twentieth day of the calendar

1 month following the [~~quarter,~~] month in which the taxes accrue,
2 shall be liable for a fine in an amount not less than \$100 and
3 not more than \$500 for each day of delinquency."

4 SECTION 11. Section 431:7-202, Hawaii Revised Statutes, is
5 amended by amending subsection (f) to read as follows:

6 "(f) The taxes imposed by subsections (a), (b), (c), and
7 (d) shall be paid [~~quarterly.~~] monthly. The [~~quarterly~~] monthly
8 tax shall be due and payable on or before the [~~last~~] twentieth
9 day of the calendar month following the [~~quarter~~] month in which
10 it accrues, coinciding with the filing of the statement provided
11 for in section 431:7-201.

12 In addition to the [~~quarterly~~] monthly tax and [~~quarterly~~]
13 monthly tax statement, the annual tax shall be due and payable
14 on or before March 1 coinciding with the filing of the statement
15 provided for in section 431:7-201.

16 All amounts paid under this subsection, other than fines,
17 shall be allowed as a credit on the annual tax imposed by
18 subsections (a), (b), (c), and (d).

19 If the total amount of installment payments for any
20 calendar year exceeds the amount of annual tax for that year,
21 the excess shall be treated as an overpayment of the annual tax
22 and be allowed as a refund under section 431:7-203.

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1 Any insurer failing or refusing to pay the required taxes
2 above stated when due and payable shall be liable for a fine of
3 \$500 or ten per cent of the tax due, whichever is greater; plus
4 interest at a rate of twelve per cent per annum on the
5 delinquent taxes. The taxes may be collected by distraint, or
6 the taxes, fine, and interest may be recovered by an action to
7 be instituted by the commissioner in the name of this State, in
8 any court of competent jurisdiction. The commissioner may
9 suspend the certificate of authority of the delinquent insurer
10 until the taxes, fine, and interest, should any be imposed, are
11 fully paid."

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

15 SECTION 13. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 14. This Act shall take effect on July 1, 2010.

18

19

20

INTRODUCED BY: _____

~~_____~~
BY REQUEST

Report Title:

Tax Administration; Tax Due Dates

Description:

Amends the due dates for miscellaneous tax types from the last day of the month to the twentieth day of the month to conform with the general excise tax payment deadline. Amends the due date for filing and payment of quarterly periodic insurance premiums taxes from quarterly to monthly.

JUSTIFICATION SHEET

DEPARTMENT: Taxation

TITLE: A BILL FOR AN ACT RELATING TO TAX ADMINISTRATION.

PURPOSE: To amend the due dates for the filing and payment of miscellaneous taxes to conform with the payment deadline for general excise tax.

MEANS: Amend sections 237D-6(a) and (b), 238-5(a) and (b), 243-10, 244D-6, 245-5, 245-28, 245-31, 251-4(a) and (b), 431:7-201, and 431:7-202, Hawaii Revised Statutes.

JUSTIFICATION: Act 196, Session Laws of Hawaii 2009, amended the due date for filing and payment of the general excise tax from the last day of the month to the twentieth day of the month. Other miscellaneous taxes with a similar due date were not amended. The purpose of this measure is to amend the remaining miscellaneous taxes with due dates on the last day of the month to require the filing and payment of taxes on the twentieth day of the month. The tax types affected by this measure include: Transient accommodations tax, use tax, fuel tax, liquor tax, tobacco tax, and rental motor vehicle surcharge tax.

This measure also amends the periodic filing and payment requirement for quarterly insurance premiums tax returns by changing the period from quarterly to monthly, and by changing the due date from the last day of the month to the twentieth.

Impact on the public: All taxpayers that currently file and pay on the last day of the month will be required to file and pay on the twentieth day of the month. Taxpayers liable for the insurance premiums tax will be required to file and pay monthly

rather than quarterly. Further, such taxpayers will be required to file and pay on the twentieth day of the month rather than the last day.

Impact on the department and other agencies:
The Department of Taxation is responsible for administering the amendments to the tax laws contained in this measure.

The Department of Commerce and Consumer Affairs, Insurance Division, will be responsible for administering the amended deadlines and due dates for the insurance premiums tax amendments contained in this measure.

GENERAL FUND: One-time revenue gain of \$21,300,000 for FY11.

OTHER FUNDS: One-time revenue gain of \$5,000,000 for FY11.

PPBS PROGRAM
DESIGNATION: TAX-100.

OTHER AFFECTED
AGENCIES: Department of Commerce and Consumer Affairs.

EFFECTIVE DATE: July 1, 2010.