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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 231-23, Hawaii Revised Statutes, is  
2 amended by amending subsection (d) to read as follows:

3 "(d) This subsection shall apply to a refund for an  
4 overpayment of a tax~~[-]~~:

5 (1) If the tax return as filed by a taxpayer shows the  
6 amount already paid~~[, whether or not on the basis of~~  
7 ~~installments,]~~ exceeds the amount determined to be the  
8 correct amount of the tax due, whether or not the tax  
9 was paid by installments, and the taxpayer requests a  
10 refund of the overpayment, the amount of the  
11 overpayment ~~[together with interest, if any,]~~ shall be  
12 refunded in the manner provided in subsection (c) ~~[-~~  
13 ~~The]~~ within ninety days of the due date of the tax  
14 return or the date the tax return is filed, whichever  
15 is later; provided that interest on the overpayment  
16 shall be ~~[allowed and paid at]~~ paid:

17 (A) To the taxpayer if the amount overpaid is not  
18 refunded within ninety days; and



1           (B) At the rate of one-third of one per cent of the  
2           refund amount for each month or fraction  
3           thereof ~~[, beginning with the first calendar day~~  
4           ~~after the due date of the return or, if the~~  
5           ~~return is filed after the prescribed due date,~~  
6           ~~the first month following the month the return is~~  
7           ~~received, and continuing until the date that the~~  
8           ~~director approves the refund voucher. If the~~  
9           ~~director approves the refund voucher within~~  
10           ~~ninety days from the due date or the date the~~  
11           ~~return is received, whichever is later, and the~~  
12           ~~comptroller of the State sends the taxpayer a~~  
13           ~~refund warrant within forty five days from the~~  
14           ~~date of the director's approval, no interest on~~  
15           ~~the overpayment shall be allowed or paid.~~  
16           ~~However, if either the director or the~~  
17           ~~comptroller exceeds the time allowed herein,~~  
18           ~~interest will be computed from the first calendar~~  
19           ~~day after the due date of the return or from the~~  
20           ~~first month following the month the return is~~  
21           ~~received by the director if the return is filed~~  
22           ~~after the prescribed due date, until the date~~



1           ~~that the comptroller sends the refund warrant to~~  
2           ~~the taxpayer.]~~ after the ninety-day period, until  
3           the refund and any applicable interest is paid to  
4           the taxpayer;

5           (2) If any overpayment of taxes results or arises from:

6           (A) ~~[the]~~ The taxpayer filing an amended return ~~[, or~~  
7           ~~from];~~ or

8           (B) ~~[a]~~ A determination made by the director; and  
9           the overpayment is not shown on the original return as  
10          filed by the taxpayer, ~~[interest on the overpayment~~  
11          ~~shall be allowed and paid from the first calendar day~~  
12          ~~after]~~ the amount overpaid shall be refunded to the  
13          taxpayer within ninety days from the due date of the  
14          original return or ~~[, if the original return is filed~~  
15          ~~after the prescribed due date, the first month~~  
16          ~~following the month the return is received, to the~~  
17          ~~date that the director signs the refund voucher. If~~  
18          ~~the comptroller does not send the refund warrant to~~  
19          ~~the taxpayer within forty-five days after the~~  
20          ~~director's approval, interest will continue until the~~  
21          ~~date that the comptroller sends the refund warrant to~~  
22          ~~the taxpayer.]~~ the date the overpayment is discovered



1 under subparagraphs (A) or (B), whichever occurred  
2 later; provided that interest shall be paid to the  
3 taxpayer if the amount overpaid is not refunded within  
4 ninety days and at the rate of one-third of one per  
5 cent of the refund amount for each month or fraction  
6 thereof after the ninety-day period, until the refund  
7 and any applicable interest is paid to the taxpayer;

8 (3) For purposes of a net income tax return, if any  
9 overpayment of any taxes results from a carryback of a  
10 net operating loss, the overpayment shall be deemed to  
11 have been made at the close of the taxable year in  
12 which the net operating loss arises. To the extent  
13 that the carryback of net operating loss results in  
14 reducing the amount of underpayment of taxes for prior  
15 taxable year or years, interest that would be  
16 chargeable because of the underpayment shall not be  
17 applicable with respect to that amount or amounts that  
18 are carried back [-]; and

19 (4) In the case of credit, interest shall be ~~[allowed and~~  
20 ~~paid from the first calendar day after the due date of~~  
21 ~~the return, the first month following the month the~~  
22 ~~return is received by the director, or the date of~~



1 ~~payment, whichever is later, to the date the credit is~~  
2 ~~taken; provided that the director may make a refund of~~  
3 ~~any credit to a taxpayer where the taxpayer has no~~  
4 ~~underpayment against which to apply the credit.] paid~~  
5 ~~in the same manner as paragraph (1).~~"

6 SECTION 2. All general revenues collected after an  
7 increase of any general excise or use tax rate shall be used  
8 first to pay tax refunds delayed from fiscal year 2009-2010 to  
9 fiscal year 2010-2011.

10 As used in this section, "general revenues collected after  
11 an increase of any general excise or use tax rate" means the  
12 difference between the following:

- 13 (1) The revenues actually collected from the entire  
14 general excise or use tax after the increase of the  
15 rate; and  
16 (2) The revenues that would have been collected from the  
17 entire general excise or use tax at the rate before  
18 the increase.

19 This section shall apply only until all tax refunds delayed  
20 from fiscal year 2009-2010 to fiscal year 2010-2011 have been  
21 paid.



1 SECTION 3. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act shall take effect July 1, 2010, and  
4 shall apply to taxable years beginning after December 31, 2009.



**Report Title:**

Income Tax; Refund

**Description:**

Requires the Department of Taxation to provide refunds to taxpayers within 90 days of the later of (1) the due date of the tax return; or (2) the date the tax return is filed. Requires that all general revenues collected from an increase of any general excise or use tax rate be used first to pay tax refunds delayed from fiscal year 2009-2010 to fiscal year 2010-2011. Effective July 1, 2010. (HB1948 CD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

