
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 applicable thereto, the tax
15 may be collected by levy or by a proceeding in court; provided
16 that the levy is made or the proceeding was begun within ten
17 years after the assessment of the tax. For any tax that has

1 been assessed prior to July 1, 2009, the levy or proceeding
2 shall be barred after June 30, 2019.

3 Notwithstanding any other provision to the contrary in this
4 section, the limitation on collection after assessment in this
5 section shall be suspended for the period the assets of the
6 taxpayer are in control or custody of a court in any proceeding
7 before any court of the United States or any state, and for six
8 months thereafter. In addition, the running of the period of
9 limitations after assessment shall be suspended for the period
10 during which the taxpayer is outside the State if the period of
11 absence is for a continuous period of at least six months;
12 provided that if at the time of the taxpayer's return to the
13 State the period of limitations on collection after assessment
14 would expire before the expiration of six months from the date
15 of the taxpayer's return, the period shall not expire before the
16 expiration of the six months."

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

19 "(a) General rule. The amount of excise taxes imposed by
20 this chapter shall be assessed or levied within three years
21 after the annual return was filed, or within three years of the
22 due date prescribed for the filing of [~~said~~] the return,

1 whichever is later, and no proceeding in court without
2 assessment for the collection of any [~~such~~] of the taxes shall
3 be begun after the expiration of the period. Where the
4 assessment of the tax imposed by this chapter has been made
5 within the period of limitation applicable thereto, the tax may
6 be collected by levy or by a proceeding in court; provided that
7 the levy is made or the proceeding was begun within ten years
8 after the assessment of the tax. For any tax that has been
9 assessed prior to July 1, 2009, the levy or proceeding shall be
10 barred after June 30, 2019.

11 Notwithstanding any other provision to the contrary in this
12 section, the limitation on collection after assessment in this
13 section shall be suspended for the period the assets of the
14 taxpayer are in control or custody of a court in any proceeding
15 before any court of the United States or any state, and for six
16 months thereafter. In addition, the running of the period of
17 limitations after assessment shall be suspended for the period
18 during which the taxpayer is outside the State if the period of
19 absence is for a continuous period of at least six months;
20 provided that if at the time of the taxpayer's return to the
21 State the period of limitations on collection after assessment
22 would expire before the expiration of six months from the date

1 of the taxpayer's return, the period shall not expire before the
2 expiration of the six months.

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

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

13 "(c) Except as otherwise provided by this section, the
14 amount of taxes imposed by this chapter shall be assessed or
15 levied within three years after the annual return was filed, or
16 within three years of the due date prescribed for the filing of
17 the return, whichever is later, and no proceeding in court
18 without assessment for the collection of any ~~such~~ of the taxes
19 shall be begun after the expiration of the period. Where the
20 assessment of the tax imposed by this chapter has been made
21 within the period of limitation applicable thereto, the tax may
22 be collected by levy or by a proceeding in court; provided that

1 the levy is made or the proceeding was begun within ten years
2 after the assessment of the tax. For any tax that has been
3 assessed prior to July 1, 2009, the levy or proceeding shall be
4 barred after June 30, 2019.

5 Notwithstanding any other provision to the contrary in this
6 section, the limitation on collection after assessment in this
7 section shall be suspended for the period the assets of the
8 taxpayer are in control or custody of a court in any proceeding
9 before any court of the United States or any state, and for six
10 months thereafter. In addition, the running of the period of
11 limitations after assessment shall be suspended for the period
12 during which the taxpayer is outside the State if the period of
13 absence is for a continuous period of at least six months;
14 provided that if at the time of the taxpayer's return to the
15 State the period of limitations on collection after assessment
16 would expire before the expiration of six months from the date
17 of the taxpayer's return, the period shall not expire before the
18 expiration of the six months.

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

1 to evade tax, the determination as to the claim shall first be
2 made by a judge of the circuit court as provided in section
3 235-111(c), which shall apply to the tax imposed by this
4 chapter."

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

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

19 (b) Where the assessment of the tax imposed by this
20 chapter has been made within the period of limitation applicable
21 thereto, the tax may be collected by levy or by a proceeding in
22 court; provided that the levy is made or the proceeding was

1 begun within ten years after the assessment of the tax. For any
2 tax that has been assessed prior to July 1, 2009, the levy or
3 proceeding shall be barred after June 30, 2019.

4 Notwithstanding any other provision to the contrary in this
5 section, the limitation on collection after assessment in this
6 section shall be suspended for the period the assets of the
7 taxpayer are in control or custody of a court in any proceeding
8 before any court of the United States or any state, and for six
9 months thereafter. In addition, the running of the period of
10 limitations after assessment shall be suspended for the period
11 during which the taxpayer is outside the State if the period of
12 absence is for a continuous period of at least six months;
13 provided that if at the time of the taxpayer's return to the
14 State the period of limitations on collection after assessment
15 would expire before the expiration of six months from the date
16 of the taxpayer's return, the period shall not expire before the
17 expiration of the six months."

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

20 "(b) The amount of license taxes imposed by this chapter
21 shall be assessed or levied, or the overpayment, if any, shall
22 be credited within three years after filing of the monthly

1 statement, or within three years of the due date prescribed for
2 the filing of the statement, whichever is later. No proceeding
3 in court without assessment for the collection of the taxes or
4 the enforcement of the liability shall begin after the
5 expiration of the three period. Where the assessment of the tax
6 imposed by this chapter has been made within the period of
7 limitation applicable thereto, the tax may be collected by levy
8 or by a proceeding in court; provided that the levy is made or
9 the proceeding was begun within ten years after the assessment
10 of the tax. For any tax that has been assessed prior to July 1,
11 2009, the levy or proceeding shall be barred after June 30,
12 2019.

13 Notwithstanding any other provision to the contrary in this
14 section, the limitation on collection after assessment in this
15 section shall be suspended for the period the assets of the
16 taxpayer are in control or custody of a court in any proceeding
17 before any court of the United States or any state, and for six
18 months thereafter. In addition, the running of the period of
19 limitations after assessment shall be suspended for the period
20 during which the taxpayer is outside the State if the period of
21 absence is for a continuous period of at least six months;
22 provided that if at the time of the taxpayer's return to the

1 State the period of limitations on collection after assessment
2 would expire before the expiration of six months from the date
3 of the taxpayer's return, the period shall not expire before the
4 expiration of the six months. As to all tax payments for which
5 a refund or credit is not authorized by this section (including,
6 without prejudice to the generality of the foregoing, cases of
7 unconstitutionality), the remedies provided by appeal or by
8 section 40-35 are exclusive."

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

11 "[+]§247-6.5[+] **Limitation period for assessment, levy,**
12 **collection, or credit.** The amount of conveyance taxes imposed
13 by this chapter shall be assessed or levied, and the
14 overpayment, if any, shall be credited within three years after
15 filing of the certificate prescribed by section 247-6. No
16 proceeding in court without assessment for the collection of the
17 taxes shall be begun after the expiration of the three year
18 period. Where the assessment of the tax imposed by this chapter
19 has been made within the period of limitation applicable
20 thereto, the tax may be collected by levy or by a proceeding in
21 court; provided that the levy is made or the proceeding was
22 begun within ten years after the assessment of the tax. For any

1 tax that has been assessed prior to July 1, 2009, the levy or
2 proceeding shall be barred after June 30, 2019.

3 Notwithstanding any other provision to the contrary in this
4 section, the limitation on collection after assessment in this
5 section shall be suspended for the period the assets of the
6 taxpayer are in control or custody of a court in any proceeding
7 before any court of the United States or any state, and for six
8 months thereafter. In addition, the running of the period of
9 limitations after assessment shall be suspended for the period
10 during which the taxpayer is outside the State if the period of
11 absence is for a continuous period of at least six months;
12 provided that if at the time of the taxpayer's return to the
13 State the period of limitations on collection after assessment
14 would expire before the expiration of six months from the date
15 of the taxpayer's return, the period shall not expire before the
16 expiration of the six months.

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

20 SECTION 7. Section 251-8, Hawaii Revised Statutes, is
21 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 applicable thereto, the tax
10 may be collected by levy or by a proceeding in court; provided
11 that the levy is made or the proceeding was begun within ten
12 years after the assessment of the tax. For any tax that has
13 been assessed prior to July 1, 2009, the levy or proceeding
14 shall be barred after June 30, 2019.

15 Notwithstanding any other provision to the contrary in this
16 section, the limitation on collection after assessment in this
17 section shall be suspended for the period the assets of the
18 taxpayer are in control or custody of a court in any proceeding
19 before any court of the United States or any state, and for six
20 months thereafter. In addition, the running of the period of
21 limitations after assessment shall be suspended for the period
22 during which the taxpayer is outside the State if the period of

1 absence is for a continuous period of at least six months;
2 provided that if at the time of the taxpayer's return to the
3 State the period of limitations on collection after assessment
4 would expire before the expiration of six months from the date
5 of the taxpayer's return, the period shall not expire before the
6 expiration of the six months."

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

9 "(c) Except as otherwise provided by this section, the
10 amount of taxes imposed by this chapter shall be assessed or
11 levied within three years after the annual return was filed, or
12 within three years of the due date prescribed for the filing of
13 the return, whichever is later. No proceeding in court without
14 assessment for the collection of any such taxes shall be begun
15 after the expiration of the period. Where the assessment of the
16 tax imposed by this chapter has been made within the period of
17 limitation applicable thereto, the tax may be collected by levy
18 or by a proceeding in court; provided that the levy is made or
19 the proceeding was begun within ten years after the assessment
20 of the tax. For any tax that has been assessed prior to July 1,
21 2009, the levy or proceeding shall be barred after June 30,
22 2019.

1 Notwithstanding any other provision to the contrary in this
2 section, the limitation on collection after assessment in this
3 section shall be suspended for the period the assets of the
4 taxpayer are in control or custody of a court in any proceeding
5 before any court of the United States or any state, and for six
6 months thereafter. In addition, the running of the period of
7 limitations after assessment shall be suspended for the period
8 during which the taxpayer is outside the State if the period of
9 absence is for a continuous period of at least six months;
10 provided that if at the time of the taxpayer's return to the
11 State the period of limitations on collection after assessment
12 would expire before the expiration of six months from the date
13 of the taxpayer's return, the period shall not expire before the
14 expiration of the six months.

15 (d) In the case of a false or fraudulent return with
16 intent to evade tax, or a failure to file the annual return, the
17 tax may be assessed or levied at any time."

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

20 "(a) The amount of insurance taxes imposed by this chapter
21 shall be assessed or levied within three years after the annual
22 return was filed, or within three years of the due date

1 prescribed for the filing of the return, whichever is later, and
2 no proceeding in court without assessment for the collection of
3 any [~~such~~] taxes shall be begun after the expiration of the
4 period. Where the assessment of the tax imposed by this chapter
5 has been made within the period of limitation applicable
6 thereto, the tax may be collected by levy or by a proceeding in
7 court; provided that the levy is made or the proceeding was
8 begun within ten years after the assessment of the tax. For any
9 tax that has been assessed prior to July 1, 2009, the levy or
10 proceeding shall be barred after June 30, 2019.

11 Notwithstanding any other provision to the contrary in this
12 section, the limitation on collection after assessment in this
13 section shall be suspended for the period the assets of the
14 taxpayer are in control or custody of a court in any proceeding
15 before any court of the United States or any state, and for six
16 months thereafter. In addition, the running of the period of
17 limitations after assessment shall be suspended for the period
18 during which the taxpayer is outside the State if the period of
19 absence is for a continuous period of at least six months;
20 provided that if at the time of the taxpayer's return to the
21 State the period of limitations on collection after assessment
22 would expire before the expiration of six months from the date

1 of the taxpayer's return, the period shall not expire before the
2 expiration of the six months."

3 SECTION 10. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

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

8 SECTION 12. This Act shall take effect on July 1, 2050;
9 provided that sections 2, 3, and 8, relating to provisions
10 therein for statutes of limitations on assessments of tax for
11 periodic tax returns shall be effective for tax returns filed
12 after June 30, 2009.

Report Title:

Taxation; Statutes of Limitations

Description:

Establishes a statute of limitations on tax collections.
Clarifies that the 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. Eff 7/1/2050.
(SD1)