

TAXBILLSERVICE **LATE**

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SUBJECT: INCOME, GENERAL EXCISE, TRANSIENT ACCOMMODATION, FUEL, CONVEYANCE, RENTAL MOTOR VEHICLE AND TOUR VEHICLE SURCHARGE, INSURANCE PREMIUMS, MISC., Statute of limitations

BILL NUMBER: SB 118; HB 55 (Identical)

INTRODUCED BY: SB by Taniguchi; HB by Choy

BRIEF SUMMARY: Amends HRS chapters 235-111, 237-40, 237D-9, 243-14, 247-6.5, 251-8, 346E-6, and 431:7-204.6 to provide that the statute of limitations for the collection of any assessment of tax shall be within ten years after the assessment. Stipulates that any tax assessed prior to July 1, 2009 the levy or proceeding shall be barred after June 30, 2019.

The three-year statute of limitations on tax assessments for general excise and transient accommodation taxes begins running from the filing of each periodic return.

The provisions relating to the statute of limitations for periodic tax returns shall be effective for tax returns filed after June 30, 2009.

EFFECTIVE DATE: July 1, 2009

STAFF COMMENTS: The proposed measure would extend the limitation period for the collection of taxes to ten years from the date of any assessment of tax.

Generally, the statute of limitations for the assessment, levy, collection or credit or refund under the income tax law is three years from the due date prescribed for the filing of a return. For cases involving a fraudulent, false return or no return with the intent of evading tax or liability, there is no statute of limitations.

It should be noted that the legislature by Act 274, SLH 1969, reduced the statute of limitations for the assessment, levy, collection, or credit or refund of taxes from five to three years to conform to the federal Internal Revenue Code (IRC). Since that time, Congress imposed a limit on how long the IRS can take to collect on the assessment made against a taxpayer. It reasoned that if the Service did not make an effort in an expeditious manner, the taxpayer should not be held liable for the assessment beyond a reasonable period of time. In this case, the statute to collect on an assessment made by the Service and in this case the tax department should be limited to ten years, giving the taxpayer some sense of closure. It will also encourage the department to follow up on collection of an assessment and not let it run indefinitely. Thus, this measure proposes to conform to the federal statute of limitation provisions.

Digested 2/10/09