
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 **PART I**

2 SECTION 1. The legislature finds that allowing all tax
3 documents to be filed electronically will provide benefits to
4 both the taxpayer and the State. Electronic filing of all
5 documents will allow taxpayers - particularly businesses - to
6 accomplish the filing in a timely and cost-efficient manner.
7 For the State, electronic filing will decrease administrative
8 costs and make more efficient use of human and fiscal department
9 resources for more important issues, such as delinquent tax
10 collections and enforcement.

11 The legislature further finds that amendments made by Act
12 196, Session Laws of Hawaii 2009, to advance payment of the
13 general excise tax from the last day of the month to the
14 twentieth day of the month have had a devastating impact on
15 Hawaii businesses, particularly small businesses. While Act 196
16 achieved one of its purposes - to generate a one-time windfall
17 of revenue to the State - the long-term effect has been to



1 hinder Hawaii's economic recovery by placing an undue burden on
2 the business sector.

3 In addition, in 2010, the senate committee on economic
4 development and technology and the house committee on economic
5 revitalization, business, and military affairs convened an
6 informal small business discussion group to address the most
7 critical issues facing the small business sectors within
8 Hawaii's economy. Representatives from the Chamber of Commerce
9 of Hawaii, construction and trades industries, community
10 nonprofits, the agricultural sector, food and restaurant
11 industries, retailing, the science and technology sector, the
12 commercial transportation industry, and interested stakeholders
13 developed a package of bills that address the most pressing
14 problems facing Hawaii's small business community.

15 The purpose of this Act is to support the findings of the
16 small business discussion group and its recommendations to:

- 17 (1) Assist the department of taxation in establishing a
18 system to allow taxpayers to file all tax returns,
19 applications, reports, and other documents
20 electronically, telephonically, or by optical means;
- 21 (2) Provide for electronic payment of general excise taxes
22 for businesses; and



1 (3) Reestablish the last day of the month as the deadline
2 for filing and payment of general excise taxes and the
3 quarterly filing and payment of periodic insurance
4 premium taxes.

5 PART II

6 SECTION 2. The purpose of this part is to provide revenue-
7 generating initiatives that will be benefits-funded, meaning the
8 vendor will be paid when measurable increases in revenues
9 resulting from the initiatives are collected by the State. The
10 revenues will be used by the department of taxation to enhance
11 its computer system, called the integrated tax services and
12 management system, and to streamline related operational
13 procedures.

14 SECTION 3. Chapter 231, Hawaii Revised Statutes, is
15 amended by adding a new section to be appropriately designated
16 and to read as follows:

17 "§231- Integrated tax services and management special
18 fund. (a) There is established in the state treasury the
19 integrated tax services and management special fund to improve
20 customer services and taxpayer fairness, and increase cost
21 savings, with an emphasis on electronic filings.



1 (b) Notwithstanding any other law to the contrary, the
2 source of funding of any appropriations to the integrated tax
3 services and management special fund for the purposes of funding
4 initiatives under subsection (c) shall come from the tax
5 revenues collected pursuant to chapters 235, 237, and 238.

6 (c) Moneys in the special fund may be expended upon
7 legislative appropriation by the department to pay for:

8 (1) The integrated tax services and management system's
9 performance-based contracts and administrative and
10 operating expenses related to the integrated tax
11 services and management system's post-implementation
12 revenue-generating initiatives;

13 (2) The improvement of tax collection capabilities and
14 achievement of the operational efficiencies that are
15 the department's responsibilities under this section;

16 (3) The department's implementation, administration, and
17 compliance of the Streamlined Sales and Use Tax
18 Agreement when state legislation mandating
19 implementation, administration, and compliance is
20 enacted, including but not limited to computer
21 software and hardware costs, technical assistance of
22 contractors for any necessary fiscal or legal matters



1 resulting from the adoption and implementation of the
2 Streamlined Sales and Use Tax Agreement, and for the
3 support of any committees established in conjunction
4 with the Agreement; and

5 (4) The improvement of the department's operation and
6 staffing requirements."

7 SECTION 4. Section 36-27, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

9 "(a) Except as provided in this section, and
10 notwithstanding any other law to the contrary, from time to
11 time, the director of finance, for the purpose of defraying the
12 prorated estimate of central service expenses of government in
13 relation to all special funds, except the:

14 (1) Special out-of-school time instructional program fund
15 under section 302A-1310;

16 (2) School cafeteria special funds of the department of
17 education;

18 (3) Special funds of the University of Hawaii;

19 (4) State educational facilities improvement special fund;

20 (5) Convention center enterprise special fund under
21 section 201B-8;

22 (6) Special funds established by section 206E-6;



- 1 (7) Housing loan program revenue bond special fund;
- 2 (8) Housing project bond special fund;
- 3 (9) Aloha Tower fund created by section 206J-17;
- 4 (10) Funds of the employees' retirement system created by
- 5 section 88-109;
- 6 (11) Unemployment compensation fund established under
- 7 section 383-121;
- 8 (12) Hawaii hurricane relief fund established under chapter
- 9 431P;
- 10 (13) Hawaii health systems corporation special funds and
- 11 the subaccounts of its regional system boards;
- 12 (14) Tourism special fund established under section
- 13 201B-11;
- 14 (15) Universal service fund established under section
- 15 269-42;
- 16 (16) Emergency and budget reserve fund under section
- 17 328L-3;
- 18 (17) Public schools special fees and charges fund under
- 19 section 302A-1130;
- 20 (18) Sport fish special fund under section 187A-9.5;
- 21 (19) Glass advance disposal fee established by section
- 22 342G-82;



- 1 (20) Center for nursing special fund under section
2 304A-2163;
- 3 (21) Passenger facility charge special fund established by
4 section 261-5.5;
- 5 (22) Court interpreting services revolving fund under
6 section 607-1.5;
- 7 (23) Hawaii cancer research special fund;
- 8 (24) Community health centers special fund;
- 9 (25) Emergency medical services special fund;
- 10 (26) Rental motor vehicle customer facility charge special
11 fund established under section 261-5.6; [and]
- 12 (27) Shared services technology special fund under section
13 27-43[7]; and
- 14 (28) Integrated tax services and management special fund
15 under section 231- ;

16 shall deduct five per cent of all receipts of all special funds,
17 which deduction shall be transferred to the general fund of the
18 State and become general realizations of the State. All
19 officers of the State and other persons having power to allocate
20 or disburse any special funds shall cooperate with the director
21 in effecting these transfers. To determine the proper revenue
22 base upon which the central service assessment is to be



1 calculated, the director shall adopt rules pursuant to chapter
2 91 for the purpose of suspending or limiting the application of
3 the central service assessment of any fund. No later than
4 twenty days prior to the convening of each regular session of
5 the legislature, the director shall report all central service
6 assessments made during the preceding fiscal year."

7 SECTION 5. Section 36-30, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

9 "(a) Each special fund, except the:

- 10 (1) Transportation use special fund established by section
11 261D-1;
- 12 (2) Special out-of-school time instructional program fund
13 under section 302A-1310;
- 14 (3) School cafeteria special funds of the department of
15 education;
- 16 (4) Special funds of the University of Hawaii;
- 17 (5) State educational facilities improvement special fund;
- 18 (6) Special funds established by section 206E-6;
- 19 (7) Aloha Tower fund created by section 206J-17;
- 20 (8) Funds of the employees' retirement system created by
21 section 88-109;



- 1 (9) Unemployment compensation fund established under
- 2 section 383-121;
- 3 (10) Hawaii hurricane relief fund established under section
- 4 431P-2;
- 5 (11) Convention center enterprise special fund established
- 6 under section 201B-8;
- 7 (12) Hawaii health systems corporation special funds and
- 8 the subaccounts of its regional system boards;
- 9 (13) Tourism special fund established under section
- 10 201B-11;
- 11 (14) Universal service fund established under section
- 12 269-42;
- 13 (15) Emergency and budget reserve fund under section
- 14 328L-3;
- 15 (16) Public schools special fees and charges fund under
- 16 section 302A-1130;
- 17 (17) Sport fish special fund under section 187A-9.5;
- 18 (18) Center for nursing special fund under section
- 19 304A-2163;
- 20 (19) Passenger facility charge special fund established by
- 21 section 261-5.5;



- 1 (20) Court interpreting services revolving fund under
- 2 section 607-1.5;
- 3 (21) Hawaii cancer research special fund;
- 4 (22) Community health centers special fund;
- 5 (23) Emergency medical services special fund;
- 6 (24) Rental motor vehicle customer facility charge special
- 7 fund established under section 261-5.6; [and]
- 8 (25) Shared services technology special fund under section
- 9 27-43[7]; and
- 10 (26) Integrated tax services and management special fund
- 11 under section 231- ;

12 shall be responsible for its pro rata share of the
 13 administrative expenses incurred by the department responsible
 14 for the operations supported by the special fund concerned."

15 SECTION 6. Section 235-119, Hawaii Revised Statutes, is
 16 amended to read as follows:

17 "**§235-119 Taxes, state realizations.** [All] (a) Except as
 18 provided in subsection (b), all income taxes shall be for the
 19 use of the State and shall be paid into the state treasury at
 20 [~~such~~] times as the director of finance shall direct.

21 (b) The director of taxation shall pay the income taxes
 22 collected under this chapter into the state treasury as a state



1 realization; provided that a sum, not to exceed the amount
2 necessary to meet the obligations of the integrated tax services
3 and management system's performance-based contracts and other
4 purposes of the integrated tax services and management special
5 fund, may be retained and deposited into the state treasury to
6 the credit of the integrated tax services and management special
7 fund. The sum retained by the director of taxation for deposit
8 into the integrated tax services and management special fund
9 shall be limited to amounts appropriated by the legislature."

10 SECTION 7. Section 237-31, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§237-31 Remittances.** All remittances of taxes imposed by
13 this chapter shall be made by money, bank draft, check,
14 cashier's check, money order, or certificate of deposit to the
15 office of the department of taxation to which the return was
16 transmitted. The department shall issue its receipts therefor
17 to the taxpayer and shall pay the moneys into the state treasury
18 as a state realization, to be kept and accounted for as provided
19 by law; provided that:

20 (1) The sum from all general excise tax revenues realized
21 by the State that represents the difference between
22 \$45,000,000 and the proceeds from the sale of any



1 general obligation bonds authorized for that fiscal
2 year for the purposes of the state educational
3 facilities improvement special fund shall be deposited
4 in the state treasury in each fiscal year to the
5 credit of the state educational facilities improvement
6 special fund; [~~and~~]

7 (2) A sum, not to exceed \$5,000,000, from all general
8 excise tax revenues realized by the State shall be
9 deposited in the state treasury in each fiscal year to
10 the credit of the compound interest bond reserve
11 fund[~~-~~]; and

12 (3) A sum, not to exceed the amount necessary to meet the
13 obligations of integrated tax services and management
14 system's performance-based contracts and other
15 purposes of the integrated tax services and management
16 special fund, may be retained and deposited into the
17 state treasury to the credit of the integrated tax
18 services and management special fund. The sum
19 retained by the director of taxation for deposit into
20 the integrated tax services and management special
21 fund shall be limited to amounts appropriated by the
22 legislature."



1 SECTION 8. Section 238-14, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§238-14 Taxes state realizations.** ~~[All]~~ (a) Except as
4 provided in subsection (b), all taxes collected under this
5 chapter shall be state realizations.

6 (b) The director of taxation shall pay the use taxes
7 collected under this chapter into the state treasury as a state
8 realization; provided that a sum, not to exceed the amount
9 necessary to meet the obligations of the integrated tax services
10 and management system's performance-based contracts and other
11 purposes of the integrated tax services and management special
12 fund, may be retained and deposited into the state treasury to
13 the credit of the integrated tax services and management special
14 fund. The sum retained by the director of taxation for deposit
15 into the integrated tax services and management special fund
16 shall be limited to amounts appropriated by the legislature."

17 SECTION 9. The department of taxation shall execute the
18 performance-based contracts and work assignments authorized
19 under this part in a timely manner; provided that the
20 department's planning for the integrated tax services and
21 management system's enhancements and services authorized by this
22 part shall commence when this Act is enacted.



PART III

1
2 SECTION 10. (a) Notwithstanding any other law to the
3 contrary, including any law requiring oversight of an executive
4 department's decisions relating to online portals or
5 internet-based access, the department of taxation shall utilize
6 performance-based contracts to enhance, acquire, or enhance and
7 acquire automated tax systems, including computer hardware and
8 software, for the implementation and administration of the taxes
9 under title 14, Hawaii Revised Statutes, including the
10 Streamlined Sales Tax Project under Act 3, Special Session Laws
11 of Hawaii 2005, and related software upgrade.

12 (b) For the purposes of this part:

13 "Performance-based contract" means a contract under which
14 compensation to the vendor shall be computed according to
15 performance standards established by the department of taxation.
16 Any performance-based contract entered into by the department of
17 taxation for the purposes established under subsection (a) shall
18 provide for the payment of fees:

19 (1) Based on a contractually specified amount of the
20 increase in the amount of taxes, interest, and
21 penalties collected and attributable to the
22 implementation of the integrated tax services and



1 management system post-implementation revenue-
2 generating initiatives; or

3 (2) On a fixed-fee contract basis to be paid from the
4 increase in the amount of taxes, interest, and
5 penalties collected and attributable to the
6 implementation of the integrated tax services and
7 management system post-implementation revenue-
8 generating initiatives.

9 (c) The State shall receive a permanent license to use the
10 enhanced or automated tax systems upon full payment to the
11 vendor.

12 (d) Notwithstanding any other law to the contrary, the
13 department of taxation shall award the performance-based
14 contract pursuant to the requirements of chapter 103D, Hawaii
15 Revised Statutes.

16 SECTION 11. The director of taxation shall report to the
17 legislature, no later than twenty days prior to the convening of
18 every regular session, beginning with the 2012 regular session,
19 with respect to the status of performance-based contracts
20 pursuant to this Act and shall provide an accounting of all
21 moneys appropriated. The report shall include:



- 1 (1) Detailed information on the costs, benefits, and
2 features of implementing the integrated tax services
3 and management system post-implementation
4 revenue-generating initiatives;
- 5 (2) The amount of increased tax, interest, and penalties
6 collected that is attributable to the integrated tax
7 services and management system post-implementation
8 revenue-generating initiatives;
- 9 (3) The amount paid to the vendor or vendors contracted
10 under this Act; and
- 11 (4) Any additional staffing, staffing shifts, or savings
12 in staffing or resource requirements generated through
13 implementation of the integrated tax services and
14 management system post-implementation revenue-
15 generating initiatives.

16 The report shall also include any other information from
17 the preceding fiscal year that may assist the legislature in
18 determining the efficacy of performance-based contracts executed
19 under this Act, beginning with the fiscal year immediately
20 preceding the fiscal year commencing on the effective date of
21 this Act and continuing until two complete fiscal years have
22 elapsed following the full implementation of the integrated tax



1 services and management system post-implementation revenue-
2 generating initiatives.

3 SECTION 12. There is appropriated out of the general
4 revenues of the State of Hawaii the sum of \$ or so
5 much thereof as may be necessary for fiscal year 2011-2012 to be
6 deposited into the integrated tax services and management
7 special fund established pursuant to section 231- , Hawaii
8 Revised Statutes, contained in section 3 of this Act.

9 SECTION 13. There is appropriated out of the integrated
10 tax services and management special fund the sum of \$
11 or so much thereof as may be necessary for fiscal year 2011-2012
12 for the purposes of the integrated tax services and management
13 special fund established pursuant to section 231- , Hawaii
14 Revised Statutes, contained in section 3 of this Act, to assist
15 the department of taxation in upgrading its operations,
16 workforce, skills of its employees, or other purposes authorized
17 under section 231- , Hawaii Revised Statutes, contained in
18 section 3 of this Act.

19 The sum appropriated shall be expended by the department of
20 taxation for the purposes of this Act.

21 SECTION 14. The department of taxation shall repay the
22 general fund for the appropriation made under section 12 to the



1 integrated tax services and management special fund established
2 pursuant to section 231- , Hawaii Revised Statutes, no later
3 than June 30, 2012.

4 **PART IV**

5 SECTION 15. The increased use of computers for personal
6 purposes and in daily business operations has led to an increase
7 in electronic and computer-based interactions with government.
8 The department of taxation interacts with nearly every person in
9 Hawaii on a regular basis. The department of taxation also
10 regularly interacts with nonresident taxpayers and mainland-
11 based businesses that routinely file tax information.

12 In response to the increase in interactions with
13 out-of-state taxpayers and the increase in electronic tax
14 filings, the legislature, in 1997, made electronic filing an
15 acceptable means of carrying out a taxpayer's obligations under
16 the law. Since this law was enacted, the ability to interact
17 electronically has grown considerably, especially for
18 businesses, nearly all of which have a computer and access to
19 the Internet.

20 Within the next decade, a majority, if not all, of tax
21 filings are predicted to be filed electronically. This will
22 result in greater efficiencies for both the taxpayer and the



1 State. In addition, the legislature, which is charged with the
2 responsibility of overseeing the effectiveness of tax incentives
3 and the efficacy of the tax system as a whole, will have access
4 to more specific data on Hawaii taxes if the tax data is
5 captured electronically.

6 The purpose of this part is to require the department of
7 taxation to establish a system to allow taxpayers to file all
8 tax returns, applications, reports, and other documents
9 electronically, telephonically, or by optical means; provided
10 that the initial implementation of the system shall be for all
11 tax returns, applications, reports, and other documents required
12 under chapter 237, Hawaii Revised Statutes; provided further
13 that there shall be no additional cost to the taxpayer for the
14 electronic filing.

15 SECTION 16. Section 231-8.5, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "[+]§231-8.5[+] **Electronic filing of tax returns.** (a)

18 The department [~~may allow filing by electronic, telephonic, or~~
19 ~~optical means of any tax return, application, report, or other~~
20 ~~document]~~ shall establish a system to allow taxpayers to file
21 all tax returns, applications, reports, and other documents
22 required under [~~the provisions of]~~ title 14 [~~administered by the~~



1 ~~department.]~~ electronically, telephonically, or by optical
2 means; provided that no cost shall be incurred by the taxpayer
3 for the electronic filing of tax returns. The date of filing
4 shall be the date the tax return, application, report, or other
5 document is transmitted to the department in a form and manner
6 prescribed by departmental rules adopted pursuant to chapter 91.
7 The department may determine alternative methods for the
8 signing, subscribing, or verifying of a tax return, application,
9 report, or other document that shall have the same validity and
10 consequences as the actual signing by the taxpayer.

11 (b) A filing under this section shall be treated in the
12 same manner as a filing subject to the penalties under section
13 231-39."

14 SECTION 17. Section 231-9.9, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§231-9.9 Filing and payment of taxes by electronic funds**
17 **transfer.** (a) The director of taxation is authorized to
18 require every person whose tax liability for any one taxable
19 year exceeds [~~\$100,000~~] \$ _____ and who files a tax return
20 for any tax, including consolidated filers, to remit taxes by
21 one of the means of electronic funds transfer approved by the
22 department[+] or through the State's internet portal; provided



1 that for withholding taxes under section 235-62, electronic
2 funds transfers shall apply to annual tax liabilities that
3 exceed \$40,000. Notwithstanding the tax liability thresholds in
4 this subsection, the director of taxation is authorized to
5 require any person who is required to electronically file a
6 federal return or electronically remit any federal taxes to the
7 federal government, to electronically file a state return and
8 electronically remit any state taxes under title 14 to the
9 department. The director is authorized to grant an exemption to
10 the electronic filing and payment requirements for good cause.

11 (b) Any person who files a tax return for any tax and is
12 not required by subsection (a) to remit taxes by means of
13 electronic funds transfer or through the State's internet portal
14 may elect to remit taxes by one of the means of electronic funds
15 transfer approved by the department with the approval of the
16 director of taxation.

17 (c) If a person who is required under subsection (a) to
18 file a return electronically or remit taxes by one of the means
19 of electronic funds transfer approved by the department or
20 through the State's internet portal fails to file electronically
21 or to remit the taxes using an approved method on or before the
22 date prescribed therefor, unless it is shown that the failure is



1 due to reasonable cause and not to neglect, there shall be added
2 to the tax required to be so remitted a penalty of two per cent
3 of the amount of the tax. The penalty under this subsection is
4 in addition to any penalty set forth in section 231-39.

5 (d) No later than twenty days prior to the convening of
6 each regular session, the department shall submit a report to
7 the legislature containing:

- 8 (1) The number of taxpayers who were assessed the two per
9 cent penalty pursuant to subsection (c);
10 (2) The amounts of each assessment; and
11 (3) The total amount of assessments collected for the
12 previous year.

13 (e) No costs shall be incurred by the taxpayer for the
14 electronic filing of tax returns or remittance of taxes under
15 this section or any other section."

16 **PART V**

17 SECTION 18. The purpose of this part is to reestablish the
18 last day of the month as the deadline for filing and payment of
19 miscellaneous taxes, and to reestablish the quarterly filing and
20 payment of periodic insurance premium taxes.

21 SECTION 19. Act 22, Session Laws of Hawaii 2010, is
22 repealed.



Report Title:

Taxation; Electronic Filing

Description:

Establishes the integrated tax services and management special fund to receive revenues from the integrated tax services and management system's post-implementation revenue-generating initiatives; provides that moneys in the fund will be used to pay for the integrated tax services and management system; requires the department of taxation to establish a system to allow taxpayers to file all tax returns, applications, reports, and other documents electronically, telephonically, or by optical means, with no additional cost to the taxpayer; lowers the threshold for any taxpayer required to remit taxes by one of the means of electronic funds transfer from \$100,000 to an unspecified amount in tax liability; reestablishes the last day of the month as the deadline for filing and payment of miscellaneous taxes and quarterly filing and payment of periodic insurance premium taxes. Effective 7/1/2050. (SD2)

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