
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. **Title.** This Act shall be known and may be
2 cited as the "Tax Amnesty Program Act".

3 SECTION 2. **Definitions.** As used in this Act:

4 "Accounts receivable" means an amount of state tax,
5 penalty, or interest that has been recorded as due and entered
6 in the account records or any ledger maintained in the
7 department or that a taxpayer should reasonably expect to become
8 due as a direct or indirect result of any pending or completed
9 audit or investigation that a taxpayer knows is being conducted
10 by the State.

11 "Department" means the department of taxation.

12 "Director" means the director of taxation.

13 "Final, due, and owing" means an assessment that has become
14 final and is owed to the State, due to either the expiration of
15 a taxpayer's appeal rights or the rendition of the final order
16 by the director or by any court of this State. Assessments that
17 have been appealed shall be final, due, and owing fifteen days
18 after the last unappealed or unappealable order sustaining the



1 assessment or any part thereof that has become final.
2 Assessments that have not been appealed shall be final, due, and
3 owing twenty days after service of notice of assessment.

4 "Taxpayer" means any individual, partnership, joint
5 venture, association, corporation, receiver, trustee, guardian,
6 executor, administrator, fiduciary, or any other entity of any
7 kind subject to any tax in title 14, Hawaii Revised Statutes, or
8 any person required to collect any tax under title 14, Hawaii
9 Revised Statutes.

10 SECTION 3. Tax amnesty program; applicable time period.

11 (a) The director shall develop and administer a four-year tax
12 amnesty program as provided in this Act. The director, upon the
13 voluntary return and remission of taxes and interest owed by any
14 taxpayer, shall waive all penalties that are assessed or subject
15 to being assessed for outstanding liabilities for taxable
16 periods ending or transactions occurring on or before December
17 31st of the prior calendar year. The director shall provide by
18 rule, pursuant to chapter 91, Hawaii Revised Statutes, as
19 necessary, for the administration of this amnesty program and
20 shall provide for necessary forms for the filing of tax amnesty
21 applications and returns.



1 (b) Notwithstanding any other law to the contrary, the tax
2 amnesty program shall begin by October 31, 2012, and shall be
3 completed before January 1, 2016, and shall apply to all
4 taxpayers owing taxes, penalties, or interest administered by
5 the director under title 14, Hawaii Revised Statutes, except
6 that the tax amnesty shall not apply to any real property tax or
7 any tax levied pursuant to chapter 249, Hawaii Revised Statutes.

8 The program shall apply to tax liabilities for taxable
9 periods ending or transactions occurring on or before December
10 31st of the prior calendar year.

11 SECTION 4. Eligibility requirements. (a) This Act shall
12 apply to any taxpayer who:

- 13 (1) Files an application for tax amnesty within the time
14 prescribed by the director;
- 15 (2) Files all returns as may be required by the director
16 for all years or tax reporting periods as stated on
17 the application for which returns have not previously
18 been filed and files all returns as may be required by
19 the director for all years or tax reporting periods
20 for which returns were filed but the tax liability was
21 underreported; and



1 (3) Pays in full the taxes due for the periods and taxes
2 applied for at the time that the tax amnesty
3 application or return is filed within the designated
4 amnesty program period.

5 In addition, the director may require, by rule, any eligible
6 taxpayer to pay in full, within the amnesty period, all taxes
7 previously assessed by the director that are final, due, and
8 owing at the time the tax amnesty application or return is
9 filed.

10 (b) An eligible taxpayer may participate in the amnesty
11 program if:

12 (1) The taxpayer is under audit, notwithstanding the fact
13 that the amount due is included in a proposed
14 assessment or an assessment, bill, notice, or demand
15 for payment issued by the director; or

16 (2) The amount due is subject to a pending administrative
17 or judicial proceeding.

18 An eligible taxpayer may participate in the amnesty program to
19 the extent of the uncontested portion of any assessed liability;
20 provided that participation in the program shall be conditioned
21 upon the taxpayer's agreement that the right to protest or
22 initiate an administrative or judicial proceeding or to claim



1 any refund of moneys paid under the program shall be barred with
2 respect to the amounts paid with the tax amnesty application or
3 return.

4 (c) The director shall allow installment payment
5 agreements in cases of severe hardship in lieu of the complete
6 payment required under subsection (a). In the case of severe
7 hardship, twenty-five per cent of the amount due shall be paid
8 with the tax amnesty application or return, and the balance
9 shall be paid in monthly installments as jointly determined by
10 the taxpayer and the director. Failure of the taxpayer to make
11 timely installment payments shall void the terms of the tax
12 amnesty. All agreements and payments shall not include interest
13 due and accruing during the installment agreement.

14 SECTION 5. Amnesty provisions. (a) Amnesty shall be
15 granted for any taxpayer who meets the requirements of section 4
16 of this Act in accordance with the following:

17 (1) For taxes that are owed as a result of the
18 nonreporting or underreporting of tax liabilities or
19 the nonpayment of any accounts receivable owed by an
20 eligible taxpayer, the State shall waive criminal
21 prosecution and all civil penalties that may be
22 assessed under title 14, Hawaii Revised Statutes, for



1 the taxable years or periods for which the tax amnesty
2 is requested; and

3 (2) With the exception of instances in which the taxpayer
4 and director enter into an installment payment
5 agreement authorized under section 4(c) of this Act,
6 the failure to pay all taxes as shown on the
7 taxpayer's amnesty tax return shall invalidate any
8 amnesty granted pursuant to this Act.

9 (b) This Act shall not apply to any taxpayer who is
10 subject to a current criminal investigation for nonpayment,
11 delinquency, evasion, or fraud in relation to any federal taxes
12 or to any of the taxes to which this amnesty program is
13 applicable.

14 (c) No refund or credit shall be granted for any interest
15 or penalty paid prior to the time the taxpayer requests amnesty
16 pursuant to section 4 of this Act.

17 (d) Unless the director, in the director's discretion,
18 redetermines the amount of taxes and interest due, no refund or
19 credit shall be granted for any taxes or interest paid under the
20 amnesty program.

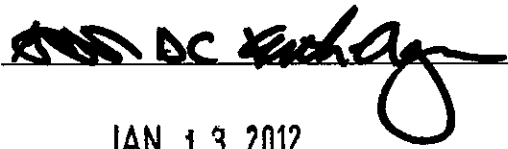
21 SECTION 6. Public awareness. The director shall adopt
22 rules under chapter 91, Hawaii Revised Statutes, as necessary,



1 issue forms and instructions, and take all actions necessary to
2 implement this Act. The director shall publicize the tax
3 amnesty program in accordance with section 1-28.5, Hawaii
4 Revised Statutes, in order to maximize the public awareness of,
5 and participation in, the program. In addition, the director,
6 for the purpose of publicizing the tax amnesty program, may
7 contract with any advertising agency within or outside the
8 State.

9 SECTION 7. **Separate accounting.** For purposes of
10 accounting for the revenues received pursuant to this Act, the
11 director shall maintain an accounting and reporting of funds
12 collected under the tax amnesty program. All funds collected
13 shall be remitted to the general fund.

14 SECTION 8. This Act shall take effect upon its approval;
15 and shall be repealed on January 1, 2016; provided that any tax
16 amnesty granted pursuant to this Act and any installment payment
17 agreement executed pursuant to section 4(c) of this Act shall
18 remain in force.

19 INTRODUCED BY: 

JAN 13 2012



H.B. NO. 1785

Report Title:

Taxation; Amnesty

Description:

Establishes a 4-year amnesty program for certain delinquent tax obligations.

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