

S.B. NO. 2889

JAN 23 2014

A BILL FOR AN ACT

RELATING TO THE COMMENCEMENT OF TAX APPEALS.

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

1 SECTION 1. Section 232-16, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:
3 "(a) A taxpayer or county may appeal directly to the tax
4 appeal court without appealing to a state board of review or any
5 equivalent administrative body established by county ordinance;
6 provided that a taxpayer appealing a real property tax
7 assessment shall first obtain a decision from an administrative
8 body established by county ordinance, prior to appealing to the
9 tax appeal court, if county ordinance requires a taxpayer to do
10 so. An appeal to the tax appeal court is properly commenced by
11 filing, on or before the date fixed by law for the taking of the
12 appeal, a written notice of appeal in the office of the tax
13 appeal court and by service of the notice of appeal on the
14 director of taxation and, in the case of an appeal from a
15 decision involving the county as a party, the real property
16 assessment division of the county involved. The notice of
17 appeal shall be served as provided by rule 4(d)(5) of the
18 Hawaii Rules of Civil Procedure , regarding service of process.

1 An appealing taxpayer shall also pay the costs in the amount
2 fixed by section 232-22."

3 SECTION 2. Section 232-16, Hawaii Revised Statutes, is
4 amended by amending subsection (d) to read as follows:

5 "(d) An appeal to the tax appeal court shall be deemed to
6 have been taken in time if the notice thereof and costs and the
7 copy of the notice shall have been served as provided in
8 subsection (a), and deposited in the mail, postage prepaid,
9 properly addressed to the tax appeal court [~~the director of~~
10 ~~taxation,~~] or the real property assessment division of the
11 county involved, and to the taxpayer or taxpayers in the case of
12 an appeal taken by a county, respectively, on or before the date
13 fixed by law for the taking of the appeal."

14 SECTION 3. Section 232-17, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§232-17 Appeals from boards of review to tax appeal**
17 **court.** An appeal shall lie to the tax appeal court from the
18 decision of a state board of review, or equivalent
19 administrative body established by county ordinance. An appeal
20 to the tax appeal court is properly commenced by the filing, by
21 the taxpayer, or the county, or the director of taxation, of a
22 written notice of appeal in the office of the tax appeal court
23 within thirty days after the filing of the decision of the state

1 board of review, or equivalent county administrative body, and,
2 in the case of any appealing taxpayer, the payment of the costs
3 of court in the amount fixed by section 232-22, and service of
4 the notice of appeal on the director of taxation and, in the
5 case of an appeal from a decision involving the county as a
6 party, the real property assessment division of the county
7 involved. Service shall be as provided by rule 4 (d) (5) of the
8 Hawaii Rules of Civil Procedure regarding service of process. A
9 notice of appeal shall be sufficient if it states that the
10 taxpayer, county, or director of taxation appeals from the
11 decision of the state board of review, or equivalent county
12 administrative body, to the tax appeal court and may be amended
13 at any time. The appeal shall bring up for determination all
14 questions of fact and all questions of law, including
15 constitutional questions involved in the appeal.

16 In case of an appeal by the county or the director of
17 taxation, a copy of the notice of appeal shall be [~~forthwith~~
18 ~~delivered or mailed to~~] served on the taxpayer concerned [~~or to~~
19 ~~the clerk of the county concerned~~] in the manner provided in
20 section 232-7(c) for giving notice of decisions.

21 An appeal shall be deemed to have been taken in time, and
22 properly commenced, if the notice thereof and costs, if any, and
23 the copy or copies of the notice shall have been deposited in

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1 the mail, postage prepaid, properly addressed to the tax appeal
2 court, [~~director of taxation, taxpayer or taxpayers, and, if~~
3 ~~relevant, the real property assessment division of the county~~
4 ~~involved, respectively,~~] and served upon the director of
5 taxation, the taxpayer, or the real property tax assessment
6 division of the county involved as provided above, within the
7 time period provided by this section."

8 SECTION 4. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

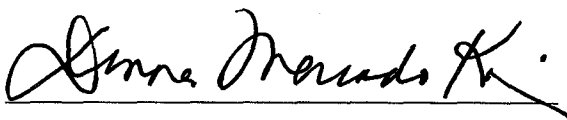
10 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: 

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BY REQUEST

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Report Title:

Taxes; Initiation of Tax Appeals

Description:

Amendments to specify that initiation of a case in Tax Appeals Court requires service of process on the Director of Taxation as described in the Hawaii Rules of Civil Procedure.

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

JUSTIFICATION SHEET

DEPARTMENT: Taxation

TITLE: A BILL FOR AN ACT RELATING TO COMMENCEMENT OF TAX APPEALS.

PURPOSE: To clarify that the Director of Taxation must be served under the Hawaii Rules of Civil Procedure in order to commence a tax appeal.

MEANS: Amend sections 232-16(a) and (d) and 232-17, Hawaii Revised Statutes.

JUSTIFICATION: Requiring proper service under the Hawaii Rules of Civil Procedure upon the Director of Taxation will ensure that the Department has adequate and proper notice that a tax appeal has been commenced.

Impact on the public: The public will need to follow the Hawaii Rules of Civil Procedure regarding service of process when commencing a tax appeal.

Impact on the department and other agencies: The Department will have adequate and proper notice that a tax appeal has been commenced by a taxpayer.

GENERAL FUND: Pending.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: None.

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: Upon approval.