
A BILL FOR AN ACT

RELATING TO ADMINISTRATIVE TAX APPEALS AND DISPUTE RESOLUTION PROGRAM.

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

1 SECTION 1. Section 231-7.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§231-7.5 ~~[Expedited]~~ Administrative appeals and dispute
4 resolution program. (a) The department shall be authorized to
5 implement an administrative appeals and dispute resolution
6 program that shall expeditiously resolve all tax, penalty,
7 interest, fine, assessment, and other such disputes between the
8 department and the taxpayer or return preparer. The director or
9 the director's designee, who shall report directly and be
10 answerable solely to the director, shall serve as an
11 ~~[independent]~~ administrative appeals officer and shall be
12 authorized to compromise, settle, or otherwise resolve any
13 dispute on any basis, including hazards and costs of litigation,
14 considering equally the position of the taxpayer or return
15 preparer and the department on an impartial basis. The
16 ~~[independent]~~ administrative appeals officer shall be
17 independent and not be influenced by any department tax



1 compliance initiatives and policies, or loss of revenue to the
2 State. [~~Decisions of the independent appeals officer shall be~~
3 ~~in writing stating the facts, analysis, and conclusions in~~
4 ~~support, which shall be provided to the taxpayer and return~~
5 ~~preparer.] Persons who currently serve or have served in the
6 previous five years as an auditor, audit supervisor or manager,
7 collector, collection supervisor or manager, district manager or
8 supervisor, tax compliance coordinator, or tax compliance
9 administrator, shall not be eligible to be the [~~director's~~
10 ~~designee.] administrative appeals officer.~~~~

11 (b) Decisions of the administrative appeals officer shall
12 be provided to the taxpayer or return preparer and shall be in
13 writing stating the facts, analysis, and conclusions in support.

14 (c) Notwithstanding any other law to the contrary,
15 including tax appeal procedures set forth under chapter 232, a
16 taxpayer or return preparer shall be eligible to petition the
17 department once for participation in the administrative appeals
18 and dispute resolution program after [~~issuance of~~] a notice of
19 proposed assessment [~~+~~] or notice of assessment is issued;
20 provided that if [~~a taxpayer has filed a tax appeal with the tax~~
21 ~~appeal court or other court, the taxpayer shall first be~~



1 ~~required to obtain the approval of the director and permission~~
2 ~~from the respective court prior to petitioning the department~~
3 ~~for participation.] :~~

4 (1) A taxpayer petitions the administrative appeals and
5 dispute resolution program after a notice of proposed
6 assessment has been issued, the petition shall be
7 filed within twenty days after the mailing of the
8 notice of proposed assessment;

9 (2) A taxpayer petitions the administrative appeals and
10 dispute resolution program after a notice of final
11 assessment has been issued, the petition shall be
12 filed within thirty days after the mailing of the
13 notice of assessment to the taxpayer's last known
14 residence or place of business;

15 (3) A return preparer petitions the administrative appeals
16 and dispute resolution program after a notice and
17 demand of the penalty is made, the petition shall be
18 filed within thirty days after the mailing of the
19 notice and demand of the penalty to the return
20 preparer's last known residence or place of business;
21 or



1 (4) A taxpayer or return preparer has filed a tax appeal
2 with the tax appeal court or other court, the taxpayer
3 or return preparer shall first obtain permission from
4 the director and the respective court in order to
5 participate in the administrative appeals and dispute
6 resolution program.

7 The director shall have the right to deny a petition for cause.

8 (d) Nothing in this section shall be interpreted to affect
9 appeal rights provided under section 235-114.

10 ~~[-e-]~~ (e) The department shall adopt procedures to carry
11 out the purposes of this section, including procedures relating
12 to ex parte communications between the director or the
13 ~~[director's designee]~~ administrative appeals officer and other
14 department personnel to ensure that such communications do not
15 compromise or appear to compromise the independence of the
16 administrative appeals and dispute resolution program.

17 (f) Taxpayers and return preparers shall petition the
18 administrative appeals and dispute resolution program using the
19 forms prescribed by the department. All petitions shall be
20 filed with the administrative appeals and dispute resolution
21 program and the auditor or department official assigned to the



1 taxpayer or return preparer's case by the applicable deadline
2 set forth in subsection (c).

3 ~~[(d)]~~ (g) The director of taxation may appoint an
4 administrative appeals officer as necessary to administer this
5 section, and perform other duties as directed by the director.
6 The director may appoint, commission, or assign support staff as
7 necessary to assist the administrative appeals officer. The
8 administrative appeals officer shall be exempt from chapter 76
9 and may be a legal or accounting professional; provided that no
10 individual appointed under this section shall render legal
11 services reserved to the attorney general under chapter 28.

12 (h) The director may prescribe rules as may be necessary
13 or appropriate to carry out the purposes of this section."

14 SECTION 2. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 3. This Act shall take effect on January 7, 2059.



Report Title:

Tax Administration; Administrative Tax Appeals and Dispute Resolution Program

Description:

Changes the title of the appeals officer from independent appeals officer to administrative appeals officer. Makes a taxpayer or return preparer eligible to petition to participate in the administrative appeals and dispute resolution program and establishes conditions, procedures, and deadlines whereby the taxpayer or return preparer may petition to do so. Takes effect on 1/7/2059. (SD1)

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

