
A BILL FOR AN ACT

RELATING TO TAX ADMINISTRATION.

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

1 SECTION 1. Chapter 231, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§231- Interest on penalties and fines. Interest shall
5 be imposed on any penalty or fine under this title at the rate
6 of two-thirds of one per cent a month or fraction of a month for
7 the period beginning with the first calendar day after the date
8 prescribed for payment of the fine or penalty, section 231-21 to
9 the contrary notwithstanding, to the date paid. Unless
10 otherwise provided, interest prescribed under this section shall
11 be assessed, collected, and paid in the same manner as taxes.
12 This section shall not apply to penalties and fines that become
13 part of the tax and penalties and fines imposed upon conviction
14 of a misdemeanor or felony."

15 SECTION 2. Section 232-7, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "§232-7 Boards of review; duties, powers, procedure
18 before. (a) The board of review for each district shall hear



1 informally all disputes between the assessor and any taxpayer in
2 all cases in which appeals have been duly taken and the fact
3 that a notice of appeal has been duly filed by a taxpayer shall
4 be conclusive evidence of the existence of a dispute; provided
5 that this provision shall not be construed to permit a taxpayer
6 to dispute an assessment to the extent that it is in accordance
7 with the taxpayer's return.

8 (b) Each board shall hold public meetings at some central
9 location in its taxation district, at least once annually and
10 shall hear, as speedily as possible, all appeals presented for
11 each year. A taxpayer's identity and final documents submitted
12 in support or opposition of an appeal shall be public
13 information; provided that an individual taxpayer is authorized
14 to redact all but the last four digits of the taxpayer's social
15 security number from any accompanying tax return. Each board
16 shall have the power and authority to decide all questions of
17 fact and all questions of law, excepting questions involving the
18 Constitution or laws of the United States, necessary to the
19 determination of the objections raised by the taxpayer in the
20 notice of appeal; provided that no board shall have power to
21 determine or declare an assessment illegal or void. Without



1 prejudice to the generality of the foregoing, each board shall
2 have power to allow or disallow exemptions pursuant to law
3 whether or not previously allowed or disallowed by the assessor
4 and to increase or lower any assessment.

5 (c) The board shall base its decision on the evidence
6 before it, and, as provided in section 231-20, the assessment
7 made by the assessor shall be deemed prima facie correct. The
8 board shall file with the assessor concerned its decision in
9 writing on each appeal decided by it, and a certified copy of
10 the decision shall be furnished by the assessor to the taxpayer
11 concerned by delivery or by mailing the copy addressed to the
12 taxpayer's last known place of residence.

13 (d) Each board and each member thereof in addition to all
14 other powers shall also have the power to subpoena witnesses,
15 administer oaths, examine books and records, and hear and take
16 evidence in relation to any subject pending before the board.
17 The tax appeal court shall have the power, upon request of the
18 boards, to enforce by proper proceedings the attendance of
19 witnesses and the giving of testimony by them, and the
20 production of books, records, and papers at the hearings of the
21 boards.



1 (e) If there exists more than one board of review in a
2 taxation district, the chair of one board, administratively and
3 without requirement of any formal action, may assign a member of
4 that board to serve as a temporary member of the requesting
5 board for purposes of establishing a quorum at a designated
6 meeting of the requesting board. The temporary member shall
7 serve only for the specific board meeting for which the
8 assignment is made and only for the period necessary to
9 establish and maintain a quorum. A temporary member may
10 participate in discussion and vote on all matters before the
11 board. Nothing herein shall prevent a member from being
12 assigned multiple times under this subsection.

13 (f) When a taxpayer elects to transfer its tax appeal to
14 the tax appeal court under section 235-114, it shall notify the
15 chairperson of the board in writing of such election. Within
16 thirty days of such written notification, the chairperson of the
17 board shall file a notice of transfer with the tax appeal
18 court."

19 SECTION 3. Section 232-24, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "§232-24 Taxes paid pending appeal. The tax paid upon the
2 amount of any assessment, actually in dispute and in excess of
3 that admitted by the taxpayer, and covered by an appeal to the
4 tax appeal court duly taken, shall, pending the final
5 determination of the appeal, be paid by the director of finance
6 into the "litigated claims fund". If the final determination is
7 in whole or in part in favor of the appealing taxpayer, the
8 director of finance shall repay to the taxpayer out of the fund,
9 or if investment of the fund should result in a deficit therein,
10 out of the general fund of the State, the amount of the tax paid
11 upon the amount held by the court to have been excessive or
12 nontaxable, together with from the date of each payment into the
13 litigated claims fund, the interest to be paid from the general
14 fund of the State. For purposes of this section, the rate of
15 interest shall be [~~computed by reference to section 6621(a)~~
16 ~~(with respect to interest rate determination)~~ of the Internal
17 Revenue Code of 1986, as of January 1, 2010.] one-third per cent
18 a month or fraction of a month where the taxpayer is not a
19 corporation, one-fourth per cent a month or fraction of a month
20 where the taxpayer is a corporation and the amount of
21 overpayment does not exceed \$10,000, and one-eighth per cent a



1 month or fraction of a month where the taxpayer is a corporation
2 and the amount of overpayment exceeds \$10,000. The balance, if
3 any, of the payment made by the appealing taxpayer, or the whole
4 of the payment, in case the decision is wholly in favor of the
5 assessor, shall, upon the final determination become a
6 realization under the tax law concerned.

7 In a case of an appeal to a board of review, the tax paid,
8 if any, upon the amount of the assessment actually in dispute
9 and in excess of that admitted by the taxpayer, shall during the
10 pendency of the appeal and until and unless an appeal is taken
11 to the tax appeal court, be held by the director of finance in a
12 special deposit. In the event of final determination of the
13 appeal in the board of review, the director of finance shall
14 repay to the appealing taxpayer out of the deposit the amount of
15 the tax paid upon the amount held by the board to have been
16 excessive or nontaxable, if any, the balance, if any, or the
17 whole of the deposit, in case the decision is wholly in favor of
18 the assessor, to become a realization under the tax law
19 concerned."

20 SECTION 4. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 5. This Act shall take effect upon its approval;
2 provided that section 3 shall apply to amounts deposited in the
3 litigated claims fund after December 31, 2015.



Report Title:

Tax Administration; Interest; Unpaid Penalties and Fines

Description:

Imposes interest on unpaid penalties and fines. Requires filing with tax appeal court a notice of transfer upon transfer of appeal to tax appeal court. Amends rate of interest on amounts paid out of litigated claims fund. (SD1)

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

