
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. **Definitions.** As used in this Act:

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

9 "Department" means the department of taxation.

10 "Director" means the director of taxation.

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



1 that have not been appealed shall be final, due, and owing
2 thirty days after service of notice of assessment.

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

9 **SECTION 2. Tax amnesty program; applicable time period.**

10 (a) The director shall develop and administer a one-time tax
11 amnesty program as provided in this Act. The director, upon the
12 voluntary return and remission of taxes and interest owed by any
13 taxpayer, shall waive all penalties that are assessed or subject
14 to being assessed for outstanding liabilities for taxable
15 periods ending or transactions occurring on or before December
16 31, 2017. The director shall adopt rules, pursuant to chapter
17 91, Hawaii Revised Statutes, necessary for the administration of
18 this amnesty program and shall further provide for necessary
19 forms for the filing of amnesty applications and returns.

20 (b) Notwithstanding any other law to the contrary, the tax
21 amnesty program shall begin no later than October 31, 2018, and



1 shall be completed before January 1, 2019, and shall apply to
2 all taxpayers owing taxes, penalties, or interest administered
3 by the director under title 14, Hawaii Revised Statutes, except
4 that the tax amnesty shall not apply to any real property tax or
5 any tax levied pursuant to chapter 249, Hawaii Revised Statutes.

6 SECTION 3. **Application; eligibility requirements.** (a)

7 This Act shall apply to any taxpayer who files an application
8 for amnesty within the time prescribed by the director and who:

9 (1) Files all returns as may be required by the director
10 for all years or tax reporting periods as stated on
11 the application:

12 (A) For which returns have not previously been filed;

13 and

14 (B) For which returns were filed but the tax
15 liability was underreported; and

16 (2) Pays in full the taxes due for the years and tax
17 reporting periods stated on the application, at the
18 time the application is made or amnesty tax returns
19 are filed within the designated amnesty program
20 period.



1 In addition to the requirements set forth in paragraphs (1) and
2 (2), the director may impose, by rule, the further condition
3 that any eligible taxpayer pay in full, within the amnesty
4 period, all taxes previously assessed by the director that are
5 final, due, and owing at the time the application or amnesty tax
6 returns are filed.

7 (b) An eligible taxpayer may participate in the amnesty
8 program regardless of whether the taxpayer is under audit,
9 notwithstanding the fact that the amount due is included in a
10 proposed assessment or an assessment, bill, notice, or demand
11 for payment issued by the director and without regard to whether
12 the amount due is subject to a pending administrative or
13 judicial proceeding. An eligible taxpayer may participate in
14 the amnesty program to the extent of the uncontested portion of
15 any assessed liability. However, participation in the program
16 shall be conditioned upon the taxpayer's agreement that the
17 right to protest or initiate an administrative or judicial
18 proceeding or to claim any refund of moneys paid under the
19 program is barred with respect to the amounts paid with the
20 application or amnesty return.



(c) The director shall allow installment payment agreements in cases of severe hardship in lieu of the complete payment required under subsection (a). In those cases, twenty-five per cent of the amount due shall be paid with the application or amnesty return, with the balance to be paid in monthly installments determined by the taxpayer and the director. Failure of the taxpayer to make timely payments shall void the terms of the amnesty. Installment payment agreements and payments shall not include interest due and accruing during the installment agreement.

SECTION 4. **Amnesty provisions.** (a) Amnesty shall be granted for any taxpayer who meets the requirements of section 3 of this Act in accordance with the following:

- (1) For taxes that are owed as a result of the nonreporting or underreporting of tax liabilities or the nonpayment of any accounts receivable owed by an eligible taxpayer, the State shall waive criminal prosecution and all civil penalties that may be assessed under title 14, Hawaii Revised Statutes, for the taxable years or periods for which the tax amnesty is requested; and



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

7 (b) This Act shall not apply to any taxpayer who is on
8 notice, written or otherwise, that the taxpayer is the subject
9 of any criminal investigation or criminal prosecution for
10 nonpayment, delinquency, evasion, or fraud in relation to any
11 federal taxes or to any of the taxes to which this amnesty
12 program is applicable.

13 (c) No refund or credit shall be granted for any interest
14 or penalty paid prior to the time the taxpayer requests amnesty
15 pursuant to section 3 of this Act.

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

20 SECTION 5. **Public awareness.** The director shall adopt
21 rules under chapter 91, Hawaii Revised Statutes, issue forms and



1 instructions, and take all actions necessary to implement this
2 Act. The director shall publicize the tax amnesty program in
3 order to maximize the public awareness of, and participation in,
4 the program. For the purpose of publicizing the tax amnesty
5 program, the director may contract with any advertising agency
6 within or outside this State.

7 SECTION 6. **Separate accounting.** For purposes of
8 accounting for the revenues received pursuant to this Act, the
9 director shall maintain a separate accounting and reporting of
10 funds collected under the amnesty program. All funds collected
11 shall be remitted to the general fund.

12 SECTION 7. This Act shall take effect on July 1, 2018.



S.B. NO. 2999 S.D. 1

Report Title:

Taxation; Amnesty

Description:

Establishes a 1-time amnesty program for certain delinquent tax obligations. (SD1)

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