
A BILL FOR AN ACT

RELATING TO TAX APPEALS.

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

1 SECTION 1. Section 26-10, Hawaii Revised Statutes, is
2 amended by amending subsection (d) to read as follows:

3 "(d) There shall be within the department of taxation a
4 ~~[board of review for each taxation district]~~ tax appeal review
5 panel and a tax appeal court. The composition of ~~[each board of~~
6 ~~review]~~ tax appeal review panel and the tax appeal court and its
7 respective functions, duties, and powers shall be as
8 ~~[heretofore] provided [by law for the boards of review and tax~~
9 ~~appeal court existing immediately prior to November 25, 1959.]~~
10 in chapter 232."

11 SECTION 2. Section 28-8.3, Hawaii Revised Statutes, is
12 amended as follows:

13 1. By amending subsection (a) to read:

14 "(a) No department of the State other than the attorney
15 general may employ or retain any attorney, by contract or
16 otherwise, for the purpose of representing the State or the
17 department in any litigation, rendering legal counsel to the



1 department, or drafting legal documents for the department;
2 provided that the foregoing provision shall not apply to the
3 employment or retention of attorneys:

4 (1) By the public utilities commission, the labor and
5 industrial relations appeals board, and the Hawaii
6 labor relations board;

7 (2) By any court or judicial or legislative office of the
8 State; provided that if the attorney general is
9 requested to provide representation to a court or
10 judicial office by the chief justice or the chief
11 justice's designee, or to a legislative office by the
12 speaker of the house of representatives and the
13 president of the senate jointly, and the attorney
14 general declines to provide such representation on the
15 grounds of conflict of interest, the attorney general
16 shall retain an attorney for the court, judicial, or
17 legislative office, subject to approval by the court,
18 judicial, or legislative office;

19 (3) By the legislative reference bureau;

20 (4) By any compilation commission that may be constituted
21 from time to time;



- 1 (5) By the real estate commission for any action involving
- 2 the real estate recovery fund;
- 3 (6) By the contractors license board for any action
- 4 involving the contractors recovery fund;
- 5 (7) By the office of Hawaiian affairs;
- 6 (8) By the department of commerce and consumer affairs for
- 7 the enforcement of violations of chapters 480 and
- 8 485A;
- 9 (9) As grand jury counsel;
- 10 (10) By the Hawaii health systems corporation, or its
- 11 regional system boards, or any of their facilities;
- 12 (11) By the auditor;
- 13 (12) By the office of ombudsman;
- 14 (13) By the insurance division;
- 15 (14) By the University of Hawaii;
- 16 (15) By the Kahoolawe island reserve commission;
- 17 (16) By the division of consumer advocacy;
- 18 (17) By the office of elections;
- 19 (18) By the campaign spending commission;
- 20 (19) By the Hawaii tourism authority, as provided in
- 21 section 201B-2.5;



- 1 (20) By the division of financial institutions;
- 2 (21) By the office of information practices; [~~e~~]
- 3 (22) By the tax appeal review panel; or
- 4 [~~(22)~~] (23) By a department, if the attorney general, for
- 5 reasons deemed by the attorney general to be good and
- 6 sufficient, declines to employ or retain an attorney
- 7 for a department; provided that the governor waives
- 8 the provision of this section."

9 2. By amending subsection (c) to read:

10 "(c) Every attorney employed by any department on a full-

11 time basis, except an attorney employed by the public utilities

12 commission, the labor and industrial relations appeals board,

13 the Hawaii labor relations board, the office of Hawaiian

14 affairs, the Hawaii health systems corporation or its regional

15 system boards, the department of commerce and consumer affairs

16 in prosecution of consumer complaints, insurance division, the

17 division of consumer advocacy, the University of Hawaii, the

18 Hawaii tourism authority as provided in section 201B-2.5, the

19 office of information practices, the tax appeal review panel, or

20 as grand jury counsel, shall be a deputy attorney general."



1 SECTION 3. Section 231-7.5, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) Notwithstanding any other law to the contrary,
4 including tax appeal procedures set forth under chapter 232, a
5 taxpayer shall be eligible to petition the department once for
6 participation in the administrative appeals and dispute
7 resolution program after issuance of a notice of [~~proposed~~]
8 final assessment; provided that if a taxpayer has filed a tax
9 appeal with the tax appeal court or other court, the taxpayer
10 shall first be required to obtain the approval of the director
11 and permission from the respective court prior to petitioning
12 the department for participation. The director shall have the
13 right to deny a petition for cause."

14 SECTION 4. Section 232-1, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§232-1 Appeals by persons under contractual obligations.**
17 Whenever any person is under a contractual obligation to pay a
18 tax assessed against another, the person shall have the same
19 rights of appeal to the [~~board of review,~~] tax appeal review
20 panel, the tax appeal court, and the intermediate appellate
21 court, subject to chapter 602, in the person's own name, as if



1 the tax were assessed against the person. The person against
2 whom the tax is assessed shall also have a right to appear and
3 be heard on any such application or appeal."

4 SECTION 5. Section 232-6, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "§232-6 [Appointment,] Tax appeal review panel;
7 appointment, removal, compensation. (a) There is created [a
8 ~~board of review for each taxation district. Additional boards~~
9 ~~may be created in any taxation district by the director of~~
10 ~~taxation where the number of disputes to be decided cannot be~~
11 ~~reasonably decided within one year. Each taxation district~~
12 ~~shall have no more than three boards. Each board]~~ a tax appeal
13 review panel to hear appeals duly filed by taxpayers.

14 (b) The panel shall consist of [five] no more than three
15 ~~members who shall be [citizens of the State and residents of the~~
16 ~~district for which the board is appointed, shall have resided at~~
17 ~~the time of appointment for at least three years in the State,~~
18 ~~and shall be appointed and be removable by the governor as~~
19 ~~provided in section 26-34. The governor shall designate a~~
20 ~~member of each board to act as chairperson thereof. In~~
21 ~~addition, the governor shall designate a member of each board to~~



1 ~~act as vice chairperson who shall serve as the chairperson of~~
2 ~~the board during the temporary absence from the State, illness,~~
3 ~~or disqualification of the chairperson. Any vacancy in any~~
4 ~~board shall be filled for the unexpired term. Each member shall~~
5 ~~receive and be paid out of the treasury compensation for the~~
6 ~~member's services at the rate of \$10 per day for each day's~~
7 ~~actual attendance and the member's actual traveling expenses.~~
8 ~~No officer or employee of the State shall be eligible for~~
9 ~~appointment to any such board.] appointed for terms of two years~~
10 ~~each. Each panel member shall act as an independent hearings~~
11 ~~officer and shall have the power to administer oaths, compel the~~
12 ~~attendance of witnesses, produce documentary evidence, examine~~
13 ~~witnesses, and render decisions on cases assigned to them. In~~
14 ~~case of disobedience by any person of any order or subpoena~~
15 ~~issued by the panel member, or the refusal of any witness to~~
16 ~~testify to any matter regarding which the witness may be~~
17 ~~questioned lawfully, any circuit judge, on application by the~~
18 ~~director or tax appeal review panel member, shall compel~~
19 ~~obedience as in the case of disobedience of the requirements of~~
20 ~~a subpoena issued by a circuit court, or a refusal to testify~~
21 ~~therein. All panel members shall be appointed by the director~~



1 of taxation and be removable by the director of taxation for
2 cause. For the purposes of this section, "cause" includes
3 rendering decisions that are not supported by a "reasonable
4 basis", at a minimum, as defined in section 231-36.8.

5 (c) The director of taxation shall designate one member of
6 the panel to serve as chairperson. The chairperson of the panel
7 shall be responsible for the administrative functions of the
8 panel, including assigning appeals to panel members for hearing.
9 The panel may appoint professional staff and assistants as it
10 may deem necessary in the performance of its functions,
11 prescribe their duties, and fix their compensation and provide
12 for reimbursement of actual and necessary expenses incurred in
13 the performance of their duties within the amounts made
14 available by appropriations therefor.

15 (d) The members shall serve on the panel in a full-time
16 capacity. No member shall hold any other public office or be in
17 the employment of the State or a county, or any department or
18 agency thereof, or any employee organization during the member's
19 term.

20 (e) Any vacancy in the panel shall not impair the
21 authority of the remaining members to exercise all the powers of



1 the panel. The director of taxation may appoint an acting
2 member of the panel during any member's temporary absence from
3 the State, temporary inability to act due to recusal, or
4 illness. An acting member, during the acting member's term of
5 service, shall have the same powers and duties as the regular
6 member; provided that subsection (d) shall not apply to an
7 acting member; provided further that an acting member appointed
8 due to a regular member's recusal shall be appointed for the
9 case in which the recusal occurred and the appointment shall
10 terminate when the final decision is filed or the case is
11 withdrawn.

12 (f) The panel shall be within the department of taxation
13 for budgetary and administrative purposes. All members of the
14 panel and its employees shall be exempt from chapters 76 and 89.

15 (g) At the close of each fiscal year, the panel shall make
16 a written report to the governor and the director of taxation on
17 its activities, including the cases and their dispositions, and
18 the names, duties, and salaries of its officers and employees;
19 provided that the report shall not contain any information that
20 may not be made public under section 232-7."



1 SECTION 6. Section 232-7, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§232-7 [~~Boards of~~] Tax appeal review[+] panel; duties,
4 powers, procedure before. (a) The [~~board of review for each~~
5 ~~district~~] tax appeal review panel shall hear informally all
6 disputes between the assessor and any taxpayer in all cases in
7 which appeals have been duly taken and the fact that a notice of
8 appeal has been duly filed by a taxpayer shall be conclusive
9 evidence of the existence of a dispute; provided that this
10 provision shall not be construed to permit a taxpayer to dispute
11 an assessment to the extent that it is in accordance with the
12 taxpayer's return.

13 (b) [~~Each board~~] Each panel member shall hold public
14 meetings [~~at some central location in its taxation district~~] at
15 least once annually and shall hear, as speedily as possible, all
16 appeals presented to the panel and assigned to that panel member
17 for each year. Whenever appropriate and practicable, the panel
18 members may utilize cost efficient means to conduct their
19 proceedings, such as teleconferencing.

20 (c) A taxpayer's identity and final documents submitted in
21 support or opposition of an appeal to the panel shall be public



1 information; provided that an individual taxpayer is authorized
2 to redact all but the last four digits of the taxpayer's social
3 security number from any accompanying tax return. [~~Each board~~]
4 The panel shall have the power and authority to decide all
5 questions of fact and all questions of law, excepting questions
6 involving the Constitution or laws of the United States,
7 necessary to the determination of the objections raised by the
8 taxpayer in the notice of appeal; provided that [~~no board~~] the
9 panel shall not have power to determine or declare an assessment
10 illegal or void. Without prejudice to the generality of the
11 foregoing, [~~each board~~] the panel shall have power to allow or
12 disallow exemptions pursuant to law whether or not previously
13 allowed or disallowed by the assessor and to increase or lower
14 any assessment.

15 [~~(e)~~] (d) Each individual member of the panel shall have
16 the authority to render a decision on matters assigned to them.
17 The [~~board~~] panel member shall base [~~its~~] their decision on the
18 evidence before [~~it,~~] them, and, as provided in section 231-20,
19 the assessment made by the assessor shall be deemed prima facie
20 correct. All decisions of the panel shall be reduced to writing
21 and shall state separately the panel's findings of fact and



1 conclusions. The [~~board~~] panel shall file with the assessor
2 concerned its decision in writing on each appeal decided by it,
3 and a certified copy of the decision shall be furnished by the
4 assessor to the taxpayer concerned by delivery or by mailing the
5 copy addressed to the taxpayer's last known place of residence.

6 [~~(d) Each board~~] (e) The panel and each member thereof in
7 addition to all other powers shall also have the power to
8 subpoena witnesses, administer oaths, examine books and records,
9 and hear and take evidence in relation to any subject pending
10 before the [~~board~~] panel. The tax appeal court shall have the
11 power, upon request of the [~~boards~~] panel, to enforce by proper
12 proceedings the attendance of witnesses and the giving of
13 testimony by them, and the production of books, records, and
14 papers at the hearings of the [~~boards~~] panel.

15 [~~(e) If there exists more than one board of review in a~~
16 ~~taxation district, the chair of one board, administratively and~~
17 ~~without requirement of any formal action, may assign a member of~~
18 ~~that board to serve as a temporary member of the requesting~~
19 ~~board for purposes of establishing a quorum at a designated~~
20 ~~meeting of the requesting board. The temporary member shall~~
21 ~~serve only for the specific board meeting for which the~~



1 ~~assignment is made and only for the period necessary to~~
2 ~~establish and maintain a quorum. A temporary member may~~
3 ~~participate in discussion and vote on all matters before the~~
4 ~~board. Nothing herein shall prevent a member from being assigned~~
5 ~~multiple times under this subsection.] "~~

6 SECTION 7. Section 232-13, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "§232-13 **Hearing de novo; bill of particulars.** The
9 hearing before the tax appeal court shall be a hearing de novo.
10 Irrespective of which party prevails in proceedings before [a
11 ~~state board of review,~~] the tax appeal review panel, the county
12 board, or any equivalent administrative body established by
13 county ordinance, the assessment as made by the assessor, or if
14 increased by the [~~board,~~] panel, county board, or equivalent
15 county administrative body, the assessment as so increased,
16 shall be deemed prima facie correct. Each party shall have the
17 right to introduce, or the tax appeal court, of its own motion,
18 may require the taking of such evidence in relation to the
19 subject pending as in the court's discretion may be deemed
20 proper. The court, in the manner provided in section 232-16,



1 shall determine all questions of fact and all questions of law,
2 including constitutional questions, involved in the appeal.

3 The jurisdiction of the tax appeal court is limited to the
4 amount of valuation or taxes, as the case may be, in dispute as
5 shown on the one hand by the amount claimed by the taxpayer or
6 county and on the other hand by the amount of the assessment, or
7 if increased by the [~~board,~~] panel, or county board, or
8 equivalent county administrative body, the assessment as so
9 increased.

10 Assessments for the same year upon other similar property
11 situated in the State shall be receivable in evidence upon the
12 hearing.

13 Upon the application of either the taxpayer, the county, or
14 the assessor, the judge of the tax appeal court, upon notice,
15 may allow and direct a bill of particulars of the claim of
16 either the taxpayer, the county, or the assessor to be delivered
17 to the other, and in case of default the judge shall preclude
18 the person so defaulting from giving evidence of the part or
19 parts of the person's affirmative claim of which particulars
20 have not been delivered."



1 SECTION 8. Section 232-14, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) The [~~boards of review~~] tax appeal review panel shall
4 have power, consistent with this chapter and chapter 91, to make
5 rules relating to procedure, and to prescribe forms to be used,
6 including procedure and forms for the issuance of subpoenas and
7 other process by the [~~boards of review~~] panel or members
8 thereof. The rules shall have the force and effect of law."

9 SECTION 9. Section 232-14.5, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "[+]§ 232-14.5[+] Appeals relating to claims for refund.

12 (a) The denial in whole or in part by the department of
13 taxation of a tax refund claim may be appealed by the filing of
14 a written notice of appeal to [~~a board of review~~] the tax appeal
15 review panel or the tax appeal court within thirty days after
16 notice of the denial of the claim.

17 (b) An appeal may be filed with [~~a board of review~~] the
18 tax appeal review panel or the tax appeal court for review of
19 the merits of a tax refund claim, upon a notice of appeal filed
20 at any time after one hundred eighty days from the date that the



1 claim was filed; provided that the department has not given
2 notice of a denial of the claim within that period.

3 (c) Notwithstanding any law to the contrary under title
4 14, this section shall apply to tax refund claims for all taxes
5 administered by the department of taxation. The procedures for
6 appeals from tax assessors, [~~a board of review,~~] the tax appeal
7 review panel, and the tax appeal court provided under this
8 chapter and under section 235-114 shall apply to appeals
9 relating to tax refund claims under this section. Any claimed
10 tax refund or credit appealed pursuant to this section shall be
11 awarded only if the claim therefor was filed within the
12 applicable statutory period of limitation."

13 SECTION 10. Section 232-15, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "§232-15 Appeal to [~~board of review.~~] tax appeal review
16 panel. [~~The appeal to a board of review may be either to the~~
17 ~~board of review for the district in which the taxpayer has the~~
18 ~~taxpayer's principal place of business or to the board of review~~
19 ~~for the district in which the taxpayer resides or has the~~
20 ~~taxpayer's principal office or to the board of review of the~~
21 ~~first district.] The notice of appeal to the tax appeal review~~



1 panel must be lodged with the panel and the assessor on or
2 before the date fixed by law for the taking of the appeal. An
3 appeal to the [~~board of review~~] tax appeal review panel shall be
4 deemed to have been taken in time if the notice thereof [~~shall~~
5 ~~have~~] has been deposited in the mail, postage prepaid, properly
6 addressed to the panel and assessor, on or before such date.

7 The notice of appeal must be in writing and any such
8 notice, however informal it may be, identifying the assessment
9 involved in the appeal and stating the grounds of objection to
10 the assessment shall be sufficient. [~~Upon the necessary~~
11 ~~information being furnished by the taxpayer to the assessor, the~~
12 ~~assessor shall prepare the notice of appeal upon request of the~~
13 ~~taxpayer and any notice so prepared by the assessor shall be~~
14 ~~deemed sufficient as to its form.~~]

15 The appeal shall be considered and treated for all purposes
16 as a general appeal and shall bring up for determination all
17 questions of fact and all questions of law, excepting questions
18 involving the Constitution or laws of the United States,
19 necessary to the determination of the objections raised by the
20 taxpayer in the notice of appeal. Any objection involving the
21 Constitution or laws of the United States may be included by the



1 taxpayer in the notice of appeal and in such case the objections
2 may be heard and determined by the tax appeal court on appeal
3 from a decision of the [~~board of review,~~] tax appeal review
4 panel; but this provision shall not be construed to confer upon
5 the [~~board of review~~] tax appeal review panel the power to hear
6 or determine such objections. Any notice of appeal may be
7 amended at any time prior to the [~~board's~~] panel's decision;
8 provided the amendment does not substantially change the
9 dispute."

10 SECTION 11. Section 232-16, Hawaii Revised Statutes, is
11 amended by amending subsections (a) and (b) to read as follows:
12 "(a) A taxpayer or county may appeal directly to the tax
13 appeal court without appealing to [~~a state board of review~~] the
14 tax appeal review panel, the county board, or any equivalent
15 administrative body established by county ordinance; provided
16 that a taxpayer appealing a real property tax assessment shall
17 first obtain a decision from a county board or an equivalent
18 administrative body established by county ordinance, prior to
19 appealing to the tax appeal court, if county ordinance requires
20 a taxpayer to do so. An appeal to the tax appeal court is
21 properly commenced by filing, on or before the date fixed by law



1 for the taking of the appeal, a written notice of appeal in the
2 office of the tax appeal court and by service of the notice of
3 appeal on the director of taxation and, in the case of an appeal
4 from a decision involving the county as a party, the real
5 property assessment division of the county involved. An
6 appealing taxpayer shall also pay the costs in the amount fixed
7 by section 232-22.

8 (b) The notice of appeal to the tax appeal court shall be
9 sufficient if it meets the requirements prescribed for a notice
10 of appeal to the ~~[board of review]~~ tax appeal review panel and
11 may be amended at any time; provided that it sets forth a brief
12 description of the property involved in sufficient detail to
13 identify the same and the valuation placed thereon by the
14 assessor."

15 SECTION 12. Section 232-17, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "§232-17 Appeals from ~~[boards of review]~~ tax appeal review
18 panel to tax appeal court. An appeal shall lie to the tax
19 appeal court from the decision of ~~[a state board of review,]~~ the
20 tax appeal review panel, a county board, or equivalent
21 administrative body established by county ordinance. An appeal



1 to the tax appeal court is properly commenced by the filing, by
2 the taxpayer, or the county, or the director of taxation, of a
3 written notice of appeal in the office of the tax appeal court
4 within thirty days after the filing of the decision of the
5 ~~[state board of review,]~~ tax appeal review panel, county board,
6 or an equivalent county administrative body, and, in the case of
7 any appealing taxpayer, the payment of the costs of court in the
8 amount fixed by section 232-22, and service of the notice of
9 appeal on the director of taxation and, in the case of an appeal
10 from a decision involving the county as a party, the real
11 property assessment division of the county involved. A notice
12 of appeal shall be sufficient if it states that the taxpayer,
13 county, or director of taxation appeals from the decision of the
14 ~~[state board of review,]~~ tax appeal review panel, a county
15 board, or an equivalent county administrative body, to the tax
16 appeal court and may be amended at any time. The appeal shall
17 bring up for determination all questions of fact and all
18 questions of law, including constitutional questions involved in
19 the appeal.

20 In case of an appeal by the county or the director of
21 taxation, a copy of the notice of appeal shall be forthwith



1 delivered or mailed to the taxpayer concerned or to the clerk of
2 the county concerned in the manner provided in section 232-7 for
3 giving notice of decisions.

4 An appeal shall be deemed to have been taken in time, and
5 properly commenced, if the notice thereof and costs, if any, and
6 the copy or copies of the notice shall have been deposited in
7 the mail, postage prepaid, properly addressed to the tax appeal
8 court, director of taxation, taxpayer or taxpayers, and, if
9 relevant, the real property assessment division of the county
10 involved, respectively, within the time period provided by this
11 section."

12 SECTION 13. Section 232-18, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "§232-18 Certificate of appeal to tax appeal court. Upon
15 the perfecting of an appeal to the tax appeal court, the tax
16 assessor [~~of the district from which the appeal is taken~~] shall
17 immediately send up to the tax appeal court a certificate in
18 which there shall be set forth the information required by
19 section 232-16 to be set forth in the notice of appeal where an
20 appeal is taken direct from the assessment to the tax appeal
21 court.



1 The certificate shall be accompanied by the taxpayer's
2 return, if any has been filed; provided that the department of
3 taxation is authorized to redact all but the last four digits of
4 an individual taxpayer's social security number from an
5 accompanying tax return, a copy of the notice of appeal to the
6 ~~[state board of review,]~~ tax appeal review panel, the county
7 board, or an equivalent administrative body established by
8 county ordinance, and any amendments thereto, and the decision
9 or action, if any, of the ~~[state board of review,]~~ tax appeal
10 review panel, county board, or an equivalent administrative
11 body. Failure of the assessor to comply herewith shall not
12 prejudice or affect the taxpayer's, county's, or assessor's
13 appeal and the certificate of appeal may be amended at any time
14 up to the final determination of the appeal."

15 SECTION 14. Section 232-20, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§232-20 Certificate of appeal.** Upon the perfection of an
18 appeal, the judge of the tax appeal court shall send to the
19 appellate court a certificate in which there shall be set forth,
20 among other things:



- 1 (1) A brief description of the assessment and the property
2 involved in the appeal, if any, in sufficient detail
3 to identify the same together with the valuation
4 placed on the property by the assessor;
- 5 (2) The valuation claimed by the taxpayer or county;
- 6 (3) The taxpayer's or county's grounds of objection to the
7 assessment;
- 8 (4) The valuation, if any, placed thereon by the county
9 board or an administrative body established by county
10 ordinance equivalent to [~~a state board of review,~~] the
11 tax appeal review panel; and
- 12 (5) The valuation placed thereon by the tax appeal court.
- 13 The certificate shall be accompanied by the taxpayer's
14 return, if any, a copy of the notice of appeal from the
15 assessment and any amendments thereof, the decision, if any, of
16 the [~~state board of review~~] tax appeal review panel, county
17 board, or equivalent county administrative body, a copy of the
18 notice of appeal from the decision of the [~~state board of~~
19 ~~review~~] tax appeal review panel, county board, or equivalent
20 county administrative body, if any, and any amendments thereof,
21 and a transcript or statement of the evidence before and the



1 decision of the tax appeal court, and all exhibits, motions,
2 orders, or other documents specified by either the taxpayer, the
3 county, or the assessor. No failure of the judge of the tax
4 appeal court to send or properly prepare the certificate or the
5 accompanying documents shall prejudice, limit, or in any manner
6 affect the taxpayer's, county's, or assessor's appeal, and the
7 certificate of appeal may be amended at any time up to the final
8 determination of the appeal."

9 SECTION 15. Section 232-22, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§232-22 Costs; deposit for on appeal.** No costs shall be
12 charged on appeal to the [~~state board of review.~~] tax appeal
13 review panel.

14 The nonrefundable costs to be deposited in any one case per
15 taxpayer on any appeal to the tax appeal court shall be an
16 amount set pursuant to rules adopted by the supreme court, which
17 shall not exceed \$100.

18 On appeal to the intermediate appellate court, the deposit
19 for costs, and costs chargeable, shall be the same as in appeals
20 from decisions of circuit courts, as provided by sections 607-5
21 and 607-6. If the decision of the intermediate appellate court



1 or the supreme court on transfer from or review of the
2 intermediate appellate court is in favor of the taxpayer, the
3 taxpayer shall pay no costs for the appeal, and any payment or
4 deposit therefor shall be returned to the taxpayer. If the
5 decision is only partly in favor of the taxpayer, the costs
6 shall be prorated in the manner provided by section 232-23. No
7 costs shall be payable by, and no deposit shall be required
8 from, the assessor or the county in any case."

9 SECTION 16. Section 232-23, Hawaii Revised Statutes, is
10 amended by amending subsection (a) to read as follows:

11 "(a) In the event of an appeal by a taxpayer to the [state
12 ~~board of review,~~] tax appeal review panel, if the appeal is
13 compromised, or is sustained as to fifty per cent or more of the
14 amount in dispute, the costs deposited shall be returned to the
15 appellant. Otherwise the entire amount of costs deposited shall
16 be retained."

17 SECTION 17. Section 232-24, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§232-24 Taxes paid pending appeal.** The tax paid upon the
20 amount of any assessment, actually in dispute and in excess of
21 that admitted by the taxpayer, and covered by an appeal to the



1 tax appeal court duly taken, shall, pending the final
2 determination of the appeal, be paid by the director of finance
3 into the "litigated claims fund". If the final determination is
4 in whole or in part in favor of the appealing taxpayer, the
5 director of finance shall repay to the taxpayer out of the fund,
6 or if investment of the fund should result in a deficit therein,
7 out of the general fund of the State, the amount of the tax paid
8 upon the amount held by the court to have been excessive or
9 nontaxable, together with from the date of each payment into the
10 litigated claims fund, the interest to be paid from the general
11 fund of the State. For purposes of this section, the rate of
12 interest shall be computed by reference to section 6621(a) (with
13 respect to interest rate determination) of the Internal Revenue
14 Code of 1986, as of January 1, 2010. The balance, if any, of
15 the payment made by the appealing taxpayer, or the whole of the
16 payment, in case the decision is wholly in favor of the
17 assessor, shall, upon the final determination become a
18 realization under the tax law concerned.

19 In a case of an appeal to [~~a board of review,~~] the tax
20 appeal review panel, the tax paid, if any, upon the amount of
21 the assessment actually in dispute and in excess of that



1 admitted by the taxpayer, shall during the pendency of the
2 appeal and until and unless an appeal is taken to the tax appeal
3 court, be held by the director of finance in a special deposit.
4 In the event of final determination of the appeal [~~in the board~~
5 ~~of review,~~] by the tax appeal review panel, the director of
6 finance shall repay to the appealing taxpayer out of the deposit
7 the amount of the tax paid upon the amount held by the [~~board~~
8 panel to have been excessive or nontaxable, if any, the balance,
9 if any, or the whole of the deposit, in case the decision is
10 wholly in favor of the assessor, to become a realization under
11 the tax law concerned."

12 SECTION 18. Section 232-25, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "§232-25 **Amendment of assessment list to conform to**
15 **decision.** The assessor shall alter or amend the assessment and
16 the assessment list in conformity with the decision or judgment
17 of the last [~~board~~] panel or court to which an appeal may have
18 been taken."

19 SECTION 19. Section 235-114, Hawaii Revised Statutes, is
20 amended as follows:



1 "§235-114 Appeals. (a) Any person aggrieved by any
2 assessment of the tax or liability imposed by this chapter may
3 appeal from the assessment in the manner and within the time
4 hereinafter set forth. Appeal may be made either to the
5 [~~district board of review~~] tax appeal review panel or to the tax
6 appeal court. The first appeal to either the [~~district board of~~
7 ~~review~~] tax appeal review panel or to the tax appeal court may
8 be made without payment of the tax so assessed. Either the
9 taxpayer or the assessor may appeal to the tax appeal court from
10 a decision by the [~~board~~] panel or to the intermediate appellate
11 court from a decision by the tax appeal court; provided that if
12 the decision by the [~~board~~] panel or the tax appeal court is
13 appealed by the taxpayer, or the decision by the [~~board~~] panel
14 in favor of the department is not appealed, the taxpayer shall
15 pay the tax so assessed plus interest as provided in section
16 231-39(b)(4).

17 (b) If the appeal is first made to the [~~board,~~] panel, the
18 appeal shall either be heard by the [~~board~~] panel or be
19 transferred to the tax appeal court for hearing at the election
20 of the taxpayer or employer. If heard by the [~~board,~~] panel, an
21 appeal shall lie from the decision thereof to the tax appeal



1 court and to the intermediate appellate court, subject to
2 chapter 602, in the manner and with the costs provided by
3 chapter 232. The supreme court shall prescribe forms to be used
4 in the appeals. The forms shall show:

5 (1) The amount of taxes or liability upon the basis of the
6 taxpayer's computation of the taxpayer's taxable
7 income or the employer's computation of the employer's
8 liability;

9 (2) The amount upon the basis of the assessor's
10 computation;

11 (3) The amount upon the basis of the decisions of the
12 [~~board of review~~] tax appeal review panel and tax
13 appeal court, if any; and

14 (4) The amount in dispute.

15 If or when the appeal is filed with or transferred to the tax
16 appeal court, the court shall proceed to hear and determine the
17 appeal, subject to appeal to the intermediate appellate court as
18 is provided in chapter 232.

19 (c) Any taxpayer or employer appealing from any assessment
20 of income taxes or liability shall lodge with the assessor or
21 assistant assessor a notice of the appeal in writing, stating



1 the ground of the taxpayer's or employer's objection to the
2 additional assessment or any part thereof. The taxpayer or
3 employer also shall file the notice of appeal with the [board]
4 panel or the tax appeal court at any time within thirty days
5 subsequent to the date when the notice of assessment was mailed,
6 properly addressed to the taxpayer or employer at the taxpayer's
7 or employer's last known residence or place of business. Except
8 as otherwise provided, the manner of taking the appeal, the
9 costs applicable thereto, and the hearing and disposition
10 thereof, including the distribution of costs and of taxes paid
11 by the taxpayer pending the appeal, shall be as provided in
12 chapter 232.

13 The tax appeal court may allow an individual taxpayer to
14 file a subsequent appeal without payment of the net income tax
15 in cases where the total tax liability does not exceed \$50,000
16 in the aggregate for all tax years, upon proof that the taxpayer
17 would be irreparably injured by payment of the tax."

18 SECTION 20. Any person who has already filed an appeal
19 with a board of review as of the effective date of this Act may
20 choose to continue their appeal before the board of review or
21 withdraw their appeal and re-file the appeal with the tax appeal



1 review panel; provided that on January 1, 2021, all appeals that
2 are pending before a board of review shall be transferred
3 automatically to the tax appeal review panel.

4 SECTION 21. There is appropriated out of the general
5 revenues of the State of Hawaii the sum of \$212,106 or so much
6 thereof as may be necessary for fiscal year 2019-2020 and
7 \$343,711 or so much thereof as may be necessary for fiscal year
8 2020-2021 to carry out the purposes of this Act, including the
9 payment of salaries of tax appeal review panel members, the
10 hiring of one staff position, and other associated
11 administrative costs.

12 The sums appropriated shall be expended by the department
13 of taxation for the purposes of this Act.

14 SECTION 22. This Act does not affect rights and duties
15 that matured, penalties that were incurred, and proceedings that
16 were begun before its effective date; provided that all appeals
17 filed before January 1, 2021, in which a decision has not been
18 issued by that date shall be heard by the tax appeal review
19 panel, as created by this Act. This Act also does not affect
20 county real property tax appeals and the respective county
21 boards of review to which they are appealed, nor does it



1 abrogate any county ordinance relating to a county's real
2 property tax appeal procedures.

3 SECTION 23. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 24. This Act shall take effect on January 1, 2020;
6 provided that sections 3 and 21 shall take effect on July 1,
7 2019.

8



Report Title:

Tax Appeals; Tax Appeal Review Panel; Administrative Appeals and Dispute Resolution Program; Appropriation

Description:

Replaces the tax boards of review with a single tax appeal review panel comprised of members who shall devote full time to their duties. Amends the grounds upon which an appeal to the administrative appeals and dispute resolution program may be made by disallowing appeals of proposed assessments. Allows any person who has already filed an appeal with a board of review to choose to either continue their appeal with the board of review or withdraw their appeal and re-file their appeal with the tax appeal review panel until January 1, 2021, at which point all remaining appeals before a board of review automatically transfer to the tax appeal review panel. (SD1)

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

