

JAN 24 2019

A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Section 231-39, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§231-39 Additions to taxes for noncompliance or evasion;**
4 **interest on underpayments and overpayments.** (a) Except as
5 otherwise provided, this section shall apply to every tax or
6 revenue law of the State that provides for the filing with the
7 director of taxation of a return or statement of the tax or the
8 amount taxable.

9 (b) There shall be added to and become a part of the tax
10 imposed by such tax or revenue law, and collected as such:

11 (1) Failure to file tax return. In case of failure to
12 file any tax return required to be filed on the date
13 prescribed therefor (determined with regard to any
14 extension of time for filing), unless it is shown that
15 the failure is due to reasonable cause and not due to
16 neglect, there shall be added to the amount required
17 to be shown as tax on the return [~~five~~] one per cent



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1 of the amount of the tax if the failure is for not
2 more than one month, with an additional five per cent
3 for each additional month or fraction thereof during
4 which the failure continues, not exceeding [~~twenty-~~
5 ~~five~~] twenty-one per cent in the aggregate. For
6 purposes of this paragraph, the amount of tax required
7 to be shown on the return shall be reduced by the
8 amount of any part of the tax which is paid on or
9 before the date prescribed for payment of the tax and
10 by the amount of any credit against the tax which may
11 be claimed upon the return. This paragraph shall not
12 apply to any failure to file a declaration of
13 estimated tax required by section 235-97.

14 (2) Failure to pay tax.

15 (A) If any part of any underpayment is due to
16 negligence or intentional disregard of rules (but
17 without intent to defraud), there shall be added
18 to the tax an amount up to twenty-five per cent
19 of the underpayment as determined by the
20 director[-]; provided that the taxpayer shall
21 pay, in addition to the underpayment, only ten



1 per cent of the underpayment, if the taxpayer
2 pays the underpayment and the addition to the
3 underpayment within thirty days of the notice of
4 the underpayment.

5 (B) If any part of any underpayment of tax required
6 to be shown on a return is due to fraud, there
7 shall be added to the tax an amount up to fifty
8 per cent of the underpayment as determined by the
9 director.

10 (C) If any penalty is assessed under subparagraph (B)
11 (relating to fraud) for an underpayment of tax
12 which is required to be shown on a return, no
13 penalty under paragraph (1) (relating to failure
14 to file the return) shall be assessed with
15 respect to the same underpayment.

16 (3) Failure to pay tax after filing timely returns. If a
17 return is filed on or before the date prescribed
18 therefor and the amount shown as tax on the return is
19 not completely paid within sixty days of the
20 prescribed filing date, there shall be added to the
21 unpaid tax an amount up to twenty per cent as



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1 determined by the director[-]; provided that the
2 taxpayer shall pay a total amount of only the unpaid
3 tax and ten per cent of the unpaid tax, if the
4 taxpayer pays the total amount within thirty days
5 after the prescribed filing date.

6 (4) Interest on underpayment or nonpayment of tax.

7 (A) If any amount of tax is not paid on or before the
8 last date prescribed for payment, interest on
9 such amount at the rate of two-thirds of one per
10 cent a month or fraction of a month shall be paid
11 for the period beginning with the first calendar
12 day after the date prescribed for payment,
13 section 231-21 to the contrary notwithstanding,
14 to the date paid[-]; provided that if payment is
15 made within one month of the notice and demand
16 under subparagraph (C), the interest paid on the
17 unpaid tax amount shall be at the rate of one-
18 third of one per cent a month or fraction of a
19 month.

20 (B) If the amount of any tax is reduced by reason of
21 a carryback of a net operating loss allowed under



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1 chapter 235, such reduction in tax shall not
2 affect the computation of interest under this
3 paragraph for the period ending with the last day
4 of the taxable year in which the net operating
5 loss arises.

6 (C) Interest prescribed under this paragraph on any
7 tax shall be paid upon notice and demand, and
8 shall be assessed, collected, and paid in the
9 same manner as taxes.

10 (D) No interest under this paragraph shall be imposed
11 on interest provided by this paragraph.

12 (E) If any portion of a tax is satisfied by credit of
13 any overpayment, then no interest shall be
14 imposed under this paragraph on the portion of
15 the tax so satisfied for any period during which,
16 if the credit had not been made, interest would
17 have been allowable with respect to the
18 overpayment.

19 (F) Interest prescribed under this paragraph on any
20 tax may be assessed and collected at any time



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1 during the period within which the tax to which
2 the interest relates may be collected.

3 (G) This paragraph shall not apply to any failure to
4 pay estimated tax required by section 235-97.

5 (c) No taxpayer shall be exempt from any penalty or
6 interest by reason of having contested the tax, but only to the
7 extent that the tax is adjudged to be excessive or contrary to
8 law.

9 (d) Notwithstanding the above, there shall be no addition
10 to the tax at all if the taxpayer posts bond, with or without
11 sureties, in an amount specified by the director."

12 SECTION 2. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 3. This Act shall take effect upon its approval.

15

INTRODUCED BY:

A handwritten signature in black ink, appearing to be "D. K. ..." with a horizontal line extending to the right, positioned above a horizontal line.



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Report Title:

Taxation; Penalties and Interest for Nonpayment and Underpayment

Description:

Reduces taxpayer penalties for nonpayments and underpayments by setting lower penalty amounts and interest rates for earlier rather than later payments of the penalty amounts and interest rates and avoiding penalties and interest if the taxpayer posts a bond.

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

