
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~~] three per cent



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~~] thirty per cent in the aggregate. For purposes
6 of this paragraph, the amount of tax required to be
7 shown on the return shall be reduced by the amount of
8 any part of the tax which is paid on or before the
9 date prescribed for payment of the tax and by the
10 amount of any credit against the tax which may be
11 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 reasonable cause, and not due to neglect,
17 intentional disregard of rules, or fraud, there
18 shall be added to the tax an amount equal to one-
19 half of one per cent of the underpayment for each
20 month or fraction thereof until full payment of
21 the tax and penalties is made; provided that the



1 aggregate amount of the penalty imposed under
2 this subparagraph shall not exceed twenty-five
3 per cent of the underpayment.

4 ~~[(A)]~~ (B) If any part of any underpayment is due to
5 negligence or intentional disregard of rules (but
6 without intent to defraud), there shall be added
7 to the tax an amount up to twenty-five per cent
8 of the underpayment as determined by the
9 director.

10 ~~[(B)]~~ (C) If any part of any underpayment of tax
11 required to be shown on a return is due to fraud,
12 there shall be added to the tax an amount up to
13 ~~[fifty]~~ seventy-five per cent of the underpayment
14 as determined by the director.

15 ~~[(C)]~~ (D) If any penalty is assessed under
16 subparagraph ~~[(B)]~~ (C) (relating to fraud) for an
17 underpayment of tax which is required to be shown
18 on a return, no penalty under paragraph (1)
19 (relating to failure to file the return) shall be
20 assessed with respect to the same underpayment.



- 1 (3) Failure to pay tax after filing timely returns. If a
2 return is filed on or before the date prescribed
3 therefor and the amount shown as tax on the return is
4 not completely paid within sixty days of the
5 prescribed filing date, there shall be added to the
6 unpaid tax an amount up to twenty per cent as
7 determined by the director.
- 8 (4) Interest on underpayment or nonpayment of tax.
- 9 (A) If any amount of tax is not paid on or before the
10 last date prescribed for payment, interest on
11 such amount at the rate of two-thirds of one per
12 cent a month or fraction of a month shall be paid
13 for the period beginning with the first calendar
14 day after the date prescribed for payment,
15 section 231-21 to the contrary notwithstanding,
16 to the date paid.
- 17 (B) If the amount of any tax is reduced by reason of
18 a carryback of a net operating loss allowed under
19 chapter 235, such reduction in tax shall not
20 affect the computation of interest under this
21 paragraph for the period ending with the last day



1 of the taxable year in which the net operating
2 loss arises.

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

7 (D) No interest under this paragraph shall be imposed
8 on interest provided by this paragraph.

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

16 (F) Interest prescribed under this paragraph on any
17 tax may be assessed and collected at any time
18 during the period within which the tax to which
19 the interest relates may be collected.

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



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

5 (d) Notwithstanding the above, there shall be no addition
6 to the tax from the date that the taxpayer posts bond, with or
7 without sureties, on a form specified by the director of
8 taxation. The bond shall be refundable and may be made by an
9 agent of the taxpayer, without disclosure of the taxpayer, type
10 of tax, and periods involved, in a form prescribed by the
11 director of taxation."

12 SECTION 2. Section 235-101, Hawaii Revised Statutes, is
13 amended to read as follows:

14 **"§235-101 Federal returns and assessments, when copies are**
15 **required.** (a) In prescribing the form of return the department
16 of taxation may require that a person who is required to file a
17 federal income tax return include in the person's return a
18 reconciliation of the return with the person's federal return,
19 or that the person furnish with the return and as a part thereof
20 a copy of the federal return.



1 (b) It shall be the duty of every person who is required
2 by section 235-92 to make a return, to report to the department,
3 as to any taxable year governed by this chapter, if:

4 (1) The amount of taxable income as returned to the United
5 States is changed, corrected, or adjusted by an
6 officer of the United States or other competent
7 authority;

8 (2) A change in taxable income results from a
9 renegotiation of a contract with the United States or
10 a subcontract thereunder;

11 (3) A recomputation of the income tax imposed by the
12 United States under the Internal Revenue Code results
13 from any cause; or

14 (4) An amended income tax return is made to the United
15 States.

16 The report shall be made within ninety days after the change,
17 correction, adjustment, or recomputation is finally determined
18 or the amended return is filed, as the case may be. The report
19 required by this subsection shall be made in the form of an
20 amendment of the person's return filed under this chapter. The
21 amended return shall be accompanied by a copy of the document



1 issued by the United States under paragraphs (1) to (3). The
2 statutory period for the assessment of any deficiency or the
3 determination of any refund attributable to this report shall
4 not expire before the expiration of one year from the date the
5 department is notified by the taxpayer or the Internal Revenue
6 Service, whichever is earlier, of the report in writing. Before
7 the expiration of this one-year period, the department and the
8 taxpayer may agree in writing to the extension of this period.
9 The period so agreed upon may be further extended by subsequent
10 agreements in writing made before the expiration of the period
11 previously agreed upon.

12 (c) If the department assesses a deficiency pursuant to
13 subsection (b), interest shall be assessed on the deficiency at
14 the following rates:

15 (1) Four per cent; provided that full payment of the
16 deficiency is made by the taxpayer within thirty days
17 of being notified of the deficiency by the department;
18 and

19 (2) Six per cent; provided that full payment of the
20 deficiency is made by the taxpayer after thirty days



1 but within ninety days of being notified of the
2 deficiency by the department.

3 [~~(e)~~] (d) Whenever, in the opinion of the department, it
4 is necessary to examine any federal income tax return of any
5 taxpayer or any determination, assessment, or report related
6 thereto, the department may compel the taxpayer to produce for
7 inspection a copy of any federal return, copies of all
8 statements and schedules in support thereof, and copies of all
9 determinations, assessments, and reports related thereto."

10 SECTION 3. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 4. This Act shall take effect on July 1, 2050.

Report Title:

Taxation; Penalties and Interest for Nonpayment and Underpayment

Description:

Establishes reduced taxpayer penalties for nonpayments and underpayments that are due to reasonable cause. Allows a taxpayer to post a bond to avoid penalties and interest. Assesses interest on a deficiency in state income taxes paid caused by a change in the taxable income reported on the taxpayer's federal tax return. Effective 7/1/2050. (SD1)

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

