
A BILL FOR AN ACT

RELATING TO TAX ADMINISTRATION.

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

1 SECTION 1. Section 231-8.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§231-8.5 Electronic filing of tax returns.** (a) The
4 department may allow filing by electronic, telephonic, or
5 optical means of any tax return, application, report, or other
6 document required under the provisions of title 14 administered
7 by the department.

8 (b) If the requirements of subsection (c) are satisfied,
9 the department may require electronic filing of any tax return,
10 application, report, or other document required under the
11 provisions of title 14 administered by the department for the
12 following taxpayers:

13 (1) For withholding tax filings required under chapter
14 235, only employers whose total tax liability under
15 sections 235-61 and 235-62 for the calendar or fiscal
16 year exceeds \$40,000;



- 1 (2) For income tax filings required under chapter 235,
2 only taxpayers who are [~~subject~~]:
- 3 (A) Subject to tax under section 235-71, 235-71.5, or
4 235-72;
- 5 (B) Required to file partnership returns under
6 section 235-95; provided that the partnership's
7 gross income exceeds \$250,000 for the taxable
8 year; or
- 9 (C) Required to file S corporation returns under
10 section 235-128; provided that the S corporation's
11 gross income exceeds \$250,000 for the taxable
12 year;
- 13 (3) For general excise tax filings required under chapter
14 237, only taxpayers whose total tax liability under
15 chapter 237 for the calendar or fiscal year exceeds
16 \$4,000;
- 17 (4) For transient accommodations tax filings required
18 under chapter 237D, only operators and plan managers
19 whose total tax liability under chapter 237D for the
20 calendar or fiscal year exceeds \$4,000; and



1 (5) For filings required under the following chapters, all
2 taxpayers subject to tax under those chapters:

3 (A) 236E;

4 (B) 239;

5 (C) 241;

6 (D) 243;

7 (E) 244D;

8 (F) 245; and

9 (G) 251.

10 (c) As a prerequisite to requiring electronic filing under
11 subsection (b), the department shall provide:

12 (1) An electronic filing option to the taxpayer; and

13 (2) No less than ninety days prior written notice to the
14 general public of the department's intention to
15 require electronic filing.

16 (d) Notwithstanding subsections (b) and (c), any return
17 that is prepared by a tax return preparer, as defined in section
18 231-36.5, shall be filed electronically; provided that this
19 subsection shall not apply unless an electronic filing option is
20 available and the tax return preparer reasonably expects to



1 prepare more than ten returns of the same tax type in the
2 calendar year.

3 If a return that is required to be filed electronically
4 under this subsection is not filed using an approved method, the
5 tax return preparer who prepared the return and the taxpayer
6 shall each be subject to a penalty of \$50 for every failure to
7 electronically file a return, unless it is shown that the
8 failure is due to reasonable cause and not due to neglect.

9 [~~(d)~~] (e) The date of filing shall be the date the tax
10 return, application, report, or other document is transmitted to
11 the department in a form and manner prescribed by departmental
12 rules adopted pursuant to chapter 91. The department may
13 determine alternative methods for the signing, subscribing, or
14 verifying of a tax return, application, report, or other
15 document that shall have the same validity and consequences as
16 the actual signing by the taxpayer. A filing under this section
17 shall be treated in the same manner as a filing subject to the
18 penalties under section 231-39.

19 [~~(e)~~] (f) If a person who is required by the department
20 under subsection (b) to electronically file any tax return fails
21 to file using an approved method, unless it is shown that the



1 failure is due to reasonable cause and not to neglect, the
2 person shall be liable for a penalty of two per cent of the
3 amount of the tax required to be shown on the return. If no tax
4 is required to be shown on the return, the department may
5 determine the penalty imposed by administrative rule."

6 SECTION 2. Section 231-9.9, Hawaii Revised Statutes, is
7 amended as follows:

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

9 "(a) The director of taxation is authorized to require
10 every person whose tax liability for any one taxable year
11 exceeds \$100,000 and who files a tax return for any tax,
12 including consolidated filers, to remit taxes by one of the
13 means of electronic funds transfer approved by the department;
14 provided that for withholding taxes under section 235-62,
15 electronic funds transfers shall apply to annual tax liabilities
16 that exceed \$40,000. [~~Notwithstanding the tax liability~~
17 ~~thresholds in this subsection, the director of taxation is~~
18 ~~authorized to require any person who is required to~~
19 ~~electronically file a federal return or electronically remit any~~
20 ~~federal taxes to the federal government, to electronically file~~
21 ~~a state return and electronically remit any state taxes under~~



1 ~~title 14 to the department.]~~ The director is authorized to
2 grant an exemption to the electronic filing and payment
3 requirements for good cause."

4 2. By amending subsections (c) and (d) to read:

5 "(c) If a person who is required under subsection (a) to
6 ~~[file a return electronically or]~~ remit taxes by one of the
7 means of electronic funds transfer approved by the department
8 fails ~~[to file electronically or]~~ to remit the taxes using an
9 approved method ~~[on or before the date prescribed therefor]~~,
10 unless it is shown that the failure is due to reasonable cause
11 and not to neglect, there shall be added to the tax required to
12 be so remitted a penalty of two per cent of the amount of the
13 tax. The penalty under this subsection is in addition to any
14 penalty set forth in section 231-39.

15 (d) No later than twenty days prior to the convening of
16 each regular session, the department shall submit a report to
17 the legislature containing:

18 (1) The number of taxpayers who were assessed the two per
19 cent penalty pursuant to subsection (c); and
20 ~~[(2) The amounts of each assessment; and~~



1 ~~(3)~~ (2) The total amount of assessments [~~collected~~] for
2 the previous year."

3 SECTION 3. Section 231-10.8, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~[+]~~**\$231-10.8**~~[+]~~ **Tax clearance fees.** The department may
6 charge a fee of \$20 for each tax clearance application submitted
7 [~~and \$5 for each certified copy of a tax clearance~~]."

8 SECTION 4. Section 231-28, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**\$231-28 Tax clearance before procuring liquor licenses.**

11 No liquor licenses shall be issued or renewed unless the
12 applicant therefor shall present to the issuing agency, a
13 certificate [~~signed~~] issued by the [~~director of taxation,~~]
14 department, showing that the applicant does not owe the State
15 any delinquent taxes, penalties, or interest; or that the
16 applicant has entered into and is complying with an installment
17 plan agreement with the department of taxation for the payment
18 of delinquent taxes in installments.

19 Notwithstanding any law to the contrary, the department may
20 disclose tax information relevant to the applicant's state tax
21 compliance to the issuing agency."



1 SECTION 5. Section 232-24, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§232-24 Taxes paid pending appeal.** (a) The tax paid
4 upon the amount of any assessment, actually in dispute and in
5 excess of that admitted by the taxpayer, and covered by an
6 appeal to the tax appeal court duly taken, shall, pending the
7 final determination of the appeal, be paid by the director of
8 finance into the "litigated claims fund".

9 If the final determination is in whole or in part in favor
10 of the appealing taxpayer, the director of finance shall repay
11 to the taxpayer out of the fund, [~~or if investment of the fund~~
12 ~~should result in a deficit therein, out of the general fund of~~
13 ~~the State,~~] the amount of the tax paid upon the amount held by
14 the court to have been excessive or nontaxable, together with
15 interest accrued from the date of each payment into the
16 litigated claims fund, [~~the interest to~~] which shall be paid
17 from the general fund of the State[~~. For purposes of this~~
18 ~~section, the rate of interest shall be computed by reference to~~
19 ~~section 6621(a) (with respect to interest rate determination) of~~
20 ~~the Internal Revenue Code of 1986, as of January 1, 2010.];
21 provided that if payment of amounts held by the court to be~~



1 excessive or nontaxable would result in a deficit in the
2 litigated claims fund, payment shall be made out of the general
3 fund of the State.

4 The balance, if any, of the payment made by the appealing
5 taxpayer, or the whole of the payment, in case the decision is
6 wholly in favor of the assessor, [~~shall,~~] upon the final
7 determination of the tax appeal court, shall become a
8 realization under the tax law concerned.

9 (b) For purposes of this section, interest shall be
10 computed using the following interest rates:

11 (1) For corporations whose overpayments do not exceed
12 \$10,000, three per cent;

13 (2) For corporations whose overpayments exceed \$10,000,
14 one and one-half per cent; and

15 (3) For all other taxpayers, four per cent.

16 (c) In a case of an appeal to a board of review, the tax
17 paid, if any, upon the amount of the assessment actually in
18 dispute and in excess of that admitted by the taxpayer, shall
19 during the pendency of the appeal and until and unless an appeal
20 is taken to the tax appeal court, be held by the director of
21 finance in a special deposit. In the event of final



1 determination of the appeal in the board of review, the director
2 of finance shall repay to the appealing taxpayer out of the
3 deposit the amount of the tax paid upon the amount held by the
4 board to have been excessive or nontaxable, if any, the balance,
5 if any, or the whole of the deposit, in case the decision is
6 wholly in favor of the assessor, to become a realization under
7 the tax law concerned."

8 SECTION 6. If any provision of this Act, or the
9 application thereof to any person or circumstance, is held
10 invalid, the invalidity does not affect other provisions or
11 applications of the Act that can be given effect without the
12 invalid provision or application, and to this end the provisions
13 of this Act are severable.

14 SECTION 7. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 8. This Act shall take effect on July 1, 2050,
17 provided that section 2 shall take effect on January 1, 2021.



Report Title:

Tax Administration; Electronic Filing; Electronic Funds Transfer; Tax Clearances; Interest Rate

Description:

Allows the Department of Taxation to mandate the electronic filing of partnership and S-corporation returns if the taxpayer's gross receipts exceed \$250,000. Requires certain tax return preparers to file returns electronically. Amends the rules for electronic funds transfer to remove the authorization to require electronic funds transfer or electronic filing if the federal government required that person to file or pay electronically. Removes the timeliness requirement from the electronic funds transfer penalty. Removes the authority of the department to charge for certified copies of tax clearances. Amends the statute that mandates tax clearances for liquor license holders. Clarifies the interest rate for payments made to taxpayers out of the litigated claims fund. 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.

