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# A BILL FOR AN ACT

RELATING TO TAX COLLECTIONS.

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

1       SECTION 1. Section 235-111, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3       "(a) General rule. The amount of income taxes imposed by  
4 this chapter (also the amount of income taxes imposed by any  
5 preceding law of the State) and the liability of any employer in  
6 respect of wages, shall be assessed or levied and the  
7 overpayment, if any, shall be credited within three years after  
8 filing of the return for the taxable year, or within three years  
9 of the due date prescribed for the filing of the return,  
10 whichever is later. No proceeding in court without assessment  
11 for the collection of the taxes or the enforcement of the  
12 liability shall be begun after the expiration of the period.

13 Where the assessment of the tax imposed by this chapter has been  
14 made within the period of limitation applicable thereto, the tax  
15 may be collected by levy or by a proceeding in court under  
16 chapter 231; provided that the levy is made or the proceeding  
17 was begun within fifteen years after the assessment of the tax.



1 For any tax that has been assessed [~~prior to~~] before July 1,  
2 2009, the levy or proceeding shall be barred after June 30,  
3 2024.

4 Notwithstanding any other provision to the contrary in this  
5 section, the limitation on collection after assessment in this  
6 section shall be suspended for the period:

7 (1) The taxpayer agrees to suspend the period;

8 (2) The assets of the taxpayer are in control or custody  
9 of a court in any proceeding before any court of the  
10 United States or any state, and for six months  
11 thereafter;

12 (3) An offer in compromise under section 231-3(10) is  
13 pending; ~~and~~

14 (4) During which the taxpayer is outside the State for a  
15 continuous period of at least six months; provided  
16 that if at the time of the taxpayer's return to the  
17 State the period of limitations on collection after  
18 assessment would expire before the expiration of six  
19 months from the date of the taxpayer's return, the  
20 period shall not expire before the expiration of the  
21 six months~~[-]~~; and



1       (5) An appeal of the assessment is pending before the  
2       taxation board of review or the tax appeal court,  
3       beginning on the date the notice of appeal is filed  
4       and concluding on the date a final decision is issued  
5       or the case is withdrawn or dismissed."

6       SECTION 2. Section 237-40, Hawaii Revised Statutes, is  
7 amended by amending subsection (a) to read as follows:

8       "(a) General rule. The amount of excise taxes imposed by  
9 this chapter shall be assessed or levied within three years  
10 after the annual return was filed, or within three years of the  
11 due date prescribed for the filing of the return, whichever is  
12 later, and no proceeding in court without assessment for the  
13 collection of any of the taxes shall be begun after the  
14 expiration of the period. Where the assessment of the tax  
15 imposed by this chapter has been made within the period of  
16 limitation applicable thereto, the tax may be collected by levy  
17 or by a proceeding in court under chapter 231; provided that the  
18 levy is made or the proceeding was begun within fifteen years  
19 after the assessment of the tax. For any tax that has been  
20 assessed [~~prior to~~] before July 1, 2009, the levy or proceeding  
21 shall be barred after June 30, 2024.



1       Notwithstanding any other provision to the contrary in this  
2 section, the limitation on collection after assessment in this  
3 section shall be suspended for the period:

4       (1) The taxpayer agrees to suspend the period;

5       (2) The assets of the taxpayer are in control or custody  
6 of a court in any proceeding before any court of the  
7 United States or any state, and for six months  
8 thereafter;

9       (3) An offer in compromise under section 231-3(10) is  
10 pending; ~~and~~

11       (4) During which the taxpayer is outside the State if the  
12 period of absence is for a continuous period of at  
13 least six months; provided that if at the time of the  
14 taxpayer's return to the State the period of  
15 limitations on collection after assessment would  
16 expire before the expiration of six months from the  
17 date of the taxpayer's return, the period shall not  
18 expire before the expiration of the six months~~[-]~~; and

19       (5) An appeal of the assessment is pending before the  
20 taxation board of review or the tax appeal court,  
21 beginning on the date the notice of appeal is filed



1           and concluding on the date a final decision is issued  
2           or the case is withdrawn or dismissed."

3           SECTION 3. Section 237D-9, Hawaii Revised Statutes, is  
4 amended by amending subsection (c) to read as follows:

5           "(c) Except as otherwise provided by this section, the  
6 amount of taxes imposed by this chapter shall be assessed or  
7 levied within three years after the annual return was filed, or  
8 within three years of the due date prescribed for the filing of  
9 the return, whichever is later, and no proceeding in court  
10 without assessment for the collection of any of the taxes shall  
11 be begun after the expiration of the period. Where the  
12 assessment of the tax imposed by this chapter has been made  
13 within the period of limitation applicable thereto, the tax may  
14 be collected by levy or by a proceeding in court under chapter  
15 231; provided that the levy is made or the proceeding was begun  
16 within fifteen years after the assessment of the tax. For any  
17 tax that has been assessed [~~prior to~~] before July 1, 2009, the  
18 levy or proceeding shall be barred after June 30, 2024.

19           Notwithstanding any other provision to the contrary in this  
20 section, the limitation on collection after assessment in this  
21 section shall be suspended for the period:



- 1 (1) The taxpayer agrees to suspend the period;
- 2 (2) The assets of the taxpayer are in control or custody  
3 of a court in any proceeding before any court of the  
4 United States or any state, and for six months  
5 thereafter;
- 6 (3) An offer in compromise under section 231-3(10) is  
7 pending; ~~and~~
- 8 (4) During which the taxpayer is outside the State if the  
9 period of absence is for a continuous period of at  
10 least six months; provided that if at the time of the  
11 taxpayer's return to the State the period of  
12 limitations on collection after assessment would  
13 expire before the expiration of six months from the  
14 date of the taxpayer's return, the period shall not  
15 expire before the expiration of the six months~~[-]~~; and
- 16 (5) An appeal of the assessment is pending before the  
17 taxation board of review or the tax appeal court,  
18 beginning on the date the notice of appeal is filed  
19 and concluding on the date a final decision is issued  
20 or the case is withdrawn or dismissed."



1       SECTION 4. Section 238-7, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3       "(b) Where the assessment of the tax imposed by this  
4 chapter has been made within the period of limitation applicable  
5 thereto, the tax may be collected by levy or by a proceeding in  
6 court under chapter 231; provided that the levy is made or the  
7 proceeding was begun within fifteen years after the assessment  
8 of the tax. For any tax that has been assessed [~~prior to~~]  
9 before July 1, 2009, the levy or proceeding shall be barred  
10 after June 30, 2024.

11       Notwithstanding any other provision to the contrary in this  
12 section, the limitation on collection after assessment in this  
13 section shall be suspended for the period:

14       (1) The taxpayer agrees to suspend the period;

15       (2) The assets of the taxpayer are in control or custody  
16 of a court in any proceeding before any court of the  
17 United States or any state, and for six months  
18 thereafter;

19       (3) An offer in compromise under section 231-3(10) is  
20 pending; [~~and~~]



(4) During which the taxpayer is outside the State if the period of absence is for a continuous period of at least six months; provided that if at the time of the taxpayer's return to the State the period of limitations on collection after assessment would expire before the expiration of six months from the date of the taxpayer's return, the period shall not expire before the expiration of the six months[-]; and

(5) An appeal of the assessment is pending before the taxation board of review or the tax appeal court, beginning on the date the notice of appeal is filed and concluding on the date a final decision is issued or the case is withdrawn or dismissed."

SECTION 5. Section 243-14, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The amount of license taxes imposed by this chapter shall be assessed or levied, or the overpayment, if any, shall be credited within three years after filing of the monthly statement, or within three years of the due date prescribed for the filing of the statement, whichever is later. No proceeding in court without assessment for the collection of the taxes or





1 the enforcement of the liability shall begin after the  
2 expiration of the three-year period. Where the assessment of  
3 the tax imposed by this chapter has been made within the period  
4 of limitation applicable thereto, the tax may be collected by  
5 levy or by a proceeding in court under chapter 231; provided  
6 that the levy is made or the proceeding was begun within fifteen  
7 years after the assessment of the tax. For any tax that has  
8 been assessed [~~prior to~~] before July 1, 2009, the levy or  
9 proceeding shall be barred after June 30, 2024.

10 Notwithstanding any other provision to the contrary in this  
11 section, the limitation on collection after assessment in this  
12 section shall be suspended for the period:

- 13 (1) The taxpayer agrees to suspend the period;
- 14 (2) The assets of the taxpayer are in control or custody  
15 of a court in any proceeding before any court of the  
16 United States or any state, and for six months  
17 thereafter;
- 18 (3) An offer in compromise under section 231-3(10) is  
19 pending; [~~and~~]
- 20 (4) During which the taxpayer is outside the State if the  
21 period of absence is for a continuous period of at



1 least six months; provided that if at the time of the  
2 taxpayer's return to the State the period of  
3 limitations on collection after assessment would  
4 expire before the expiration of six months from the  
5 date of the taxpayer's return, the period shall not  
6 expire before the expiration of the six months[-]; and

7 (5) An appeal of the assessment is pending before the  
8 taxation board of review or the tax appeal court,  
9 beginning on the date the notice of appeal is filed  
10 and concluding on the date a final decision is issued  
11 or the case is withdrawn or dismissed.

12 As to all tax payments for which a refund or credit is not  
13 authorized by this section (including, without prejudice to the  
14 generality of the foregoing, cases of unconstitutionality), the  
15 remedies provided by appeal or by section 40-35 are exclusive."

16 SECTION 6. Section 247-6.5, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 **"§247-6.5 Limitation period for assessment, levy,**  
19 **collection, or credit.** The amount of conveyance taxes imposed  
20 by this chapter shall be assessed or levied, and the  
21 overpayment, if any, shall be credited within three years after



1 filing of the certificate prescribed by section 247-6. No  
2 proceeding in court without assessment for the collection of the  
3 taxes shall be begun after the expiration of the three-year  
4 period. Where the assessment of the tax imposed by this chapter  
5 has been made within the period of limitation applicable  
6 thereto, the tax may be collected by levy or by a proceeding in  
7 court under chapter 231; provided that the levy is made or the  
8 proceeding was begun within fifteen years after the assessment  
9 of the tax. For any tax that has been assessed [~~prior to~~]  
10 before July 1, 2009, the levy or proceeding shall be barred  
11 after June 30, 2024.

12 Notwithstanding any other provision to the contrary in this  
13 section, the limitation on collection after assessment in this  
14 section shall be suspended for the period:

15 (1) The taxpayer agrees to suspend the period;

16 (2) The assets of the taxpayer are in control or custody  
17 of a court in any proceeding before any court of the  
18 United States or any state, and for six months  
19 thereafter;

20 (3) An offer in compromise under section 231-3(10) is  
21 pending; [~~and~~]



(4) During which the taxpayer is outside the State if the period of absence is for a continuous period of at least six months; provided that if at the time of the taxpayer's return to the State the period of limitations on collection after assessment would expire before the expiration of six months from the date of the taxpayer's return, the period shall not expire before the expiration of the six months[-]; and

(5) An appeal of the assessment is pending before the taxation board of review or the tax appeal court, beginning on the date the notice of appeal is filed and concluding on the date a final decision is issued or the case is withdrawn or dismissed.

In the case of a false or fraudulent certificate filed with the intent to evade tax, or of a failure to file a certificate, the tax may be assessed or levied at any time."

SECTION 7. Section 251-8, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Except as otherwise provided by this section, the amount of surcharge taxes imposed by this chapter shall be assessed or levied within three years after the annual return



1 was filed, or within three years of the due date prescribed for  
2 the filing of the return, whichever is later, and no proceeding  
3 in court without assessment for the collection of any ~~[such]~~  
4 surcharge taxes shall begin after the expiration of the period.  
5 Where the assessment of the tax imposed by this chapter has been  
6 made within the period of limitation applicable thereto, the tax  
7 may be collected by levy or by a proceeding in court under  
8 chapter 231; provided that the levy is made or the proceeding  
9 was begun within fifteen years after the assessment of the tax.  
10 For any tax that has been assessed ~~[prior to]~~ before July 1,  
11 2009, the levy or proceeding shall be barred after June 30,  
12 2024.

13 Notwithstanding any other provision to the contrary in this  
14 section, the limitation on collection after assessment in this  
15 section shall be suspended for the period:

- 16 (1) The taxpayer agrees to suspend the period;  
17 (2) The assets of the taxpayer are in control or custody  
18 of a court in any proceeding before any court of the  
19 United States or any state, and for six months  
20 thereafter;



(3) An offer in compromise under section 231-3(10) is pending; [~~and~~]

(4) During which the taxpayer is outside the State if the period of absence is for a continuous period of at least six months; provided that if at the time of the taxpayer's return to the State the period of limitations on collection after assessment would expire before the expiration of six months from the date of the taxpayer's return, the period shall not expire before the expiration of the six months~~[-]~~; and

(5) An appeal of the assessment is pending before the taxation board of review or the tax appeal court, beginning on the date the notice of appeal is filed and concluding on the date a final decision is issued or the case is withdrawn or dismissed."

SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 9. This Act shall take effect on July 1, 3000, and shall suspend the statute of limitations on collections of assessments that were on appeal before the effective date of



1 this Act, from the filing date of the notices of appeal to the  
2 conclusion, dismissal, or withdrawal of the appeals.



**Report Title:**

Collection of Taxes; Statute of Limitations; Tax Appeal;  
Taxation Board of Review

**Description:**

Suspends the statute of limitations on collections of income tax, general excise tax, transient accommodations tax, use tax, fuel tax, conveyance tax, and rental motor vehicle, tour vehicle, and car-sharing vehicle surcharge tax during the period an assessment is pending on appeal before the Taxation Board of Review or Tax Appeal Court. Effective 7/1/3000. (HD2)

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