

A Bill for an Act Relating to the Tax Appeal Court and Amending Chapters 34 and 116, Revised Laws of Hawaii 1955, as Amended.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 116-4 (f), Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

“(f) Each board and each member thereof in addition to all other powers shall also have the power to subpoena witnesses, administer oaths, examine books and records and hear and take evidence in relation to any subject pending before the board. The tax appeal court shall have the power, upon request of the boards, to enforce by proper proceedings the attendance of witnesses and the giving of testimony by them, and the production of books, records and papers at the hearings of the boards.”

SECTION 2. Section 116-5, Revised Laws of Hawaii 1955, is hereby deleted in its entirety with the following being substituted therefor, to read as follows:

“**§ 116-5. Designation of judges of the tax appeal court.** (a) There shall be a tax appeal court with a judge of the circuit court of the first circuit to be designated by the chief justice to act as first judge of the tax appeal court until his successor is similarly designated.

“(b) A judge of the circuit court of the first circuit shall be designated by the chief justice as second judge of the tax appeal court, who shall thereupon be authorized to act as judge of the tax appeal court in case of the disqualification, disability or absence from the city and county of Honolulu of the first judge of the tax appeal court.

“(c) In case of the disqualification, disability or absence from the city and county of Honolulu of both such judges, the chief justice may designate some other circuit judge to perform the duties of judge of the tax appeal court during such disqualification, disability, or absence.”

SECTION 3. Section 116-7, Revised Laws of Hawaii 1955, is hereby amended to read as follows:

“**§ 116-7. Sessions held where, when.** The tax appeal court shall commence to hold meetings to hear and determine appeals not later than July 1 in each year and at such place as shall be determined by the court, and the court may adjourn from time to time and may hold hearings at such other time or times and at such place or places as the court may determine. Notice shall be given to all persons in interest of the time and place set for hearings.”

SECTION 4. Section 116-8, Revised Laws of Hawaii 1955, is hereby amended to read as follows:

“**§ 116-8. Court of record; general duties, powers, seal.** The tax appeal court shall hear and determine appeals as provided in sections 116-13 or 116-14. It shall be a court of record; have jurisdiction throughout the State

with respect to matters within its jurisdiction; and shall have the power and authority in the manner provided in section 116-10, to decide all questions of fact and all questions of law, including constitutional questions, involved in any such matters, without the intervention of a jury. The court may meet at such times during the year and at such places from time to time as shall be deemed advisable to carry out its work. The court, with the approval of the supreme court, shall adopt and use, and with such approval may change from time to time, an official seal.”

SECTION 5. Section 116-9, Revised Laws of Hawaii 1955, is hereby amended to read as follows:

“§ 116-9. Powers when hearing appeals. The tax appeal court when hearing appeals, shall, in respect to the summoning and examination of witnesses and the production of papers and documents and punishment for contempts and otherwise carrying out its duties and functions, have all the powers and authority of a circuit judge at chambers.”

SECTION 6. A new section is hereby added to chapter 116, Revised Laws of Hawaii 1955, as amended, to be appropriately designated, and to read in its entirety as follows:

“Section 116-..... Small claims. The tax appeal court shall establish by rule a small claims procedure which, to the greatest extent practicable, shall be informal. Any protesting taxpayer who would incur a total tax liability, not including penalties and interest, of less than \$1,000.00 by reason of the protested assessment or payment in question, may elect to employ such procedure upon:

“(a) payment of a \$3.00 filing fee; and

“(b) filing with the tax appeal court a written statement of the facts in the case, together with a waiver of the right to appeal to the supreme court.

“The tax appeal court shall cause a notice of the appeal and a copy of such statement to be served on the director of taxation.”

SECTION 7. Section 34-24, Revised Laws of Hawaii 1955, as amended, is hereby further amended by changing the second full paragraph thereof to read as follows:

“Action to recover the money so paid, or proceedings to adjust the claim may be commenced by the payer or claimant against the public accountant to whom the payment was made, in a court of competent jurisdiction, within such period of thirty days, and in default of bringing such suit or proceedings within such period, the money so paid shall be by such accountant deposited in the treasury of the State, and the same shall thereupon become a government realization, provided, however, that any action to recover payment of taxes under protest shall be commenced in the tax appeal court.”

SECTION 8. Transition. In order to permit effective transition and continuity of the functions of the tax appeal court, the tax appeal court as presently constituted shall continue to have jurisdiction over all matters as to which trial has been commenced before the effective date of this Act and

ACT 231

until their disposition. Jurisdiction over such matters upon remand by the supreme court for new trial or further proceedings shall rest with the judge of the tax appeal court designated under this Act, and not with such court as presently constituted.

SECTION 9. Amendment of conflicting laws. All laws and parts of laws heretofore enacted which are in conflict with the provisions of this Act are hereby amended to conform herewith. All acts passed during this regular session 1967, whether enacted before or after the passage of this Act shall be amended to conform to this Act, unless such acts specifically provide to the contrary.

SECTION 10. Separability. Any portion of this Act judicially declared to be invalid shall not affect the remaining portion.

SECTION 11. This Act shall take effect on July 1, 1968.
(Approved June 6, 1967.)