

ACT 8

S.B. NO. 5

A Bill for an Act Relating to Filing Thresholds for Certain Taxes.

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

SECTION 1. The terrorist attacks on September 11, 2001, have stunned the nation and have had far-ranging impacts that threaten to paralyze our national economy. As a result, we have experienced a dramatic decrease in air travel, which has a particularly damaging effect on Hawaii's tourism-based economy. To counteract these negative effects, this Act increases the filing thresholds for taxpayers filing withholding, general excise, use, transient accommodations, and rental motor vehicle and tour vehicle surcharge tax returns.

Employers are responsible for withholding a portion of their employees' wages as income tax and paying the amounts withheld to the department of taxation on the employees' behalf. Withholding returns with less than \$100,000 annual liability are due monthly on or before the fifteenth day of the calendar month following the month for which the taxes were withheld. When the total tax liability is less than \$1,000 for the calendar year, returns may be filed quarterly on or before the fifteenth day of the month after the close of each quarter. This Act increases the threshold for quarterly filing to \$5,000.

The periodic general excise or use tax return (Form G-45) must be filed on a monthly, quarterly, or semiannual basis on or before the last day of the month following the close of the reporting period. Currently, the return and tax may be filed on a quarterly basis if the taxpayer's liability for the calendar or fiscal year is \$2,000 or less and on a semi-annual basis if the total liability is \$1,000 or less. The filing thresholds were last increased in 1985. These same thresholds are applicable to a taxpayer filing a transient accommodations tax return and rental motor vehicle and tour vehicle surcharge tax return.

The purpose of this Act is to assist taxpayers by increasing the thresholds for taxpayers filing withholding, general excise, use, transient accommodations, and rental motor vehicle and tour vehicle surcharge tax returns. This will reduce the filing burden of taxpayers, thereby encouraging compliance and providing greater cash flow for taxpayers.

For example, a taxpayer with a gross income of \$25,000 per year, subject to the general excise tax, now must file on a quarterly basis. The return for the third calendar quarter ending September 30, 2001, is currently due on October 31, 2001. This Act will allow that taxpayer to file on a semiannual basis. The return for the third and fourth calendar quarters would not have to be filed until January 31, 2002. Similar savings both in cash flow and decrease in paperwork will be felt by those who will only need to file quarterly instead of monthly and for the payment of the other taxes as well.

SECTION 2. Section 235-62, Hawaii Revised Statutes, is amended to read as follows:

“§235-62 Return and payment of withheld taxes. Every employer required by this chapter to withhold taxes on wages paid in any month shall make a return of such wages to the department of taxation on or before the fifteenth day of the calendar month following the month for which the taxes have been withheld; provided that each employer required to make a return under this section whose liability for taxes withheld exceeds \$100,000 a year, shall make a return of wages and taxes withheld to the department on or before the tenth day of the calendar month following the month for which the taxes have been withheld. The return shall

be in such form, including computer printouts and the like, and contain such information as may be prescribed by the director of taxation. The return shall be filed with the collector of the taxation district in which the employer has the employer's principal place of business or with the director at Honolulu if the employer has no place of business in the State. Every return required under this section shall be accompanied by a remission of the complete amount of tax withheld, as reported in the return. If the director believes collection of the tax may be in jeopardy, the director may require any person required to make a return under this section to make such return and pay such tax at any time. The director may grant permission to employers, whose liability to pay over the taxes withheld as provided in this section shall not exceed [~~\$1,000~~] \$5,000 a year, to make returns and payments of the taxes due on a quarterly basis during the calendar year, the returns and payments to be made on or before the fifteenth day of the calendar month after the close of each quarter, to wit, on or before April 15, July 15, October 15, and January 15. The director may grant permission to employers to make monthly payments based on an estimated quarterly liability; provided that the employer files a reconciliation return on or before the fifteenth day of the calendar month after the close of each quarter during the calendar year as provided by this section. The director, for good cause, may extend the time for making returns and payments, but not beyond the fifteenth day of the second month following the regular due date of the return. With respect to wages paid out of public moneys, the director, in the director's discretion, may prescribe special forms for, and different procedures and times for the filing of, the returns by employers paying the wages, or may waive the filing of any returns upon the conditions and subject to rules the director may prescribe.'

SECTION 3. Section 237-30, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

“(b) Notwithstanding subsection (a), the director of taxation, for good cause, may permit a taxpayer to file the taxpayer's return required under this section and make payments thereon:

- (1) On a quarterly basis during the calendar or fiscal year, the return and payment to be made on or before the last day of the calendar month after the close of each quarter, to wit: for calendar year taxpayers, on or before April 30, July 31, October 31, and January 31 or, for fiscal year taxpayers, on or before the last day of the fourth month, seventh month, and tenth month following the beginning of the fiscal year and on or before the last day of the month following the close of the fiscal year; provided that the director is satisfied that the grant of the permit will not unduly jeopardize the collection of the taxes due thereon and the taxpayer's total tax liability for the calendar or fiscal year under this chapter will not exceed [~~\$2,000;~~] \$4,000; or
- (2) On a semiannual basis during the calendar or fiscal year, the return and payment to be made on or before the last day of the calendar month after the close of each six-month period, to wit: for calendar year taxpayers, on July 31 and January 31 or, for fiscal year taxpayers, on or before the last day of the seventh month following the beginning of the fiscal year and on or before the last day of the month following the close of the fiscal year; provided that the director is satisfied that the grant of the permit will not unduly jeopardize the collection of the taxes due thereon and the taxpayer's total tax liability for the calendar or fiscal year under this chapter will not exceed [~~\$1,000;~~] \$2,000.

The director, for good cause, may permit a taxpayer to make monthly payments based on the taxpayer's estimated quarterly or semiannual liability, provided the taxpayer files a reconciliation return at the end of each quarter or at the end

of each six-month period during the calendar or fiscal year, as provided in this section.

(c) If a taxpayer filing the taxpayer's return on a quarterly or semiannual basis, as provided in this section, becomes delinquent in either the filing of the taxpayer's return or the payment of the taxes due thereon, or if the liability of a taxpayer, who possesses a permit to file the taxpayer's return and to make payments on a semiannual basis exceeds [~~\$1,000~~] \$2,000 in general excise taxes during the calendar year or exceeds [~~\$2,000~~] \$4,000 in general excise taxes during the calendar year if making payments on a quarterly basis, or if the director determines that any such quarterly or semiannual filing of return would unduly jeopardize the proper administration of this chapter, including the assessment or collection of the general excise tax, the director may, at any time, revoke a taxpayer's permit, in which case the taxpayer will then be required to file the taxpayer's return and make payments thereon as herein provided in subsection (a).''

SECTION 4. Section 237D-6, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

“(b) Notwithstanding subsection (a), the director of taxation, for good cause, may permit a taxpayer to file the taxpayer's return required under this section and make payments thereon:

- (1) On a quarterly basis during the calendar or fiscal year, the return and payment to be made on or before the last day of the calendar month after the close of each quarter, to wit: for calendar year taxpayers, on or before April 30, July 31, October 31, and January 31 or, for fiscal year taxpayers, on or before the last day of the fourth month, seventh month, and tenth month following the beginning of the fiscal year and on or before the last day of the month following the close of the fiscal year; provided that the director is satisfied that the grant of the permit will not unduly jeopardize the collection of the taxes due thereon and the taxpayer's total tax liability for the calendar or fiscal year under this chapter will not exceed [~~\$2,000;~~] \$4,000; or
- (2) On a semiannual basis during the calendar or fiscal year, the return and payment to be made by or before the last day of the calendar month after the close of each six-month period, to wit: for calendar year taxpayers, on July 31 and January 31 or, for fiscal year taxpayers, on or before the last day of the seventh month following the beginning of the fiscal year and on or before the last day of the month following the close of the fiscal year; provided that the director is satisfied that the grant of the permit will not unduly jeopardize the collection of the taxes due thereon and the taxpayer's total tax liability for the calendar or fiscal year under this chapter will not exceed [~~\$1,000;~~] \$2,000.

The director, for good cause, may permit a taxpayer to make monthly payments based on the taxpayer's estimated quarterly or semiannual liability; provided that the taxpayer files a reconciliation return at the end of each quarter or at the end of each six-month period during the calendar or fiscal year, as provided in this section.

(c) If a taxpayer filing the taxpayer's return on a quarterly or semiannual basis, as provided in this section, becomes delinquent in either the filing of the taxpayer's return or the payment of the taxes due thereon, or if the liability of a taxpayer, who possesses a permit to file the taxpayer's return and to make payments on a semiannual basis exceeds [~~\$1,000~~] \$2,000 in transient accommodations taxes during the calendar year or exceeds [~~\$2,000~~] \$4,000 in transient accommodations taxes during the calendar year if making payments on a quarterly basis, or if the director determines that any such quarterly or semiannual filing of return would

unduly jeopardize the proper administration of this chapter, including the assessment or collection of the transient accommodations tax, the director, at any time, may revoke a taxpayer's permit, in which case the taxpayer shall then be required to file the taxpayer's return and make payments thereon as provided in subsection (a)."

SECTION 5. Section 251-4, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

"(b) Notwithstanding subsection (a), the director, for good cause, may permit a person to file the person's return required under this section and make payments thereon:

- (1) On a quarterly basis during the calendar or fiscal year, the return and payment to be made on or before the last day of the calendar month after the close of each quarter, to wit: for calendar year taxpayers, on or before April 30, July 31, October 31, and January 31 or, for fiscal year taxpayers, on or before the last day of the fourth month, seventh month, and tenth month following the beginning of the fiscal year and on or before the last day of the month following the close of the fiscal year; provided that the director is satisfied that the grant of the permit will not unduly jeopardize the collection of the surcharge taxes due thereon and that the person's total surcharge tax liability for the calendar or fiscal year under this chapter will not exceed [~~\$2,000;~~] \$4,000; or
- (2) On a semiannual basis during the calendar or fiscal year, the return and payment to be made by or before the last day of the calendar month after the close of each six-month period, to wit: for calendar year taxpayers, on July 31 and January 31 or, for fiscal year taxpayers, on or before the last day of the seventh month following the beginning of the fiscal year and on or before the last day of the month following the close of the fiscal year; provided that the director is satisfied that the grant of the permit will not unduly jeopardize the collection of the surcharge taxes due thereon and that the person's total surcharge tax liability for the calendar or fiscal year under this chapter will not exceed [~~\$1,000;~~] \$2,000.

The director, for good cause, may permit a person to make monthly payments based on the person's estimated quarterly or semiannual liability; provided that the person files a reconciliation return at the end of each quarter or at the end of each six-month period during the calendar or fiscal year, as provided in this section.

(c) If a person filing the return on a quarterly or semiannual basis, as provided in this section, becomes delinquent in either the filing of the return or the payment of the surcharge taxes due thereon, or if the liability of a person, who possesses a permit to file the return and to make payments on a semiannual basis exceeds [~~\$1,000~~] \$2,000 in surcharge taxes during the calendar year or exceeds [~~\$2,000~~] \$4,000 in surcharge taxes during the calendar year if making payments on a quarterly basis, or if the director determines that any such quarterly or semiannual filing of return would unduly jeopardize the proper administration of this chapter, including the assessment or collection of the surcharge tax, the director, at any time, may revoke a person's permit, in which case the person then shall be required to file the person's return and make payments thereon as provided in subsection (a)."

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval; provided that:

- (1) Section 2 shall apply to withholding taxes for periods beginning on or after October 1, 2001;

- (2) Section 3 shall apply to gross income or gross proceeds received on or after October 1, 2001, and all taxes accruing on or after October 1, 2001;
- (3) Section 4 shall apply to gross rental or gross rental proceeds received on or after October 1, 2001, and all taxes accruing on or after October 1, 2001; and
- (4) Section 5 shall apply to the rental of each rental motor vehicle and the use of each tour vehicle on or after October 1, 2001.

(Approved November 2, 2001.)