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## A BILL FOR AN ACT

RELATING TO AUTHORITY OF THE DEPARTMENT OF TAXATION TO CORRECT  
ERRORS ON TAX RETURNS.

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

1           SECTION 1. Chapter 231, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "§231-           Assessments arising out of mathematical or  
5 clerical errors. (a) If a taxpayer is notified that, due to a  
6 mathematical or clerical error appearing on the taxpayer's  
7 return, an amount of tax in excess of that shown on the return  
8 is due, and that an assessment of the tax has been or will be  
9 made on the basis of what would have been the correct amount of  
10 tax, but for the mathematical or clerical error, the notice  
11 shall not be considered as a notice of final assessment for the  
12 purposes of section 235-108, 237-36, or similar law. Each  
13 notice under this subsection shall set forth the error alleged  
14 and an explanation thereof.

15           (b) A taxpayer, within thirty days after notice is sent  
16 under subsection (a), may file with the department a request for



1 an abatement of any assessment specified in the notice. Upon  
2 receipt of the request, the department shall abate the  
3 assessment. Any reassessment of the tax with respect to which  
4 an abatement is made under this subsection shall be subject to  
5 the deficiency procedures prescribed by section 235-108, 237-36,  
6 or similar law.

7 (c) No levy or proceeding in court for the collection of  
8 an assessment made under subsection (a) shall be made, begun, or  
9 prosecuted during the period in which the assessment may be  
10 abated under subsection (b).

11 (d) As used in this section, the term "mathematical or  
12 clerical error" means:

13 (1) An error in addition, subtraction, multiplication, or  
14 division shown on any return (unless the taxpayer  
15 shall have claimed that the applicable rate of tax is  
16 lower than the rate of tax applied by the department);

17 (2) An incorrect use of any table provided by the  
18 department with respect to any return if the incorrect  
19 use is apparent from the existence of other  
20 information on the return;



- 1       (3) An entry on a return of an item that is inconsistent  
2       with another entry of the same or another item on the  
3       return;
- 4       (4) An omission of information that is required to be  
5       supplied on the return to substantiate an entry on the  
6       return;
- 7       (5) An entry on a return of a deduction or credit in an  
8       amount that exceeds an applicable statutory limit  
9       imposed by the law allowing the deduction or credit;  
10      provided that the limit is expressed as:
- 11      (A) A specified monetary amount; or  
12      (B) A percentage, ratio, or fraction; or
- 13      (6) An omission of a correct taxpayer identification  
14      number to be included on a return; provided that a  
15      taxpayer shall be treated as having omitted a correct  
16      taxpayer identification number if the information  
17      provided by the taxpayer on the return with respect to  
18      the individual whose taxpayer identification number  
19      was provided differs from the information the  
20      department obtains from the issuer of the taxpayer  
21      identification number."



1 SECTION 2. Section 237-36, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§237-36 Erroneous returns, disallowance of exemption,**  
4 **payment.** If any return made is erroneous, or is so deficient as  
5 not to disclose the full tax liability, or if the taxpayer, in  
6 the taxpayer's return, shall disclaim liability for the tax on  
7 any gross income or gross proceeds of sales liable to the tax,  
8 or if the taxpayer shall make application under section 237-23  
9 for an exemption to which the taxpayer is not entitled, the  
10 department of taxation shall correct the error or assess the  
11 proper amount of taxes. If [~~such~~] that recomputation results in  
12 an additional tax liability, or if the department proposes to  
13 assess any gross income or gross proceeds of sales by reason of  
14 the disallowance of an exemption claimed in the return or for  
15 which application has been filed, the department shall first  
16 give notice to the taxpayer of the proposed assessment, and the  
17 taxpayer shall thereupon have an opportunity within thirty days  
18 to confer with the department. After the expiration of thirty  
19 days from the notification the department shall assess the gross  
20 income or gross proceeds of sales of the taxpayer or any portion  
21 thereof which the department believes has not theretofore been



1 assessed, and shall give notice to the taxpayer of the amount of  
2 the tax, and the amount thereof shall be paid within twenty days  
3 after the date the notice was mailed, properly addressed to the  
4 taxpayer at the taxpayer's last known address or place of  
5 business.

6 No preliminary notice shall be necessary [~~where the amount~~  
7 ~~of the tax is calculated by the department from gross income~~  
8 ~~returned by the taxpayer as subject to the tax (unless the~~  
9 ~~taxpayer shall have claimed that the applicable rate of tax is~~  
10 ~~lower than the rate of tax applied by the department); in such~~  
11 ~~case the tax shall be due and payable on the tenth day after the~~  
12 ~~date the statement was mailed.] as provided in section 231- .~~

13 In a case of disallowance of an exemption for which application  
14 was made under section 237-23 the department, before making an  
15 assessment, may require the applicant, by demand made upon the  
16 applicant by mail or delivery thereof to the address shown in  
17 the application, to file information returns as to the  
18 applicant's gross income or gross proceeds of sales within  
19 [~~such~~] a reasonable time as the department may allow, and in the  
20 event of failure, neglect, or refusal to comply with the demand,




# H.B. NO. 115

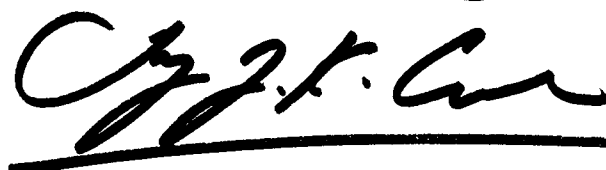
1 the department shall make an assessment under section 237-38, in  
2 lieu of this section."

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

5 SECTION 4. This Act, upon its approval, shall apply to  
6 taxable years beginning after December 31, 2018.

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INTRODUCED BY: 



JAN 17 2019



# H.B. NO. 115

**Report Title:**

DOTAX; Authority to Correct Errors on Tax Returns

**Description:**

Authorizes the Department of Taxation to correct mathematical and clerical errors on tax returns and assess taxes based on these corrections prior to notifying the taxpayer.

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

