
A BILL FOR AN ACT

RELATING TO TAX AMNESTY.

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

1 SECTION 1. **Definitions.** As used in this Act:

2 "Accounts receivable" means an amount of state tax,
3 penalty, or interest that has been recorded as due and entered
4 in the account records or any ledger maintained in the
5 department or that a taxpayer should reasonably expect to become
6 due as a direct or indirect result of any pending or completed
7 audit or investigation that a taxpayer knows is being conducted
8 by the State.

9 "Department" means the department of taxation.

10 "Director" means the director of taxation.

11 "Final, due, and owing" means an assessment that has become
12 final and is owed to the State, due to either the expiration of
13 a taxpayer's appeal rights or the rendition of the final order
14 by the director or by any court of this State. Assessments that
15 have been appealed shall be final, due, and owing fifteen days
16 after the last unappealed or unappealable order sustaining the
17 assessment or any part thereof has become final. Assessments



1 that have not been appealed shall be final, due, and owing
2 thirty days after service of notice of assessment.

3 "Taxpayer" means any individual, partnership, joint
4 venture, association, corporation, receiver, trustee, guardian,
5 executor, administrator, fiduciary, or any other entity of any
6 kind subject to any tax under title 14, Hawaii Revised Statutes,
7 or any person required to collect and remit to the State any tax
8 under title 14, Hawaii Revised Statutes.

9 SECTION 2. **Tax amnesty program; applicable time period.**

10 (a) The director shall develop and administer a one-time tax
11 amnesty program as provided in this Act. The director, upon the
12 voluntary return and remission of taxes and interest owed by any
13 taxpayer, shall waive all penalties that are assessed or subject
14 to being assessed for outstanding liabilities for taxable
15 periods beginning on or transactions occurring on or after
16 January 1, 2010, through taxable periods ending on or
17 transactions occurring on December 31, 2020. The director shall
18 adopt rules, pursuant to chapter 91, Hawaii Revised Statutes,
19 necessary for the administration of this amnesty program and
20 shall further provide for necessary forms for the filing of
21 amnesty applications and returns.



1 (b) Notwithstanding any other law to the contrary, the tax
2 amnesty program shall begin no later than January 1, 2022, and
3 shall be completed no later than December 31, 2022, and shall
4 apply to all taxpayers owing taxes, penalties, or interest
5 administered by the director under title 14, Hawaii Revised
6 Statutes, except that the tax amnesty shall not apply to any
7 real property tax or any tax levied pursuant to chapter 249,
8 Hawaii Revised Statutes.

9 SECTION 3. **Application; eligibility requirements.** (a)

10 This Act shall apply to any taxpayer who files an application
11 for amnesty within the time prescribed by the director and who:

12 (1) Files all returns as may be required by the director
13 for all years or tax reporting periods as stated on
14 the application:

15 (A) For which returns have not previously been filed;
16 and

17 (B) For which returns were filed but the tax
18 liability was underreported; and

19 (2) Pays in full the taxes due for the years and tax
20 reporting periods stated on the application, at the
21 time the application is made or amnesty tax returns



1 are filed within the designated amnesty program
2 period.
3 In addition to the requirements set forth in paragraphs (1) and
4 (2), the director may impose, by rule, the further condition
5 that any eligible taxpayer pay in full, within the amnesty
6 period, all taxes previously assessed by the director that are
7 final, due, and owing at the time the application or amnesty tax
8 returns are filed.

9 (b) An eligible taxpayer may participate in the amnesty
10 program regardless of whether the taxpayer is under audit,
11 notwithstanding the fact that the amount due is included in a
12 proposed assessment or an assessment, bill, notice, or demand
13 for payment issued by the director and without regard to whether
14 the amount due is subject to a pending administrative or
15 judicial proceeding. An eligible taxpayer may participate in
16 the amnesty program to the extent of the uncontested portion of
17 any assessed liability. However, participation in the program
18 shall be conditioned upon the taxpayer's agreement that the
19 right to protest or initiate an administrative or judicial
20 proceeding or to claim any refund of moneys paid under the



1 program is barred with respect to the amounts paid with the
2 application or amnesty return.

3 (c) The director shall allow installment payment
4 agreements in cases of severe hardship in lieu of the complete
5 payment required under subsection (a). In those cases, twenty-
6 five per cent of the amount due shall be paid with the
7 application or amnesty return, with the balance to be paid in
8 monthly installments determined by the taxpayer and the
9 director. Failure of the taxpayer to make timely payments shall
10 void the terms of the amnesty. Installment payment agreements
11 and payments shall not include interest due and accruing during
12 the installment agreement.

13 SECTION 4. **Amnesty provisions.** (a) Amnesty shall be
14 granted for any taxpayer who meets the requirements of section 3
15 of this Act in accordance with the following:

16 (1) For taxes that are owed as a result of the
17 nonreporting or underreporting of tax liabilities or
18 the nonpayment of any accounts receivable owed by an
19 eligible taxpayer, the State shall waive criminal
20 prosecution and all civil penalties that may be
21 assessed under title 14, Hawaii Revised Statutes, for



1 the taxable years or periods for which the tax amnesty
2 is requested; and

3 (2) With the exception of instances in which the taxpayer
4 and director enter into an installment payment
5 agreement authorized under section 3(c) of this Act,
6 the failure to pay all taxes as shown on the
7 taxpayer's amnesty tax return shall invalidate any
8 amnesty granted pursuant to this Act.

9 (b) This Act shall not apply to any taxpayer who is on
10 notice, written or otherwise, that the taxpayer is the subject
11 of any criminal investigation or criminal prosecution for
12 nonpayment, delinquency, evasion, or fraud in relation to any
13 federal taxes or to any of the taxes to which this amnesty
14 program is applicable.

15 (c) No refund or credit shall be granted for any interest
16 or penalty paid prior to the time the taxpayer requests amnesty
17 pursuant to section 3 of this Act.

18 (d) Unless the director, in the director's discretion,
19 redetermines the amount of taxes and interest due, no refund or
20 credit shall be granted for any taxes or interest paid under the
21 amnesty program.



H.B. NO. 292

1 SECTION 5. **Public awareness.** The director shall adopt
2 rules pursuant to chapter 91, Hawaii Revised Statutes, issue
3 forms and instructions, and take all actions necessary to
4 implement this Act. The director shall publicize the tax
5 amnesty program in order to maximize the public awareness of,
6 and participation in, the program. For the purpose of
7 publicizing the tax amnesty program, the director may contract
8 with any advertising agency within or outside this State.

9 SECTION 6. **Separate accounting.** For purposes of
10 accounting for the revenues received pursuant to this Act, the
11 director shall maintain a separate accounting and reporting of
12 funds collected under the amnesty program. All funds collected
13 shall be remitted to the general fund.

14 SECTION 7. This Act shall take effect upon its approval.
15

INTRODUCED BY:



JAN 22 2021



H.B. NO. 292

Report Title:

Taxation; Amnesty

Description:

Establishes a one-time amnesty program for liabilities for taxable years beginning on or transactions occurring on or after 01/01/2010 through taxable periods ending on or transactions occurring on 12/31/2020. Specifies that the amnesty period begins 01/01/2022 and completes no later than 12/31/2022.

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

