
A BILL FOR AN ACT

RELATING TO THE RATE OF INTEREST APPLICABLE TO UNDERPAYMENTS AND
NONPAYMENTS OF TAX.

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

1 SECTION 1. The legislature finds that the interest rate
2 paid by the State on refunds for tax overpayments was reduced
3 from two-thirds of one per cent for each month or fraction
4 thereof to its current level of one-third of one percent for
5 each month or fraction thereof by Act 40 of 2009. However, Act
6 40 only reduced the interest rate on tax overpayments and did
7 not reduce the interest rate on tax underpayments or
8 nonpayments.

9 The Legislature finds that this inequality imposed by the
10 State onto the taxpaying public is unfair and should be
11 rectified. The interest rate on tax underpayments and
12 nonpayments should be reduced to match the interest rate on tax
13 overpayments. This would move the interest rate closer to the
14 market interest rate and more accurately reflect the time value
15 of money. The purpose of interest rates on tax overpayments,
16 underpayments, and nonpayments is to account for the time value
17 of money and not penalize the State or taxpayers. Penalties



1 already exist for taxpayers who do not file or pay their taxes
2 as required. Furthermore, the new interest rate would remain
3 above the market rate and thereby continue to not reward
4 taxpayers for not filing or paying their taxes as required.

5 A lower interest rate would also reduce the tax burden
6 faced by taxpayers when addressing their tax underpayments or
7 nonpayments. It would be easier for taxpayers to make their
8 required payments, which is especially critical in this still-
9 recovering economy and with the high cost of living in our
10 State. Faster payments also means the State receives the funds
11 due to it, in a more timely manner.

12 The purpose of this bill is to reduce the interest rate on
13 underpayments or nonpayments of taxes from two-thirds of one per
14 cent for each month or fraction thereof to one-third of one per
15 cent for each month or fraction thereof.

16 SECTION 2. Section 231-39, Hawaii Revised Statutes, is
17 amended by amending subsection (b) to read as follows:

18 "(b) There shall be added to and become a part of the tax
19 imposed by such tax or revenue law, and collected as such:

20 (1) Failure to file tax return. In case of failure
21 to file any tax return required to be filed on
22 the date prescribed therefor (determined with



1 regard to any extension of time for filing),
2 unless it is shown that the failure is due to
3 reasonable cause and not due to neglect, there
4 shall be added to the amount required to be shown
5 as tax on the return five per cent of the amount
6 of the tax if the failure is for not more than
7 one month, with an additional five per cent for
8 each additional month or fraction thereof during
9 which the failure continues, not exceeding
10 twenty-five per cent in the aggregate. For
11 purposes of this paragraph, the amount of tax
12 required to be shown on the return shall be
13 reduced by the amount of any part of the tax
14 which is paid on or before the date prescribed
15 for payment of the tax and by the amount of any
16 credit against the tax which may be claimed upon
17 the return. This paragraph shall not apply to
18 any failure to file a declaration of estimated
19 tax required by section 235-97.

20 (2) Failure to pay tax.

21 (A) If any part of any underpayment is due to
22 negligence or intentional disregard of rules



1 (but without intent to defraud), there shall
2 be added to the tax an amount up to twenty-
3 five per cent of the underpayment as
4 determined by the director.

5 (B) If any part of any underpayment of tax
6 required to be shown on a return is due to
7 fraud, there shall be added to the tax an
8 amount up to fifty per cent of the
9 underpayment as determined by the director.

10 (C) If any penalty is assessed under
11 subparagraph (B) (relating to fraud) for an
12 underpayment of tax which is required to be
13 shown on a return, no penalty under
14 paragraph (1) (relating to failure to file
15 the return) shall be assessed with respect
16 to the same underpayment.

17 (3) Failure to pay tax after filing timely returns.
18 If a return is filed on or before the date
19 prescribed therefor and the amount shown as tax
20 on the return is not completely paid within sixty
21 days of the prescribed filing date, there shall



1 be added to the unpaid tax an amount up to twenty
2 per cent as determined by the director.

3 (4) Interest on underpayment or nonpayment of tax.

4 (A) If any amount of tax is not paid on or
5 before the last date prescribed for payment,
6 interest on such amount at the rate of [~~two-~~
7 ~~thirds~~] one-third of one per cent a month or
8 fraction of a month shall be paid for the
9 period beginning with the first calendar day
10 after the date prescribed for payment,
11 section 231-21 to the contrary
12 notwithstanding, to the date paid.

13 (B) If the amount of any tax is reduced by
14 reason of a carryback of a net operating
15 loss allowed under chapter 235, such
16 reduction in tax shall not affect the
17 computation of interest under this paragraph
18 for the period ending with the last day of
19 the taxable year in which the net operating
20 loss arises.

21 (C) Interest prescribed under this paragraph on
22 any tax shall be paid upon notice and



1 demand, and shall be assessed, collected,
2 and paid in the same manner as taxes.

3 (D) No interest under this paragraph shall be
4 imposed on interest provided by this
5 paragraph.

6 (E) If any portion of a tax is satisfied by
7 credit of any overpayment, then no interest
8 shall be imposed under this paragraph on the
9 portion of the tax so satisfied for any
10 period during which, if the credit had not
11 been made, interest would have been
12 allowable with respect to the overpayment.

13 (F) Interest prescribed under this paragraph on
14 any tax may be assessed and collected at any
15 time during the period within which the tax
16 to which the interest relates may be
17 collected.

18 (G) This paragraph shall not apply to any
19 failure to pay estimated tax required by
20 section 235-97."

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



H.B. NO. 2372

1 SECTION 4. This Act shall take effect upon its approval
 2 and shall apply to interest payments made on or after January 1,
 3 2015.

INTRODUCED BY:

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JAN 22 2014



H.B. NO. 2372

Report Title:

Tax Administration; Interest Rate Modification

Description:

Lowers the current interest rate payable by taxpayers on underpayments or nonpayments of tax from the rate of two-thirds of one per cent for each month or fraction thereof to the rate of one-third of one per cent for each month or fraction thereof.

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