

STATE OF HAWAII—DEPARTMENT OF TAXATION
HAWAII TAXPAYER BILL OF RIGHTS

MESSAGE FROM THE DIRECTOR

This publication explains some of your most important rights as a taxpayer.

Hawaii taxpayers have many rights. Some are based on laws, and others are based on our commitment to administer Hawaii's tax laws in a fair and equitable manner. The Hawaii Taxpayer Bill of Rights compiles these rights for your easy reference.

Taxpayer rights are at the heart of good tax administration — a pledge that the tax laws will be administered with fairness, uniformity, courtesy, and common sense. In our commitment to this pledge, we invite your suggestions for improving the services provided by the Department of Taxation.

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I. Protection of Taxpayer Rights

Taxpayers are entitled to be informed about their rights and responsibilities and to be assured that their rights will be protected throughout their contact with the Department of Taxation.

II. Tax Information

Taxpayers have a right to tax information written in plain language.

Taxpayers have a right to examine their own tax records, audit files, and collection files.

Taxpayers have a right to request copies of their own tax returns and return information, if available, subject to copying fees.

Taxpayers have a right to obtain explanations regarding billings and assessments.

III. Professional and Courteous Service

Taxpayers have a right to prompt, courteous, and accurate responses to all questions and requests for tax assistance.

Taxpayers have a right to be assured that no civil service employee of the Department of Taxation will be paid, promoted, or in any way rewarded based on the amount of assessments made or taxes collected.

Taxpayers have a right to be free from harassment and inappropriate contact by Department of Taxation personnel in matters relating to the collection of delinquent taxes and during the course of audits.

IV. Privacy and Confidentiality

Taxpayers have a right to be assured that their dealings with the Department of Taxation will be kept confidential.

Taxpayers have a right to be assured that their tax returns and tax return information will not be disclosed, except as provided by law.

V. Time Limitations

Taxpayers are entitled to seek a refund if they have overpaid their taxes. A claim for refund must be filed within the applicable statute of limitations.

The Department of Taxation may assess a taxpayer additional taxes if the assessment is made within the applicable statute of limitations. There is no time limit on the assessment of taxes in the case of a false or fraudulent return or failure to file a return.

Taxpayers have a right to extend the period of limitations for the assessment or refund of taxes by signing a written agreement with the Department of Taxation.

If the Department of Taxation is notified by the Internal Revenue Service or a taxpayer of any changes, corrections, or adjustments to the taxpayer's Federal tax return, the statute of limitations is automatically extended.

VI. Audits and Assessments

Taxpayers have a right to a Proposed Notice of Assessment except in the case of a jeopardy assessment. A Proposed Notice of Assessment is mailed to the taxpayer's last known address and: (1) explains the basis for the assessment of taxes, penalties, and interest; (2) informs taxpayers of their right to request clarification or to object to the tax assessment within thirty days from the date the Proposed Notice of Assessment was mailed; and (3) informs taxpayers that the proposed tax assessment will become final after the expiration of thirty days from the mailing of the Proposed Notice of Assessment.

Taxpayers have a right to a Final Notice of Assessment, issued after the expiration of thirty days from the mailing of the Proposed Notice of Assessment, that provides the basis for the tax assessment, and informs the taxpayer of the procedures for appealing the assessment.

Taxpayers have a right to request a meeting with the auditor or collector, their supervisor, or senior management to discuss a Proposed or Final Notice of Assessment if they do not agree with the tax assessment.

Taxpayers have a right to request that the Department of Taxation consider a closing agreement to reduce a Proposed or Final Notice of Assessment. Closing agreements are final.

VII. Tax Appeals/Payment Under Protest

Taxpayers have a right to information regarding procedures for appealing a tax assessment.

Tax Appeals. Taxpayers have a right to appeal an assessment, either to the board of review or to the tax appeal court. The appeal must be filed within 30 days from the date the Final Notice of Assessment was mailed. If the appeal is filed with the board of review, the decision of the board may be appealed within 30 days to the tax appeal court. If the appeal is filed with the tax appeal court, the decision of the tax appeal court may be appealed within 30 days to the Intermediate Appellate Court.

The first appeal to either the board of review or to the tax appeal court may be made without payment of the tax assessed. However, the assessed tax must be paid together with interest when the taxpayer appeals the decision by the board or the tax appeal court or the decision by the board in favor of the Department of Taxation is not appealed. In addition, a taxpayer who prevails before the board of review does not have to pay the assessed tax prior to an appeal by the Department of Taxation to the tax appeal court. Similarly, a taxpayer who prevails before the board of review and the tax appeal court does not have to pay the assessed tax prior to an appeal by the Department of Taxation to the Intermediate Appellate Court.

The tax appeal court may allow an individual taxpayer to appeal an income tax assessment without prior payment of the tax where the total tax liability does not exceed \$50,000 and the taxpayer shows that the payment of the tax would cause irreparable harm. Similarly, a circuit court may allow a taxpayer to appeal a general excise tax assessment without prior payment of the tax if the taxpayer shows that the payment of the tax would cause irreparable harm.

Payment Under Protest. In lieu of filing an appeal or if an appeal is not filed with the board of review or tax appeal court within 30 days from the date the Final Notice of Assessment was mailed,

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the taxpayer may pay the disputed tax assessment under written protest and seek to recover the taxes by filing an action in tax appeal court within 30 days from the date of payment.

VIII. Representation

Taxpayers have a right to represent themselves or have another person accompany or represent them (with proper written authorization) when dealing with the Department of Taxation on any tax matter, including audits, collections, and appeals.

IX. Taxpayer Advocate

Taxpayers have a right to seek the assistance of our Taxpayer Advocate to resolve any tax-related problem after all other means for resolving the problem have been exhausted, or if they feel that their rights as a taxpayer have been abridged, except in the case of a criminal tax investigation.

X. Installment Agreements, Waivers, and Compromises

Installment Agreements. Taxpayers have a right to request that the Department of Taxation consider an installment payment agreement to allow taxpayers to pay their delinquent taxes over time. The Department of Taxation will evaluate a request for an installment payment agreement based on the financial condition of the taxpayer. Taxpayers will be notified before collection action is taken on any outstanding tax liability if the installment payment agreement is in good standing. Interest will continue to accrue on the outstanding tax and penalty until paid in full. The Department may offset any outstanding tax liability with any credits due to the taxpayer from other taxes.

Waiver of Penalties and Interest. Taxpayers have a right to request that the Department of Taxation waive penalties and interest added to any tax if the taxpayer can show that failure to file a return or pay a tax on time was due to reasonable cause, i.e., not due to the taxpayer's own carelessness, neglect, or wilful disregard of the law, but due to circumstances beyond the taxpayer's control.

Compromise Offers. Taxpayers have a right to request that the Department of Taxation consider a compromise offer to reduce any tax claim arising under the tax laws administered by the Department based on doubt as to liability or collectibility, subject to the Governor's approval. If the tax liability excluding penalties and interest is \$50,000 or less, the Director may approve the offer in compromise without the Governor's approval after the offer in compromise has been posted on the Department's website for 5-calendar days.

XI. Collections

Taxpayers have a right to be informed in writing to the taxpayer's last known address of possible collection actions that may be taken on delinquent taxes, including referral to a collection agency.

Taxpayers have a right to be notified of any cost recovery fee associated with any collection action.

Taxpayers have a right to have collection actions put on hold in the case of hardship or while discussing their situation with the collector, supervisor, or senior management, understanding that interest continues to accrue.

Taxpayers have a right to a prompt release of a lien upon payment of a tax delinquency and all filing fees.

Taxpayers have a right to have an incorrect lien corrected or released and to have a letter of clarification sent to a credit reporting company.

Taxpayers have a right to have all other collection actions exhausted before a seizure of a taxpayer's assets takes place, unless the Department of Taxation determines that the interests of the State are in jeopardy.

Taxpayers have a right to have the following property exempt from levy: wearing apparel; school books; fuel; provisions; furniture; personal effects; books and tools of a trade, business, or profession; unemployment benefits; and undelivered mail.

TAXPAYER SERVICES BRANCH

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CD-ROM (Forms and Info)
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