

DEPARTMENT OF TAXATION

Amendments to Chapter 18-235,  
Hawaii Administrative Rules

\_\_\_\_\_, 2018

SUMMARY

1. §18-235-98 is amended.

**§18-235-98 Returns; form, verification and authentication, time of filing.** (a) The director of taxation may grant a reasonable extension of time for filing any return, declaration, statement, or other document required under chapter 235, HRS; provided that no extension shall be for more than six months, except as otherwise provided by statute for cases in which exceptional circumstances require additional time, including cases of persons who are outside the United States.

(b) Any taxpayer required to file an income tax return, declaration, statement, or other document under chapter 235, HRS, is granted an automatic six-month extension to file the tax return after the date prescribed for filing. The taxpayer need not file an application form to request an extension. However, if the taxpayer makes a payment of tax, the payment shall be submitted with the form prescribed by the department. Automatic extensions shall be granted subject to the following conditions:

- (1) On or before the due date prescribed by the statute for the filing of a return, there shall have been paid, through refundable credits, nonrefundable credits, withholding of taxes, estimated tax payments, or a payment submitted with a form prescribed by the department, an amount equal to the properly estimated tax liability for the taxable year;
- (2) The tax return shall be filed within the time granted by the automatic extension and shall be accompanied by payment of tax shown as due on the return to the extent not already paid; and
- (3) A court has not ordered the taxpayer to file the tax return, declaration, statement, or other document to be extended on or before the prescribed due date.

The failure to file a tax return penalty under section 231-39(b)(1), HRS, shall not be imposed on any return filed on or before the extended due date if these conditions are met. However, if the stated conditions are not met, the automatic extension shall be deemed invalid and penalties and interest shall be assessed on the amount of tax owed as if no automatic extension had been granted (i.e., the computation of

penalties under section 231-39(b)(1), HRS, and interest under section 231-39(b)(4), HRS, shall relate back to the due date prescribed by the statute).

(c) The director of taxation may terminate the automatic extension at any time by mailing a notice of termination to the taxpayer. The notice shall be mailed at least ten days prior to the termination date designated in the notice.

(d) For purposes of this section, "properly estimated tax liability" means the amount that the taxpayer estimates the tax liability will be for the taxable year, based on a bona fide and reasonable attempt as of the due date prescribed for the filing of the return to locate and account for all of the information necessary to make the estimate. Payment of properly estimated tax liability will be presumed if the tax still owing after the due date prescribed for the filing of the return, determined without regard to any extension, is ten per cent or less of the tax liability stated on the return. For purposes of this subsection, "tax liability stated on the return" means the amount of tax due before taking into account credits and payments.

(e) Any extension to file an income tax return under section 235-98, HRS, shall not extend the time for payment of any tax due on the return, but shall only extend the time to file the return. Interest under section 231-39(b)(4), HRS, shall be assessed on any amount of tax that is not paid on or before the prescribed due date." [Eff 2/16/82; am 6/28/93; 1/1/94; 10/13/94; 1/5/98; am 6/4/05; am 10/06/07; am ] (Auth: HRS §§231-3(9), 231-39, 235-98, 235-118) (Imp: HRS §§231-39 and 235-98)