

DEPARTMENT OF TAXATION

Amendments to Chapter 18-231,
Hawaii Administrative Rules

March 26, 2016

SUMMARY

1. New §§ 18-231-3-1.1 and 18-231-3-1.2 are added.

§18-231-3-1.1 Request for Reconsideration of Assessment. (a) A request for reconsideration of assessment means the process by which a taxpayer requests the department to grant a reconsideration of assessment under section 18-231-3-1.2.

(b) A request for reconsideration of assessment is a purely administrative matter. A taxpayer's appeal rights are unaffected by a request for reconsideration of assessment, and a request for reconsideration of assessment does not constitute an appeal to the Board of Review or the Tax Appeal Court, or participation in the Expedited Appeals and Dispute Resolution Program described in section 231-7.5, HRS.

(c) The department may grant or deny any request for reconsideration of assessment in its sole discretion.

(d) A request for reconsideration of assessment shall be made by the taxpayer in writing to the auditor or tax return examiner listed on the Notice of Final Assessment or Denial Letter. The request for reconsideration of assessment shall be signed by the taxpayer and shall include:

- (1) A detailed summary of facts and circumstances that the taxpayer believes would, if taken into consideration, result in a different assessment;
- (2) A list of documentation, evidence, or other information not previously considered by the department that supports the taxpayer's position under paragraph (1); provided that if the department grants a request for reconsideration of assessment under subsection (g), the taxpayer shall provide all such listed documentation, evidence, or other information within thirty days unless otherwise specified by the department; and
- (3) An explanation of why the taxpayer did not provide the facts, documentation, evidence, or information under paragraphs (1) and (2) during the audit or before the department issued the Notice of Final Assessment or Denial Letter.

(e) If the time for the taxpayer to appeal a Notice of Final Assessment or Denial Letter has elapsed, the department may require the taxpayer to pay no more than thirty per cent of the portion of the assessment in dispute prior to granting a request for reconsideration of assessment. The amount paid under this subsection shall be applied according to section 231-27, HRS, and shall not be considered a payment under protest under section 40-35, HRS.

(f) The granting of a request for reconsideration of assessment is merely an acknowledgment that the department will consider the additional documentation, evidence, or other information listed in the taxpayer's request, and in no way ensures or indicates that the department will issue a new, modified, or amended Notice of Final Assessment or Denial Letter after such reconsideration.

(g) The department shall notify the taxpayer in writing of the grant or denial of a request for reconsideration of assessment. If the department elects to grant a request for reconsideration of assessment, the department shall notify the taxpayer in writing that:

- (1) The department has granted the taxpayer's request for reconsideration of assessment; and
- (2) Reconsideration of assessment does not affect the taxpayer's appeal rights and the taxpayer should take steps to ensure it perfects any appeal rights related to the existing Notice of Final Assessment or Denial Letter. [Eff 3/26/16] (Auth: HRS §231-3(9)) (Imp: HRS §231-3)

§18-231-3-1.2 Reconsideration of Assessment.

(a) For purposes of this section, "reconsideration of assessment" means the process by which the department reevaluates the results of:

- (1) A prior audit where tax was assessed and remains unpaid; or
- (2) A prior denial of a taxpayer's claim of a refund or tax credit.

(b) Upon granting a request for reconsideration of assessment under section 18-231-3-1.1, the department may:

- (1) Request additional substantiation, worksheets, spreadsheets, explanations and other documentation; and
- (2) Amend or rescind existing assessments, issue new assessments, or let existing assessments stand in its sole discretion. [Eff 3/26/16]
(Auth: HRS §231-3(9)) (Imp: HRS §231-3)

DEPARTMENT OF TAXATION

Chapter 18-231, Hawaii Administrative Rules, on the Summary Page dated March 26, 2016, was adopted on March 26, 2016, following public hearing held on January 6, 2016 after public notice was given in the Honolulu Star Advertiser, the Garden Isle, the Maui News, West Hawaii Today, and the Hawaii Tribune-Herald on December 4, 2015.

These amendments to chapter 18-231 shall take effect ten days after filing with the Office of the Lieutenant Governor.

/s/

MARIA E. ZIELINSKI
Director of Taxation

APPROVED:

/s/

DAVID Y. IGE
Governor
State of Hawaii

Dated: March 15, 2016

APPROVED AS TO FORM:

/s/

Deputy Attorney General

Filed