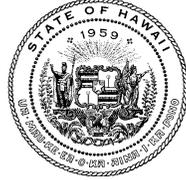


DAVID Y. IGE  
GOVERNOR

JOSH GREEN M.D.  
LT. GOVERNOR



ISAAC W. CHOY  
DIRECTOR OF TAXATION

STATE OF HAWAII  
**DEPARTMENT OF TAXATION**  
P.O. BOX 259  
HONOLULU, HAWAII 96809  
PHONE NO: (808) 587-1530  
FAX NO: (808) 587-1584

January 22, 2021

## DEPARTMENT OF TAXATION ANNOUNCEMENT NO. 2021-02

RE: Deposits in the Nature of a Cash Bond – Form D-160

The Department of Taxation (Department) is pleased to announce the issuance of a new Form D-160. The Form is intended to be used by taxpayers who are contesting an assessment of additional tax, but who otherwise wish to limit or suspend the accrual of interest on a potential underpayment. This Announcement supersedes and replaces Tax Information Release No. 2008-03.

Effective immediately, taxpayers may submit Form D-160 to make a cash bond deposit (Deposit) to the Department without the need for a review by the Department's Rules Office. Making a Deposit will suspend accrual of interest on the amount of the Deposit only. Please note that interest accrues on principal tax as well as penalties. Under current law, interest accrues at a rate of two-thirds of a percent per month or 8 percent per year.

If the Deposit does not cover the interest-accruing portion of the potential underpayment, interest will continue to accrue on the remaining difference. Making a Deposit does not affect any interest that was accrued prior to making the Deposit. If it is determined that an underpayment exists, the interest that accrued prior to the Deposit will become due together with the underpaid tax.

Unlike a payment made on a tax, a Deposit is not subject to a statute of limitations for filing a refund claim. If it is later determined that no tax is due, the taxpayer can simply ask the Department to cancel the agreement and return the Deposit, without the formality of filing a claim for refund or the need to show that there had been an overpayment of tax. However, because the Deposit is not a payment of tax, it cannot be considered a payment under protest under Hawaii Revised Statutes section 40-35. Taxpayers who wish to pay under protest **should not** make a Deposit using Form D-160.

Any request for the return of a Deposit shall be made in writing to the Department's Oahu Field Audit Branch Manager. In most instances, upon receipt of demand for return of the Deposit, the Department will initiate the return within five business days. However, the Deposit will not be returned if the Department determines that a jeopardy assessment/collection of any tax is appropriate. If a Deposit is returned, interest will begin to accrue again from that point forward.

It is important to note that taxpayers are not entitled to earn interest on their Deposit even

if an underpayment of tax is determined not to exist. However, where a taxpayer requests that the Deposit (or a portion thereof) be moved into a fund in order to perfect an appeal, the taxpayer will be entitled to earn any interest as provided by law on such amount moved because the character of the amount paid is changed from a Deposit to a payment of tax.

Tax forms, including Form D-160, and information are available on the Department's website at [tax.hawaii.gov](http://tax.hawaii.gov). If you have any questions, additional information is available by calling the Rules Office at (808) 587-1530, or by email at [tax.rules.office@hawaii.gov](mailto:tax.rules.office@hawaii.gov).

ISAAC W. CHOY  
Director of Taxation