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# A BILL FOR AN ACT

RELATING TO TAX RETURN PREPARERS.

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

1 SECTION 1. This Act shall be known and may be cited as the  
2 Hawaii Taxpayer Protection Act.

3 SECTION 2. The legislature finds that tax fraud and errors  
4 harm the taxpayers of the State and the tax base. The annual  
5 tax refund is the most significant financial transaction of the  
6 year for most local families. Thus, the legislature finds it  
7 necessary to establish minimum standards for professional tax  
8 return preparers to protect local families and taxpayers from  
9 unscrupulous and unqualified tax return preparers.

10 The purpose of this Act is to protect the State's taxpayers  
11 by:

12 (1) Requiring tax return preparers to provide a valid  
13 preparer tax identification number for claims and  
14 returns prepared for compensation submitted to the  
15 State; and

16 (2) Establishing continuing education requirements for tax  
17 return preparers.



1 SECTION 3. Chapter 231, Hawaii Revised Statutes, is  
2 amended by adding two new sections to be appropriately  
3 designated and to read as follows:

4 **"§231-A Tax return preparers; preparer tax identification**  
5 **number required.** (a) A tax return preparer shall have a valid  
6 preparer tax identification number.

7 (b) A tax return preparer shall not:

8 (1) For compensation, prepare any return or claim for  
9 refund without having a valid preparer tax  
10 identification number; or

11 (2) Omit its preparer tax identification number from any  
12 return or claim for refund prepared for compensation  
13 where the department requires the preparer tax  
14 identification number to be disclosed.

15 (c) A tax return preparer who violates subsection (b)  
16 shall be liable for the following penalties:

17 (1) \$100 per violation for the first one hundred  
18 violations;

19 (2) \$500 per violation for the one hundred first violation  
20 to the five hundredth violation; and

21 (3) \$1,000 per violation for all subsequent violations.



1       Each return or claim for refund prepared by a tax return  
2 preparer or submitted to the department in violation of  
3 subsection (b) shall be a separate violation; provided that  
4 preparing and submitting the same return or claim for refund  
5 shall not constitute two separate violations. The director of  
6 taxation may waive the penalties under this section in part or  
7 in full if the tax return preparer shows that the violation was  
8 due to reasonable cause.

9       (d) If within thirty days after the notice and demand of  
10 any penalty under subsection (c) is made, the tax return  
11 preparer:

12       (1) Pays an amount that is no less than fifteen per cent  
13 of the penalty amount; and

14       (2) Files a claim for refund of the amount so paid,  
15 no action to levy or file a proceeding in court to collect the  
16 remainder of the penalty shall be commenced except in accordance  
17 with subsection (e).

18       (e) An action that is stayed pursuant to subsection (d)  
19 may be brought thirty days after either of the following events,  
20 whichever occurs first:



1       (1) The tax return preparer fails to file an appeal to the  
2       tax appeal court within thirty days after the day on  
3       which the claim for refund of any partial payment of  
4       any penalty under subsection (c) is denied; or

5       (2) The tax return preparer fails to file an appeal to the  
6       tax appeal court for the determination of the tax  
7       return preparer's liability for the penalty assessed  
8       under subsection (c) within six months after the day  
9       on which the claim for refund was filed.

10       Nothing in this subsection shall be construed to prohibit any  
11       counterclaim for the remainder of the penalty in any proceeding.

12       (f) If there is a final administrative determination  
13       pursuant to section 231-7.5, or a final judicial decision that  
14       the penalty assessed under subsection (c) should not apply, then  
15       that portion of the penalty assessed shall be voided. Any  
16       portion of the penalty that has been paid shall be refunded to  
17       the tax return preparer as an overpayment of tax without regard  
18       to any period of limitations that, but for this subsection,  
19       would apply to the making of the refund.

20       (g) At the request of the director of taxation, a civil  
21       action may be brought to enjoin a tax return preparer from



1 further acting as a tax return preparer or from engaging in  
2 conduct as follows:

3       (1) Any action under this subsection may be brought in the  
4       circuit court of the circuit in which the tax return  
5       preparer resides or has a principal place of business,  
6       or in which the taxpayer with respect to whose tax  
7       return the action is brought resides;

8       (2) The court may exercise its jurisdiction over the  
9       action separate and apart from any other action  
10       brought by the State against the tax return preparer  
11       or taxpayer;

12       (3) If the court finds that a tax return preparer has  
13       engaged in conduct subject to the penalty under  
14       subsection (c) and that injunctive relief is  
15       appropriate to prevent the recurrence of that conduct,  
16       the court may enjoin the preparer accordingly; and

17       (4) If the court finds that a tax return preparer has  
18       continually or repeatedly engaged in conduct  
19       prohibited under subsection (b) and that an injunction  
20       prohibiting that conduct would not be sufficient to  
21       prevent the tax return preparer's interference with



1           the proper administration of this chapter, the court  
2           may enjoin the preparer from acting as a tax return  
3           preparer.

4           (h) The department may adopt rules pursuant to chapter 91  
5           necessary to effectuate the implementation of this section.

6           (i) For purposes of this section:

7           "Preparer tax identification number" means an identifying  
8           number issued by the Internal Revenue Service in accordance with  
9           section 6109 of the Internal Revenue Code of 1986, as amended,  
10          and title 26 Code of Federal Regulations section 1.6109-2.

11          "Tax return preparer" shall have the same meaning as that  
12          term is defined in section 231-36.5.

13          **§231-B Tax return preparers; continuing education**  
14          **requirements.** (a) Beginning with calendar year 2022, tax  
15          return preparers shall complete four hours of continuing  
16          education courses in each calendar year.

17          (b) The continuing education courses shall be approved by  
18          the board of public accountancy.

19          (c) The department may adopt rule pursuant to chapter 91  
20          necessary to effectuate the purposes of this section, including  
21          but not limited to:



1        (1) Any procedure for a tax return preparer to prove or  
2        attest compliance with the continuing education  
3        requirements established under this section; and

4        (2) Establishing civil penalties for violations of this  
5        section.

6        (d) For purposes of this section, "tax return preparer"  
7        shall have the same meaning as that term is defined in  
8        section 231-36.5."

9        SECTION 4. Section 466-4, Hawaii Revised Statutes, is  
10       amended by amending subsection (d) to read as follows:

11       "(d) In addition to any other powers and duties authorized  
12       by law, the board, in accordance with chapter 91, shall:

13       (1) Initiate investigations and hearings, either upon  
14       complaint or on its own motion on any matter involving  
15       the conduct of certified public accountants, public  
16       accountants, or firms, or the violation of any of the  
17       provisions of this chapter or the rules of the board;

18       (2) Adopt, amend, and repeal rules governing the  
19       administration and enforcement of this chapter and the  
20       conduct of the licensees, as it deems appropriate to



- 1 establish and maintain high standards of competence
- 2 and integrity in the practice of public accountancy;
- 3 (3) Grant, deny, suspend, or revoke licenses that are
- 4 authorized by this chapter and impose such conditions
- 5 as may be necessary in connection with the granting,
- 6 denial, suspension, or revocation of licenses;
- 7 (4) Prescribe the proof to be furnished for the issuance
- 8 of a duplicate license in place of one alleged to have
- 9 been lost or destroyed, including a requirement for
- 10 any indemnity deemed appropriate to the case; [~~and~~]
- 11 (5) Grant, renew, forfeit and restore permits to practice
- 12 that are authorized by this chapter and impose such
- 13 conditions as may be necessary in connection with the
- 14 granting, renewal, forfeiture and restoration of
- 15 permits[~~;~~]; and
- 16 (6) Approve continuing education courses for tax return
- 17 preparers under section 231-B."

18 SECTION 5. In codifying the new sections added by  
 19 section 3 of this Act, the revisor of statutes shall substitute  
 20 appropriate section numbers for the letters used in designating  
 21 the new sections in this Act.



1 SECTION 6. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 7. This Act shall take effect on January 1, 2050;  
4 provided that tax return preparers shall not be liable for  
5 penalties incurred under this Act prior to January 1, 2022.



**Report Title:**

Hawaii Taxpayer Protection Act; Tax Return Preparers; Preparer Tax Identification Number; Board of Public Accountancy; Penalties

**Description:**

Requires each tax return preparer to have a valid preparer tax identification number issued by the Internal Revenue Service and to furnish the preparer's tax identification number on any return or claim for refund prepared for compensation if required by DOTAX. Establishes penalties for failure to comply with the preparer tax identification number requirements. Beginning in calendar year 2022, establishes continuing education requirements for tax return preparers. Requires the board of public accountancy to adopt rules regarding continuing education, including compliance procedures and penalties for violations. Provides that tax return preparers shall not be liable for penalties prior to January 1, 2022. Effective 1/1/2050. (HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

