
A BILL FOR AN ACT

RELATING TO THE AUDITOR.

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

1 SECTION 1. Section 23-5, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) The auditor may examine and inspect all accounts,
4 books, records, files, papers, and documents and all financial
5 affairs of every department, office, agency, and political
6 subdivision[-], including the department of taxation. Upon
7 request by the auditor, the department of taxation shall provide
8 to the auditor access to tax returns and all accounts, books,
9 records, files, papers, and documents and all financial affairs
10 of the department of taxation; provided that for examinations
11 and inspections relating to the department of taxation, the
12 auditor shall adopt and implement internal policies to protect
13 the confidentiality of private personal information contained in
14 tax returns and return information."

15 SECTION 2. Section 231-18, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "~~§231-18 [Federal or other tax officials]~~ Officials
18 permitted to inspect returns; reciprocal provisions.



1 Notwithstanding the provisions of any law making it unlawful for
2 any person, officer, or employee of the State to make known
3 information imparted by any tax return or permit any tax return
4 to be seen or examined by any person, it shall be lawful to
5 permit a duly accredited tax official of the United States, any
6 state or territory, any county of this State, [~~or~~] the
7 Multistate Tax Commission, or the auditor to inspect any tax
8 return of any taxpayer, or to furnish to an official,
9 commission, or the authorized representative thereof an abstract
10 of the return or supply the official, commission, or the
11 authorized representative thereof with information concerning
12 any item contained in the return or disclosed by the report of
13 any investigation of the return or of the subject matter of the
14 return for tax or auditing purposes only. The Multistate Tax
15 Commission may make the information available to a duly
16 accredited tax official of the United States, any state or
17 territory, or the authorized representative thereof, for tax
18 purposes only."

19 SECTION 3. Section 235-116, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "§235-116 Disclosure of returns unlawful; penalty. All
22 tax returns and return information required to be filed under



1 this chapter shall be confidential, including any copy of any
2 portion of a federal return [~~which~~] that may be attached to a
3 state tax return, or any information reflected in the copy of
4 [~~such~~] the federal return. It shall be unlawful for any person,
5 or any officer or employee of the State, including the auditor
6 or the auditor's agent, to make known intentionally information
7 imparted by any income tax return or estimate made under
8 sections 235-92, 235-94, 235-95, and 235-97 or wilfully to
9 permit any income tax return or estimate so made or copy thereof
10 to be seen or examined by any person other than the taxpayer or
11 the taxpayer's authorized agent, persons duly authorized by the
12 State in connection with their official duties, the Multistate
13 Tax Commission or the authorized representative thereof, except
14 as provided by law, and any offense against the foregoing
15 provisions shall be punished by a fine not exceeding \$500 or by
16 imprisonment not exceeding one year, or both."

17 SECTION 4. Section 237-34, Hawaii Revised Statutes, is
18 amended by amending subsection (b) to read as follows:

19 "(b) All tax returns and return information required to be
20 filed under this chapter, and the report of any investigation of
21 the return or of the subject matter of the return, shall be
22 confidential. It shall be unlawful for any person or any



1 officer or employee of the State, including the auditor or the
2 auditor's agent, to intentionally make known information
3 imparted by any tax return or return information filed pursuant
4 to this chapter, or any report of any investigation of the
5 return or of the subject matter of the return, or to wilfully
6 permit any [~~such~~] return, return information, or report so made,
7 or any copy thereof, to be seen or examined by any person;
8 provided that for tax purposes only the taxpayer, the taxpayer's
9 authorized agent, or persons with a material interest in the
10 return, return information, or report may examine them. Unless
11 otherwise provided by law, persons with a material interest in
12 the return, return information, or report shall include:

- 13 (1) Trustees;
- 14 (2) Partners;
- 15 (3) Persons named in a board resolution or a one per cent
16 shareholder in the case of a corporate return;
- 17 (4) The person authorized to act for a corporation in
18 dissolution;
- 19 (5) The shareholder of an S corporation;
- 20 (6) The personal representative, trustee, heir, or
21 beneficiary of an estate or trust in the case of the
22 estate's or decedent's return;



1 (7) The committee, trustee, or guardian of any person in
2 paragraphs (1) [~~te~~] through (6) who is incompetent;

3 (8) The trustee in bankruptcy or receiver, and the
4 attorney-in-fact of any person in paragraphs (1) [~~te~~]
5 through (7);

6 (9) Persons duly authorized by the State in connection
7 with their official duties;

8 (10) Any duly accredited tax official of the United States
9 or of any state or territory;

10 (11) The Multistate Tax Commission or its authorized
11 representative;

12 (12) Members of a limited liability company; and

13 (13) A person contractually obligated to pay the taxes
14 assessed against another when the latter person is
15 under audit by the department.

16 Any violation of this subsection shall be a misdemeanor."

17 SECTION 5. Section 237D-13, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

19 "(a) All tax returns and return information required to be
20 filed under this chapter, and the report of any investigation of
21 the return or of the subject matter of the return, shall be
22 confidential. It shall be unlawful for any person or any



1 officer or employee of the State, including the auditor or the
2 auditor's agent, to intentionally make known information
3 imparted by any tax return or return information filed pursuant
4 to this chapter, or any report of any investigation of the
5 return or of the subject matter of the return, or to wilfully
6 permit any return, return information, or report so made, or any
7 copy thereof, to be seen or examined by any person; provided
8 that for tax purposes only the taxpayer, the taxpayer's
9 authorized agent, or persons with a material interest in the
10 return, return information, or report may examine them. Unless
11 otherwise provided by law, persons with a material interest in
12 the return, return information, or report shall include:

- 13 (1) Trustees;
- 14 (2) Partners;
- 15 (3) Persons named in a board resolution or a one per cent
16 shareholder in the case of a corporate return;
- 17 (4) The person authorized to act for a corporation in
18 dissolution;
- 19 (5) The shareholder of an S corporation;
- 20 (6) The personal representative, trustee, heir, or
21 beneficiary of an estate or trust in the case of the
22 estate's or decedent's return;



- 1 (7) The committee, trustee, or guardian of any person in
2 paragraphs (1) [~~to~~] through (6) who is incompetent;
- 3 (8) The trustee in bankruptcy or receiver, and the
4 attorney-in-fact of any person in paragraphs (1) [~~to~~]
5 through (7);
- 6 (9) Persons duly authorized by the State in connection
7 with their official duties;
- 8 (10) Any duly accredited tax official of the United States,
9 any state or territory, or of any county of this
10 State;
- 11 (11) The Multistate Tax Commission or its authorized
12 representative; and
- 13 (12) Members of a limited liability company.

14 Any violation of this subsection shall be a misdemeanor.

15 Nothing in this subsection shall prohibit the publication of
16 statistics [~~so~~] that are classified [~~as~~] to prevent the
17 identification of particular reports or returns and the items of
18 the reports or returns."

19 SECTION 6. Section 251-12, Hawaii Revised Statutes, is
20 amended by amending subsection (a) to read as follows:

21 "(a) All tax returns and return information required to be
22 filed under this chapter, and the report of any investigation of



1 the return or of the subject matter of the return, shall be
2 confidential. It shall be unlawful for any person or any
3 officer or employee of the State, including the auditor or the
4 auditor's agent, to intentionally make known information
5 imparted by any tax return or return information filed pursuant
6 to this chapter, or any report of any investigation of the
7 return or of the subject matter of the return, or to wilfully
8 permit any [~~such~~] tax return, return information, or report so
9 made, or any copy thereof, to be seen or examined by any person;
10 provided that for surcharge tax purposes only the lessor or tour
11 vehicle operator, the lessor's or tour vehicle operator's
12 authorized agent, or persons with a material interest in the
13 return, return information, or report may examine them. Unless
14 otherwise provided by law, persons with a material interest in
15 the return, return information, or report shall include:

- 16 (1) Trustees;
- 17 (2) Partners;
- 18 (3) Persons named in a board resolution or a one per cent
19 shareholder in the case of a corporate return;
- 20 (4) The person authorized to act for a corporation in
21 dissolution;
- 22 (5) The shareholder of an S corporation;



- 1 (6) The personal representative, trustee, heir, or
2 beneficiary of an estate or trust in the case of the
3 estate's or decedent's return;
- 4 (7) The committee, trustee, or guardian of any person in
5 paragraphs (1) [~~to~~] through (6) who is incompetent;
- 6 (8) The trustee in bankruptcy or receiver, and the
7 attorney-in-fact of any person in paragraphs (1) [~~to~~]
8 through (7);
- 9 (9) Persons duly authorized by the State in connection
10 with their official duties;
- 11 (10) Any duly accredited tax official of the United States
12 or of any state or territory;
- 13 (11) The Multistate Tax Commission or its authorized
14 representative; and
- 15 (12) Members of a limited liability company.
- 16 Any violation of this subsection shall be a misdemeanor.
17 Nothing in this subsection shall prohibit the publication of
18 statistics [~~so~~] that are classified [~~as~~] to prevent the
19 identification of particular reports or returns and the items of
20 the reports or returns."



1 SECTION 7. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.
3 SECTION 8. This Act shall take effect on July 1, 2050.



Report Title:

Auditor; Powers and Duties; Tax Returns

Description:

Grants explicit authority to the Auditor to inspect the documents and financial affairs of the Department of Taxation. Requires the Auditor to implement internal policies to protect confidentiality of private personal information contained in tax returns. Provides penalty provisions applicable to the Auditor or Auditor's agent for disclosure of tax information. Effective July 1, 2050. (SD1)

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

