A BILL FOR AN ACT

RELATING TO TAX RETURN PREPARERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAI'I:

SECTION 1. Chapter 231, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§231- Preparer tax identification number required. (a) A tax return preparer, as defined in section 231-36.5, shall have a valid preparer tax identification number. As used in this section, "preparer tax identification number" means an identifying number issued by the Internal Revenue Service in accordance with section 6109 of the Internal Revenue Code and 26 Code of Federal Regulations section 1.6109-2.

(b) A tax return preparer shall not:

(1) Prepare any return or claim for refund for compensation without having a valid preparer tax identification number; or

(2) Omit its preparer tax identification number from any return or claim for refund prepared for compensation where the department requires the preparer tax identification number to be disclosed.
(c) A tax return preparer who violates subsection (b)(1) or (2) shall be liable for the following penalties:

1. $100 per violation for the first 100 violations;
2. $500 per violation for the 101st to the 500th violations; and
3. $1,000 per violation for all subsequent violations.

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

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

1. Pays an amount that is not less than fifteen per cent of the penalty amount; and
2. Files a claim for refund of the amount so paid, no action to levy or file a proceeding in court to
collect the remainder of the penalty shall be
commenced except in accordance with subsection (e).

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

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

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

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

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

(g) At the request of the director of taxation, a civil action may be brought to enjoin a tax return preparer from further acting as a tax return preparer or from engaging in conduct as follows:

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

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

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

(4) If the court finds that a tax return preparer has continually or repeatedly engaged in conduct...
prohibited under subsection (b) and that an injunction prohibiting that conduct would not be sufficient to prevent the preparer's interference with the proper administration of this chapter, the court may enjoin the preparer from acting as a tax return preparer.

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

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval; provided that tax return preparers shall not be liable for penalties under this Act prior to January 1, 2020.

INTRODUCED BY: ___________

BY REQUEST

JAN 22 2019
Report Title:
Tax Return Preparers; Preparer Tax Identification Number;
Penalties

Description:
Requires any tax preparer with a preparer tax identification
number issued by the Internal Revenue Service to furnish the
preparer's tax identification number on any return or claim for
refund as required by the Department of Taxation. Authorizes
the Department of Taxation to require preparer tax
identification number disclosure on any form or document and
provides penalties for failure to comply. Effective upon
approval; provided that tax return preparers shall not be liable
for penalties prior to January 1, 2020.

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

TITLE: A BILL FOR AN ACT RELATING TO TAX RETURN PREPARERS.

PURPOSE: Requires all tax return preparers to have a preparer tax identification number issued by the Internal Revenue Service and to furnish their number on any return or claim for refund as required by the department.

MEANS: Add a new section to chapter 231, Hawaii Revised Statutes.

JUSTIFICATION: Many tax return preparers operate with little State oversight or accountability. Requiring all tax return preparers to have a preparer tax identification number will help taxpayers and the department to ensure that tax return preparers are accountable for the returns they prepare.

Impact on the public: Taxpayers will have greater assurance that their tax return preparers will be accountable for the returns that they prepare.

Impact on the department and other agencies: The department will be able to better monitor tax return preparers and detect noncompliance.

GENERAL FUND: None.

OTHER FUNDS: None.

PPES PROGRAM DESIGNATION: None.

OTHER AFFECTED AGENCIES: None.
EFFECTIVE DATE: Upon approval; provided that tax return preparers shall not be liable for penalties under this Act prior to January 1, 2020.