A BILL FOR AN ACT

RELATING TO TAXATION.

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

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 shall have a valid preparer tax identification number.
(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 one hundred violations;
(2) $500 per violation for the one hundred first to the five hundredth 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
contact 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.

(i) 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, as amended, and 26
Code of Federal Regulations section 1.6109-2, as amended.

"Tax return preparer" shall have the same meaning as in
section 231-36.5."

SECTION 2. New statutory material is underscored.
SECTION 3. This Act, upon its approval, shall apply to tax returns filed after December 31, 2019.
Report Title:
Taxation; Tax Return Preparers; Federal Preparer Tax Identification Number; Penalties

Description:
Requires a tax return preparer to have a valid preparer tax identification number issued by the Internal Revenue Service. Requires the tax return preparer to furnish the preparer's tax identification number on any return or claim for refund as required by the Department of Taxation. Establishes penalties. Applies to tax returns filed after 12/31/2019. (SD1)

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