
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. The legislature finds that tax incentives are a
2 useful tool in spurring economic growth. However, there is
3 currently no publicly available document or report that reveals
4 the actual businesses that are benefiting from the tax credits.
5 Improved accountability and transparency are necessary to ensure
6 that the tax incentives established by the legislature are
7 successful in promoting economic growth and development.

8 The purpose of this Act is to require:

- 9 (1) Businesses that apply for a state tax credit related
10 to their commercial activities to sign a release
11 statement allowing the department of taxation to
12 publicly disclose the name of the business, and the
13 name and amount of such tax credits claimed; and
14 (2) The department of taxation to publicly disclose the
15 name of each business claiming state tax credits that
16 relate to its commercial activities and the name and
17 amount of such tax credits claimed.



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

4 "§231- Disclosure; tax credits for commercial
5 activities. (a) Notwithstanding any law to the contrary, every
6 business applying for a state tax credit related to the
7 business's commercial activities shall agree, in a signed
8 statement, to allow the department to publicly disclose the name
9 of the business and the name and amount of each tax credit
10 claimed; provided that any business that does not agree to allow
11 public disclosure shall not be eligible to receive any tax
12 credits.

13 (b) On or before October 31 of each year, the department
14 shall submit a report to the legislature that shall also be made
15 available to the public in written and electronic formats. The
16 report shall contain:

- 17 (1) The name of each business that has claimed a state tax
18 credit related to the business's commercial activities
19 for the taxable year preceding the year of the report;
20 and
21 (2) The name and amount of the state tax credit related to
22 the business's commercial activities claimed by each



1 business and the tax credit against which it was
2 claimed for the taxable year preceding the year of the
3 report.

4 (b) For the purposes of this section, "business" means an
5 entity that is required to obtain a license under section 237-
6 2."

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

9 "**§235-116 Disclosure of returns unlawful; penalty.** All
10 tax returns and return information required to be filed under
11 this chapter shall be confidential, including any copy of any
12 portion of a federal return which may be attached to a state tax
13 return, or any information reflected in the copy of such federal
14 return[-]; except that information on tax returns necessary to
15 comply with section 231- shall be made available to the
16 public. It shall be unlawful for any person, or any officer or
17 employee of the State to make known intentionally information
18 imparted by any income tax return or estimate made under
19 sections 235-92, 235-94, 235-95, and 235-97 or wilfully to
20 permit any income tax return or estimate so made or copy thereof
21 to be seen or examined by any person other than the taxpayer or
22 the taxpayer's authorized agent, persons duly authorized by the



1 State in connection with their official duties, the Multistate
2 Tax Commission or the authorized representative thereof, except
3 as provided by law, and any offense against the foregoing
4 provisions shall be punished by a fine not exceeding \$500 or by
5 imprisonment not exceeding one year, or both."

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

8 "(b) All tax returns and return information required to be
9 filed under this chapter, and the report of any investigation of
10 the return or of the subject matter of the return, shall be
11 confidential[-]; except that information on tax returns
12 necessary to comply with section 231- shall be made available
13 to the public. It shall be unlawful for any person or any
14 officer or employee of the State to intentionally make known
15 information imparted by any tax return or return information
16 filed pursuant to this chapter, or any report of any
17 investigation of the return or of the subject matter of the
18 return, or to wilfully permit any such return, return
19 information, or report so made, or any copy thereof, to be seen
20 or examined by any person; provided that for tax purposes only
21 the taxpayer, the taxpayer's authorized agent, or persons with a
22 material interest in the return, return information, or report



1 may examine them. Unless otherwise provided by law, persons
2 with a material interest in the return, return information, or
3 report shall include:

- 4 (1) Trustees;
- 5 (2) Partners;
- 6 (3) Persons named in a board resolution or a one per cent
7 shareholder in case of a corporate return;
- 8 (4) The person authorized to act for a corporation in
9 dissolution;
- 10 (5) The shareholder of an S corporation;
- 11 (6) The personal representative, trustee, heir, or
12 beneficiary of an estate or trust in case of the
13 estate's or decedent's return;
- 14 (7) The committee, trustee, or guardian of any person in
15 paragraphs (1) to (6) who is incompetent;
- 16 (8) The trustee in bankruptcy or receiver, and the
17 attorney-in-fact of any person in paragraphs (1) to
18 (7);
- 19 (9) Persons duly authorized by the State in connection
20 with their official duties;
- 21 (10) Any duly accredited tax official of the United States
22 or of any state or territory;



- 1 (11) The Multistate Tax Commission or its authorized
- 2 representative;
- 3 (12) Members of a limited liability company; and
- 4 (13) A person contractually obligated to pay the taxes
- 5 assessed against another when the latter person is
- 6 under audit by the department.

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

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

10 "(a) All tax returns and return information required to be
11 filed under this chapter, and the report of any investigation of
12 the return or of the subject matter of the return, shall be
13 confidential[-]; except that information on tax returns
14 necessary to comply with section 231- shall be made available
15 to the public. It shall be unlawful for any person or any
16 officer or employee of the State to intentionally make known
17 information imparted by any tax return or return information
18 filed pursuant to this chapter, or any report of any
19 investigation of the return or of the subject matter of the
20 return, or to wilfully permit any return, return information, or
21 report so made, or any copy thereof, to be seen or examined by
22 any person; provided that for tax purposes only the taxpayer,



1 the taxpayer's authorized agent, or persons with a material
2 interest in the return, return information, or report may
3 examine them. Unless otherwise provided by law, persons with a
4 material interest in the return, return information, or report
5 shall include:

- 6 (1) Trustees;
- 7 (2) Partners;
- 8 (3) Persons named in a board resolution or a one per cent
9 shareholder in case of a corporate return;
- 10 (4) The person authorized to act for a corporation in
11 dissolution;
- 12 (5) The shareholder of an S corporation;
- 13 (6) The personal representative, trustee, heir, or
14 beneficiary of an estate or trust in case of the
15 estate's or decedent's return;
- 16 (7) The committee, trustee, or guardian of any person in
17 paragraphs (1) to (6) who is incompetent;
- 18 (8) The trustee in bankruptcy or receiver, and the
19 attorney-in-fact of any person in paragraphs (1) to
20 (7);
- 21 (9) Persons duly authorized by the State in connection
22 with their official duties;



1 (10) Any duly accredited tax official of the United States,
2 any state or territory, or of any county of this
3 State;

4 (11) The Multistate Tax Commission or its authorized
5 representative; and

6 (12) Members of a limited liability company.

7 Any violation of this subsection shall be a misdemeanor.

8 Nothing in this subsection shall prohibit the publication of
9 statistics so classified as to prevent the identification of
10 particular reports or returns and the items of the reports or
11 returns."

12 SECTION 6. Section 431:7-205, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§431:7-205 Reports to department of taxation.** The
15 commissioner shall promptly report to the department of taxation
16 all amounts of taxes collected under section 431:7-201 to
17 section 431:7-204 and section 431:8-315 and all amounts of
18 refunds of such taxes made under section 431:7-203.

19 Notwithstanding any other provision of this chapter to the
20 contrary, including confidentiality provisions under sections
21 431:2-209 and 431:2-305(f), the commissioner shall furnish the
22 department of taxation with tax-related information to the



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1 extent that is necessary for the department of taxation to
2 comply with the requirements under section 231- ."

3 SECTION 7. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 8. This Act shall take effect upon its approval.
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INTRODUCED BY:

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HB 3072

Report Title:

Taxation; Disclosure; Tax Credits

Description:

Requires businesses who apply for tax credits that are related to their commercial activities to sign a release statement allowing the Department of Taxation to publicly disclose their names and the names and amounts of such tax credits claimed. Requires the Department of Taxation to publicly disclose businesses that receive such tax credits.

