
A BILL FOR AN ACT

RELATING TO THE OFFICE OF THE OMBUDSMAN.

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

1 SECTION 1. Under current law, the ombudsman is authorized
2 to investigate administrative acts of agencies. In so doing,
3 the ombudsman may make inquiries and obtain relevant information
4 as the ombudsman deems fit. A recent opinion by the state
5 attorney general, though narrow in its interpretation, concluded
6 that state law prohibited the ombudsman from obtaining state tax
7 returns and return information in connection with the official
8 duties of the office of the ombudsman.

9 The legislature finds that allowing the office of the
10 ombudsman to obtain state tax return information about taxpayers
11 who file state tax returns would assist the ombudsman in
12 fulfilling the ombudsman's duty to investigate complaints
13 received concerning the administrative acts of agencies.

14 The purpose of this Act is therefore to permit the office
15 of the ombudsman to obtain state tax returns and tax return
16 information necessary to perform the official duties of the
17 office of the ombudsman, including the investigation of the
18 administrative acts of agencies.



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- Authority and access to records. The ombudsman
5 or an authorized representative shall have access to tax returns
6 and return information required to be filed pursuant to title 14
7 in connection with the official duties of the office of the
8 ombudsman, including the investigation of the administrative
9 acts of agencies."

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

12 "**§235-116 Disclosure of returns unlawful; penalty.** All
13 tax returns and return information required to be filed under
14 this chapter shall be confidential, including any copy of any
15 portion of a federal return [~~which~~] that may be attached to a
16 state tax return, or any information reflected in the copy of
17 [~~such~~] the federal return. It shall be unlawful for any person,
18 or any officer or employee of the State, to intentionally make
19 known [~~intentionally~~] information imparted by any income tax
20 return or estimate made under sections 235-92, 235-94, 235-95,
21 and 235-97 or wilfully [~~to~~] permit any income tax return or
22 estimate [~~so made~~] or copy thereof, to be seen or examined by



1 any person other than the taxpayer or the taxpayer's authorized
2 agent, persons duly authorized by the State in connection with
3 their official duties, the ombudsman or an authorized
4 representative pursuant to section 231- , the Multistate Tax
5 Commission or the authorized representative thereof, except as
6 provided by law, and any offense against the foregoing
7 provisions shall be [~~punished~~] punishable by a fine not
8 exceeding \$500 or by imprisonment not exceeding one year, or
9 both."

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

12 "(b) All tax returns and return information required to be
13 filed under this chapter, and the report of any investigation of
14 the return or of the subject matter of the return, shall be
15 confidential. 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 [~~such~~] return, return
21 information, or report [~~so made,~~] or any copy thereof, to be
22 seen or examined by any person; provided that for tax purposes



1 only, the taxpayer, the taxpayer's authorized agent, or persons
2 with a material interest in the return, return information, or
3 report may examine them. Unless otherwise provided by law,
4 persons with a material interest in the return, return
5 information, or report 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 or of any state or territory;

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

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

6 (13) The ombudsman or an authorized representative pursuant
7 to section 231- ; and

8 ~~[(13)]~~ (14) A person contractually obligated to pay the
9 taxes assessed against another when the latter person
10 is under audit by the department.

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

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

14 "(a) All tax returns and return information required to be
15 filed under this chapter, and the report of any investigation of
16 the return or of the subject matter of the return, shall be
17 confidential. It shall be unlawful for any person or any
18 officer or employee of the State to intentionally make known
19 information imparted by any tax return or return information
20 filed pursuant to this chapter, or any report of any
21 investigation of the return or of the subject matter of the
22 return, or to wilfully permit any return, return information, or



1 report so made, or any copy thereof, to be seen or examined by
2 any person; provided that for tax purposes only, the taxpayer,
3 the taxpayer's authorized agent, or persons with a material
4 interest in the return, return information, or report may
5 examine them. Unless otherwise provided by law, persons with a
6 material interest in the return, return information, or report
7 shall include:

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



- 1 (9) Persons duly authorized by the State in connection
2 with their official duties;
- 3 (10) Any duly accredited tax official of the United States,
4 any state or territory, or of any county of this
5 State;
- 6 (11) The Multistate Tax Commission or its authorized
7 representative; [~~and~~]
- 8 (12) The ombudsman or an authorized representative pursuant
9 to section 231- ; and
- 10 [~~(12)~~] (13) Members of a limited liability company.

11 Any violation of this subsection shall be a misdemeanor.
12 Nothing in this subsection shall prohibit the publication of
13 statistics so classified as to prevent the identification of
14 particular reports or returns and the items of the reports or
15 returns."

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

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



1 information imparted by any tax return or return information
2 filed pursuant to this chapter, or any report of any
3 investigation of the return or of the subject matter of the
4 return, or to wilfully permit any [~~such~~] tax return, return
5 information, or report so made, or any copy thereof, to be seen
6 or examined by any person; provided that for surcharge tax
7 purposes, only the lessor or tour vehicle operator, the lessor's
8 or tour vehicle operator's authorized agent, or persons with a
9 material interest in the return, return information, or report
10 may examine them. Unless otherwise provided by law, persons
11 with a material interest in the return, return information, or
12 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 (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 (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; [~~and~~]

12 (12) The ombudsman or an authorized representative pursuant
13 to section 231- ; and

14 [~~(12)~~] (13) Members of a limited liability company.

15 Any violation of this subsection shall be a misdemeanor.

16 Nothing in this subsection shall prohibit the publication of
17 statistics so classified as to prevent the identification of
18 particular reports or returns and the items of the reports or
19 returns."

20 SECTION 7. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.

22 SECTION 8. This Act shall take effect on July 1, 2050.



Report Title:

Ombudsman; State Tax Return Information

Description:

Authorizes the ombudsman or an authorized representative to obtain state tax returns and return information in connection with the official duties of the office of the ombudsman. Effective 7/1/2050. (SD2)

