
A BILL FOR AN ACT

RELATING TO TAX ADMINISTRATION.

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

1 SECTION 1. In all tax systems, government administrators
2 are continually working to reduce tax noncompliance known as the
3 "tax gap." In the United States, the tax gap, which is the
4 difference between the amount of tax that is required to be
5 reported and timely paid and the amount of tax that is actually
6 reported and paid, is estimated to be almost \$400,000,000,000
7 per year. Of this tax gap, it is further estimated that about
8 \$200,000,000,000, or half of the tax gap, is comprised of what
9 is known as the "cash economy." Hawaii's tax gap is estimated
10 to be about \$2,000,000,000 in unreported and unpaid taxes every
11 year with approximately \$1,000,000,000 attributed to the cash
12 economy. Focusing resources on shoring up compliance in this
13 area should be a priority.

14 Cash-based transactions are a fundamental part of any
15 economy. As the oldest form of payment, cash continues to
16 dominate many facets of the local economy. Cash is inherently
17 private, efficient, and predictable for both purchaser and

1 seller. However, cash transactions are also the simplest means
2 of underreporting or non-reporting for tax purposes because no
3 bank, no means of electronic oversight, and no intermediary
4 maintains records of the movement of funds from one pocket to
5 another.

6 As stated by former Internal Revenue Service Commissioner
7 Mark Everson, "[t]he vast majority of Americans pay their taxes
8 accurately and are shortchanged by those who don't pay their
9 fair share. The magnitude of the tax gap highlights the
10 critical role of enforcement in keeping our system of tax
11 administration healthy." By focusing resources on the cash
12 economy, the department of taxation can ensure fairness in the
13 tax system for those that comply without raising taxes or
14 otherwise substantially burdening Hawaii's economy as a whole.

15 The purpose of this Act is to identify those cash-based
16 industries and businesses in Hawaii that are susceptible to
17 evading the payment of income, general excise, withholding, and
18 employment taxes. Once identified, the department of taxation
19 shall focus their audit resources on those industries that would
20 likely result in recapturing the most tax revenues that were
21 previously uncollected by the department of taxation. Under
22 this Act, the department of taxation is required to focus on and

1 utilize computer database audit practices and techniques with an
2 industry-wide focus, rather than human resource mechanisms that
3 typically result in time-consuming investigations without a
4 substantial amount of tax revenue recapture or deterrence
5 amongst taxpayers.

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

9 "§231- Coordination policies concerning compliance with
10 general excise tax payments. (a) The department shall
11 coordinate with federal agencies to require a general excise tax
12 clearance certificate for all construction projects in Hawaii.
13 Notwithstanding any law to the contrary, the appropriate state
14 agency shall have the authority to stop the construction project
15 if any periodic general excise tax returns with payment are not
16 timely or accurately filed, as appropriate, or if the federal
17 procurement officers do not reasonably assist the department in
18 ensuring that each construction project pays general excise tax
19 in a timely and accurate manner.

20 (b) The department shall coordinate with unions and
21 federal agencies, such as the United States Immigration and
22 Customs Enforcement Agency, on database and intelligence

1 sharing, along with cooperative auditing of construction work
2 sites for compliance with the general excise tax reporting and
3 income tax withholding requirements. Notwithstanding any law to
4 the contrary, the appropriate state agency shall have the
5 authority to stop the construction project if an owner,
6 developer, employer, or similar entity is not paying income,
7 withholding, general excise, or employment taxes to the State in
8 a timely and accurate manner.

9 (c) The department shall coordinate with department of
10 commerce and consumer affairs to require a general excise tax
11 clearance certificate prior to license issuance or renewals for
12 regulated industries licensed under chapters 436 through 471,
13 such as those regulated under chapters 439 (beauty culture), 444
14 (contractors), and 467 (real estate brokers and salespersons)."

15 SECTION 3. The department of taxation shall utilize their
16 computer database data to analyze taxpayer information across
17 several tax systems and filing statuses. The computer-assisted
18 variables that the department analyzes should focus on are
19 primarily centered around matching the reported amount of taxes
20 paid on the taxpayer's return with other taxes that the taxpayer
21 would be subject to under the tax laws of this State. For
22 example, analysis of the gross income reported on a taxpayer's

1 Internal Revenue Service Schedule C should correlate with that
2 taxpayer's general excise tax return for the same reporting
3 period. Similarly, a taxpayer's Internal Revenue Service Form
4 K-1 should also correlate with an appropriate amount of general
5 excise taxes.

6 SECTION 4. Notwithstanding any law to the contrary, the
7 department of taxation shall refer all delinquent taxpayers that
8 have an outstanding tax balance that is greater than five years
9 old to a private collection agency for collection.

10 SECTION 5. New statutory material is underscored.

11 SECTION 6. This Act shall take effect on July 1, 2009.

Report Title:

Tax Administration; Cash Economy Enforcement Act

Description:

Ensures Hawaii businesses and residents are paying their fair share of taxes by directing DOTAX to identify tax gap taxpayers and coordinate with federal agencies, unions, and other state agencies, as applicable, on enforcement and auditing, and database and intelligence sharing. Requires report to legislature. (SD1)