
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Chapter 235, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§235- Direct deposit of refund. (a) An individual
5 taxpayer who:

6 (1) Is subject to this chapter;

7 (2) Qualifies for an income tax refund; and

8 (3) Requests a direct deposit of the refund,

9 shall designate the taxpayer's checking or savings accounts at
10 financial institutions for direct deposit of the taxpayer's
11 income tax refund.

12 (b) An income tax return preparer shall not designate the
13 income tax return preparer's personal or business checking or
14 savings account for direct deposit of a client taxpayer's income
15 tax refund.

16 An income tax return preparer who violates this subsection
17 shall be fined \$500 for each separate offense and shall return

1 the full amount of the direct deposit to the taxpayer for whom
2 the return was prepared. All moneys collected for violation of
3 this subsection shall be credited to the department of taxation
4 and shall not lapse to the general fund.

5 (c) For the purpose of this section, the term "income tax
6 return preparer" refers to a preparer who is paid or not paid
7 for services rendered."

8 SECTION 2. Section 235-1, Hawaii Revised Statutes, is
9 amended by adding a new definition to be appropriately inserted
10 and to read as follows:

11 "Income tax return preparer" means any person who
12 prepares, or who employs one or more persons to prepare for
13 compensation, any return of tax imposed by this chapter or any
14 claim for refund of tax imposed by this chapter. The
15 preparation of a substantial portion of a return or claim for
16 refund shall be treated as if it were the preparation of the
17 return or claim for refund. However, a person shall not be an
18 income tax return preparer merely because the person:

19 (1) Furnishes typing, reproducing, or other mechanical
20 assistance;

- 1 (2) Prepares a return or claim for refund of the employer
2 (or of an officer or employee of the employer) by whom
3 the person is regularly and continuously employed;
- 4 (3) Prepares as a fiduciary a return or claim for refund
5 for any person; or
- 6 (4) Prepares a claim for refund for a taxpayer in response
7 to any notice of deficiency issued to such taxpayer or
8 in response to any waiver of restriction after the
9 commencement of an audit of such taxpayer or another
10 taxpayer if a determination in such audit of such
11 other taxpayer directly or indirectly affects the tax
12 liability of such taxpayer."

13 SECTION 3. Section 235-98, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§235-98 Returns; form, verification and authentication,**
16 **time of filing.** (a) Returns shall be in such form as the
17 department of taxation may prescribe from time to time and shall
18 be verified by written declarations that the statements therein
19 made are subject to the penalties prescribed in section 231-36.
20 Corporate returns shall be authenticated by the signature of the
21 president, vice president, treasurer, assistant treasurer, chief
22 accounting officer, or any other officer duly authorized so to

1 act, under the penalties prescribed by section 231-36. The fact
2 that an individual's name is signed on the corporation return
3 shall be prima facie evidence that the individual is authorized
4 to sign the return on behalf of the corporation.

5 (b) An individual who is an income tax return preparer,
6 with respect to a return of tax or claim for refund of tax shall
7 sign the return or claim for refund after it is completed and
8 before it is presented to the taxpayer for signature. If the
9 income tax return preparer is unavailable for signature, another
10 income tax return preparer shall review the entire preparation
11 of the return or claim for refund, and then shall sign the
12 return or claim for refund. If more than one income tax return
13 preparer is involved in the preparation of the return or claim
14 for refund, the individual income tax return preparer who has
15 the primary responsibility as between or among the preparers for
16 the overall substantive accuracy of the preparation of the
17 return or claim for refund shall be considered to be the income
18 tax return preparer for the purposes of this subsection.

19 An income tax return preparer of any return or claim for
20 refund who fails to sign a return, unless it is shown that the
21 failure is due to reasonable cause and not due to wilful
22 neglect, shall be fined \$50 for each failure to sign, with a

1 maximum of \$25,000 per person imposed with respect to each
2 calendar year.

3 (c) The department may grant a reasonable extension of
4 time for filing returns under such rules as it shall prescribe.
5 Except as otherwise provided by statute for cases in which
6 exceptional circumstances require additional time, including
7 cases of persons who are outside the United States, no extension
8 of time for filing returns shall be for more than six months in
9 order to expedite the timely determination of tax liability and
10 the timely remission of taxes.

11 (d) For the purpose of this section, the term "income tax
12 return preparer" refers to a preparer who is paid or not paid
13 for services rendered."

14 SECTION 4. New statutory material is underscored.

15 SECTION 5. This Act shall take effect on July 1, 2050, and
16 shall apply to taxable years beginning after December 31, 2008.

Report Title:

Taxation; Refund Direct Deposit; Income Tax Return Preparers

Description:

Requires a tax refund to be deposited in the taxpayer's accounts; prohibits deposit into an income tax return preparer's accounts; requires an income tax return preparer to sign a return; establishes penalties. Effective date 07/01/2050.
(SD2)