

JAN 25 2010

A BILL FOR AN ACT

RELATING TO TAX ADMINISTRATION.

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

1 SECTION 1. The purpose of this measure is to provide for
2 the mandatory assessment of administrative costs associated with
3 investigating tax crimes where a taxpayer is convicted of a tax
4 offense or has a conviction deferred.

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

8 "§231-A Criminal tax penalties; assessment for cost of

9 investigation. Any person who:

10 (1) Is convicted; or

11 (2) Is granted a deferred acceptance of plea pursuant to

12 chapter 853;

13 of an offense under section 231-34, 231-35, 231-36, or 231-36.4

14 shall, in addition to any other penalties provided by law, be

15 assessed by the court the actual cost of investigating the

16 violation.

17 Any costs recovered under this section shall be deposited

18 into the tax administration special fund."

S.B. NO. 2152

1 SECTION 3. Section 235-20.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§235-20.5 Tax administration special fund; established.**

4 (a) There is established a tax administration special fund,
5 into which shall be deposited:

6 (1) Fees collected under sections 235-20, 235-110.9, and
7 235-110.91;

8 (2) Penalties collected under section 2 of Act 206,
9 Session Laws of Hawaii 2007; [~~and~~]

10 (3) Revenues collected by the special enforcement section
11 pursuant to section 231-85; provided that in each
12 fiscal year, of the total revenues collected by the
13 special enforcement section, all revenues in excess of
14 \$500,000 shall be deposited into the general fund[~~-~~];
15 and

16 (4) Assessments for the costs of criminal investigations
17 recovered under section 231-A.

18 (b) The moneys in the fund shall be used for the following
19 purposes:

20 (1) Issuing comfort letters, letter rulings, written
21 opinions, and other guidance to taxpayers;

22 (2) Administering the tax credits under sections 235-110.9

1 and 235-110.91; [~~and~~]

2 (3) Administering the operations of the special
3 enforcement section[~~-~~]; and

4 (4) Administering the operations of criminal
5 investigations."

6 SECTION 4. This Act does not affect rights and duties that
7 matured, penalties that were incurred, and proceedings that were
8 begun, before its effective date.

9 SECTION 5. In codifying the new section added to chapter
10 231, Hawaii Revised Statutes, by section 2 of this Act, the
11 revisor of statutes shall substitute an appropriate section
12 number for the letter used in designating and referring to the
13 new section in this Act.

14 SECTION 6. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 7. This Act shall take effect on July 1, 2010;
17 provided that the amendments made to section 235-20.5, Hawaii
18 Revised Statutes, by this Act shall not be repealed when:

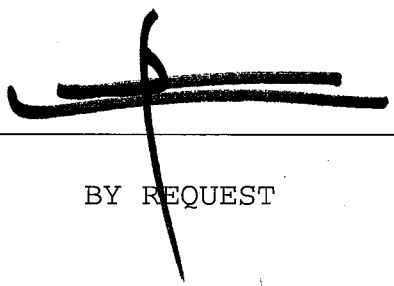
19 (1) Section 235-20.5, Hawaii Revised Statutes, is
20 reenacted on January 1, 2011, pursuant to section 8 of
21 Act 206, Session Laws of Hawaii 2007; or

S.B. NO. 2752

1 (2) Section 235-20.5, Hawaii Revised Statutes, is
2 reenacted on June 30, 2014, pursuant to section 13
3 paragraph 3 of Act 134, Session Laws of Hawaii 2009.

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INTRODUCED BY: _____

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BY REQUEST

Report Title:

Tax Administration; Criminal Cost Recovery

Description:

Provides for a cost recovery order issuable by the circuit court for investigation costs when a taxpayer is convicted of tax crimes.

JUSTIFICATION SHEET

DEPARTMENT: Taxation

TITLE: A BILL FOR AN ACT RELATING TO TAX ADMINISTRATION.

PURPOSE: To charge a monetary assessment to offset costs of criminal tax investigations when a taxpayer is convicted of tax crimes.

MEANS: Add a new section to chapter 231, Hawaii Revised Statutes (HRS) and amend section 235-20.5, HRS.

JUSTIFICATION: The purpose of this measure is to provide for the mandatory assessment of administrative costs associated with investigating tax crimes when a taxpayer is convicted of a tax offense or has a conviction deferred. This measure serves as further deterrence for tax evasion and other similar behavior. A tax system is only as effective as the deterrence mechanisms available to curb its abuse. When jail sentences are impractical or convictions are deferred, the criminal deterrence mechanism is reduced. This measure boosts the deterrence by requiring criminals to pay for the cost of investigating their crimes.

This measure conforms to federal law.

Impact on the public: Persons convicted of tax crimes or whose convictions are deferred will be liable for the cost of investigating the crimes.

Impact on the department and other agencies: The Department of Taxation will be responsible for administering the amendments in this measure.

GENERAL FUND: None.

OTHER FUNDS: Nominal overhead recovery.

PPBS PROGRAM
DESIGNATION: None..

OTHER AFFECTED
AGENCIES: Judiciary.

EFFECTIVE DATE: July 1, 2010.