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# A BILL FOR AN ACT

RELATING TO THE AUDITOR.

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

1           SECTION 1. Section 23-5, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3           "(a) The auditor may examine and inspect all accounts,  
4 books, records, files, papers, and documents and all financial  
5 affairs of every department, office, agency, and political  
6 subdivision[-], including the state department of taxation;  
7 provided that for examinations and inspections relating to the  
8 state department of taxation, the auditor shall implement  
9 internal policies to protect the confidentiality of private  
10 personal information contained in tax returns."

11           SECTION 2. Section 231-18, Hawaii Revised Statutes, is  
12 amended to read as follows:

13           "~~§231-18 [Federal or other tax officials]~~ Officials  
14 permitted to inspect returns; reciprocal provisions.

15 Notwithstanding the provisions of any law making it unlawful for  
16 any person, officer, or employee of the State to make known  
17 information imparted by any tax return or permit any tax return  
18 to be seen or examined by any person, it shall be lawful to



1 permit a duly accredited tax official of the United States, any  
2 state or territory, any county of this State, or the Multistate  
3 Tax Commission or the auditor to inspect any tax return of any  
4 taxpayer, or to furnish to an official, commission, or the  
5 authorized representative thereof an abstract of the return or  
6 supply the official, commission, or the authorized  
7 representative thereof with information concerning any item  
8 contained in the return or disclosed by the report of any  
9 investigation of the return or of the subject matter of the  
10 return for tax or auditing purposes only. The Multistate Tax  
11 Commission may make the information available to a duly  
12 accredited tax official of the United States, any state or  
13 territory, or the authorized representative thereof, for tax  
14 purposes only."

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

17 "**§235-116 Disclosure of returns unlawful; penalty.** All  
18 tax returns and return information required to be filed under  
19 this chapter shall be confidential, including any copy of any  
20 portion of a federal return which may be attached to a state tax  
21 return, or any information reflected in the copy of such federal  
22 return. It shall be unlawful for any person, or any officer or



1 employee of the State, including the state auditor or the  
2 auditor's agent, to make known intentionally information  
3 imparted by any income tax return or estimate made under  
4 sections 235-92, 235-94, 235-95, and 235-97 or wilfully to  
5 permit any income tax return or estimate so made or copy thereof  
6 to be seen or examined by any person other than the taxpayer or  
7 the taxpayer's authorized agent, persons duly authorized by the  
8 State in connection with their official duties, the Multistate  
9 Tax Commission or the authorized representative thereof, except  
10 as provided by law, and any offense against the foregoing  
11 provisions shall be punished by a fine not exceeding \$500 or by  
12 imprisonment not exceeding one year, or both."

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

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



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

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



- 1           (8) The trustee in bankruptcy or receiver, and the  
2           attorney-in-fact of any person in paragraphs (1) to  
3           (7);
- 4           (9) Persons duly authorized by the State in connection  
5           with their official duties;
- 6           (10) Any duly accredited tax official of the United States  
7           or of any state or territory;
- 8           (11) The Multistate Tax Commission or its authorized  
9           representative;
- 10          (12) Members of a limited liability company; and
- 11          (13) A person contractually obligated to pay the taxes  
12          assessed against another when the latter person is  
13          under audit by the department.

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

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

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



1 imparted by any tax return or return information filed pursuant  
2 to this chapter, or any report of any investigation of the  
3 return or of the subject matter of the return, or to wilfully  
4 permit any return, return information, or report so made, or any  
5 copy thereof, to be seen or examined by any person; provided  
6 that for tax purposes only the taxpayer, the taxpayer's  
7 authorized agent, or persons with a material interest in the  
8 return, return information, or report may examine them. Unless  
9 otherwise provided by law, persons with a material interest in  
10 the return, return information, or report shall include:

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



- 1 (8) The trustee in bankruptcy or receiver, and the  
2 attorney-in-fact of any person in paragraphs (1) to  
3 (7);
- 4 (9) Persons duly authorized by the State in connection  
5 with their official duties;
- 6 (10) Any duly accredited tax official of the United States,  
7 any state or territory, or of any county of this  
8 State;
- 9 (11) The Multistate Tax Commission or its authorized  
10 representative; and
- 11 (12) Members of a limited liability company.

12 Any violation of this subsection shall be a misdemeanor.

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

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

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



1 officer or employee of the State, including the state auditor or  
2 the auditor's agent, to intentionally make known information  
3 imparted by any tax return or return information filed pursuant  
4 to this chapter, or any report of any investigation of the  
5 return or of the subject matter of the return, or to wilfully  
6 permit any such tax return, return information, or report so  
7 made, or any copy thereof, to be seen or examined by any person;  
8 provided that for surcharge tax purposes only the lessor or tour  
9 vehicle operator, the lessor's or tour vehicle operator's  
10 authorized agent, or persons with a material interest in the  
11 return, return information, or report may examine them. Unless  
12 otherwise provided by law, persons with a material interest in  
13 the return, return information, or report shall include:

- 14 (1) Trustees;
- 15 (2) Partners;
- 16 (3) Persons named in a board resolution or a one per cent  
17 shareholder in case of a corporate return;
- 18 (4) The person authorized to act for a corporation in  
19 dissolution;
- 20 (5) The shareholder of an S corporation;





- 1           (6) The personal representative, trustee, heir, or  
2           beneficiary of an estate or trust in case of the  
3           estate's or decedent's return;
- 4           (7) The committee, trustee, or guardian of any person in  
5           paragraphs (1) to (6) who is incompetent;
- 6           (8) The trustee in bankruptcy or receiver, and the  
7           attorney-in-fact of any person in paragraphs (1) to  
8           (7);
- 9           (9) Persons duly authorized by the State in connection  
10          with their official duties;
- 11          (10) Any duly accredited tax official of the United States  
12          or of any state or territory;
- 13          (11) The Multistate Tax Commission or its authorized  
14          representative; and
- 15          (12) Members of a limited liability company.

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



1           SECTION 7. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3           SECTION 8. This Act shall take effect upon its approval.



**Report Title:**

Auditor; Powers and duties

**Description:**

Grants explicit authority to the Auditor to inspect the documents and financial affairs of the Department of Taxation. Requires the Auditor to implement internal policies to protect confidentiality of private personal information contained in tax returns. Provides penalty provisions applicable to the Auditor or Auditor's agent for disclosure of tax information. (HB382 HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

