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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 department of taxation. Upon  
7 request by the auditor, the department of taxation shall provide  
8 to the auditor access to tax returns and the accounts, books,  
9 records, files, papers, documents, and financial affairs of the  
10 department of taxation only to the extent necessary in the  
11 administration of the auditor's duties and within the scope of  
12 an audit; provided that for examinations and inspections  
13 relating to the department of taxation, the auditor shall adopt  
14 and implement internal policies to protect the confidentiality  
15 of private personal information contained in tax returns and  
16 return information."

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



1           "§231-18 [~~Federal or other tax officials~~] Officials

2 permitted to inspect returns; reciprocal provisions.

3 Notwithstanding the provisions of any law making it unlawful for  
4 any person, officer, or employee of the State to make known  
5 information imparted by any tax return or permit any tax return  
6 to be seen or examined by any person, it shall be lawful to  
7 permit a duly accredited tax official of the United States, any  
8 state or territory, any county of this State, [~~or~~] the  
9 Multistate Tax Commission, or the auditor to inspect any tax  
10 return of any taxpayer, or to furnish to an official,  
11 commission, or the authorized representative thereof an abstract  
12 of the return or supply the official, commission, or the  
13 authorized representative thereof with information concerning  
14 any item contained in the return or disclosed by the report of  
15 any investigation of the return or of the subject matter of the  
16 return for tax or auditing purposes only. The Multistate Tax  
17 Commission may make the information available to a duly  
18 accredited tax official of the United States, any state or  
19 territory, or the authorized representative thereof, for tax  
20 purposes only."

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



1           "**§235-116 Disclosure of returns unlawful; penalty.** All  
2 tax returns and return information required to be filed under  
3 this chapter shall be confidential, including any copy of any  
4 portion of a federal return [~~which~~] that may be attached to a  
5 state tax return, or any information reflected in the copy of  
6 [~~such~~] the federal return. It shall be unlawful for any person,  
7 or any officer or employee of the State, including the auditor  
8 or the auditor's agent, to make known intentionally information  
9 imparted by any income tax return or estimate made under  
10 sections 235-92, 235-94, 235-95, and 235-97 or wilfully to  
11 permit any income tax return or estimate so made or copy thereof  
12 to be seen or examined by any person other than the taxpayer or  
13 the taxpayer's authorized agent, persons duly authorized by the  
14 State in connection with their official duties, the Multistate  
15 Tax Commission or the authorized representative thereof, except  
16 as provided by law, and any offense against the foregoing  
17 provisions shall be punished by a fine not exceeding \$500 or by  
18 imprisonment not exceeding one year, or both."

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

21           "(b) All tax returns and return information required to be  
22 filed under this chapter, and the report of any investigation of



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

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



- 1       (6) The personal representative, trustee, heir, or
- 2           beneficiary of an estate or trust in the 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~~] through (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           through (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;
- 15       (12) Members of a limited liability company; and
- 16       (13) A person contractually obligated to pay the taxes
- 17          assessed against another when the latter person is
- 18          under audit by the department.

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

20       SECTION 5. Section 237D-13, Hawaii Revised Statutes, is

21       amended by amending subsection (a) to read as follows:



1           "(a) All tax returns and return information required to be  
2 filed under this chapter, and the report of any investigation of  
3 the return or of the subject matter of the return, shall be  
4 confidential. It shall be unlawful for any person or any  
5 officer or employee of the State, including the auditor or the  
6 auditor's agent, to intentionally make known information  
7 imparted by any tax return or return information filed pursuant  
8 to this chapter, or any report of any investigation of the  
9 return or of the subject matter of the return, or to wilfully  
10 permit any return, return information, or report so made, or any  
11 copy thereof, to be seen or examined by any person; provided  
12 that for tax purposes only the taxpayer, the taxpayer's  
13 authorized agent, or persons with a material interest in the  
14 return, return information, or report may examine them. Unless  
15 otherwise provided by law, persons with a material interest in  
16 the return, return information, or report shall include:

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



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

18 Any violation of this subsection shall be a misdemeanor.  
19 Nothing in this subsection shall prohibit the publication of  
20 statistics [~~se~~] that are classified [~~as~~] to prevent the  
21 identification of particular reports or returns and the items of  
22 the reports or returns."



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

3 "(a) All tax returns and return information required to be  
4 filed under this chapter, and the report of any investigation of  
5 the return or of the subject matter of the return, shall be  
6 confidential. It shall be unlawful for any person or any  
7 officer or employee of the State, including the auditor or the  
8 auditor's agent, to intentionally make known information  
9 imparted by any tax return or return information filed pursuant  
10 to this chapter, or any report of any investigation of the  
11 return or of the subject matter of the return, or to wilfully  
12 permit any [~~such~~] tax return, return information, or report so  
13 made, or any copy thereof, to be seen or examined by any person;  
14 provided that for surcharge tax purposes only the lessor or tour  
15 vehicle operator, the lessor's or tour vehicle operator's  
16 authorized agent, or persons with a material interest in the  
17 return, return information, or report may examine them. Unless  
18 otherwise provided by law, persons with a material interest in  
19 the return, return information, or report shall include:

- 20 (1) Trustees;  
21 (2) Partners;





- 1 (3) Persons named in a board resolution or a one per cent  
2 shareholder in the case of a corporate return;
- 3 (4) The person authorized to act for a corporation in  
4 dissolution;
- 5 (5) The shareholder of an S corporation;
- 6 (6) The personal representative, trustee, heir, or  
7 beneficiary of an estate or trust in the case of the  
8 estate's or decedent's return;
- 9 (7) The committee, trustee, or guardian of any person in  
10 paragraphs (1) [~~to~~] through (6) who is incompetent;
- 11 (8) The trustee in bankruptcy or receiver, and the  
12 attorney-in-fact of any person in paragraphs (1) [~~to~~]  
13 through (7);
- 14 (9) Persons duly authorized by the State in connection  
15 with their official duties;
- 16 (10) Any duly accredited tax official of the United States  
17 or of any state or territory;
- 18 (11) The Multistate Tax Commission or its authorized  
19 representative; and
- 20 (12) Members of a limited liability company.

21 Any violation of this subsection shall be a misdemeanor.

22 Nothing in this subsection shall prohibit the publication of



1 statistics [~~se~~] that are classified [~~as~~] to prevent the  
2 identification of particular reports or returns and the items of  
3 the reports or returns."

4 SECTION 7. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

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



**Report Title:**

Auditor; Powers and Duties; Tax Returns

**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. (SD2)

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

