

# TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: ADMINISTRATION, Whistleblower awards

BILL NUMBER: HB 1672, HD-1

INTRODUCED BY: House Committee on Judiciary

**BRIEF SUMMARY:** Adds a new section to HRS chapter 231 to provide that if the director of taxation proceeds with an administrative or judicial action for any violation of HRS Title 14 based on information received from an individual, that individual shall receive an award of at least 15% but not more than 30% of the collected proceeds including penalties, interest, additions to tax, and additional amounts; provided that no award shall be made unless: (1) in the case of actions brought against an individual taxpayer, the taxpayer's gross income exceeds \$200,000 for any taxable year subject to the action; (2) the tax, penalties, interest, additions to tax, and additional amounts in dispute exceed \$500,000; and (3) the information provided to the director of taxation by the individual is submitted under penalty of perjury.

If the director of taxation determines that the proceedings are based on disclosures of specific allegations, rather than information provided by the individual resulting from a judicial or administrative hearing, or from a governmental report, hearing, audit, or investigation, or from the news media, the director of taxation may award such sums as the director of taxation determines to be appropriate, but in no case more than ten percent of the collected proceeds, including penalties, interest, additions to tax and additional amounts, resulting from the action, any related actions, or any settlement in response to the action, taking into account the significance of the individual's information and the role of the individual and any legal representative of the individual in contributing to the action.

If the director of taxation determines that the claim for an award under this section is brought by an individual who planned and initiated the activities that led to the violation, the director may reduce the award accordingly; provided that if the individual is convicted of criminal conduct arising from those activities, the director of taxation shall deny any award. Within 30 days of any determination regarding an award, the determination may be appealed to the tax appeal court, which shall have jurisdiction over the matter. No contract with the department shall be necessary for any individual to receive an award under this section.

**EFFECTIVE DATE:** January 7, 2059

**STAFF COMMENTS:** While the proposed measure establishes monetary awards for individuals (whistleblowers) who provide information regarding violations of tax laws, it should be noted that it is applicable only to the department of taxation. Consideration should be given to extending a similar provision to all other state departments and government agencies to allow each government entity to "police" itself and standardize awards and provisions relating to the payout of such awards. Consideration might also be given to tasking these duties to an impartial agency similar to the Auditor's office.

Digested 2/22/12