

SB 1200

Testimony

Measure Title: RELATING TO UNAUTHORIZED INSPECTION OF TAX RETURNS AND TAX RETURN INFORMATION.

Report Title: Taxation; Unauthorized Inspection of Tax Returns and Tax Return Information

Description: Codifies the Department of Taxation's current unauthorized inspection policies and procedures, which were adopted in conformance with the prohibitions of the Taxpayer Browsing Protection Act of 1997 and Internal Revenue Code section 7123A, including criminal penalty provisions.

Companion: [HB969](#)

Package: Gov

Current Referral: JDL/TEC, WAM

Introducer(s): KIM (Introduced by request of another party)

From: [JDL Testimony](#)
To: [wakai1 - Darille](#)
Subject: FW: Submitted testimony for SB1200 on Feb 11, 2013 09:30AM
Date: Monday, February 11, 2013 8:45:15 AM
Attachments: [SB1200 TAX 02-11-13 TEC-JDL.pdf](#)

From: mailinglist@capitol.hawaii.gov [mailto:mailinglist@capitol.hawaii.gov]
Sent: Sunday, February 10, 2013 3:53 PM
To: JDLEstimony
Cc: tax.leg@hawaii.gov
Subject: Submitted testimony for SB1200 on Feb 11, 2013 09:30AM

SB1200

Submitted on: 2/10/2013

Testimony for JDL/TEC on Feb 11, 2013 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Joshua Wisch	Dept of Taxation	Support	Yes

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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To: The Honorable Glenn Wakai, Chair
and Members of the Senate Committee on Technology and the Arts

The Honorable Clayton Hee, Chair
and Members of the Senate Committee on Judiciary and Labor

Date: Monday, February 11, 2013
Time: 9:30 a.m.
Place: Conference Room 016, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: S.B. 1200 Relating to Unauthorized Inspection of Tax Returns and Tax Return Information

The Department of Taxation (Department) strongly supports S.B.1200.

S.B. 1200 creates a new section in Chapter 231 of the Hawaii Revised Statutes (HRS), clarifying that unauthorized wilful inspection of any tax return or tax return information is punishable upon conviction by up to imprisonment of one year, a \$1,000 fine, or both. In addition, violations are grounds for dismissal of the employee where the good faith exception does not apply. A violation by any person under a contract with the Department is grounds for prohibiting that person from working on the contract, terminating the contract, or prohibiting the contractor from entering into a future contract with the Department.

Currently, the Department's Administrative Directive 2008-03 (Directive) indicates that the Department will adopt the positions of Internal Revenue Code (IRC) sections 6103(a), (b), and (d), 7213(a)(2), 7213A, and 7431 in pursuing criminal and civil remedies against Department employees. IRC section 7213A is the federal code section which sets forth the criminal and civil penalties to be assessed against a person who has committed the act of unauthorized inspection.

Although the Directive does not have the same effect as law, all Department employees and contractors with access to confidential tax returns and tax return information must execute the a Confidentiality of Tax Returns and Tax Return Information Acknowledgement Form. By executing this form, all Department employees and vendors agree to comply with all terms of the Directive and acknowledge that civil and criminal disciplinary action may be taken for non-

compliance. The purpose of this measure is to codify both the prohibited conduct and the penalties for any violations.

The Department believes that the confidentiality of tax return and tax return information is of the utmost importance in order to maintain an effective voluntary tax compliance system, which is the model that the United States and the State of Hawaii tax laws are based on. Unauthorized inspection violations are matters that the Department takes very seriously.

Adoption of this measure will also complement the Department's Tax System Modernization project. The TSM project is an overhaul of the existing computer system. Development of this system and will include the enhancement of security protocols for the Department's computer system. Providing uniformity between our state prohibitions against unauthorized inspection and federal law will simplify the development of security protocols of TSM project.

On a technical note, the Department suggests that the language on page 2, lines 9-15 be indented flush with subsection (a)(3) since the provision applies to the entire subsection.

Thank you for the opportunity to provide comments.

From: [JDLTestimony](#)
To: [wakai1 - Danille](#)
Subject: FW: Submitted testimony for SB1200 on Feb 11, 2013 09:30AM
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From: mailinglist@capitol.hawaii.gov [mailto:mailinglist@capitol.hawaii.gov]
Sent: Friday, February 08, 2013 1:55 PM
To: JDLTestimony
Cc: tina500@juno.com
Subject: Submitted testimony for SB1200 on Feb 11, 2013 09:30AM

SB1200

Submitted on: 2/8/2013

Testimony for JDL/TEC on Feb 11, 2013 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Lowell Kalapa	Tax Foundation of Hawaii	Comments Only	No

Comments: Here is the Tax Foundtion of Hawaii testimony on SB 1200.

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TAXBILLSERVICE

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TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: ADMINISTRATION, Inspection of tax return information

BILL NUMBER: SB 1200; HB 969 (Identical)

INTRODUCED BY: SB by Kim by request; HB by Souki by request

BRIEF SUMMARY: Adds a new section to HRS chapter 231 to prohibit the unauthorized, wilful inspection of: (1) any tax return; (2) return information; or (3) information which can identify a particular taxpayer that is received by the department of taxation for the purposes of tax administration by a state or other government employee. A violation of this section shall be punished by a fine of up to \$1,000 per return, document, or taxpayer, or by imprisonment of up to one year, or both.

Delineates conditions allowing the director of taxation to dismiss an employee. In the case of an employee who is under a contract with the department of taxation, the director may prohibit the employee from working on the contract, terminate the contract or prohibit the contractor from entering into future contracts with the department.

Defines "inspection," "return," "return information" and "unauthorized inspection" for purposes of the measure.

EFFECTIVE DATE: Upon approval

STAFF COMMENTS: This is an administration measure submitted by the department of taxation TAX-20 (13). The proposed measure would statutorily establish provisions for the unlawful and unauthorized inspection of a tax return and tax return information by any state or government employee. While it appears that this measure is proposed to prevent a repeat occurrence of the alleged improper access of computerized tax records, it should be noted that the antiquated computer system may also have been a factor in permitting this access.

While this measure will deter and may prevent future unauthorized access of such tax return and tax return information, an upgrade in the state's computer systems may be warranted. Although there may have been some confusion and misunderstanding about when such records could be accessed or viewed, this proposal establishes a bright line to define when a violation has occurred.

Digested 2/8/13