

JAN 24 2013

A BILL FOR AN ACT

RELATING TO UNAUTHORIZED INSPECTION OF TAX RETURNS AND TAX
RETURN INFORMATION.

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

1 SECTION 1. Chapter 231, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§231- Unauthorized wilful inspection of returns and
5 return information. (a) The unauthorized wilful inspection of:

6 (1) Any return;

7 (2) Return information; or

8 (3) Information which can identify a particular taxpayer

9 that is received by the department for the purposes of
10 tax administration which is:

11 (A) Obtained from the Internal Revenue Service or
12 other taxing authority; or

13 (B) Derived by an employee of the State or a county
14 therein, an employee of another state, a person
15 under contract with the State or an officer,
16 director, or employee thereof;

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1 (C) Derived by a person obtaining unauthorized access
2 to a return, document, or information while the
3 return, document, or information, including a
4 return, document, or information stored in
5 computer systems or computer files, is in the
6 custody of the department or of any other person
7 or entity described in this subsection; or

8 (D) Derived from any other source,
9 by a State or other government employee is
10 prohibited. A violation of this subsection shall
11 be punished by a fine of not more than \$1,000 per
12 return, document, or taxpayer, as the court
13 determines, with respect to which information was
14 inspected, or by imprisonment for not more than
15 one year, or both.

16 (b) The determination by the director of taxation that an
17 employee of the department, in contravention of this subsection,
18 wilfully inspected information where the inspection was
19 unauthorized and not protected by the good faith provision of
20 this subsection, shall be grounds for dismissal of the employee.

21 (c) A violation, as determined by the director of
22 taxation, of this subsection by any officer, director, or
23 employee of any person under contract with the department shall

1 be grounds for prohibiting the officer, director, or employee
2 from working on the contract. A violation, as determined by the
3 director of taxation, of this subsection by a person under
4 contract with the department, or an officer, director, or
5 employee thereof, shall also be cause for terminating a current
6 contract between the department and for prohibiting the
7 contractor from entering into a future contract with the
8 department.

9 (d) For the purpose of this section:

10 (1) "Inspection" means any examination of a return or
11 return information.

12 (2) "Return" means any tax or information return,
13 declaration of estimated tax, or claim for refund
14 required by, or provided for or permitted under, the
15 provisions of title 14 that is filed with the
16 department by, on behalf of, or with respect to any
17 person, and any amendment or supplement thereto,
18 including supporting schedules, attachments, or lists
19 that are supplemental to, or part of, the return so
20 filed.

21 (3) "Return information" means a taxpayer's identity, the
22 nature, source, or amount of the taxpayer's income,
23 payments, receipts, deductions, exemptions, credits,

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1 assets, liabilities, net worth, tax liability, tax
2 withheld, deficiencies, overassessments, or tax
3 payments, whether the taxpayer's return was, is being,
4 or will be examined or subject to other investigation
5 or processing, or any other data, received by,
6 recorded by, prepared by, furnished to, or collected
7 by the department with respect to a return or with
8 respect to the determination of the existence, or
9 possible existence, of liability (or the amount
10 thereof) of any person under title 14 for any tax,
11 penalty, interest, fine, forfeiture, or other
12 imposition, or offense.

13 (4) "Unauthorized inspection" means any examination of a
14 return or return information without official business
15 purpose or when an inspection is not required to
16 perform assigned duties. Unauthorized inspection
17 includes, but is not limited to, the inspection of the
18 returns or return information of friends, relatives,
19 and the employee's own records."

20 SECTION 2. Statutory material to repealed is bracketed and
21 stricken. New statutory material is underscored.

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

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INTRODUCED BY: *Jane Mendez K*

BY REQUEST

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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.

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

JUSTIFICATION SHEET

DEPARTMENT: Taxation

TITLE: A BILL FOR AN ACT RELATING TO UNAUTHORIZED INSPECTION OF TAX RETURNS AND TAX RETURN INFORMATION.

PURPOSE: The purpose of this bill is to amend chapter 231, Hawaii Revised Statutes, to codify and establish prohibited conduct regarding the unauthorized inspection of tax returns and tax return information.

MEANS: Add a new section to chapter 231, Hawaii Revised Statutes.

JUSTIFICATION: Unauthorized inspection violates each taxpayer's right to confidentiality of tax returns and tax return information. The Taxpayer Browsing Protection Act of 1997 codified in Internal Revenue Code section 7123A, which prohibits federal and state employees from the unauthorized inspection of tax returns and tax return information and sets forth criminal penalties upon conviction. Although unauthorized inspection is currently administratively prohibited, title 14 of the Hawaii Revised Statutes does not contain a statute codifying the prohibited conduct and setting forth criminal penalties.

Impact on the public: Supports the voluntary tax compliance system by preserving taxpayer trust through taking prudent steps to ensure the confidentiality of tax returns and tax return information.

Impact on the department and other agencies: Clarifies that unauthorized inspection is a criminal offense punishable by fines and/or imprisonment.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION:

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.