

---

# A BILL FOR AN ACT

RELATING TO FINANCIAL AUDIT OF THE STATE OF HAWAII BY THE  
LEGISLATIVE AUDITOR.

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

1 SECTION 1. The purpose of this Act is to specifically  
2 authorize the department of taxation to release certain  
3 otherwise confidential information to the auditor or the  
4 auditor's authorized agents, for the purpose of conducting the  
5 annual certified financial audit pursuant to section 23-5,  
6 Hawaii Revised Statutes. This measure also ensures that the  
7 auditor and its authorized agents keep the disclosed information  
8 confidential by increasing the class of offense for unlawful  
9 disclosure from a misdemeanor to a class C felony.

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

12 "(a) The auditor may examine and inspect all accounts,  
13 books, records, files, papers, and documents and all financial  
14 affairs of every department, office, agency, and political  
15 subdivision[-]; provided that:

16 (1) Upon written request by the auditor, the department of  
17 taxation shall provide to the auditor access to tax



1 returns but only to the extent necessary and relevant  
2 to the scope of the comprehensive annual financial  
3 report audit of the State; and

4 (2) Tax return information provided to the auditor by the  
5 department of taxation pursuant to paragraph (1) shall  
6 be considered working papers of the auditor pursuant  
7 to section 23-9.5."

8 SECTION 3. Section 231-18, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 "~~§231-18 [Federal or other tax officials]~~ Tax and other  
11 officials permitted to inspect returns; reciprocal provisions.

12 Notwithstanding the provisions of any law making it unlawful for  
13 any person, officer, or employee of the State to make known  
14 information imparted by any tax return or permit any tax return  
15 to be seen or examined by any person, it shall be lawful to  
16 [~~permit~~]:

17 (1) Permit a duly accredited tax official of the United  
18 States, any state or territory, any county of this  
19 State, or the Multistate Tax Commission to inspect any  
20 tax return of any taxpayer [~~, or to furnish~~];

21 (2) Furnish to an official, commission, or the authorized  
22 representative thereof an abstract of the return or



1 supply the official, commission, or the authorized  
2 representative thereof with information concerning any  
3 item contained in the return or disclosed by the  
4 report of any investigation of the return or of the  
5 subject matter of the return for tax purposes only[-];  
6 or

7 (3) Provide tax return information to the auditor pursuant  
8 to section 23-5(a).

9 The Multistate Tax Commission may make the information available  
10 to a duly accredited tax official of the United States, any  
11 state or territory, or the authorized representative thereof,  
12 for tax purposes only."

13 SECTION 4. Section 235-116, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 "**§235-116 Disclosure of returns unlawful; penalty.** All  
16 tax returns and return information required to be filed under  
17 this chapter shall be confidential, including any copy of any  
18 portion of a federal return [~~which~~] that may be attached to a  
19 state tax return, or any information reflected in the copy of  
20 [~~such~~] the federal return. It shall be unlawful for any person,  
21 or any officer or employee of the State, including the auditor  
22 or the auditor's agent with regard to tax return information



1 obtained pursuant to section 23-5(a), to make known  
2 intentionally information imparted by any income tax return or  
3 estimate made under sections 235-92, 235-94, 235-95, and 235-97  
4 or wilfully to permit any income tax return or estimate so made  
5 or copy thereof to be seen or examined by any person other than  
6 the taxpayer or the taxpayer's authorized agent, persons duly  
7 authorized by the State in connection with their official  
8 duties, the Multistate Tax Commission or the authorized  
9 representative thereof, except as otherwise provided by law[~~7~~  
10 ~~and any].~~ Any offense against the foregoing provisions shall be  
11 ~~[punished by a fine not exceeding \$500 or by imprisonment not~~  
12 ~~exceeding one year, or both.]~~ punishable as a class C felony."

13 SECTION 5. 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 auditor or the  
20 auditor's agent with regard to tax return information obtained  
21 pursuant to section 23-5(a), to intentionally make known  
22 information imparted by any tax return or return information



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

16 SECTION 6. Section 237D-13, Hawaii Revised Statutes, is  
17 amended by amending subsection (a) to read as follows:

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



1 auditor's agent with regard to tax return information obtained  
2 pursuant to section 23-5(a), to intentionally make known  
3 information imparted by any tax return or return information  
4 filed pursuant to this chapter, or any report of any  
5 investigation of the return or of the subject matter of the  
6 return, or to wilfully permit any return, return information, or  
7 report so made, or any copy thereof, to be seen or examined by  
8 any person; provided that for tax purposes only the taxpayer,  
9 the taxpayer's authorized agent, or persons with a material  
10 interest in the return, return information, or report may  
11 examine them. Unless otherwise provided by law, persons with a  
12 material interest in the return, return information, or report  
13 shall include:

- 14 (1) Trustees;
- 15 (2) Partners;
- 16 (3) Persons named in a board resolution or a one per cent  
17 shareholder in the 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 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, or of any county of this
  - 13          State;
  - 14          (11) The Multistate Tax Commission or its authorized
  - 15          representative; and
  - 16          (12) Members of a limited liability company.
- 17 Any violation of this subsection shall be a [~~misdemeanor~~] class
- 18 C felony. Nothing in this subsection shall prohibit the
- 19 publication of statistics [~~so~~] that are classified [~~as~~] to
- 20 prevent the identification of particular reports or returns and
- 21 the items of the reports or returns."





1 SECTION 7. 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 with regard to tax return information obtained  
9 pursuant to section 23-5(a), to intentionally make known  
10 information imparted by any tax return or return information  
11 filed pursuant to this chapter, or any report of any  
12 investigation of the return or of the subject matter of the  
13 return, or to wilfully permit any [~~such~~] tax return, return  
14 information, or report so made, or any copy thereof, to be seen  
15 or examined by any person; provided that for surcharge tax  
16 purposes only the lessor or tour vehicle operator, the lessor's  
17 or tour vehicle operator's authorized agent, or persons with a  
18 material interest in the return, return information, or report  
19 may examine them. Unless otherwise provided by law, persons  
20 with a material interest in the return, return information, or  
21 report shall include:

22 (1) Trustees;



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



1 Any violation of this subsection shall be a [~~misdemeanor.~~] class  
2 C felony. Nothing in this subsection shall prohibit the  
3 publication of statistics [~~se~~] that are classified [~~as~~] to  
4 prevent the identification of particular reports or returns and  
5 the items of the reports or returns."

6 SECTION 8. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8 SECTION 9. This Act shall take effect upon its approval.



**Report Title:**

Auditor; Access to Tax Information

**Description:**

Specifically authorizes the Auditor to access information in the possession of the Department of Taxation for purposes of conducting financial audits of the State of Hawaii. Requires the Auditor to keep the information confidential. Specifies that intentional and willful disclosure of confidential information is punishable as a class C felony. (CD1)

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

