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# 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, while also requiring the auditor and  
7 authorized agents to keep the information confidential.

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

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

14           (1) Upon written request by the auditor, the department of  
15           taxation shall provide to the auditor access to tax  
16           returns but only to the extent necessary and relevant



1           to the scope of the comprehensive annual financial  
2           report audit of the State; and

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

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

9           "§231-18 ~~[Federal or other tax officials]~~ Tax and other  
10 officials permitted to inspect returns; reciprocal provisions.

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

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

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



1 representative thereof with information concerning any  
2 item contained in the return or disclosed by the  
3 report of any investigation of the return or of the  
4 subject matter of the return for tax purposes only[-];  
5 or  
6 (3) Provide tax return information to the auditor pursuant  
7 to section 23-5(a).

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

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

14 "**§235-116 Disclosure of returns unlawful; penalty.** All  
15 tax returns and return information required to be filed under  
16 this chapter shall be confidential, including any copy of any  
17 portion of a federal return [~~which~~] that may be attached to a  
18 state tax return, or any information reflected in the copy of  
19 [~~such~~] the federal return. It shall be unlawful for any person,  
20 or any officer or employee of the State, including the auditor  
21 or the auditor's agent with regard to tax return information  
22 obtained pursuant to section 23-5(a), to make known



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

12 SECTION 5. Section 237-34, Hawaii Revised Statutes, is  
13 amended by amending subsection (b) to read as follows:

14 "(b) All tax returns and return information required to be  
15 filed under this chapter, and the report of any investigation of  
16 the return or of the subject matter of the return, shall be  
17 confidential. It shall be unlawful for any person or any  
18 officer or employee of the State, including the auditor or the  
19 auditor's agent with regard to tax return information obtained  
20 pursuant to section 23-5(a), to intentionally make known  
21 information imparted by any tax return or return information  
22 filed pursuant to this chapter, or any report of any



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

- 10 (1) Trustees;
- 11 (2) Partners;
- 12 (3) Persons named in a board resolution or a one per cent  
13 shareholder in the case of a corporate return;
- 14 (4) The person authorized to act for a corporation in  
15 dissolution;
- 16 (5) The shareholder of an S corporation;
- 17 (6) The personal representative, trustee, heir, or  
18 beneficiary of an estate or trust in the case of the  
19 estate's or decedent's return;
- 20 (7) The committee, trustee, or guardian of any person in  
21 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 SECTION 6. Section 237D-13, Hawaii Revised Statutes, is  
16 amended by amending subsection (a) to read as follows:

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



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

- 13 (1) Trustees;
- 14 (2) Partners;
- 15 (3) Persons named in a board resolution or a one per cent  
16 shareholder in the case of a corporate return;
- 17 (4) The person authorized to act for a corporation in  
18 dissolution;
- 19 (5) The shareholder of an S corporation;
- 20 (6) The personal representative, trustee, heir, or  
21 beneficiary of an estate or trust in the case of the  
22 estate's or decedent's return;



- 1 (7) The committee, trustee, or guardian of any person in  
2 paragraphs (1) [~~to~~] through (6) who is incompetent;
- 3 (8) The trustee in bankruptcy or receiver, and the  
4 attorney-in-fact of any person in paragraphs (1) [~~to~~]  
5 through (7);
- 6 (9) Persons duly authorized by the State in connection  
7 with their official duties;
- 8 (10) Any duly accredited tax official of the United States,  
9 or of any state or territory, or of any county of this  
10 State;
- 11 (11) The Multistate Tax Commission or its authorized  
12 representative; and
- 13 (12) Members of a limited liability company.

14 Any violation of this subsection shall be a misdemeanor.  
15 Nothing in this subsection shall prohibit the publication of  
16 statistics [~~so~~] that are classified [~~as~~] to prevent the  
17 identification of particular reports or returns and the items of  
18 the reports or returns."

19 SECTION 7. Section 251-12, Hawaii Revised Statutes, is  
20 amended by amending subsection (a) to read as follows:

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

- 18 (1) Trustees;
- 19 (2) Partners;
- 20 (3) Persons named in a board resolution or a one per cent  
21 shareholder in the case of a corporate return;



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

19 Any violation of this subsection shall be a misdemeanor.  
20 Nothing in this subsection shall prohibit the publication of  
21 statistics [~~so~~] that are classified [~~as~~] to prevent the



1 identification of particular reports or returns and the items of  
2 the reports or returns."

3 SECTION 8. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 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, while also requiring the Auditor to keep the information confidential.  
(SD1)

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

