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JAN 27 2016

A BILL FOR AN ACT

RELATING TO THE DISCLOSURE OF TAX RETURN INFORMATION.

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

1 SECTION 1. Section 231-18, Hawaii Revised Statutes is
2 amended to read as follows:

3 "**§231-18 Tax and other officials permitted to inspect**
4 **returns; reciprocal provisions.** (a) Notwithstanding the
5 provisions of any law making it unlawful for any person,
6 officer, or employee of the State to make known information
7 imparted by any tax return or permit any tax return to be seen
8 or examined by any person, it shall be lawful to:

9 (1) Permit a duly accredited tax official of the United
10 States, any state or territory, any county of this
11 State, or the Multistate Tax Commission to inspect any
12 tax return or return information of any taxpayer[+]
13 for tax purposes only;

14 (2) Furnish to an official, commission, or the authorized
15 representative thereof an abstract of the return or
16 return information or supply the official, commission,
17 or the authorized representative thereof with
18 information concerning any item contained in the

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1 return or return information or disclosed by the
2 report of any investigation of the return or of the
3 subject matter of the return for tax purposes only;
4 [~~or~~]

5 (3) Provide tax return information to the auditor pursuant
6 to section 23-5(a) [~~or~~];

7 (4) Open for inspection or disclose a return or return
8 information to deputies and employees of the
9 department of the attorney general personally and
10 directly engaged in, and solely for their use in, any
11 proceeding before a state grand jury or preparation
12 for any proceeding pertaining to tax administration
13 (or investigation which may result in such a
14 proceeding) before a state grand jury or any federal
15 or state court, but only if:

16 (A) The taxpayer is or may be a party to the
17 proceeding, or the proceeding arose out of, or in
18 connection with, determining the taxpayer's civil
19 or criminal liability, or the collection of such
20 civil liability in respect of any tax imposed
21 under this title;

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- 1 (B) The treatment of an item reflected on the return
2 is or may be related to the resolution of an
3 issue in the proceeding or investigation; or
- 4 (C) The return or return information relates or may
5 relate to a transactional relationship between a
6 person who is or may be a party to the proceeding
7 and the taxpayer that affects, or may affect, the
8 resolution of an issue in such proceeding or
9 investigation;
- 10 (5) Disclose in a federal or state judicial or
11 administrative proceeding pertaining to tax
12 administration a return or return information, but
13 only if:
- 14 (A) The taxpayer is a party to the proceeding, or the
15 proceeding arose out of, or in connection with,
16 determining the taxpayer's civil or criminal
17 liability, or the collection of such civil
18 liability, in respect of any tax imposed under
19 this title;
- 20 (B) The treatment of an item reflected on the return
21 is directly related to the resolution of an issue
22 in the proceeding; or

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1 (C) The return or return information directly relates
2 to a transactional relationship between a person
3 who is a party to the proceeding and the taxpayer
4 that directly affects the resolution of an issue
5 in the proceeding;

6 (6) Disclose a return or return information to federal,
7 state, or local law enforcement agencies solely for
8 the purpose of the investigation and prosecution of
9 criminal offenses involving possible theft of a
10 taxpayer's identity, or fraudulent tax refund claims
11 submitted to the department; or

12 (7) Disclose a return or return information to any person
13 to the extent necessary in connection with the
14 processing, storage, retention, transmission, and
15 reproduction of such returns and return information,
16 the programming, maintenance, repair, testing, and
17 procurement of equipment, and the providing of other
18 services to the department, for purposes of tax
19 administration. The director may adopt administrative
20 rules regarding the disclosure of returns and return
21 information under this paragraph.

22 The Multistate Tax Commission may make the information
23 available to a duly accredited tax official of the United

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1 States, any state or territory, or the authorized representative
2 thereof, for tax purposes only.

3 (b) For purposes of this section:

4 "Disclose" means the making known to any person in any
5 manner whatever a return or return information.

6 "Inspection" means any examination of a return or return
7 information.

8 "Tax administration" means the administration, management,
9 conduct, direction, and supervision of the execution and
10 application of the federal or state tax laws and tax conventions
11 to which the United States or the State of Hawaii is a party and
12 the development and formulation of tax policy relating to
13 existing or proposed tax laws, related statutes, and tax
14 conventions. "Tax administration" includes assessment,
15 collection, enforcement, litigation, publication, and
16 statistical gathering functions under such laws, statutes, or
17 conventions.

18 "Taxpayer's identity" means the name of a person with
19 respect to whom a return is filed, the person's mailing address,
20 the person's taxpayer identifying number, or a combination
21 thereof."

22 SECTION 2. Section 235-116, Hawaii Revised Statutes is
23 amended to read as follows:

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1 "§235-116 Disclosure of returns unlawful; penalty. All
2 tax returns and return information required to be filed,
3 submitted, collected, or maintained under this chapter shall be
4 confidential, including any copy of any portion of a federal
5 return that may be attached to a state tax return, [~~or~~] any
6 information reflected in the copy of the federal return[~~or~~], any
7 information required under this chapter to be filed or otherwise
8 submitted with any state agency other than the department, or
9 any information required under this chapter to be collected or
10 maintained by any state agency other than the department, except
11 as otherwise provided by law. It shall be unlawful for any
12 person, or any officer or employee of the State, including the
13 auditor or the auditor's agent with regard to tax return
14 information obtained pursuant to section 23-5(a), to make known
15 intentionally information imparted by any income tax return or
16 estimate made under sections 235-92, 235-94, 235-95, and 235-97
17 or wilfully to permit any income tax return or estimate so made
18 or copy thereof to be seen or examined by any person other than
19 the taxpayer or the taxpayer's authorized agent, persons duly
20 authorized by the State in connection with their official
21 duties, the Multistate Tax Commission or the authorized
22 representative thereof, except as otherwise provided by law.

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1 Any offense against the foregoing provisions shall be punishable
2 as a class C felony."

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

5 SECTION 4. This Act shall take effect on its approval.

INTRODUCED BY: _____

M. D. M.

BY REQUEST

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Report Title:

Taxation; Disclosure of Tax Return Information

Description:

Amends section 231-18, Hawaii Revised Statutes, to allow disclosure of tax return information to the Department of the Attorney General, federal, state, or local officials, and other persons in specified situations; and amends section 235-116, Hawaii Revised Statutes, to clarify that all information filed under chapter 235, Hawaii Revised Statutes, with any state agency is confidential.

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 THE DISCLOSURE OF TAX RETURN INFORMATION.

PURPOSE: To allow disclosure of tax return information to the Department of the Attorney General for certain court proceedings, to federal or state officials for federal or state judicial or administrative tax proceedings, to federal, state, or local law enforcement officials for investigation or prosecution of identity theft or fraudulent tax refund claims, or to other persons to the extent necessary to provide services to the department for purposes of tax administration. To clarify that all information filed under chapter 235, Hawaii Revised Statutes, with any state agency is confidential.

MEANS: Amend sections 231-18 and 235-116, Hawaii Revised Statutes.

JUSTIFICATION: The department finds that it is authorized to disclose tax return information to duly accredited federal, state, and local tax officials. The department believes this measure will help clarify some of the common, specific instances where the department may disclose tax return information.

Impact on the public: There is no significant impact to the general public.

Impact on the department and other agencies: The department will benefit from added clarity in the law regarding to which persons it may disclose tax return information.

GENERAL FUND: None.
OTHER FUNDS: None.
OTHER AFFECTED
 AGENCIES: None.
EFFECTIVE DATE: Upon approval.