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# 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



1 information concerning any item contained in the  
2 return or return information 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 (4) Open for inspection or disclose a return or return  
9 information to deputies or employees of the department  
10 of the attorney general who are personally and  
11 directly engaged in a proceeding before a state grand  
12 jury, or who are personally and directly engaged in  
13 preparation for or in an investigation that may result  
14 in a proceeding pertaining to tax administration that  
15 is before a state grand jury or a federal or state  
16 court; provided that the return or return information  
17 which is inspected or disclosed shall be used solely  
18 for that proceeding; provided further that such  
19 disclosure shall be made only if:

20 (A) The taxpayer is or may be a party to the  
21 proceeding, or the proceeding arose out of or in



1           connection with determining the taxpayer's civil  
2           or criminal liability, or the collection of such  
3           civil liability, in respect of any tax imposed  
4           under this title;

5           (B) The treatment of an item reflected on the return  
6           is or may be related to the resolution of an  
7           issue in the proceeding or investigation; or

8           (C) The return or return information relates or may  
9           relate to a transactional relationship between a  
10           person who is or may be a party to the proceeding  
11           and the taxpayer that affects or may affect the  
12           resolution of an issue in the proceeding or  
13           investigation;

14           (5) Disclose in a federal or state judicial or  
15           administrative proceeding pertaining to tax  
16           administration a return or return information, but  
17           only if:

18           (A) The taxpayer is a party to the proceeding, or the  
19           proceeding arose out of or in connection with  
20           determining the taxpayer's civil or criminal  
21           liability, or the collection of such civil



- 1           liability, in respect of any tax imposed under  
2           this title;
- 3           (B) The treatment of an item reflected on the return  
4           is directly related to, the resolution of an issue  
5           in the proceeding; or
- 6           (C) The return or return information directly relates  
7           to a transactional relationship between a person  
8           who is a party to the proceeding and the taxpayer  
9           that directly affects the resolution of an issue  
10          in the proceeding;
- 11          (6) Disclose a return or return information to federal,  
12          state, or local law enforcement agencies solely for  
13          the purpose of the investigation and prosecution of  
14          criminal offenses involving possible theft of a  
15          taxpayer's identity or fraudulent tax refund claims  
16          submitted to the department; or
- 17          (7) Disclose a return or return information to any person  
18          to the extent necessary in connection with the  
19          processing, storage, retention, transmission, and  
20          reproduction of such returns and return information;  
21          the programming, maintenance, repair, testing, and



1           procurement of equipment; and the providing of other  
2           services to the department, for purposes of tax  
3           administration. The director may adopt administrative  
4           rules regarding the disclosure of returns and return  
5           information under this paragraph.

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

10           (b) Each person and agency that receives information  
11 pursuant to this section shall, pursuant to procedures approved  
12 by the director of taxation:

13           (1) Establish and maintain a permanent system of  
14           standardized records to track all requests for returns  
15           or return information made by the person or agency  
16           pursuant to this section. The system shall record the  
17           reason for each request, the date of the request, and  
18           a description of the information disclosed in response  
19           to the person's or agency's request;



1       (2) Establish and maintain a secure place to store the  
2       return or return information received by the person or  
3       agency; and

4       (3) Restrict access to the requested taxpayer information  
5       to only those persons who need the information to  
6       execute their responsibilities.

7       (c) The director of taxation may adopt rules, pursuant to  
8       chapter 91, to ensure that any parties to which a tax return or  
9       tax return information is disclosed under subsection (a) shall  
10      take adequate measures to safeguard the tax return or tax return  
11      information disclosed.

12      (d) For purposes of this section:

13      "Disclose" means making known to any person in any manner a  
14      return or return information.

15      "Inspection" means any examination of a return or return  
16      information.

17      "Tax administration" means the administration, management,  
18      conduct, direction, and supervision of the execution and  
19      application of the federal or state tax laws and tax conventions  
20      to which the United States or the State of Hawaii is a party and  
21      the development and formulation of tax policy relating to



1 existing or proposed tax laws, related statutes, and tax  
2 conventions. "Tax administration" includes assessment,  
3 collection, enforcement, litigation, publication, and  
4 statistical gathering functions under such laws, statutes, or  
5 conventions.

6 "Taxpayer's identity" means the name of a person with  
7 respect to whom a return is filed, the person's mailing address,  
8 the person's taxpayer identification number, or a combination  
9 thereof."

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

12 "§235-116 Disclosure of returns unlawful; penalty. All  
13 tax returns and return information required to be filed,  
14 submitted, collected, or maintained under this chapter shall be  
15 confidential, including any copy of any portion of a federal  
16 return that may be attached to a state tax return, [~~or~~] any  
17 information reflected in the copy of the federal return[-], any  
18 information required under this chapter to be filed or otherwise  
19 submitted with any state agency other than the department, or  
20 any information required under this chapter to be collected or  
21 maintained by any state agency other than the department, except



1 as otherwise provided by law. It shall be unlawful for any  
2 person, or any officer or employee of the State, including the  
3 auditor or the auditor's agent with regard to tax return  
4 information obtained pursuant to section 23-5(a), to make known  
5 intentionally information imparted by any income tax return or  
6 estimate made under sections 235-92, 235-94, 235-95, and 235-97  
7 or wilfully to permit any income tax return or estimate so made  
8 or copy thereof to be seen or examined by any person other than  
9 the taxpayer or the taxpayer's authorized agent, persons duly  
10 authorized by the State in connection with their official  
11 duties, or the Multistate Tax Commission or the authorized  
12 representative thereof, except as otherwise provided by law.  
13 Any offense against the foregoing provisions shall be punishable  
14 as a class C felony."

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

17 SECTION 4. This Act shall take effect upon its approval.





**Report Title:**

Taxation; Disclosure of Tax Return Information

**Description:**

Allows Department of Taxation to disclose tax returns and tax return information to the Department of the Attorney General, federal, state, or local officials, and other persons in civil, criminal, or administrative proceedings and for purposes of information management or provision of administrative services to Department of Taxation. Establishes information management and security requirements. Clarifies that income tax information filed with state agencies other than Department of Taxation is confidential to the same extent as information submitted to Department of Taxation. (SB2924 HD1)

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

