
A BILL FOR AN ACT

RELATING TO TAXATION.

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- Preparer tax identification number required. (a)

5 A tax return preparer shall have a valid preparer tax
6 identification number.

7 (b) A tax return preparer shall not:

8 (1) Prepare any return or claim for refund for
9 compensation without having a valid preparer tax
10 identification number; or

11 (2) Omit its preparer tax identification number from any
12 return or claim for refund prepared for compensation
13 where the department requires the preparer tax
14 identification number to be disclosed.

15 (c) A tax return preparer who violates subsection (b) (1)
16 or (2) shall be liable for the following penalties:



- 1 (1) \$100 per violation for the first one hundred
2 violations;
- 3 (2) \$500 per violation for the one hundred first to the
4 five hundredth violations; and
- 5 (3) \$1,000 per violation for all subsequent violations.
- 6 Each return or claim for refund prepared by a tax return
7 preparer or submitted to the department in violation of either
8 subsection (b) (1) or (2) shall be a separate violation; provided
9 that preparing and submitting the same return or claim for
10 refund shall not be two separate violations. The director of
11 taxation may waive these penalties in part or in full if the tax
12 return preparer shows that the violation was due to reasonable
13 cause.
- 14 (d) If within thirty days after the notice and demand of
15 any penalty under subsection (c) is made, the tax return
16 preparer:
- 17 (1) Pays an amount that is not less than fifteen per cent
18 of the penalty amount; and
- 19 (2) Files a claim for refund of the amount so paid,



1 no action to levy or file a proceeding in court to collect the
2 remainder of the penalty shall be commenced except in accordance
3 with subsection (e).

4 (e) An action that is stayed pursuant to subsection (d),
5 may be brought thirty days after either of the following events,
6 whichever occurs first:

7 (1) The tax return preparer fails to file an appeal to the
8 tax appeal court within thirty days after the day on
9 which the claim for refund of any partial payment of
10 any penalty under subsection (c) is denied; or

11 (2) The tax return preparer fails to file an appeal to the
12 tax appeal court for the determination of the tax
13 return preparer's liability for the penalty assessed
14 under subsection (c) within six months after the day
15 on which the claim for refund was filed.

16 Nothing in this subsection shall be construed to prohibit any
17 counterclaim for the remainder of the penalty in any proceeding.

18 (f) If there is a final administrative determination
19 pursuant to section 231-7.5, or a final judicial decision that
20 the penalty assessed under subsection (c) should not apply, then
21 that portion of the penalty assessed shall be voided. Any



1 portion of the penalty that has been paid shall be refunded to
2 the tax return preparer as an overpayment of tax without regard
3 to any period of limitations that, but for this subsection,
4 would apply to the making of the refund.

5 (g) At the request of the director of taxation, a civil
6 action may be brought to enjoin a tax return preparer from
7 further acting as a tax return preparer or from engaging in
8 conduct as follows:

9 (1) Any action under this subsection may be brought in the
10 circuit court of the circuit in which the tax return
11 preparer resides or has a principal place of business,
12 or in which the taxpayer with respect to whose tax
13 return the action is brought resides;

14 (2) The court may exercise its jurisdiction over the
15 action separate and apart from any other action
16 brought by the State against the tax return preparer
17 or taxpayer;

18 (3) If the court finds that a tax return preparer has
19 engaged in conduct subject to penalty under subsection

20 (c) and that injunctive relief is appropriate to



1 prevent the recurrence of that conduct, the court may
2 enjoin the preparer accordingly; and

3 (4) If the court finds that a tax return preparer has
4 continually or repeatedly engaged in conduct
5 prohibited under subsection (b) and that an injunction
6 prohibiting that conduct would not be sufficient to
7 prevent the preparer's interference with the proper
8 administration of this chapter, the court may enjoin
9 the preparer from acting as a tax return preparer.

10 (h) The department may adopt rules necessary to effectuate
11 the implementation of this section pursuant to chapter 91.

12 (i) As used in this section:

13 "Preparer tax identification number" means an identifying
14 number issued by the Internal Revenue Service in accordance with
15 section 6109 of the Internal Revenue Code, as amended, and 26
16 Code of Federal Regulations section 1.6109-2, as amended.

17 "Tax return preparer" shall have the same meaning as in
18 section 231-36.5."

19 SECTION 2. New statutory material is underscored.



1 SECTION 3. This Act, upon its approval, shall apply to tax
2 returns filed after December 31, 2019.



Report Title:

Taxation; Tax Return Preparers; Federal Preparer Tax
Identification Number; Penalties

Description:

Requires a tax return preparer to have a valid preparer tax
identification number issued by the Internal Revenue Service.
Requires the tax return preparer to furnish the preparer's tax
identification number on any return or claim for refund as
required by the Department of Taxation. Establishes penalties.
Applies to tax returns filed after 12/31/2019. (SD1)

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not legislation or evidence of legislative intent.*

