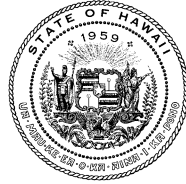


DAVID Y. IGE
GOVERNOR

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LT. GOVERNOR



STATE OF HAWAII
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RONA M. SUZUKI
DIRECTOR OF TAXATION

DAMIEN A. ELEFANTE
DEPUTY DIRECTOR

To: The Honorable Takashi Ohno, Chair;
The Honorable Dale T. Kobayashi, Vice Chair;
and Members of the House Committee on Intrastate Commerce

From: Rona M. Suzuki, Director
Department of Taxation

Re: **H.B. 2246, Relating to Tax Return Preparers**

Date: Tuesday, February 4, 2020

Time: 9:30 A.M.

Place: Conference Room 430, State Capitol

The Department of Taxation (Department) supports H.B. 2246.

H.B. 2246 adds a new section to chapter 231, Hawaii Revised Statutes (HRS), requiring tax return preparers to have a valid Preparer Tax Identification Number (PTIN) issued by the Internal Revenue Service to prepare any return or claim for refund for compensation and to disclose the PTIN where the Department requires the preparer to do so. It also sets forth administrative penalties for violations and authorizes the Department to bring a civil action against violators in certain circumstances. H.B. 2246 is effective upon approval, but penalties for violations begin on January 1, 2021.

The Department notes that many tax return preparers in Hawaii operate with little State oversight or accountability. Requiring all tax return preparers to have a PTINs will help taxpayers and the Department to ensure that tax return preparers are accountable for the returns they prepare.

Taxpayers will have greater assurance that they can rely on the services of their preparers and the Department will be able to better monitor tax return preparers and detect noncompliance. The provisions relating to penalties and injunctive relief will give the Department more tools to protect taxpayers from harm, ensure fair and accurate tax administration, and prevent malfeasance by bad actors and unintended losses in revenue.

The Department believes that the public will greatly benefit from this improved accountability. Accordingly, the Department supports this measure and can implement it as written.

Thank you for the opportunity to testify in support.



HAWAII ASSOCIATION OF PUBLIC ACCOUNTANTS

Organized August 7, 1943
P.O. BOX 61043
HONOLULU, HAWAII 96839



Committee on Intrastate Commerce

LATE

Tuesday, February 4, 2020 at 9:30 a.m.
Conference Room 430
State Capitol

Re: Support for HB2246 Relating to Tax Return Preparers

Chair Ohno, Vice Chair Kobayashi and Committee Members:

The Hawaii Association of Public Accountants (HAPA) is the only statewide public accounting organization with chapters on Oahu, Maui, Big Island, and Kauai. It has over 600 members, consisting primarily of small to mid-sized CPA firm owners and employees who are in the active practice of public accountancy. The Hawaii consumer relies heavily upon our members to provide financial, tax, and consulting services for their businesses and personal affairs.

HAPA supports HB2246, which requires each tax return preparer to have a valid preparer tax identification number (PTIN) which is issued by the Internal Revenue Service (IRS) as a needed measure to improve tax compliance and to reduce tax fraud.

The PTIN is issued annually by the IRS, and the IRS requires that anyone who prepares or assists in preparing federal tax returns for compensation must have a valid PTIN before preparing returns. The PTIN numbers are currently free to obtain, and require certain personal information to be provided to the IRS. In addition, the IRS asks for explanations for felony convictions (if any), and explanations for tax preparer problems with his/her own U.S. individual or business tax obligations (if any). Felony convictions and discrepancies with a tax preparer's federal tax obligations may affect his/her ability to obtain a PTIN.

Thank you for considering the above. If you have any questions, please do not hesitate to contact us.

Respectfully submitted,

Brian M. Iwata, CPA

President

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Marilyn M. Niwao, M.S.P.H., J.D., CPA, CGMA

Legislative Committee Chair and State Director

www.niwao@mauicpa.com



To: The Honorable Takashi Ohno, Chair
And Members of the House Committee Intrastate Commerce

From: Jeremy Stohs, Director, H&R Block

Date: February 4, 2020

Re: Support for House Bill 2246, the Hawaii Taxpayer Protection Act

On behalf of nearly 50 H&R Block retail tax offices and several hundred tax return preparers in Hawaii, H&R Block appreciates the opportunity to support House Bill 2246.

H&R Block has excelled for more than 60 years as an industry leader because of our commitment to competent, ethical tax return preparation. While most tax preparers share this commitment, unfortunately, some do not. Each day, unscrupulous preparers search for new and exploitative ways to steal from the taxpayers of Hawaii.

House Bill 2246 would provide the Department of Taxation with important, commonsense consumer protection tools. This bill would enable the Department to track individuals who are paid for preparing tax returns in the state by leveraging an IRS identification number that is already required for preparing federal tax returns. Preparers would be required to provide this unique identifier on state tax returns they prepare or be subject to penalties and civil action. These tools will hold preparers accountable and help stop fraudsters from continuing to prey on Hawaii's taxpayers and tax base.

A dozen states in recent years have enacted similar legislation. Several of these states have taken a further step of strengthening the civil action authority. With these examples in mind, we request your consideration for an amendment to insert additional categories of prohibited conduct for tax return preparers where the Director would be authorized to bring civil action to enjoin a preparer. The amendment's purpose would be to broaden the Department's ability to take action against additional bad actors. There are nine proposed categories which have been implemented in other states.

The proposed amendment would insert a new Section 4 of the bill, to wit:

SECTION 4. Chapter 231, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§231- Additional categories of prohibited conduct. (a) At the request of the director of taxation, a civil action may be brought to enjoin a tax return preparer from further acting as a tax return preparer or from engaging in

conduct prohibited under subsection (b) as follows:

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

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

(3) If the court finds that a tax return preparer has engaged in conduct prohibited under subsection (b) and that injunctive relief is appropriate to prevent the recurrence of that conduct, the court may enjoin the preparer accordingly; and

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

(b) It shall be a prohibited practice for any tax return preparer to engage in any of the following practices:

- (1) Engaging in any conduct subject to any criminal penalty provided in Title 14.
- (2) Engaging in any other fraudulent or deceptive conduct that substantially interferes with the proper administration of the tax laws of the State of Hawaii.
- (3) Where required, failing to furnish copy of the income tax return or claim for refund.

- (4) Where required, failing to sign the income tax return or claim for refund.
- (5) Where required, failing to retain copy of the income tax return.
- (6) Where required by due diligence requirements imposed by department regulations, failing to be diligent in determining eligibility for tax benefits.
- (7) Negotiating a check issued to a taxpayer by the department without the permission of the taxpayer.
- (8) Misrepresenting the tax return preparer's eligibility to practice before the department or otherwise misrepresenting the tax return preparer's experience or education.
- (9) Guaranteeing the payment of any income tax refund or the allowance of any income tax credit.

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

In order to protect Hawaii taxpayers during often their most significant financial transaction of the year, we respectfully ask that you pass House Bill 2246.

Mahalo,

Jeremy Stohs
Director, Government Relations
H&R Block
816-854-6207