

A Bill for an Act Relating to Tax Enforcement.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 231-7, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) The director of taxation, and any representative of the director duly authorized by the director, may conduct any civil audit or criminal investigation, investigation, or hearing, relating to any tax, assessment, [~~or the amount of any tax,~~] or [the] collection of any delinquent tax, including any audit or investigation into the financial resources of any delinquent taxpayer or the collectability of any delinquent tax.”

2. By amending subsections (c) and (d) to read:

“(c) The director of taxation or representative of the director duly authorized by the director, when conducting a civil audit, investigation, or hearing may subpoena witnesses and require the production of books, papers, documents, other designated objects, or any other record however maintained, including those electronically stored, that are relevant or material to the civil audit, investigation, or hearing; provided that the director of taxation or deputy director of taxation shall give written approval for the issuance of a subpoena only after a review of the appropriateness of the issuance. A subpoena issued under this subsection:

- (1) Shall state that the subpoena is issued by the department and shall command each person to whom it is directed to attend and give testimony at the time and place specified, and may also command the person to whom the subpoena is directed to produce books, papers, documents, or other objects specifically designated;
- (2) May be served at any place within or without the State by an investigator appointed pursuant to section 231-4.3, or by any [~~other~~] representative of the director duly authorized by the director;
- (3) Shall require attendance of the person only in the county wherein the person is served with the subpoena or at any other place as is agreed upon by the person and the department; provided that if the subpoena is served in a county other than that in which the person resides, is employed, or transacts the person's business in person, the department shall bear the person's expenses for travel to and attendance at the place named in the subpoena to the same extent as provided by the rules of court other than the expenses of the taxpayer or the taxpayer's witnesses, officers, directors, agents, or employees; and
- (4) Shall contain a short, plain statement of the person's rights and the procedure for enforcing and contesting the subpoena.

If any person disobeys any process or, having appeared in obedience thereto, refuses to answer pertinent questions put to the person by the director or other person conducting the civil audit, investigation, or hearing, or to produce any books, papers, documents, objects, or records pursuant thereto, the director may apply to the circuit court of the circuit wherein the civil audit, investigation, or hearing is being conducted, or to any judge of the court, setting forth the disobedience to process or refusal to answer, and the court or judge shall cite the person to appear before the court or judge to answer the questions or to produce the books, papers, documents, objects, or records; provided that the court, upon

a motion promptly made by the person, may quash or modify the subpoena if compliance would be unreasonable or oppressive or would violate any privilege the person would be entitled to exercise in a court proceeding. If the person fails or refuses to produce the subpoenaed books, papers, documents, objects, or record, the court shall institute a contempt proceeding against the person, at which time the court shall determine whether good cause is shown for the failure to obey the subpoena or the refusal to testify; provided that the court, on a motion promptly made, may quash or modify the subpoena if compliance would be unreasonable or oppressive or would violate any privilege the person would be entitled to exercise in a court proceeding. In the event that no good cause is shown, the court does not quash or modify the subpoena, and the person fails or refuses to comply with the subpoena, then the court shall commit the person to jail until the person testifies, but not for a longer period than sixty days. Notwithstanding the serving of the term of commitment by any person, the director may proceed in all respects as if the witness had not previously been called upon to testify. Witnesses (other than the taxpayer or the taxpayer's officers, directors, agents, and employees) shall be allowed their fees and mileage as authorized in cases in the circuit courts, to be paid on vouchers of the department of taxation, from any moneys available for the expenses of the department.

(d) Subject to the privileges applicable to any witness in this State, the director of taxation or any representative of the director duly authorized by the director, when conducting a criminal investigation, may subpoena witnesses, examine witnesses under oath, and require the production of any books, papers, documents, other designated objects, or any other record however maintained, including those electronically stored, that are relevant or material to the investigation; provided that the director of taxation or deputy director of taxation shall give written approval for the issuance of a subpoena only after a review of the appropriateness of the issuance. A subpoena issued under this subsection:

- (1) Shall state that the subpoena is issued by the department and shall command each person to whom it is directed to attend and give testimony at the time and place specified, and may command the person to whom it is directed to produce books, papers, documents, or other objects specifically designated;
- (2) May be served at any place within or without the State by an investigator appointed pursuant to section 231-4.3, or by any [other] duly authorized law enforcement official with the powers of a police officer;
- (3) Shall require attendance of the person only in the county wherein the person is served with the subpoena or at any other place agreed upon by the person and the department; provided that if the subpoena is served in a county other than that in which the person resides, is employed, or transacts the person's business in person, the department shall bear the person's expenses for travel to and attendance at the place named in the subpoena to the same extent as provided by the rules of court; and
- (4) Shall contain a short, plain statement of the person's rights and the procedure for enforcing and contesting the subpoena.

Upon application by the director, a circuit court of the county wherein the person resides or is found may compel obedience to the subpoena; provided that the court, on a motion promptly made, may quash or modify the subpoena if compliance would be unreasonable or oppressive or would violate any privilege the witness may be entitled to exercise in a court proceeding.”

ACT 77

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 21, 2024.)