
A BILL FOR AN ACT

RELATING TO THE OFFICE OF THE OMBUDSMAN.

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

1 SECTION 1. Under current law, the ombudsman is authorized
2 to investigate administrative acts of agencies. In so doing,
3 the ombudsman may make inquiries and obtain relevant information
4 as the ombudsman deems fit. A recent opinion by the state
5 attorney general concluded, however, that a narrow
6 interpretation of state law prohibited the ombudsman from
7 obtaining state tax returns and return information in connection
8 with the official duties of the office of the ombudsman.

9 The legislature finds that allowing the office of the
10 ombudsman to obtain state tax return information about taxpayers
11 who file state tax returns would assist the ombudsman in
12 fulfilling the ombudsman's duty to investigate complaints
13 received concerning the administrative acts of agencies.

14 The purpose of this Act is therefore to permit the office
15 of the ombudsman to obtain state tax returns and tax return
16 information necessary to perform the official duties of the
17 office of the ombudsman, including the investigation of the
18 administrative acts of agencies.



1 SECTION 2. 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- Authority and access to records. The ombudsman
5 or an authorized representative shall have access to tax returns
6 and return information required to be filed pursuant to any law
7 under title 14 in connection with the official duties of the
8 office of the ombudsman, including the investigation of the
9 administrative acts of agencies."

10 SECTION 3. 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 under
14 this chapter shall be confidential, including any copy of any
15 portion of a federal return which may be attached to a state tax
16 return, or any information reflected in the copy of such federal
17 return. It shall be unlawful for any person, or any officer or
18 employee of the State to make known intentionally information
19 imparted by any income tax return or estimate made under
20 sections 235-92, 235-94, 235-95, and 235-97 or wilfully to
21 permit any income tax return or estimate so made or copy thereof
22 to be seen or examined by any person other than the taxpayer or



1 the taxpayer's authorized agent, persons duly authorized by the
2 State in connection with their official duties, the ombudsman or
3 authorized representative pursuant to section 231- , the
4 Multistate Tax Commission or the authorized representative
5 thereof, except as provided by law, and any offense against the
6 foregoing provisions shall be punished by a fine not exceeding
7 \$500 or by imprisonment not exceeding one year, or both."

8 SECTION 4. Section 237-34, Hawaii Revised Statutes, is
9 amended by amending subsection (b) to read as follows:

10 "(b) All tax returns and return information required to be
11 filed under this chapter, and the report of any investigation of
12 the return or of the subject matter of the return, shall be
13 confidential. It shall be unlawful for any person or any
14 officer or employee of the State to intentionally make known
15 information imparted by any tax return or return information
16 filed pursuant to this chapter, or any report of any
17 investigation of the return or of the subject matter of the
18 return, or to wilfully permit any such return, return
19 information, or report so made, or any copy thereof, to be seen
20 or examined by any person; provided that for tax purposes only
21 the taxpayer, the taxpayer's authorized agent, or persons with a
22 material interest in the return, return information, or report



1 may examine them. Unless otherwise provided by law, persons
2 with a material interest in the return, return information, or
3 report shall include:

- 4 (1) Trustees;
- 5 (2) Partners;
- 6 (3) Persons named in a board resolution or a one per cent
7 shareholder in case of a corporate return;
- 8 (4) The person authorized to act for a corporation in
9 dissolution;
- 10 (5) The shareholder of an S corporation;
- 11 (6) The personal representative, trustee, heir, or
12 beneficiary of an estate or trust in case of the
13 estate's or decedent's return;
- 14 (7) The committee, trustee, or guardian of any person in
15 paragraphs (1) to (6) who is incompetent;
- 16 (8) The trustee in bankruptcy or receiver, and the
17 attorney-in-fact of any person in paragraphs (1) to
18 (7);
- 19 (9) Persons duly authorized by the State in connection
20 with their official duties;
- 21 (10) Any duly accredited tax official of the United States
22 or of any state or territory;



- 1 (11) The Multistate Tax Commission or its authorized
- 2 representative;
- 3 (12) Members of a limited liability company; ~~[and]~~
- 4 (13) The ombudsman or authorized representative pursuant to
- 5 section 231- ; and
- 6 ~~[(13)]~~ (14) A person contractually obligated to pay the
- 7 taxes assessed against another when the latter person
- 8 is under audit by the department.

9 Any violation of this subsection shall be a misdemeanor."

10 SECTION 5. Section 237D-13, Hawaii Revised Statutes, is

11 amended by amending subsection (a) to read as follows:

12 "(a) All tax returns and return information required to be

13 filed under this chapter, and the report of any investigation of

14 the return or of the subject matter of the return, shall be

15 confidential. It shall be unlawful for any person or any

16 officer or employee of the State to intentionally make known

17 information imparted by any tax return or return information

18 filed pursuant to this chapter, or any report of any

19 investigation of the return or of the subject matter of the

20 return, or to wilfully permit any such return, return

21 information, or report so made, or any copy thereof, to be seen

22 or examined by any person; provided that for tax purposes only



1 the taxpayer, the taxpayer's authorized agent, or persons with a
2 material interest in the return, return information, or report
3 may examine them. Unless otherwise provided by law, persons
4 with a material interest in the return, return information, or
5 report shall include:

- 6 (1) Trustees;
- 7 (2) Partners;
- 8 (3) Persons named in a board resolution or a one per cent
9 shareholder in case of a corporate return;
- 10 (4) The person authorized to act for a corporation in
11 dissolution;
- 12 (5) The shareholder of an S corporation;
- 13 (6) The personal representative, trustee, heir, or
14 beneficiary of an estate or trust in case of the
15 estate's or decedent's return;
- 16 (7) The committee, trustee, or guardian of any person in
17 paragraphs (1) to (6) who is incompetent;
- 18 (8) The trustee in bankruptcy or receiver, and the
19 attorney-in-fact of any person in paragraphs (1) to
20 (7);
- 21 (9) Persons duly authorized by the State in connection
22 with their official duties;



1 (10) Any duly accredited tax official of the United States
2 or of any state or territory;

3 (11) The Multistate Tax Commission or its authorized
4 representative; [~~and~~]

5 (12) The ombudsman or authorized representative pursuant to
6 section 231- ; and

7 [~~(12)~~] (13) Members of a limited liability company.

8 Any violation of this subsection shall be a misdemeanor.

9 Nothing in this subsection shall prohibit the publication of
10 statistics so classified as to prevent the identification of
11 particular reports or returns and the items of the reports or
12 returns."

13 SECTION 6. Section 251-12, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

15 "(a) All tax returns and return information required to be
16 filed under this chapter, and the report of any investigation of
17 the return or of the subject matter of the return, shall be
18 confidential. It shall be unlawful for any person or any
19 officer or employee of the State to intentionally make known
20 information imparted by any tax return or return information
21 filed pursuant to this chapter, or any report of any
22 investigation of the return or of the subject matter of the



1 return, or to wilfully permit any such tax return, return
2 information, or report so made, or any copy thereof, to be seen
3 or examined by any person; provided that for surcharge tax
4 purposes only the lessor or tour vehicle operator, the lessor's
5 or tour vehicle operator's authorized agent, or persons with a
6 material interest in the return, return information, or report
7 may examine them. Unless otherwise provided by law, persons
8 with a material interest in the return, return information, or
9 report shall include:

- 10 (1) Trustees;
- 11 (2) Partners;
- 12 (3) Persons named in a board resolution or a one per cent
13 shareholder in case of a corporate return;
- 14 (4) The person authorized to act for a corporation in
15 dissolution;
- 16 (5) The shareholder of an S corporation;
- 17 (6) The personal representative, trustee, heir, or
18 beneficiary of an estate or trust in case of the
19 estate's or decedent's return;
- 20 (7) The committee, trustee, or guardian of any person in
21 paragraphs (1) to (6) who is incompetent;



1 (8) The trustee in bankruptcy or receiver, and the
2 attorney-in-fact of any person in paragraphs (1) to
3 (7);

4 (9) Persons duly authorized by the State in connection
5 with their official duties;

6 (10) Any duly accredited tax official of the United States
7 or of any state or territory;

8 (11) The Multistate Tax Commission or its authorized
9 representative; ~~and~~

10 (12) The ombudsman or authorized representative pursuant to
11 section 231- ; and

12 [~~(12)~~] (13) Members of a limited liability company.

13 Any violation of this subsection shall be a misdemeanor.

14 Nothing in this subsection shall prohibit the publication of
15 statistics so classified as to prevent the identification of
16 particular reports or returns and the items of the reports or
17 returns."

18 SECTION 7. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 8. This Act shall take effect upon its approval.

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Calvin K. Boy

INTRODUCED BY: Kirk Caldwell

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JAN 19 2007

[Handwritten signatures: Markys B. Lee, Paul Choy, J. Phil. Karant]

Report Title:

Ombudsman; State Tax Return Information

Description:

Authorizes the ombudsman or an authorized representative to obtain state tax returns and return information in connection with the official duties of the office of the ombudsman.

