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# A BILL FOR AN ACT

RELATING TO TAXATION.

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

1           SECTION 1. The legislature finds that tax incentives are a  
2 useful tool in spurring economic growth. However, there is  
3 currently no publicly available document or report that reveals  
4 the actual businesses that are benefiting from the tax credits.  
5 Improved accountability and transparency are necessary to ensure  
6 that the tax incentives established by the legislature are  
7 successful in promoting economic growth and development.

8           The purpose of this Act is to require:

- 9           (1) Businesses that apply for a state tax credit related  
10           to their commercial activities to sign a release  
11           statement allowing the department of taxation to  
12           publicly disclose the name of the business, and the  
13           name and amount of the tax credits claimed; and  
14           (2) The department of taxation to publicly disclose the  
15           name of each business claiming state tax credits that  
16           relate to its commercial activities and the name and  
17           amount of the tax credits claimed.



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- Disclosure; tax credits for commercial  
5 activities. (a) Notwithstanding any law to the contrary, every  
6 business applying for a state tax credit related to the  
7 business's commercial activities shall agree, in a signed  
8 statement, to allow the department to publicly disclose the name  
9 of the business and the name and amount of each tax credit  
10 claimed; provided that any business that does not agree to allow  
11 public disclosure shall not be eligible to receive any tax  
12 credits.

13 (b) On or before October 31 of each year, the department  
14 shall submit a report to the legislature that shall also be made  
15 available to the public in written and electronic formats. The  
16 report shall contain:

17 (1) The name of each business that has claimed a state tax  
18 credit related to the business's commercial activities  
19 for the taxable year preceding the year of the report;  
20 and

21 (2) The name and amount of the state tax credit related to  
22 the business's commercial activities claimed by each



1 business and the tax credit against which it was  
2 claimed for the taxable year preceding the year of the  
3 report.

4 (b) For the purposes of this section, "business" means an  
5 entity that is required to obtain a license under chapter 237."

6 SECTION 3. Section 235-116, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 **"§235-116 Disclosure of returns unlawful; penalty.** All  
9 tax returns and return information required to be filed under  
10 this chapter shall be confidential, including any copy of any  
11 portion of a federal return which may be attached to a state tax  
12 return, or any information reflected in the copy of [~~such~~] the  
13 federal return[-]; except that information on tax returns  
14 necessary to comply with section 231- shall be made available  
15 to the public. It shall be unlawful for any person, or any  
16 officer or employee of the State to make known intentionally  
17 information imparted by any income tax return or estimate made  
18 under sections 235-92, 235-94, 235-95, and 235-97 or wilfully to  
19 permit any income tax return or estimate so made or copy thereof  
20 to be seen or examined by any person other than the taxpayer or  
21 the taxpayer's authorized agent, persons duly authorized by the  
22 State in connection with their official duties, the Multistate

1 Tax Commission or the authorized representative thereof, except  
2 as provided by law, and any offense against the foregoing  
3 provisions shall be punished by a fine not exceeding \$500 or by  
4 imprisonment not exceeding one year, or both."

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

7 "(b) All tax returns and return information required to be  
8 filed under this chapter, and the report of any investigation of  
9 the return or of the subject matter of the return, shall be  
10 confidential[-]; except that information on tax returns  
11 necessary to comply with section 231- shall be made available  
12 to the public. It shall be unlawful for any person or any  
13 officer or employee of the State to intentionally make known  
14 information imparted by any tax return or return information  
15 filed pursuant to this chapter, or any report of any  
16 investigation of the return or of the subject matter of the  
17 return, or to wilfully permit any such return, return  
18 information, or report so made, or any copy thereof, to be seen  
19 or examined by any person; provided that for tax purposes only  
20 the taxpayer, the taxpayer's authorized agent, or persons with a  
21 material interest in the return, return information, or report  
22 may examine them. Unless otherwise provided by law, persons



1 with a material interest in the return, return information, or  
2 report shall include:

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

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

8 SECTION 5. Section 237D-13, Hawaii Revised Statutes, is  
9 amended by amending subsection (a) to read as follows:

10 "(a) 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[-]; except that information on tax returns  
14 necessary to comply with section 231- shall be made available  
15 to the public. 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 return, return information, or  
21 report so made, or any copy thereof, to be seen or examined by  
22 any person; provided that for tax purposes only the taxpayer,



1 the taxpayer's authorized agent, or persons with a material  
2 interest in the return, return information, or report may  
3 examine them. Unless otherwise provided by law, persons with a  
4 material interest in the return, return information, or report  
5 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 any state or territory, or of any county of this  
3 State;

4 (11) The Multistate Tax Commission or its authorized  
5 representative; and

6 (12) Members of a limited liability company.

7 Any violation of this subsection shall be a misdemeanor.

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

12 SECTION 6. Section 431:7-205, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 "**§431:7-205 Reports to department of taxation.** The  
15 commissioner shall promptly report to the department of taxation  
16 all amounts of taxes collected under section 431:7-201 to  
17 section 431:7-204 and section 431:8-315 and all amounts of  
18 refunds of such taxes made under section 431:7-203.

19 Notwithstanding any other provision of this chapter to the  
20 contrary, including confidentiality provisions under sections  
21 431:2-209 and 431:2-305(f), the commissioner shall furnish the  
22 department of taxation with tax-related information to the



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1 extent necessary for the department of taxation to comply with  
2 the requirements under section 231- ."

3 SECTION 7. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

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

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INTRODUCED BY: \_\_\_\_\_

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**Report Title:**

Taxation; Disclosure; Tax Credits

**Description:**

Requires businesses who apply for tax credits that are related to their commercial activities to sign a release statement allowing the department of taxation to publicly disclose their names and the names and amounts of the tax credits claimed. Requires the department of taxation to publicly disclose businesses that receive the tax credits.

