

## ACT 139

H.B. NO. 2623-74

A Bill for an Act Relating to Taxation.

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

SECTION 1. Section 231-18, Hawaii Revised Statutes is amended to read:

**“Sec. 231-18 Federal or other tax officials permitted to inspect returns; reciprocal provisions.** Notwithstanding the provisions of any law making it unlawful for any person, officer, or employee of the State to make known information imparted by any tax return or permit any tax return to be seen or examined by any person, it shall be lawful to permit a duly accredited tax official of the United States or of any state or territory or the Multistate Tax Commission to inspect any tax return of any taxpayer, or to furnish to such official, commission, or the authorized representative thereof an abstract of the return or supply him with information concerning any item contained in the return or disclosed by the report of any investigation of the return or of the subject matter of the return for tax purposes only. The Multistate Tax Commission may make such information available to a duly accredited tax official of the United States or to a duly accredited tax official of any state or territory, or the authorized representative thereof, for tax purposes only.”

SECTION 2. Section 231-37, Hawaii Revised Statutes, is amended to read:

**“Sec. 231-37 Neglect of duty, etc., misdemeanor.** Any officer of the department of taxation, the state director of finance, any person duly authorized by the director of taxation, or any police officer, on whom duties are imposed under this chapter, who wilfully fails or refuses or neglects to perform faithfully any duty or duties of him required by this chapter, shall be deemed guilty of a misdemeanor.”

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

**“Sec. 235-116 Disclosure of returns unlawful; penalty.** It shall be unlawful for any person, or any officer or employee of the State to make known intentionally information imparted by any income tax return or estimate made under sections 235-92, 235-94, 235-95, and 235-97 or wilfully to permit any income tax return or estimate so made or copy thereof to be seen or examined by any person other than the taxpayer or his authorized agent, persons duly authorized by the State in connection with their official duties, the Multistate Tax Commission or the authorized representative thereof, except as provided by law, and any offense against the foregoing provisions shall be punished by a fine not exceeding \$500 or by imprisonment not exceeding one year, or both.”

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SECTION 4. Section 235-117, Hawaii Revised Statutes, is amended to read:

**“Sec. 235-117 Reciprocal supplying of tax information.** Notwithstanding section 235-116, the department of taxation may permit the Secretary of the Treasury of the United States, the Commissioner of Internal Revenue, the Multistate Tax Commission, or the proper officer of any state or territory imposing an income tax upon incomes of persons taxable under this chapter, or the authorized representatives thereof to inspect the income tax returns and estimates of any such person for tax purposes only. The department may also furnish to such authorized persons an abstract of an income tax return or estimate or supply such persons with information concerning any item of income contained in a return or disclosed by the report of an investigation of the income or return of a taxpayer. The Multistate Tax Commission may make such information available to a duly accredited tax official of any state or territory, or the authorized representative thereof, for tax purposes only.”

SECTION 5. Section 237-34, Hawaii Revised Statutes, is amended to read:

**“Sec. 237-34 Filing of returns; inspection.** All monthly and annual returns shall be transmitted to the office of the taxation district in which the privilege upon which the tax accrued is exercised. Where the privilege is exercised in more than one taxation district the returns shall be transmitted to the office of the first taxation district.

Monthly and annual returns shall be available for inspection by officers of the State or of any county, the Multistate Tax Commission or the authorized representative thereof, or in the case of a return made by a corporation by the officers and stockholders thereof, and not otherwise; provided, that the department of taxation may permit the inspection of any return by any person upon being satisfied that the inspection is desired for some lawful and proper purpose.

The department may destroy the monthly returns filed pursuant to section 237-30, or any of them, upon the expiration of three years after the end of the calendar year in which the taxes so returned accrued.”

SECTION 6. Section 237-39, Hawaii Revised Statutes, is amended to read:

**“Sec. 237-39 Audits; procedure, penalties.** For the purpose of verification or audit of a return made by the taxpayer, or where there is reasonable ground to believe that any return made is so deficient as not to form the basis of a satisfactory assessment of the tax, or for the purpose of making an assessment where no return has been made, the department of taxation or the Multistate Tax Commission pursuant to chapter 255 or the authorized representative thereof may examine all account books, bank books, bank statements, records, vouchers, taxpayer’s copies of federal tax returns, and any and all other documents and evidences having any relevancy to the determination of the gross income or gross proceeds of sales of any taxpayer

as required to be returned under this chapter and may summon or require the attendance of the person by or for whom the return, if any, has been made or whose tax is being assessed, and any employee of the person, and may summon or require the attendance of any person having knowledge in the premises, naming the time and place in the summons, and may require the production of any books, statements, or other evidences open to his examination, and may take testimony in reference to any such matter relevant to the gross income or gross proceeds of sales of the taxpayer for the period under consideration, with power to require that the person so called and appearing shall be interrogated under oath and to administer the oath.

If the department determines that any gross income or gross proceeds of sales liable to the tax have not been assessed the department may assess the same as provided in sections 237-36 and 237-38.

Any individual knowingly giving false testimony under oath at any such hearing before the department shall be guilty of perjury and shall be punished as provided by law.

Any person refusing or neglecting to obey any summons issued by the department, and any individual appearing and refusing to testify under oath, shall be fined \$50 for the first offense and \$100 for each succeeding offense."

SECTION 7. Section 237-41, Hawaii Revised Statutes, is amended to read:

**"Sec. 237-41 Records to be kept; examination; penalties.** Every taxpayer shall keep in the English language within the State, and preserve for a period of three years, suitable records of gross proceeds of sales and gross income, and such other books, records of account, and invoices as may be required by the department of taxation, and all such books, records, and invoices shall be open for examination at any time by the department or the Multistate Tax Commission pursuant to chapter 255, or the authorized representative thereof. Any person violating this section shall be guilty of a misdemeanor; and any director, president, secretary, or treasurer of a corporation who permits, aids, or abets the corporation to violate this section shall likewise be guilty of a misdemeanor; the penalty for such misdemeanor shall be that prescribed by section 237-48 for individuals, corporations, or officers of corporations, as the case may be, for violation of that section."

SECTION 8. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 9. This Act shall take effect upon its approval.

(Approved June 3, 1974.)

\*Edited accordingly.