

## ACT 253

H.B. NO. 1641

A Bill for an Act Relating to the Collection of Taxes.

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

SECTION 1. Section 231-13, Hawaii Revised Statutes, is amended to read as follows:

**“§231-13 Director; examination, investigation, and collection.** (a) The director of taxation shall be responsible for the collection and general administration of all delinquent taxes. [The director may forward all claims of the State for delinquent taxes to a collection agency bonded under chapter 443B. The director may make an agreement with the agency regarding the amount to be retained by it for services. The director shall duly and accurately account for all delinquent taxes collected.] Notwithstanding any other law to the contrary, the director, by contract, may select and retain bonded collection agencies, licensed attorneys, accountants, and auditors or other persons for the purpose of assessment, enforcement, or collection of taxes from persons subject to the provisions of title 14 administered by the department.

(b) At the option of the director, any contract entered into under this section may provide for compensation on:

- (1) A fixed price basis;
- (2) An hourly rate basis with or without a fixed cap; or
- (3) A contingent fee arrangement to be specified in the contract; provided that this paragraph shall not apply to auditors and accountants.

All compensation shall be payable out of the taxes recovered for the State, unless otherwise determined by the director.”

SECTION 2. Section 231-26, Hawaii Revised Statutes, is amended to read as follows:

**“§231-26 Extraterritorial enforcement of tax laws.** (a) The courts of the State shall recognize and enforce the liability for taxes lawfully imposed by the laws of any state which extends a like comity, whether by statute or case law, in respect of the liability for taxes lawfully imposed by the laws of this State. Should a claim be made in the state courts for taxes by a state whose highest court has not yet passed upon the question of enforcing extraterritorial revenue laws, the courts of the State shall enforce such claims until such time as the highest court of that state prohibits the enforcement of extraterritorial revenue laws.

(b) Any and all authorized officials of a state entitled to enforce its tax claims within the state courts may bring action in the courts of this State for the collection of the taxes. The certificate of the secretary of state of such state, or of the nearest equivalent official, that such officials have the authority to collect the taxes sought to be collected by the action shall be conclusive proof of that authority.

(c) The attorney general may bring action in the name of the State, or authorize action to be brought in the name of the State, in the courts of any state to collect taxes legally due the State.

(d) The term “state” as used herein means any state, territory, or possession of the United States. The term “taxes” as herein employed shall include:

- (1) Any and all tax assessments lawfully made, whether they be based upon a return or other disclosure of the taxpayer, upon the information and belief of the taxing authority, or otherwise;
- (2) Any and all penalties lawfully imposed pursuant to a taxing statute; and
- (3) Interest charges lawfully added to the tax liability which constitutes the subject of the action.

(e) In any case where a person owing delinquent taxes to the State has moved from the State to another state[,] or country, is situated in another state or country, resides, or maintains a place of business in another state or country, the [department of taxation may forward the claims of the State to a bonded collection agency or licensed attorney within that state, with or without assignment of the claims, and may further make such agreement with the agency or attorney regarding the amount to be retained by it or the attorney for services, as in the opinion of the department is necessary and proper.] the<sup>1</sup> director, notwithstanding any other law to the contrary, by contract, may select and retain bonded collection agencies, licensed attorneys, accountants, and auditors or other persons to pursue and collect the claims of the State.

(f) At the option of the director, any contract entered into under this section may provide for compensation on:

- (1) A fixed price basis;
- (2) An hourly rate basis with or without a fixed cap; or
- (3) A contingent fee arrangement to be specified in the contract; provided that this paragraph shall not apply to auditors and accountants.

All compensation shall be payable out of the taxes recovered for the State, unless otherwise determined by the director.

(g) Suits brought upon judgments shall be governed by the law relating thereto, and not by this section.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 20, 1997.)

**Note**

1. So in original.