

## ACT 9

S.B. NO. 1685

A Bill for an Act Relating to Tax.

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

SECTION 1. The legislature finds that allowing the counties to obtain state taxpayer information within their jurisdiction is an important resource to strengthen county tax collection efforts. Presently, the counties are unable to audit their own tax exemptions and credits for resident filings within their own counties. With access to state tax information, such as taxpayers filing as residents in a particular county, the counties would be able to follow up on discrepancies with their property tax exemptions and credits.

Counties such as Maui are having difficulty determining whether real property tax filers claiming apartment or condominium classification should be reclassified as a hotel. There have been numerous complaints about hotel activities in apartments and condominiums; however, the county is unable to access the transient accommodations tax information that would provide the necessary and helpful information about tax filers within their county.

The purpose of this Act is to authorize the director of taxation and county tax officials to share taxpayer information.

SECTION 2. Chapter 246A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§246A- Reciprocal supplying of tax information. Notwithstanding any other law to the contrary, a tax official of any county of the State may disclose

any records relating to the administration of real property taxes to any duly accredited tax official of the State for tax purposes.”

SECTION 3. Section 231-18, Hawaii Revised Statutes, is amended to read as follows:

“**§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, any county of this State, or the Multistate Tax Commission to inspect any tax return of any taxpayer, or to furnish to ~~[such]~~ an official, commission, or the authorized representative thereof an abstract of the return or supply the official, commission, or the authorized representative thereof 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]~~ the 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 4. Section 235-117, Hawaii Revised Statutes, is amended to read as follows:

“**§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 any county of this State, 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]~~ these authorized persons an abstract of an income tax return or estimate or supply ~~[such]~~ these 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]~~ the 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 5. Section 237D-13, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) All tax returns and return information required to be filed under this chapter, and the report of any investigation of the return or of the subject matter of the return, shall be confidential. It shall be unlawful for any person or any officer or employee of the State to intentionally make known information imparted by any tax return or return information filed pursuant to this chapter, or any report of any investigation of the return or of the subject matter of the return, or to wilfully permit any ~~[such]~~ return, return information, or report so made, or any copy thereof, to be seen or examined by any person; provided that for tax purposes only the taxpayer, the taxpayer’s authorized agent, or persons with a material interest in the return, return information, or report may examine them. Unless otherwise provided by law,

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

- (1) Trustees;
- (2) Partners;
- (3) Persons named in a board resolution or a one per cent shareholder in case of a corporate return;
- (4) The person authorized to act for a corporation in dissolution;
- (5) The shareholder of an S corporation;
- (6) The personal representative, trustee, heir, or beneficiary of an estate or trust in case of the estate's or decedent's return;
- (7) The committee, trustee, or guardian of any person in paragraphs (1) to (6) who is incompetent;
- (8) The trustee in bankruptcy or receiver, and the attorney-in-fact of any person in paragraphs (1) to (7);
- (9) Persons duly authorized by the State in connection with their official duties;
- (10) Any duly accredited tax official of the United States [~~or of~~], any state or territory[;], or of any county of this State;
- (11) The Multistate Tax Commission or its authorized representative; and
- (12) Members of a limited liability company.

Any violation of this subsection shall be a misdemeanor. Nothing in this subsection shall prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items of the reports or returns.’’

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 7. This Act shall take effect upon its approval.

(Vetoed by Governor and veto overridden by Legislature on July 12, 2005.)

**Note**

1. Edited pursuant to HRS §23G-16.5.