

ACT 189

S.B. NO. 2947

A Bill for an Act Relating to Taxation.

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

SECTION 1. Section 231-3.4, Hawaii Revised Statutes, is amended to read as follows:

~~“[§231-3.4]~~ **Publication of reports.** (a) The department of taxation shall publish reports on the following:

- (1) Hawaii income patterns—individuals;
- (2) Hawaii income patterns—corporations, proprietorships, and partnerships; and
- (3) Tax credits.

~~(b) The department shall make each of these reports available in both paper form and commonly accessible electronic forms [for a reasonable fee].~~

~~(c) The department of taxation shall report to the legislature no later than twenty days prior to the convening of each regular session; provided that on or before December 31, 2012, the department shall report to the legislature on:~~

- ~~(1) The resources and information needed to complete the reports required under subsection (a)(3);~~
- ~~(2) An identification of the best means of providing information in an electronic format in the future; and~~
- ~~(3) Recommendations for additional information that may be required for inclusion in the reports as the department upgrades its tax computer systems and associated enterprise resource planning implementation.~~

~~(b) (d) The department [shall] may explore and implement all reasonable methods of covering the costs of [publication and] distribution of the reports, including but not limited to:~~

- (1) Setting reasonable fees that will cover the costs of producing and distributing the reports in paper and electronic form; and
- (2) Negotiating licensing fees with commercial information providers for rights to carry the reports on-line or in other electronic storage methods.”

SECTION 2. The department of taxation may establish three new permanent full-time equivalent (3.0 FTE) positions and one new temporary full-time equivalent (1.0 FTE) position to fulfill the publication requirements pursuant to section 231-3.4, Hawaii Revised Statutes.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$104,505 or so much thereof as may be necessary for fiscal year 2012-2013 for additional resources and staffing support for the department of taxation to complete the reports required under section 231-3.4, Hawaii Revised Statutes.

The sum appropriated shall be expended by the department of taxation for the purposes of this Act.

PART II

SECTION 4. Section 231-7.5, Hawaii Revised Statutes, is amended to read as follows:

“[§231-7.5] Expedited appeals and dispute resolution program. (a) The department shall be authorized to implement an administrative appeals and dispute resolution program that shall expeditiously resolve all tax, penalty, interest, fine, assessment, and other such disputes between the department and the taxpayer or return preparer. The director or the director’s designee, who shall report directly and be answerable solely to the director, shall serve as an independent appeals officer and shall be authorized to compromise, settle, or otherwise resolve any dispute on any basis, including hazards and costs of litigation, considering equally the position of the taxpayer and the department on an impartial basis. The independent appeals officer shall not be influenced by any department tax compliance initiatives and policies, or loss of revenue to the State. Decisions of the independent appeals officer shall be in writing stating the facts, analysis, and conclusions in support, which shall be provided to the taxpayer and return preparer. Persons who currently serve or have served in the previous five years as an auditor, audit supervisor or manager, collector, collection supervisor or manager, district manager or supervisor, or tax compliance administrator, shall not be eligible to be the director’s designee.

(b) Notwithstanding any other law to the contrary, including tax appeal procedures set forth under chapter 232, a taxpayer shall be eligible to petition the department once for participation in the administrative appeals and dispute resolution program after issuance of a notice of proposed assessment; provided that if a taxpayer has filed a tax appeal with the tax appeal court or other court, the taxpayer shall first be required to obtain the approval of the director and permission from the respective court prior to petitioning the department for participation. The director shall have the right to deny a petition for cause.

(c) The department shall adopt procedures to carry out the purposes of this section, including procedures relating to ex parte communications between the director or the director’s designee and other department personnel to ensure that such communications do not compromise or appear to compromise the independence of the administrative appeals and dispute resolution program.

(d) The director of taxation may appoint an administrative appeals officer as necessary to administer this section, and perform other duties as directed by the director. The administrative appeals officer shall be exempt from chapter 76 and may be a legal or accounting professional; provided that no individual appointed under this section shall render legal services reserved to the attorney general under chapter 28.”

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect on July 1, 2012.

(Approved June 28, 2012.)