

Note on “Signature Presumed Authentic”
Hawaii Revised Statutes Chapter 231-15.3

In 2009, via Act 166, Section 16, the Hawai’i Legislature added the following provision to Hawaii Revised Statutes, Chapter 231, “Administration Of Taxes”:

[§231-15.3] Signature presumed authentic. The fact that an individual's name is signed on a return, statement, or other document shall be prima facie evidence for all purposes that the return, statement, or other document was actually signed by the individual.

Presumably, this provision relieves the Department of any duty to make an inquiry into the legitimacy of a signature in civil matters absent conflicting evidence or a problem with the signature. It would be a strained interpretation to argue that if Mr. Jones signs an income tax return for “Mr. Jones” and then without guile writes “Mrs. Jones” into the signature line, that Mrs. Jones’ rights are affected by this provision. Less obvious situations may be considerably more problematic, however.

In criminal proceedings, the State may attempt to obtain a jury instruction reflecting this provision but counsel should consider objecting on the basis of the presumption of innocence and the obligation of the State to prove all elements of the charged offense.

As the Department of Taxation Criminal Investigation Division will not know the outcome of a ruling on the instructions, in instances where the legitimacy of the signature is at issue, Criminal Investigators may still have to issue summons for handwriting exemplars and consult an appropriate expert witness.

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