



GOV. MSG. NO. 704

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

May 2, 2008

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fourth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

Re: Senate Bill No. 2153 SD1 HD1

On May 1, 2008, Senate Bill No. 2153, entitled "A Bill for an Act Relating to Income Tax Credit," became law without my signature, pursuant to Section 16 of Article III of the Constitution of the State of Hawaii.

The stated purpose of this bill is to meet the Constitutional mandate, as required under Article VII, Section 6 of the Hawaii Constitution to provide a refund or credit to the taxpayers of the State of Hawaii. This refund must be given when the revenues of the State of Hawaii exceed the State's general fund balances by at least 5% for two consecutive years.

This bill makes a mockery of the Constitutional provision that recognized the State should not retain the taxpayers' money when it has collected more revenues than is required to operate. The Constitutional provision for a refund was enacted in 1978. Since that time there have been 18 times previously when the refund threshold was reached and the Legislature was obliged to return funds to the residents of this state. Regrettably in all by five occasions, only a single \$1 was returned.

The token amount in this year's bill comes at a time when families in Hawaii are facing increased costs of living. On Oahu, for example, the cost of gasoline, vehicle fees, property taxes, electricity, and water and sewer service rose an average of 70% since 2002. On the neighbor islands the increases have ranged from 50% on the island of Hawaii to 74% on Kauai.

These increases, coupled with a slowing economy, argue that this is indeed the time when returning money to consumers should be part of the economic stimulus package of this state. It is ironic that tax rebates recently were enacted by Congress, but the majority-party-controlled Legislature of this state does not agree with their Congressional colleagues and provides what some have called a "Scrooge-like pittance" to our population.

What is particularly unfortunate is taxpayers will not be able to reclaim their token \$1 until they file their taxes in 2009.

It is wrong to claim that the State cannot afford tax relief. In December of 2007 I presented a six-year balanced budget to the State Legislature that included \$102 million in targeted tax relief for Hawaii's families. I have periodically adjusted this budget to reflect changing economic conditions and last month again issued an updated balanced financial plan that included tax relief. To claim that tax relief is not fiscally possible is to not be honest with the people who support us--the taxpayers of this state. It should be noted that legislators have found the resources to increase their own salaries by over 60% over the next several years.

My Administration remains proud of the tax reforms we have successfully enacted over the past six years, including increasing the standard deduction, widening the tax brackets, and providing some tax credits. But this is not enough, and I will continue to champion genuine, long-term tax relief to the citizens of our state.

In keeping with the Constitutional requirement, I allowed Senate Bill No. 2153 to become law as Act 58, effective May 1, 2008, without my signature.

Sincerely,



LINDA LINGLE

A BILL FOR AN ACT

RELATING TO INCOME TAX CREDIT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that article VII, section
2 6, of the Hawaii Constitution requires the legislature to
3 provide a tax refund or tax credit when certain factors are met.
4 The legislature finds that these factors have been met for the
5 second year in a row and that the legislature is
6 constitutionally required to provide a tax credit or tax refund
7 to taxpayers.

8 The purpose of this Act is to provide for an income tax
9 credit of \$1 multiplied by the number of the taxpayer's
10 qualified exemptions to every resident individual taxpayer of
11 the state to satisfy constitutionally mandated requirements.

12 SECTION 2. (a) There shall be allowed each resident
13 individual taxpayer who files an individual income tax return
14 for the taxable year 2008 and who is not claimed or is not
15 otherwise eligible to be claimed as a dependent by another
16 taxpayer for federal or Hawaii state individual income tax
17 purposes, a general income tax credit of \$1, which shall be



1 deducted from income tax liability computed under chapter 235,
2 Hawaii Revised Statutes; provided that a resident individual who
3 has no income or no income taxable under chapter 235, Hawaii
4 Revised Statutes, and who is not claimed or is not otherwise
5 eligible to be claimed as a dependent by a taxpayer for federal
6 or Hawaii state individual income tax purposes may claim this
7 credit.

8 Each resident individual taxpayer may claim the general
9 income tax credit multiplied by the number of qualified
10 exemptions to which the taxpayer is entitled.

11 Each person for whom the general income tax credit is
12 claimed shall have been a resident of the state, as defined in
13 section 235-1, Hawaii Revised Statutes, for at least nine months
14 regardless of whether the qualified resident was physically in
15 the state for nine months. Multiple exemptions shall not be
16 granted for the general income tax credit because of age or
17 deficiencies in vision, hearing, or other disability.

18 The general income tax credit shall not be available to:

- 19 (1) Any person who has been convicted of a felony and who
20 has been committed to prison and has been physically
21 confined for the full taxable year;



1 (2) Any person who would otherwise be eligible to be
2 claimed as a dependent but who has been committed to a
3 youth correctional facility and has resided at the
4 facility for the full taxable year; or

5 (3) Any misdemeanor who has been committed to jail and
6 has been physically confined for the full taxable
7 year.

8 The tax credit claimed by a resident taxpayer pursuant to
9 this Act shall be deductible from the resident taxpayer's
10 individual income tax liability for the taxable year 2008. If
11 the tax credit claimed by a resident taxpayer exceeds the amount
12 of income tax payment due from the resident taxpayer, the excess
13 of credits over payments due shall be refunded to the resident
14 taxpayer; provided that a tax credit properly claimed by a
15 resident individual who has no income tax liability shall be
16 paid to the resident individual.

17 All claims for tax credits under this Act, including any
18 amended claims, shall be filed on or before the end of the
19 twelfth month following the close of the taxable year for which
20 the credits may be claimed. Failure to comply with this filing
21 requirement shall constitute a waiver of the right to claim the
22 credit.



1 (b) This section implements the provisions of article VII,
2 section 6, of the Hawaii Constitution, enacted by the 1978
3 constitutional convention, which reads as follows:

4 "DISPOSITION OF EXCESS REVENUES

5 Section 6. Whenever the state general fund balance at the
6 close of each of two successive fiscal years exceeds five
7 percent of general fund revenues for each of the two fiscal
8 years, the legislature in the next regular session shall provide
9 for a tax refund or tax credit to the taxpayers of the State, as
10 provided by law."

11 SECTION 3. This Act shall take effect upon its approval.



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APPROVED this day of , 2008

GOVERNOR OF THE STATE OF HAWAII



