A BILL FOR AN ACT

RELATING TO TAXATION.

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

SECTION 1. The legislature finds that the cost of full-time child care has risen over the past years. Such cost increases should be reflected in the income tax credits allowed for expenses for household and dependent care services. The legislature further finds that early learning programs facilitate the academic and social development of young children and should therefore be supports. Full-time child care programs allow parents to obtain and retain secure, stable employment, which increases the economic well-being of the family as a whole.

The purpose of this Act is to increase the taxpayer's applicable percentage of employment-related expenses and dollar limit on the amount creditable, which constitute the tax credit for expenses for household and dependent care services necessary for gainful employment.

SECTION 2. Section 235-55.6, Hawaii Revised Statutes, is amended to read as follows:
"§235-55.6 Expenses for household and dependent care services necessary for gainful employment. (a) Allowance of credit.

(1) In general. For each resident taxpayer, who files an individual income tax return for a taxable year, and who is not claimed or is not otherwise eligible to be claimed as a dependent by another taxpayer for federal or Hawaii state individual income tax purposes, who maintains a household which includes as a member one or more qualifying individuals (as defined in subsection (b)(1)), there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable percentage of the employment-related expenses (as defined in subsection (b)(2)) paid by the individual during the taxable year. If the tax credit claimed by a resident taxpayer exceeds the amount of income tax payment due from the resident taxpayer, the excess of the credit over payments due shall be refunded to the resident taxpayer; provided that tax credit properly claimed by a resident individual who has no income tax
liability shall be paid to the resident individual;
and provided further that no refunds or payment on
account of the tax credit allowed by this section
shall be made for amounts less than $1.

(2) Applicable percentage. For purposes of paragraph (1),
the taxpayer's applicable percentage shall be
determined as follows:

<table>
<thead>
<tr>
<th>Adjusted gross income</th>
<th>Applicable percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not over $25,000</td>
<td>[25%] 75%</td>
</tr>
<tr>
<td>Over $25,000 but not over $30,000</td>
<td>[24%] 70%</td>
</tr>
<tr>
<td>Over $30,000 but not over $35,000</td>
<td>[23%] 65%</td>
</tr>
<tr>
<td>Over $35,000 but not over $40,000</td>
<td>[22%] 60%</td>
</tr>
<tr>
<td>Over $40,000 but not over $45,000</td>
<td>[21%] 55%</td>
</tr>
<tr>
<td>Over $45,000 but not over $50,000</td>
<td>[20%] 50%</td>
</tr>
<tr>
<td>Over $50,000</td>
<td>[15%] 25%</td>
</tr>
</tbody>
</table>
(b) Definitions of qualifying individual and employment-related expenses. For purposes of this section:

(1) Qualifying individual. The term "qualifying individual" means:

(A) A dependent of the taxpayer who is under the age of thirteen and with respect to whom the taxpayer is entitled to a deduction under section 235-54(a),

(B) A dependent of the taxpayer who is physically or mentally incapable of caring for oneself, or

(C) The spouse of the taxpayer, if the spouse is physically or mentally incapable of caring for oneself.

(2) Employment-related expenses.

(A) In general. The term "employment-related expenses" means amounts paid for the following expenses, but only if such expenses are incurred to enable the taxpayer to be gainfully employed for any period for which there are one or more qualifying individuals with respect to the taxpayer:
(i) Expenses for household services, and

(ii) Expenses for the care of a qualifying individual.

Such term shall not include any amount paid for services outside the taxpayer's household at a camp where the qualifying individual stays overnight.

(B) Exception. Employment-related expenses described in subparagraph (A) which are incurred for services outside the taxpayer's household shall be taken into account only if incurred for the care of:

(i) A qualifying individual described in paragraph (1)(A), or

(ii) A qualifying individual (not described in paragraph (1)(A)) who regularly spends at least eight hours each day in the taxpayer's household.

(C) Dependent care centers. Employment-related expenses described in subparagraph (A) which are incurred for services provided outside the
taxpayer's household by a dependent care center (as defined in subparagraph (D)) shall be taken into account only if:

(i) Such center complies with all applicable laws, rules, and regulations of this State, if the center is located within the jurisdiction of this State; or

(ii) Such center complies with all applicable laws, rules, and regulations of the jurisdiction in which the center is located, if the center is located outside the State; and

(iii) The requirements of subparagraph (B) are met.

(D) Dependent care center defined. For purposes of this paragraph, the term "dependent care center" means any facility which:

(i) Provides care for more than six individuals (other than individuals who reside at the facility), and
(ii) Receives a fee, payment, or grant for providing services for any of the individuals (regardless of whether such facility is operated for profit).

(c) Dollar limit on amount creditable. The amount of the employment-related expenses incurred during any taxable year which may be taken into account under subsection (a) shall not exceed:

(1) $13,000 if there is one qualifying individual with respect to the taxpayer for such taxable year, or

(2) $26,000 if there are two or more qualifying individuals with respect to the taxpayer for such taxable year.

The amount determined under paragraph (1) or (2) (whichever is applicable) shall be reduced by the aggregate amount excludable from gross income under section 129 (with respect to dependent care assistance programs) of the Internal Revenue Code for the taxable year.

(d) Earned income limitation.

(1) In general. Except as otherwise provided in this subsection, the amount of the employment-related
expenses incurred during any taxable year which may be
taken into account under subsection (a) shall not exceed:
(A) In the case of an individual who is not married
at the close of such year, such individual's
earned income for such year, or
(B) In the case of an individual who is married at
the close of such year, the lesser of such
individual's earned income or the earned income
of the individual's spouse for such year.

(2) Special rule for spouse who is a student or incapable
of caring for oneself. In the case of a spouse who is
a student or a qualified individual described in
subsection (b)(1)(C), for purposes of paragraph (1),
such spouse shall be deemed for each month during
which such spouse is a full-time student at an
educational institution, or is such a qualifying
individual, to be gainfully employed and to have
earned income of not less than:
(A) $200 if subsection (c)(1) applies for the taxable
year, or
(B) $400 if subsection (c)(2) applies for the taxable year.

In the case of any husband and wife, this paragraph shall apply with respect to only one spouse for any one month.

(e) Special rules. For purposes of this section:

(1) Maintaining household. An individual shall be treated as maintaining a household for any period only if over half the cost of maintaining the household for the period is furnished by the individual (or, if the individual is married during the period, is furnished by the individual and the individual's spouse).

(2) Married couples must file joint return. If the taxpayer is married at the close of the taxable year, the credit shall be allowed under subsection (a) only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

(3) Marital status. An individual legally separated from the individual's spouse under a decree of divorce or of separate maintenance shall not be considered as married.
(4) Certain married individuals living apart. If:
(A) An individual who is married and who files a separate return:
   (i) Maintains as the individual's home a household that constitutes for more than one-half of the taxable year the principal place of abode of a qualifying individual, and
   (ii) Furnishes over half of the cost of maintaining the household during the taxable year, and
(B) During the last six months of the taxable year the individual's spouse is not a member of the household, the individual shall not be considered as married.

(5) Special dependency test in case of divorced parents, etc. If:
(A) Paragraph (2) or (4) of section 152(e) of the Internal Revenue Code of 1986, as amended, applies to any child with respect to any calendar year, and
(B) The child is under age thirteen or is physically 
or mentally incompetent of caring for the child's 
self, 

in the case of any taxable year beginning in the 
calendar year, the child shall be treated as a 
qualifying individual described in subsection 
(b)(1)(A) or (B) (whichever is appropriate) with 
respect to the custodial parent (within the meaning of 
section 152(e)(1) of the Internal Revenue Code of 
1986, as amended), and shall not be treated as a 
qualifying individual with respect to the noncustodial 
parent.

(6) Payments to related individuals. No credit shall be 
allowed under subsection (a) for any amount paid by 
the taxpayer to an individual:

(A) With respect to whom, for the taxable year, a 
deduction under section 151(c) of the Internal 
Revenue Code of 1986, as amended (relating to 
deduction for personal exemptions for dependents) 
is allowable either to the taxpayer or the 
taxpayer's spouse, or
(B) Who is a child of the taxpayer (within the meaning of section 151(c)(3) of the Internal Revenue Code of 1986, as amended) who has not attained the age of nineteen at the close of the taxable year.

For purposes of this paragraph, the term "taxable year" means the taxable year of the taxpayer in which the service is performed.

(7) Student. The term "student" means an individual who, during each of five calendar months during the taxable year, is a full-time student at an educational organization.

(8) Educational organization. The term "educational organization" means a school operated by the department of education under chapter 302A, an educational organization described in section 170(b)(1)(A)(ii) of the Internal Revenue Code of 1986, as amended, or a university, college, or community college.

(9) Identifying information required with respect to service provider. No credit shall be allowed under
subsection (a) for any amount paid to any person unless:

(A) The name, address, taxpayer identification number, and general excise tax license number of the person are included on the return claiming the credit,

(B) If the person is located outside the State, the name, address, and taxpayer identification number, if any, of the person and a statement indicating that the service provider is located outside the State and that the general excise tax license and, if applicable, the taxpayer identification numbers are not required, or

(C) If the person is an organization described in section 501(c)(3) of the Internal Revenue Code and exempt from tax under section 501(a) of the Internal Revenue Code, the name and address of the person are included on the return claiming the credit.

In the case of a failure to provide the information required under the preceding sentence, the preceding
sentence shall not apply if it is shown that the
taxpayer exercised due diligence in attempting to
provide the information so required.

(f) Rules. The director of taxation shall prescribe such
rules under chapter 91 as may be necessary to carry out the
purposes of this section.

(g) On September 30, 2020, and on September 30 of each
year thereafter, the department of taxation shall calculate an
adjustment to the adjusted gross income thresholds under
subsection (a) and the dollar limits on amounts creditable under
subsection (c) based on the annual change in the urban Hawaii
consumer price index or successor index for the twelve months
prior to September 1 of each year, as calculated by the United
States Department of Labor. The adjusted gross income
thresholds and dollar limits on amounts creditable shall take
effect on January 1 of the following year."

SECTION 3. Statutory material to be repealed is bracketed
and stricken. New statutory material is underscored.
SECTION 4. This Act, upon its approval, shall apply to taxable years beginning after December 31, 2019.

INTRODUCED BY:

[Signatures]
Report Title:
Income Tax Credit; Expenses for Household and Dependent Care Services Necessary for Gainful Employment; Keiki Caucus

Description:
Amends the income tax credit for expenses for household and dependent care services necessary for gainful employment by increasing the taxpayer's applicable percentage of employment-related expenses and dollar limit on amounts creditable that constitute the tax credit. Requires the department of taxation to make annual adjustments for inflation to the adjusted gross income thresholds and dollar limits on amounts creditable. Applies to taxable years beginning after 12/31/19.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.