

JAN 18 2019

A BILL FOR AN ACT

RELATING TO TAXATION.

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

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

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

16 SECTION 2. Section 235-55.6, Hawaii Revised Statutes, is
17 amended to read as follows:



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1 "§235-55.6 Expenses for household and dependent care
2 services necessary for gainful employment. (a) Allowance of
3 credit.

4 (1) In general. For each resident taxpayer, who files an
5 individual income tax return for a taxable year, and
6 who is not claimed or is not otherwise eligible to be
7 claimed as a dependent by another taxpayer for federal
8 or Hawaii state individual income tax purposes, who
9 maintains a household which includes as a member one
10 or more qualifying individuals (as defined in
11 subsection (b)(1)), there shall be allowed as a credit
12 against the tax imposed by this chapter for the
13 taxable year an amount equal to the applicable
14 percentage of the employment-related expenses (as
15 defined in subsection (b)(2)) paid by the individual
16 during the taxable year. If the tax credit claimed by
17 a resident taxpayer exceeds the amount of income tax
18 payment due from the resident taxpayer, the excess of
19 the credit over payments due shall be refunded to the
20 resident taxpayer; provided that tax credit properly
21 claimed by a resident individual who has no income tax



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1 liability shall be paid to the resident individual;
 2 and provided further that no refunds or payment on
 3 account of the tax credit allowed by this section
 4 shall be made for amounts less than \$1.

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

Adjusted gross income	Applicable percentage
10 Not over \$25,000	[25%] <u>75%</u>
11 Over \$25,000 but	[24%] <u>70%</u>
12 not over \$30,000	
13 Over \$30,000 but	[23%] <u>65%</u>
14 not over \$35,000	
15 Over \$35,000 but	[22%] <u>60%</u>
16 not over \$40,000	
17 Over \$40,000 but	[21%] <u>55%</u>
18 not over \$45,000	
19 Over \$45,000 but	[20%] <u>50%</u>
20 not over \$50,000	
21 Over \$50,000	[15%.] <u>25%.</u> "



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1 (b) Definitions of qualifying individual and employment-
2 related expenses. For purposes of this section:

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

5 (A) A dependent of the taxpayer who is under the age
6 of thirteen and with respect to whom the taxpayer
7 is entitled to a deduction under section
8 235-54(a),

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

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

14 (2) Employment-related expenses.

15 (A) In general. The term "employment-related
16 expenses" means amounts paid for the following
17 expenses, but only if such expenses are incurred
18 to enable the taxpayer to be gainfully employed
19 for any period for which there are one or more
20 qualifying individuals with respect to the
21 taxpayer:



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- 1 (i) Expenses for household services, and
- 2 (ii) Expenses for the care of a qualifying
- 3 individual.
- 4 Such term shall not include any amount paid for
- 5 services outside the taxpayer's household at a
- 6 camp where the qualifying individual stays
- 7 overnight.
- 8 (B) Exception. Employment-related expenses described
- 9 in subparagraph (A) which are incurred for
- 10 services outside the taxpayer's household shall
- 11 be taken into account only if incurred for the
- 12 care of:
 - 13 (i) A qualifying individual described in
 - 14 paragraph (1) (A), or
 - 15 (ii) A qualifying individual (not described in
 - 16 paragraph (1) (A)) who regularly spends at
 - 17 least eight hours each day in the taxpayer's
 - 18 household.
- 19 (C) Dependent care centers. Employment-related
- 20 expenses described in subparagraph (A) which are
- 21 incurred for services provided outside the



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1 taxpayer's household by a dependent care center
2 (as defined in subparagraph (D)) shall be taken
3 into account only if:

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

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

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

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

18 (i) Provides care for more than six individuals
19 (other than individuals who reside at the
20 facility), and



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1 (ii) Receives a fee, payment, or grant for
2 providing services for any of the
3 individuals (regardless of whether such
4 facility is operated for profit).

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

9 (1) [~~\$2,400~~] \$13,000 if there is one qualifying individual
10 with respect to the taxpayer for such taxable year, or

11 (2) [~~\$4,800~~] \$26,000 if there are two or more qualifying
12 individuals with respect to the taxpayer for such
13 taxable year.

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

19 (d) Earned income limitation.

20 (1) In general. Except as otherwise provided in this
21 subsection, the amount of the employment-related



1 expenses incurred during any taxable year which may be
2 taken into account under subsection (a) shall not
3 exceed:

4 (A) In the case of an individual who is not married
5 at the close of such year, such individual's
6 earned income for such year, or

7 (B) In the case of an individual who is married at
8 the close of such year, the lesser of such
9 individual's earned income or the earned income
10 of the individual's spouse for such year.

11 (2) Special rule for spouse who is a student or incapable
12 of caring for oneself. In the case of a spouse who is
13 a student or a qualified individual described in
14 subsection (b) (1) (C), for purposes of paragraph (1),
15 such spouse shall be deemed for each month during
16 which such spouse is a full-time student at an
17 educational institution, or is such a qualifying
18 individual, to be gainfully employed and to have
19 earned income of not less than:

20 (A) \$200 if subsection (c) (1) applies for the taxable
21 year, or



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1 (B) \$400 if subsection (c)(2) applies for the taxable
2 year.

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

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

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

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

18 (3) Marital status. An individual legally separated from
19 the individual's spouse under a decree of divorce or
20 of separate maintenance shall not be considered as
21 married.



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- 1 (4) Certain married individuals living apart. If:
- 2 (A) An individual who is married and who files a
- 3 separate return:
- 4 (i) Maintains as the individual's home a
- 5 household that constitutes for more than
- 6 one-half of the taxable year the principal
- 7 place of abode of a qualifying individual,
- 8 and
- 9 (ii) Furnishes over half of the cost of
- 10 maintaining the household during the taxable
- 11 year, and
- 12 (B) During the last six months of the taxable year
- 13 the individual's spouse is not a member of the
- 14 household,
- 15 the individual shall not be considered as married.
- 16 (5) Special dependency test in case of divorced parents,
- 17 etc. If:
- 18 (A) Paragraph (2) or (4) of section 152(e) of the
- 19 Internal Revenue Code of 1986, as amended,
- 20 applies to any child with respect to any calendar
- 21 year, and



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1 (B) The child is under age thirteen or is physically
2 or mentally incompetent of caring for the child's
3 self,

4 in the case of any taxable year beginning in the
5 calendar year, the child shall be treated as a
6 qualifying individual described in subsection
7 (b) (1) (A) or (B) (whichever is appropriate) with
8 respect to the custodial parent (within the meaning of
9 section 152(e) (1) of the Internal Revenue Code of
10 1986, as amended), and shall not be treated as a
11 qualifying individual with respect to the noncustodial
12 parent.

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

16 (A) With respect to whom, for the taxable year, a
17 deduction under section 151(c) of the Internal
18 Revenue Code of 1986, as amended (relating to
19 deduction for personal exemptions for dependents)
20 is allowable either to the taxpayer or the
21 taxpayer's spouse, or



1 (B) Who is a child of the taxpayer (within the
2 meaning of section 151(c)(3) of the Internal
3 Revenue Code of 1986, as amended) who has not
4 attained the age of nineteen at the close of the
5 taxable year.

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

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

13 (8) Educational organization. The term "educational
14 organization" means a school operated by the
15 department of education under chapter 302A, an
16 educational organization described in section
17 170(b)(1)(A)(ii) of the Internal Revenue Code of 1986,
18 as amended, or a university, college, or community
19 college.

20 (9) Identifying information required with respect to
21 service provider. No credit shall be allowed under



1 subsection (a) for any amount paid to any person

2 unless:

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

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

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

20 In the case of a failure to provide the information
21 required under the preceding sentence, the preceding



1 sentence shall not apply if it is shown that the
2 taxpayer exercised due diligence in attempting to
3 provide the information so required.

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

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

17 SECTION 3. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

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1 SECTION 4. This Act, upon its approval, shall apply to
2 taxable years beginning after December 31, 2019.

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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.

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