

JOSH GREEN M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR



GARY S. SUGANUMA
DIRECTOR

KRISTEN M.R. SAKAMOTO
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
Ka 'Oihana 'Auhau
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

**TESTIMONY OF
GARY S. SUGANUMA, DIRECTOR OF TAXATION**

TESTIMONY ON THE FOLLOWING MEASURE:

S.B. No. 2959, S.D. 1, Relating to Taxation.

BEFORE THE:

House Committee on Consumer Protection & Commerce

DATE: Tuesday, March 12, 2024

TIME: 2:00 p.m.

LOCATION: State Capitol, Room 329

Chair Nakashima, Vice-Chair Sayama, and Members of the Committee:

The Department of Taxation ("Department") offers the following comments regarding S.B. 2959, S.D. 1, for your consideration.

S.B. 2959, S.D. 1, adds a new section to chapter 235, Hawaii Revised Statutes (HRS), to create a new refundable income tax credit for resident taxpayers who pay for travel expenses that are not covered nor compensated by insurance, or otherwise reimbursed, to obtain medical care for themselves or their dependent.

To be eligible, the taxpayer must have less than an unspecified amount of adjusted gross income; the credit is limited to an unspecified percentage of travel expenses; and the travel expenses must have been primarily for, and essential to, medical care.

The term "medical care" has the same meaning as in sections 213(d)(1)(A) and 213(d)(9) of the Internal Revenue Code (IRC). Accordingly, medical care includes amounts paid "for the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body," but does not include cosmetic surgery unless necessary to cure a deformity arising from, or directly related to, a congenital abnormality, a personal injury resulting from an accident or trauma, or disfiguring disease. The term "dependent" has the same meaning as in section 152 of the IRC, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B).

The bill has a placeholder effective date of December 31, 2050, but will apply to taxable years beginning after December 31, 2023.

The Department notes that it generally prefers new income tax credits be made nonrefundable, as refundable credits are more susceptible to waste, abuse, and fraud.

Further, to preclude taxpayers from receiving a double tax benefit from claiming the credit and also claiming a deduction for travel expenses incurred for medical care, as allowed under section 235-2.3, HRS, and section 213 of the IRC, the Department suggests adding a new subsection that reads as follows:

No other tax credit or deduction shall be claimed under this chapter for travel expenses incurred for medical care for the taxable year.

Furthermore, the Department notes that the term "medical care" excludes cosmetic procedures, unless the procedure corrects a deformity, trauma from a personal injury, or disfiguring disease, but includes certain medical procedures that may be viewed under certain health insurance plans as elective. For example, IRS Revenue Ruling 2003-57 concludes that "medical care" includes laser eye surgery (or Lasik surgery) when performed to correct defective vision. If the intent of the bill is to exclude certain medical procedures from eligibility, the Department suggests adding language to the bill to expressly exclude those procedures.

Finally, If the Committee wishes to advance this measure, the Department requests that it be made applicable to taxable years beginning after December 31, 2024. This will provide sufficient time to make the necessary form, instruction, and computer system changes, and educate taxpayers about this new credit.

Thank you for the opportunity to provide comments on this measure.



DISABILITY AND COMMUNICATION ACCESS BOARD

1010 Richards Street, Room 118 • Honolulu, Hawaii 96813
Ph. (808) 586-8121 (V) • TTY (808) 586-8162 • Fax (808) 586-8129

March 12, 2024

TESTIMONY TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

Senate Bill 2959 SD1 – Relating to Taxation

The Disability and Communication Access Board (DCAB) supports Senate Bill 2959 SD1 – Relating to Taxation.

This bill would establish an income tax credit for medically-related travel expenses.

People with disabilities often require specialized treatment that is not available in Hawaii, but the transportation costs associated with traveling out of state limits their ability to obtain it. Offsetting medically-related travel expenses will help them receive the needed treatment.

Thank you for considering our position.

Respectfully submitted,

KIRBY L. SHAW
Executive Director

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME TAX; Tax Credit for Medical Travel

BILL NUMBER: SB 2959 SD 1

INTRODUCED BY: Senate Committee on Ways and Means

EXECUTIVE SUMMARY: Establishes an income tax credit for medically-related travel expenses not covered by insurance.

SYNOPSIS: Adds a new section to chapter 235, HRS, to create a new refundable tax credit for medical travel expenses. Eligible taxpayers are those with an adjusted gross income of less than \$ _____ who pay for travel expenses not covered by insurance for the purpose of obtaining medical care for the taxpayer's self or dependent of the resident taxpayer. The amount of the credit is ___% of the travel expenses paid that are primarily for, and essential to, medical care.

The tax credits shall be deductible from the taxpayer's individual net income tax for the tax year in which the credits are properly claimed; provided that spouses filing separate returns for a taxable year for which a joint return could have been made by them shall claim only the tax credits to which they would have been entitled had a joint return been filed.

All of the provisions relating to assessments and refunds under this chapter and under section 231-23(c)(1) shall apply to the tax credits hereunder.

Claims for tax credits under this section, including any amended claims thereof, shall be filed on or before the end of the twelfth month following the taxable year for which the credit may be claimed.

Defines "Dependent" the same as in section 152 of the Internal Revenue Code, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof.

Defines "Medical care" the same as in sections 213(d)(1)(A) and 213(d)(9) of the Internal Revenue Code.

EFFECTIVE DATE: December 31 2050, applicable to taxable years beginning after December 31, 2023.

STAFF COMMENTS: The tax system is the device that raises the money that they, lawmakers, like to spend. Using the tax system to shape social policy merely throws the revenue raising system out of whack, making the system less than reliable as there is no way to determine how many taxpayers will avail themselves of the credit and in what amount. The second point to remember about tax credits is that they are nothing more than the expenditure of public dollars, but out the back door. If, in fact, these dollars were subject to the appropriation process, would taxpayers be as generous about the expenditure of these funds when money is needed to support

victims of the Maui wildfires, social service programs for the houseless, or our state hospitals that are on the verge of collapse?

Technical comments:

Proposed section 235-__ (d), providing that the provisions for assessments and refunds apply, is not needed. They apply anyway.

We suggest that the term “the tax year in which the credits are properly claimed” be clarified to lessen possible confusion. For example, consider “the tax year in which the travel expenses were paid or incurred.”

Digested: 3/9/2024

SB-2959-SD-1

Submitted on: 3/8/2024 6:04:12 PM

Testimony for CPC on 3/12/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
B.A. McClintock	Individual	Support	Written Testimony Only

Comments:

With Hawaii's doctor shortage this bill is extremely important. There are also certain procedures that haven't reached our islands and there is need for travel. Please support this important bill.
Mahalo.