

H.B. NO. 1409

A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. The purpose of this Act, to be known as the
2 "Ohana Tax Reduction Act," is to provide an additional personal
3 exemption for any dependent age eighteen or younger for families
4 with a federal adjusted gross income of \$200,000 or less and to
5 increase the tax relief provided by the child and dependent care
6 credit in section 235-55.6, Hawaii Revised Statutes.

7 Taxpayers with children in Hawaii face a daunting challenge
8 due to Hawaii's high cost of living. From birth, children
9 require items necessary to ensure their safety and growth, both
10 physically and mentally. From playpens and safety rails for
11 young children to backpacks, pencils, and paper for school-aged
12 children, parents are faced with providing these necessities to
13 their children. Providing an additional exemption per child
14 would help Hawaii's struggling families to cope with these
15 expenses.

16 In addition, Hawaii's high cost of living has forced more
17 and more families and dependent providers to enter the workforce
18 in order to make ends meet. The cost of childcare and elder-

1 dependent care has skyrocketed because of the high demand and
2 absolute need for such services in Hawaii.

3 The legislature finds that families are faced with little
4 alternative with regard to caring for dependents -- either work
5 and pay for care or not work, care for dependents, and verge on
6 succumbing to poverty. The legislature further finds that the
7 foregoing alternatives are unacceptable for Hawaii taxpayers.

8 The purpose of this Act is to provide meaningful financial
9 relief to the ohana that care for children and dependents in
10 Hawaii.

11 SECTION 2. Section 235-54, Hawaii Revised Statutes, is
12 amended to read as follows:

13 **"§235-54 Exemptions.** (a) In computing the taxable income
14 of any individual, there shall be deducted, in lieu of the
15 personal exemptions allowed by the Internal Revenue Code,
16 personal exemptions computed as follows: Ascertain the number of
17 exemptions which the individual can lawfully claim under the
18 Internal Revenue Code, add an additional exemption for the
19 taxpayer or the taxpayer's spouse who is sixty-five years of age
20 or older within the taxable year, and multiply that number by
21 \$1,040, for taxable years beginning after December 31, 1984. A
22 nonresident shall prorate the personal exemptions on account of

1 income from sources outside the State as provided in section 235-
2 5. In the case of an individual with respect to whom an
3 exemption under this section is allowable to another taxpayer for
4 a taxable year beginning in the calendar year in which the
5 individual's taxable year begins, the personal exemption amount
6 applicable to such individual under this subsection for such
7 individual's taxable year shall be zero.

8 (b) In computing the taxable income of an estate or trust
9 there shall be allowed, in lieu of the deductions allowed under
10 subsection (a), the following:

11 (1) An estate shall be allowed a deduction of \$400.

12 (2) A trust which, under its governing instrument, is
13 required to distribute all of its income currently
14 shall be allowed a deduction of \$200.

15 (3) All other trusts shall be allowed a deduction of \$80.

16 (c) A blind person, a deaf person and any person totally
17 disabled, in lieu of the personal exemptions allowed by the
18 Internal Revenue Code, shall be allowed, and there shall be
19 deducted in computing the taxable income of a blind person, a
20 deaf person, or a totally disabled person, instead of the
21 exemptions provided by subsection (a), the amount of \$7,000.

1 (d) For taxable years beginning after December 31, 2006,
 2 there may be claimed by each individual taxpayer an additional
 3 exemption, in addition to the other exemptions in this section,
 4 known as the "Ohana Exemption." The additional exemption may be
 5 claimed for each qualified dependent, age eighteen and under,
 6 which the taxpayer may lawfully claim under the Internal Revenue
 7 Code. The taxpayer may ascertain the additional exemption by
 8 multiplying the number of qualified dependents age eighteen and
 9 under that may be lawfully claimed under the Internal Revenue
 10 Code by the exemption amount for the respective federal adjusted
 11 gross income below:

<u>Federal adjusted gross income</u>	<u>Ohana exemption amount</u>
13 <u>\$100,000 and under</u>	<u>\$1,000</u>
14 <u>\$100,001 to \$200,000</u>	<u>\$500</u>
15 <u>Over \$200,000</u>	<u>\$0</u>

16 For purposes of this subsection, a married couple filing a
 17 joint return will be treated as one taxpayer for purposes of
 18 determining the adjusted gross income limitation. A husband and
 19 wife filing separate returns for a taxable year for which a joint
 20 return could have been filed by them shall claim only the
 21 additional exemptions to which they would have been entitled had
 22 a joint return been filed."

23 SECTION 3. Section 235-55.6, Hawaii Revised Statutes, is
 24 amended by amending subsections (a), (b), and (c) to read as
 25 follows:

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1 "(a) Allowance of credit.

2 (1) In general. For each resident taxpayer, who files an

3 individual income tax return for a taxable year, and

4 who is not claimed or is not otherwise eligible to be

5 claimed as a dependent by another taxpayer for federal

6 or Hawaii state individual income tax purposes, [~~who~~

7 ~~maintains a household which includes as a member one or~~

8 ~~more qualifying individuals (as defined in subsection~~

9 ~~(b)(1)),]~~

10 for which there are one or more qualifying

11 individuals (as defined in subsection (b)(1) with

12 respect to such individual), there shall be allowed as

13 a credit against the tax imposed by this chapter for

14 the taxable year an amount equal to the applicable

15 percentage of the employment-related expenses (as

16 defined in subsection (b)(2)) paid by such individual

17 during the taxable year. If the tax credit claimed by

18 a resident taxpayer exceeds the amount of income tax

19 payment due from the resident taxpayer, the excess of

20 the credit over payments due shall be refunded to the

21 resident taxpayer; provided that tax credit properly

22 claimed by a resident individual who has no income tax

 liability shall be paid to the resident individual; and

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1 provided further that no refunds or payment on account
2 of the tax credit allowed by this section shall be made
3 for amounts less than \$1.

4 (2) Applicable percentage defined. For purposes of
5 paragraph (1), the term "applicable percentage" means
6 twenty-five per cent reduced (but not below fifteen per
7 cent) by one percentage point of each \$2,000 (or
8 fraction thereof) by which the taxpayer's adjusted
9 gross income for the taxable year exceeds \$22,000.

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

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

14 (A) A dependent of the taxpayer who is under the age of
15 thirteen and with respect to whom the taxpayer is
16 entitled to a deduction under section 235-54(a) [7] i

17 (B) A dependent of the taxpayer who is physically or
18 mentally incapable of caring for oneself [~~7~~ or] and
19 who has the same principal place of abode as the
20 taxpayer for more than one-half of such taxable
21 year; or

1 (C) The spouse of the taxpayer, if the spouse is
2 physically or mentally incapable of caring for
3 oneself [-] and who has the same principal place of
4 abode as the taxpayer for more than one-half of
5 such taxable year.

6 (2) Employment-related expenses.

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

- 13 (i) Expenses for household services, and
14 (ii) Expenses for the care of a qualifying
15 individual.

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

20 (B) Exception. Employment-related expenses described
21 in subparagraph (A) which are incurred for
22 services outside the taxpayer's household shall be

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1 taken into account only if incurred for the care
2 of:

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

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

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

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

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

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

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

5 (i) Provides care for more than six individuals
6 (other than individuals who reside at the
7 facility), and

8 (ii) Receives a fee, payment, or grant for
9 providing services for any of the individuals
10 (regardless of whether such facility is
11 operated for profit).

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

16 ~~(1) \$2,400 if there is one qualifying individual with~~
17 ~~respect to the taxpayer for such taxable year, or~~

18 ~~(2) \$4,800 if there are two or more qualifying individuals~~
19 ~~with respect to the taxpayer for such taxable year.]~~

20 exceed \$5,000 for each qualifying individual with respect to the
21 taxpayer for such taxable year.

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1 The amount [~~determined under paragraph (1) or (2)~~
2 ~~(whichever is applicable)] of the employment-related expenses
3 shall be reduced by the aggregate amount excludable from gross
4 income under section 129 (with respect to dependent care
5 assistance programs) of the Internal Revenue Code for the
6 taxable year."~~

7 SECTION 4. Section 235-55.6, Hawaii Revised Statutes, is
8 amended by amending subsection (e) to read as follows:

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

10 (1) [~~Maintaining household. An individual shall be treated~~
11 ~~as maintaining a household for any period only if over~~
12 ~~half the cost of maintaining the household for the~~
13 ~~period is furnished by the individual (or, if the~~
14 ~~individual is married during the period, is furnished~~
15 ~~by the individual and the individual's spouse).] Place
16 of abode. An individual shall not be treated as having
17 the same principal place of abode of the taxpayer if at
18 any time during the taxable year of the taxpayer the
19 relationship between the individual and the taxpayer is
20 in violation of state law or county ordinance.~~

21 (2) Married couples must file joint return. If the
22 taxpayer is married at the close of the taxable year,

1 the credit shall be allowed under subsection (a) only
2 if the taxpayer and the taxpayer's spouse file a joint
3 return for the taxable year.

4 (3) Marital status. An individual legally separated from
5 the individual's spouse under a decree of divorce or of
6 separate maintenance shall not be considered as
7 married.

8 (4) Certain married individuals living apart. If:

9 (A) An individual who is married and who files a
10 separate return:

11 (i) Maintains as the individual's home a household
12 that constitutes for more than one-half of
13 the taxable year the principal place of abode
14 of a qualifying individual, and

15 (ii) Furnishes over half of the cost of maintaining
16 the household during the taxable year, and

17 (B) During the last six months of the taxable year the
18 individual's spouse is not a member of the
19 household,

20 the individual shall not be considered as married.

21 (5) Special dependency test in case of divorced parents,
22 etc. If:

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- 1 (A) Paragraph (2) or (4) of section 152(e) of the
2 Internal Revenue Code of 1986, as amended, applies
3 to any child with respect to any calendar year,
4 and
- 5 (B) The child is under age thirteen or is physically or
6 mentally incompetent of caring for the child's
7 self,
8 in the case of any taxable year beginning in the
9 calendar year, the child shall be treated as a
10 qualifying individual described in subsection (b)(1)(A)
11 or (B) (whichever is appropriate) with respect to the
12 custodial parent (within the meaning of section
13 152(e)(1) of the Internal Revenue Code of 1986, as
14 amended), and shall not be treated as a qualifying
15 individual with respect to the noncustodial parent.
- 16 (6) Payments to related individuals. No credit shall be
17 allowed under subsection (a) for any amount paid by the
18 taxpayer to an individual:
- 19 (A) With respect to whom, for the taxable year, a
20 deduction under section 151(c) of the Internal
21 Revenue Code of 1986, as amended (relating to
22 deduction for personal exemptions for dependents)

- 1 is allowable either to the taxpayer or the
2 taxpayer's spouse, or
- 3 (B) Who is a child of the taxpayer (within the meaning
4 of section 151(c)(3) of the Internal Revenue Code
5 of 1986, as amended) who has not attained the age
6 of nineteen at the close of the taxable year.
- 7 For purposes of this paragraph, the term "taxable year"
8 means the taxable year of the taxpayer in which the
9 service is performed.
- 10 (7) Student. The term "student" means an individual who,
11 during each of five calendar months during the taxable
12 year, is a full-time student at an educational
13 organization.
- 14 (8) Educational organization. The term "educational
15 organization" means a school operated by the department
16 of education under chapter 302A, an educational
17 organization described in section 170(b)(1)(A)(ii) of
18 the Internal Revenue Code of 1986, as amended, or a
19 university, college, or community college.
- 20 (9) Identifying information required with respect to
21 service provider. No credit shall be allowed under

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

2 unless:

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

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

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

20 In the case of a failure to provide the information
21 required under the preceding sentence, the preceding
22 sentence shall not apply if it is shown that the

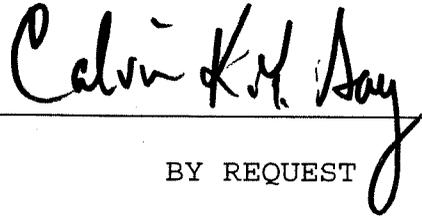
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1 taxpayer exercised due diligence in attempting to
2 provide the information so required."

3 SECTION 5. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 6. This Act shall take effect upon its approval
6 and shall apply to taxable years beginning after December 31,
7 2006.

8
9 INTRODUCED BY:



10 BY REQUEST

JAN 22 2007

JUSTIFICATION SHEET

DEPARTMENT: Taxation

TITLE: A BILL FOR AN ACT RELATING TO TAXATION.

PURPOSE: To provide an additional personal exemption for any dependent age eighteen and younger for households with \$200,000 or less in federal adjusted gross income. In addition, to increase the amount of qualifying expenses eligible for the credit provided in section 235-55.6, Hawaii Revised Statutes (HRS), and to make other housekeeping amendments to conform to section 21 of the Internal Revenue Code (IRC).

MEANS: Add new subsection to 235-54, HRS, and amend 235-55.6(a), (b), (c) and (e), HRS.

JUSTIFICATION: Taxpayers with children, dependent elderly parents, and disabled dependents, face a significant additional financial burden in caring for these dependents. In addition to expenses incurred for the basic care of dependents, taxpayers with school-aged dependents often incur costs associated with the purchase of school supplies, after school programs, and other necessities not funded by the school systems. In light of the increased expenses attributable to caring for children, an additional income tax exemption is warranted to provide economic relief to taxpayers with such dependents. The additional exemption provided by this legislation is known as the "Ohana Exemption." Specifically, this legislation allows taxpayers with dependents ages eighteen and younger to claim an additional exemption of \$1,000 per dependent for households with income of \$100,000 or less or an additional exemption of \$500 per

dependent for households with income above \$100,000 and up to \$200,000.

The cost of care of children, disabled dependents, and dependent elderly parents is significant in Hawaii. To ease this burden, this Act increases the amount of qualifying expenses eligible for the credit provided in section 235-55.6, HRS, to \$5,000 per dependent. This legislation also makes other housekeeping amendments to section 235-55.6, HRS, to maintain consistent conformity to section 21, IRC.

Impact on the public: All families with school-aged children, disabled dependents, and dependent elderly parents will benefit from these tax provisions and receive much needed economic relief from the rising costs of education-related and care-related expenses.

Impact on the department and other agencies: The department will be responsible for administering the tax exemption.

GENERAL FUND: \$25.9 million per year.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: TAX 100.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval, and shall apply to taxable years beginning after December 31, 2006.