

JAN 19 2018

A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Chapter 235, Hawaii Revised Statutes, is
2 amended by adding a new section to part I to be appropriately
3 designated and to read as follows:

4 "§235- Hiring an individual with a disability; income
5 tax credit. (a) There shall be allowed to each taxpayer
6 subject to the tax imposed by this chapter, a credit for hiring
7 an individual with a disability, which shall be deductible from
8 the taxpayer's net income tax liability, if any, imposed by this
9 chapter for the taxable year in which the credit is properly
10 claimed.

11 (b) The amount of the credit shall be equal to fifty per
12 cent of the qualified wages for the first six months after an
13 individual with a disability is initially hired. A tax credit
14 that exceeds the taxpayer's income tax liability may be used as
15 a credit against the taxpayer's income tax liability in
16 subsequent years until exhausted; provided that in no taxable



1 year shall the total amount of the tax credit claimed under this
2 section exceed \$ per taxpayer.

3 (c) Certification of an individual with a disability for
4 the purpose of claiming a credit under this section shall be
5 submitted to the department of taxation on forms prescribed by
6 the department of taxation.

7 (d) An individual shall not be treated as an individual
8 with a disability unless, on or before the day on which the
9 individual begins work for the employer, the employer has
10 received certification from a qualified physician. If an
11 individual has been certified as an individual with a disability
12 and the certification is incorrect because it was based on false
13 information provided by the individual, the certification shall
14 be revoked and wages paid by the employer after the date on
15 which notice of revocation is received by the employer shall not
16 be treated as qualified wages.

17 In any request for a certification of an individual as an
18 individual with a disability, the employer shall certify that a
19 good faith effort was made to determine that the individual is
20 an individual with a disability.



1 (e) The following wages paid to an individual with a
2 disability are ineligible to be claimed by the employer for this
3 credit:

4 (1) No wages shall be taken into account under this
5 section with respect to an individual with a
6 disability who:

7 (A) Bears any of the relationships described in
8 section 152(d) (2) (A) through (G) of the Internal
9 Revenue Code to the taxpayer, or, if the taxpayer
10 is a corporation, to an individual who owns,
11 directly or indirectly, more than fifty per cent
12 in value of the outstanding stock of the
13 corporation (determined with the application of
14 section 267(c) of the Internal Revenue Code);

15 (B) If the taxpayer is an estate or trust, is a
16 grantor, beneficiary, or fiduciary of the estate
17 or trust, or is an individual who bears any of
18 the relationships described in section
19 152(d) (2) (A) through (G) of the Internal Revenue
20 Code to a grantor, beneficiary, or fiduciary of
21 the estate or trust; or



1 (C) Is a dependent (described in section 152(d)(2)(H)
2 of the Internal Revenue Code) of the taxpayer,
3 or, if the taxpayer is an estate or trust, of a
4 grantor, beneficiary, or fiduciary of the estate
5 or trust; and

6 (2) No wages shall be taken into account under this
7 section with respect to any individual with a
8 disability if, prior to the day the individual is
9 hired by the employer, the individual had been
10 employed by the employer at any time.

11 (f) In the case of a successor employer referred to in
12 section 3306(b)(1) of the Internal Revenue Code, the
13 determination of the amount of the tax credit allowable under
14 this section with respect to wages paid by the successor
15 employer shall be made in the same manner as if the wages were
16 paid by the predecessor employer referred to in section
17 3306(b)(1) of the Internal Revenue Code.

18 (g) Claims for the tax credit under this section,
19 including any amended claims, shall be filed on or before the
20 end of the twelfth month following the taxable year for which
21 the credit may be claimed. Failure to comply with the foregoing



provision shall constitute a waiver of the right to claim the tax credit.

(h) The director of taxation:

(1) Shall prepare any forms necessary to claim a credit under this section;

(2) May require a taxpayer to furnish reasonable information to ascertain the validity of a claim for credit; and

(3) May adopt rules pursuant to chapter 91 to effectuate the purposes of this section.

(i) For purposes of this section:

"Individual with a disability" means an individual having a physical or intellectual impairment that substantially limits one or more major life activities, having a record of that impairment, or being regarded as having that impairment; provided that the disabling impairment is certified by a qualified physician.

"Qualified physician" means:

(1) A physician or osteopathic physician licensed under chapter 453;



1 (2) A qualified out-of-state physician who is currently
2 licensed to practice in the state in which the
3 physician resides; or

4 (3) A commissioned medical officer in the United States
5 Army, Navy, Marine Corps, or Public Health Service,
6 engaged in the discharge of one's official duty.

7 "Qualified wages" means wages attributable to work rendered
8 by an individual with a disability for the six-month period
9 after the individual is initially hired.

10 "Wages" means wages, commissions, fees, salaries, bonuses,
11 and every and all other kinds of remuneration for, or
12 compensation attributable to, services performed by an employee
13 for the employee's employer, including the cash value of all
14 remuneration paid in any medium other than cash and the cost-of-
15 living allowances and other payments included in gross income by
16 section 235-7(b), but excluding income excluded from gross
17 income by section 235-7 or other provisions of this chapter."

18 SECTION 2. New statutory material is underscored.



1 SECTION 3. This Act, upon its approval, shall apply to
2 taxable years beginning after December 31, 2018.

3

INTRODUCED BY: *MMN.H.*
By Request



S.B. NO. 2163

Report Title:

Hawaii State Association of Counties Package; Individual with a Disability; Employment; Income Tax Credit

Description:

Provides a taxpayer who hires an individual with a disability a nonrefundable tax credit for the 6-month period after the individual is initially hired by the taxpayer. Applies to taxable years beginning after 12/31/2018.

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

