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# 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 a person totally disabled; income tax  
5 credit. (a) There shall be allowed to each taxpayer subject to  
6 the tax imposed by this chapter, a credit for hiring a person  
7 totally disabled, that shall be deductible from the taxpayer's  
8 net income tax liability, if any, imposed by this chapter for  
9 the taxable year in which the credit is properly claimed.

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

16           (1) The total amount of the tax credit claimed under this  
17 section exceed \$           per taxpayer; and



1       (2) Any amounts upon which any other tax credit or  
2           deduction is calculated under this chapter be  
3           qualified wages for purposes of this section.

4       (c) Certification of a person totally disabled for the  
5 purpose of claiming a credit under this section shall be  
6 submitted to the department of taxation on forms prescribed by  
7 the department of taxation.

8       (d) An individual shall not be treated as a person totally  
9 disabled unless, on or before the day on which the individual  
10 begins work for the employer, the employer has received  
11 certification from a qualified physician. If an individual has  
12 been certified as a person totally disabled and the  
13 certification is incorrect because it was based on false  
14 information provided by the individual, the certification shall  
15 be revoked and wages paid by the employer after the date on  
16 which notice of revocation is received by the employer shall not  
17 be treated as qualified wages; provided that the department of  
18 taxation may disqualify wages that were paid to a non-qualified  
19 employee without the employer receiving notice that the  
20 certification was based on false information.



1       In any request for a certification of an individual as a  
2 person totally disabled, the employer shall certify that a good  
3 faith effort was made to determine that the individual is a  
4 person totally disabled.

5       (e) The following wages paid to a person totally disabled  
6 are ineligible to be claimed by the employer for this credit:

7       (1) No wages shall be taken into account under this  
8 section with respect to a person totally disabled who:

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

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



1                   Code to a grantor, beneficiary, or fiduciary of  
2                   the estate or trust; or  
3           (C) Is a dependent, as described in section  
4                   152(d)(2)(H) of the Internal Revenue Code, of the  
5                   taxpayer, or, if the taxpayer is an estate or  
6                   trust, of a grantor, beneficiary, or fiduciary of  
7                   the estate or trust; and  
8           (2) No wages shall be taken into account under this  
9                   section with respect to any person totally disabled  
10                  if, prior to the day the individual is hired by the  
11                  employer, the individual had been employed by the  
12                  employer at any time.  
13           (f) In the case of a successor employer referred to in  
14 section 3306(b)(1) of the Internal Revenue Code, the  
15 determination of the amount of the tax credit allowable under  
16 this section with respect to wages paid by the successor  
17 employer shall be made in the same manner as if the wages were  
18 paid by the predecessor employer referred to in section  
19 3306(b)(1) of the Internal Revenue Code; provided that only the  
20 final successor employer who employed the person totally  
21 disabled during the taxable year may claim the credit; provided



1 further that the credit shall not be claimed multiple times for  
2 the same employee.

3 (g) Claims for the tax credit under this section,  
4 including any amended claims, shall be filed on or before the  
5 end of the twelfth month following the taxable year for which  
6 the credit may be claimed. Failure to comply with the foregoing  
7 provision shall constitute a waiver of the right to claim the  
8 tax credit.

9 (h) The director of taxation:

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

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

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

17 (i) For purposes of this section:

18 "Person totally disabled" shall have the same meaning as in  
19 section 235-1.

20 "Qualified physician" means:



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

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

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

9       "Qualified wages" means wages attributable to work rendered  
10      by a person totally disabled for the six-month period after the  
11      individual is initially hired.

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

20      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.  
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**Report Title:**

Hawaii State Association of Counties Package; Person Totally Disabled; Employment; Income Tax Credit

**Description:**

Provides a taxpayer who hires a person totally disabled 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. (SD1)

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