HOUSE OF REPRESENTATIVES
THIRTY-FIRST LEGISLATURE, 2022
STATE OF HAWAII

H.B. NO. 1507 H.D. 1

A BILL FOR AN ACT

RELATING TO TAX FAIRNESS.

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

SECTION 1. The legislature finds that Hawaii's cost of living continues to be burdensome for island residents. According to the National Low Income Housing Coalition's "Out of Reach 2021" report, a minimum wage employee must work one hundred fourteen hours per week to afford a one-bedroom rental home at fair market prices in the State. To afford a two-bedroom residence without being cost burdened, the National Low Income Housing Coalition estimates that a person must earn $37.69 per hour. Hawaii's electricity prices are also the highest in the nation, while the cost of other essential items, like food and clothing, has risen significantly in the past year.

The legislature further finds that Hawaii's taxation system disproportionately impacts working families. According to the Institute on Taxation and Economic Policy, Hawaii places the second-highest tax burden on low-income households, with Hawaii's lowest-income households paying approximately fifteen per cent of their income in state and local taxes. In comparison, Hawaii's highest earning households pay roughly nine per cent of their income in state and local taxes.

The legislature additionally finds that the earned income tax credit is essential to helping local families maintain financial security. Moody's Analytics has estimated that every dollar provided through the earned income tax credit creates a net benefit to Hawaii's economy of $1.24. Yet, Hawaii's earned income tax credit is not refundable, unlike twenty-three of the twenty-eight states that had an effective state earned income tax credit as of 2021. Making the State's earned income tax credit refundable would strengthen its ability to offset the regressivity of Hawaii's tax system and increase equity in Hawaii's tax code.

The legislature also finds that Hawaii has a low capital gain tax rate in comparison to other states. This tax break primarily benefits wealthy individuals, including nonresidents who invest in real estate in the islands. According to the department of taxation, taxing capital gains at the same rate as the ordinary income could generate over $132,000,000 in the next fiscal year, an amount that would rise to an estimated $187,000,000 within six years.

Accordingly, the purpose of this Act is to deliver tax fairness and financial security to working families by:

(1) Increasing the tax rate on capital gains; and

(2) Making Hawaii's earned income tax credit refundable and permanent.

SECTION 2. Section 235-51, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

"(f) If a taxpayer has a net capital gain for any taxable year to which this subsection applies, then the tax imposed by this section shall not exceed the sum of:

(1) The tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of:

(A) The taxable income reduced by the amount of net capital gain, or

(B) The amount of taxable income taxed at a rate below 7.25 per cent, plus

(2) A tax of 7.25 per cent of the amount of taxable income in excess of the amount determined under paragraph (1)[~~.~~]<u>;</u>

<u>provided that for taxable years beginning after December 31, 2022, all capital gains shall be taxed at the highest marginal rate applicable to the taxpayer's filing status and tax bracket under subsections (a) through (d).</u>

This subsection shall apply to individuals, estates, and trusts for taxable years beginning after December 31, 1986."

SECTION 3. Section 235-55.75, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) Each qualifying individual taxpayer may claim a [~~nonrefundable~~] <u>refundable</u> earned income tax credit. The tax credit, for the appropriate taxable year, shall be twenty per cent of the federal earned income tax credit allowed and properly claimed under section 32 of the Internal Revenue Code and reported as such on the individual's federal income tax return."

2. By amending subsection (d) to read:

"(d) The credit allowed under this section shall be claimed against the net income tax liability for the taxable year. [~~If the tax credit under this section exceeds the taxpayer's income tax liability, the excess of the tax credit over liability may be used as a credit against the taxpayer's net income tax liability in subsequent years until exhausted.~~] If the tax credit claimed by a taxpayer under this section exceeds the amount of income tax payment due from the taxpayer, the excess of credit over payments due shall be refunded to the taxpayer; provided that the tax credit properly claimed by a taxpayer who has no income tax liability shall be paid to the taxpayer; provided further that no refunds or payments on account of the tax credit allowed by this section shall be made for amounts less than $1. All claims, including amended claims, for a tax credit under this section shall be filed on or before the end of the twelfth month following the close of the taxable year for which the credit may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit."

3. By amending subsection (g) to read:

"(g) This section shall apply to taxable years beginning after December 31, 2017[~~, but shall not apply to taxable years beginning after December 31, 2022~~]."

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

SECTION 5. This Act shall take effect on July 1, 2050.

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Report Title:
Capital Gains Tax; Earned Income Tax Credit

Description:
Increases the tax rate on capital gains. Makes the state earned income tax credit refundable and permanent. Applies to taxable years beginning after December 31, 2022. Effective 7/1/2050. (HD1)

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