
A BILL FOR AN ACT

RELATING TO INCOME TAX.

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

1 SECTION 1. Section 235-1, Hawaii Revised Statutes, is
2 amended by adding a new definition to be appropriately inserted
3 and to read as follows:

4 "Cost-of-living adjustment factor" means a factor
5 calculated by adding 1.0 to the percentage change in the Urban
6 Hawaii Consumer Price Index for all items, as published by the
7 United States Department of Labor, from July of the preceding
8 calendar year to July of the current calendar year; provided
9 that, if the Urban Hawaii Consumer Price Index is discontinued,
10 the Chained Consumer Price Index for All Urban Consumers, as
11 published by the United States Department of Labor, shall be
12 used to calculate the cost-of-living adjustment factor."

13 SECTION 2. Section 235-55.6, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§235-55.6 Expenses for household and dependent care**
16 **services necessary for gainful employment. (a) Allowance of**
17 **credit.**



1 (1) In general. For each resident taxpayer, who files an
2 individual income tax return for a taxable year, and
3 who is not claimed or is not otherwise eligible to be
4 claimed as a dependent by another taxpayer for federal
5 or Hawaii state individual income tax purposes, who
6 maintains a household which includes as a member one
7 or more qualifying individuals (as defined in
8 subsection (b)(1)), there shall be allowed as a credit
9 against the tax imposed by this chapter for the
10 taxable year an amount equal to the applicable
11 percentage of the employment-related expenses (as
12 defined in subsection (b)(2)) paid by the individual
13 during the taxable year. If the tax credit claimed by
14 a resident taxpayer exceeds the amount of income tax
15 payment due from the resident taxpayer, the excess of
16 the credit over payments due shall be refunded to the
17 resident taxpayer; provided that tax credit properly
18 claimed by a resident individual who has no income tax
19 liability shall be paid to the resident individual;
20 and provided further that no refunds or payment on



1 account of the tax credit allowed by this section
2 shall be made for amounts less than \$1.

3 (2) Applicable percentage. For purposes of paragraph (1),
4 the taxpayer's applicable percentage shall be
5 ~~[determined as follows:~~

6	Adjusted gross income	Applicable percentage
7	Not over \$25,000	25%
8	Over \$25,000 but	24%
9	not over \$30,000	
10	Over \$30,000 but	23%
11	not over \$35,000	
12	Over \$35,000 but	22%
13	not over \$40,000	
14	Over \$40,000 but	21%
15	not over \$45,000	
16	Over \$45,000 but	20%
17	not over \$50,000	
18	Over \$50,000	15%.]

19 equal to fifty per cent reduced by one percentage
20 point for each \$3,000, or fraction thereof, by which
21 the taxpayer's adjusted gross income exceeds the



1 threshold amount; provided that the applicable
2 percentage shall not be reduced below twenty-five per
3 cent.

4 (3) Threshold amount. For purposes of paragraph (2):

5 (A) For taxable years beginning after December 31,
6 2022, the threshold amount shall be \$150,000; and

7 (B) For each taxable year beginning after
8 December 31, 2023, the director, no later than
9 December 15 of the preceding calendar year, shall
10 recompute the threshold amount by multiplying the
11 dollar amount for the preceding taxable year by
12 the cost-of-living adjustment factor, if the
13 cost-of-living adjustment factor is greater than
14 zero, and rounding off the resulting product to
15 the nearest \$1. If the cost-of-living adjustment
16 factor is less than or equal to zero in a given
17 year, then no adjustment will occur in the
18 following year.

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



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

3 (A) A dependent of the taxpayer who is under the age
4 of thirteen and with respect to whom the taxpayer
5 is entitled to a deduction under section
6 235-54(a),

7 (B) A dependent of the taxpayer who is physically or
8 mentally incapable of caring for oneself, or

9 (C) The spouse of the taxpayer, if the spouse is
10 physically or mentally incapable of caring for
11 oneself.

12 (2) Employment-related expenses.

13 (A) In general. The term "employment-related
14 expenses" means amounts paid for the following
15 expenses, but only if such expenses are incurred
16 to enable the taxpayer to be gainfully employed
17 for any period for which there are one or more
18 qualifying individuals with respect to the
19 taxpayer:

20 (i) Expenses for household services, and



1 (ii) Expenses for the care of a qualifying
2 individual.

3 Such term shall not include any amount paid for
4 services outside the taxpayer's household at a
5 camp where the qualifying individual stays
6 overnight.

7 (B) Exception. Employment-related expenses described
8 in subparagraph (A) which are incurred for
9 services outside the taxpayer's household shall
10 be taken into account only if incurred for the
11 care of:

12 (i) A qualifying individual described in
13 paragraph (1)(A), or

14 (ii) A qualifying individual (not described in
15 paragraph (1)(A)) who regularly spends at
16 least eight hours each day in the taxpayer's
17 household.

18 (C) Dependent care centers. Employment-related
19 expenses described in subparagraph (A) which are
20 incurred for services provided outside the
21 taxpayer's household by a dependent care center



1 (as defined in subparagraph (D)) shall be taken
2 into account only if:

3 (i) Such center complies with all applicable
4 laws, rules, and regulations of this State,
5 if the center is located within the
6 jurisdiction of this State; or

7 (ii) Such center complies with all applicable
8 laws, rules, and regulations of the
9 jurisdiction in which the center is located,
10 if the center is located outside the State;
11 and

12 (iii) The requirements of subparagraph (B) are
13 met.

14 (D) Dependent care center defined. For purposes of
15 this paragraph, the term "dependent care center"
16 means any facility which:

17 (i) Provides care for more than six individuals
18 (other than individuals who reside at the
19 facility), and

20 (ii) Receives a fee, payment, or grant for
21 providing services for any of the



1 individuals (regardless of whether such
2 facility is operated for profit).

3 (c) Dollar limit on amount creditable. The amount of the
4 employment-related expenses incurred during any taxable year
5 which may be taken into account under subsection (a) shall not
6 exceed:

7 (1) [~~\$2,400~~] \$10,000 if there is one qualifying individual
8 with respect to the taxpayer for such taxable year, or

9 (2) [~~\$4,800~~] \$20,000 if there are two or more qualifying
10 individuals with respect to the taxpayer for such
11 taxable year.

12 The amount determined under paragraph (1) or (2) (whichever is
13 applicable) shall be reduced by the aggregate amount excludable
14 from gross income under section 129 (with respect to dependent
15 care assistance programs) of the Internal Revenue Code for the
16 taxable year.

17 (d) Earned income limitation.

18 (1) In general. Except as otherwise provided in this
19 subsection, the amount of the employment-related
20 expenses incurred during any taxable year which may be



1 taken into account under subsection (a) shall not
2 exceed:

3 (A) In the case of an individual who is not married
4 at the close of such year, such individual's
5 earned income for such year, or

6 (B) In the case of an individual who is married at
7 the close of such year, the lesser of such
8 individual's earned income or the earned income
9 of the individual's spouse for such year.

10 (2) Special rule for spouse who is a student or incapable
11 of caring for oneself. In the case of a spouse who is
12 a student or a qualified individual described in
13 subsection (b)(1)(C), for purposes of paragraph (1),
14 such spouse shall be deemed for each month during
15 which such spouse is a full-time student at an
16 educational institution, or is such a qualifying
17 individual, to be gainfully employed and to have
18 earned income of not less than:

19 (A) \$200 if subsection (c)(1) applies for the taxable
20 year, or



1 (B) \$400 if subsection (c)(2) applies for the taxable
2 year.

3 In the case of any husband and wife, this paragraph
4 shall apply with respect to only one spouse for any
5 one month.

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

7 (1) Maintaining household. An individual shall be treated
8 as maintaining a household for any period only if over
9 half the cost of maintaining the household for the
10 period is furnished by the individual (or, if the
11 individual is married during the period, is furnished
12 by the individual and the individual's spouse).

13 (2) Married couples must file joint return. If the
14 taxpayer is married at the close of the taxable year,
15 the credit shall be allowed under subsection (a) only
16 if the taxpayer and the taxpayer's spouse file a joint
17 return for the taxable year.

18 (3) Marital status. An individual legally separated from
19 the individual's spouse under a decree of divorce or
20 of separate maintenance shall not be considered as
21 married.



- 1 (4) Certain married individuals living apart. If:
- 2 (A) An individual who is married and who files a
- 3 separate return:
- 4 (i) Maintains as the individual's home a
- 5 household that constitutes for more than
- 6 one-half of the taxable year the principal
- 7 place of abode of a qualifying individual,
- 8 and
- 9 (ii) Furnishes over half of the cost of
- 10 maintaining the household during the taxable
- 11 year, and
- 12 (B) During the last six months of the taxable year
- 13 the individual's spouse is not a member of the
- 14 household,
- 15 the individual shall not be considered as married.
- 16 (5) Special dependency test in case of divorced parents,
- 17 etc. If:
- 18 (A) Paragraph (2) or (4) of section 152(e) of the
- 19 Internal Revenue Code of 1986, as amended,
- 20 applies to any child with respect to any calendar
- 21 year, and



1 (B) The child is under age thirteen or is physically
2 or mentally incompetent of caring for the child's
3 self,
4 in the case of any taxable year beginning in the
5 calendar year, the child shall be treated as a
6 qualifying individual described in subsection
7 (b) (1) (A) or (B) (whichever is appropriate) with
8 respect to the custodial parent (within the meaning of
9 section 152(e) (1) of the Internal Revenue Code of
10 1986, as amended), and shall not be treated as a
11 qualifying individual with respect to the noncustodial
12 parent.

13 (6) Payments to related individuals. No credit shall be
14 allowed under subsection (a) for any amount paid by
15 the taxpayer to an individual:

16 (A) With respect to whom, for the taxable year, a
17 deduction under section 151(c) of the Internal
18 Revenue Code of 1986, as amended (relating to
19 deduction for personal exemptions for dependents)
20 is allowable either to the taxpayer or the
21 taxpayer's spouse, or



1 (B) Who is a child of the taxpayer (within the
2 meaning of section 151(c)(3) of the Internal
3 Revenue Code of 1986, as amended) who has not
4 attained the age of nineteen at the close of the
5 taxable year.

6 For purposes of this paragraph, the term "taxable
7 year" means the taxable year of the taxpayer in which
8 the service is performed.

9 (7) Student. The term "student" means an individual who,
10 during each of five calendar months during the taxable
11 year, is a full-time student at an educational
12 organization.

13 (8) Educational organization. The term "educational
14 organization" means a school operated by the
15 department of education under chapter 302A, an
16 educational organization described in section
17 170(b)(1)(A)(ii) of the Internal Revenue Code of 1986,
18 as amended, or a university, college, or community
19 college.

20 (9) Identifying information required with respect to
21 service provider. No credit shall be allowed under



1 subsection (a) for any amount paid to any person
2 unless:

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

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

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

20 In the case of a failure to provide the information
21 required under the preceding sentence, the preceding



1 sentence shall not apply if it is shown that the
2 taxpayer exercised due diligence in attempting to
3 provide the information so required.

4 (f) No credit shall be allowed under this section for any
5 taxable year in the disallowance period. For purposes of this
6 subsection, the disallowance period is:

7 (1) The period of ten taxable years after the most recent
8 taxable year for which there was a final
9 administrative or judicial decision that the
10 taxpayer's claim for credit under this section was due
11 to fraud; and

12 (2) The period of two taxable years after the most recent
13 taxable year for which there was a final
14 administrative or judicial decision disallowing the
15 taxpayer's claim for credit.

16 [~~f~~] (g) Rules. The director of taxation shall prescribe
17 such rules under chapter 91 as may be necessary to carry out the
18 purposes of this section.

19 (h) This section shall not apply to taxable years
20 beginning after December 31, 2028.



1 (i) As used in this section, "adjusted gross income" means
2 adjusted gross income as defined by the Internal Revenue Code."

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

5 1. By amending subsection (a) to read:

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

12 2. By amending subsection (g) to read:

13 "(g) If nonrefundable credits claimed under this section
14 for any of the four consecutive taxable years beginning after
15 December 31, 2017, exceed the taxpayer's income tax liability
16 for the original claim year, the excess of the tax credits over
17 liability may be used as a credit against the taxpayer's net
18 income tax liability in subsequent years until exhausted;
19 provided that no credit carried forward under this subsection
20 shall be used as a credit for a taxable year beginning after



1 December 31, 2024. This section shall not apply to taxable
2 years after December 31, 2028."

3 SECTION 4. Section 235-55.85, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§235-55.85 Refundable food/excise tax credit. (a) Each
6 individual taxpayer, who files an individual income tax return
7 for a taxable year, and who is not claimed or is not otherwise
8 eligible to be claimed as a dependent by another taxpayer for
9 federal or Hawaii state individual income tax purposes, may
10 claim a refundable food/excise tax credit against the taxpayer's
11 individual income tax liability for the taxable year for which
12 the individual income tax return is being filed; provided that
13 an individual who has no income or no income taxable under this
14 chapter and who is not claimed or is not otherwise eligible to
15 be claimed as a dependent by a taxpayer for federal or Hawaii
16 state individual income tax purposes may claim this credit.

17 (b) Each individual taxpayer may claim a refundable
18 food/excise tax credit multiplied by the number of qualified
19 exemptions to which the taxpayer is entitled in accordance with
20 the table below; provided that [~~a husband and wife~~] spouses
21 filing separate tax returns for a taxable year for which a joint



1 return could have been filed by them shall claim only the tax
2 credit to which they would have been entitled had a joint return
3 been filed.

4

5 ~~Adjusted gross income~~ ~~Credit per exemption~~

6 ~~for taxpayers filing~~

7 ~~a single return~~

8 ~~Under \$5,000~~ ~~\$110~~

9 ~~\$5,000 under \$10,000~~ ~~\$100~~

10 ~~\$10,000 under \$15,000~~ ~~\$ 85~~

11 ~~\$15,000 under \$20,000~~ ~~\$ 70~~

12 ~~\$20,000 under \$30,000~~ ~~\$ 55~~

13 ~~\$30,000 and over~~ ~~\$ 0.~~

14

15 ~~Adjusted gross income~~ ~~Credit per exemption~~

16 ~~for heads of household,~~

17 ~~married individuals filing~~

18 ~~separate returns, and~~

19 ~~married couples filing~~

20 ~~joint returns~~

21 ~~Under \$5,000~~ ~~\$110~~



1	\$5,000 under \$10,000	\$100
2	\$10,000 under \$15,000	\$ 85
3	\$15,000 under \$20,000	\$ 70
4	\$20,000 under \$30,000	\$ 55
5	\$30,000 under \$40,000	\$ 45
6	\$40,000 under \$50,000	\$ 35
7	\$50,000 and over	\$ 0.]
8	<u>Adjusted gross income</u>	<u>Credit per exemption</u>
9	<u>for taxpayers filing</u>	
10	<u>a single return</u>	
11	<u>Under \$15,000</u>	<u>\$220</u>
12	<u>\$15,000 under \$20,000</u>	<u>\$200</u>
13	<u>\$20,000 under \$25,000</u>	<u>\$170</u>
14	<u>\$25,000 under \$30,000</u>	<u>\$140</u>
15	<u>\$30,000 under \$40,000</u>	<u>\$110</u>
16	<u>\$40,000 and over</u>	<u>\$ 0.</u>
17		
18	<u>Adjusted gross income</u>	<u>Credit per exemption</u>
19	<u>for heads of household,</u>	
20	<u>surviving spouses,</u>	
21	<u>spouses filing</u>	



1	<u>separate returns, and</u>	
2	<u>married couples filing</u>	
3	<u>joint returns</u>	
4	<u>Under \$15,000</u>	<u>\$220</u>
5	<u>\$15,000 under \$20,000</u>	<u>\$200</u>
6	<u>\$20,000 under \$25,000</u>	<u>\$170</u>
7	<u>\$25,000 under \$30,000</u>	<u>\$140</u>
8	<u>\$30,000 under \$40,000</u>	<u>\$110</u>
9	<u>\$40,000 under \$50,000</u>	<u>\$ 90</u>
10	<u>\$50,000 under \$60,000</u>	<u>\$ 70</u>
11	<u>\$60,000 and over</u>	<u>\$ 0.</u>

12

13 (c) For the purposes of this section, a qualified

14 exemption is defined to include those exemptions permitted under

15 this chapter; provided that no additional exemption may be

16 claimed by a taxpayer who is sixty-five years of age or older;

17 provided that a person for whom exemption is claimed has been

18 physically present in the State for more than nine months during

19 the taxable year; and provided further that multiple exemptions

20 shall not be granted because of deficiencies in vision or

21 hearing, or other disability. For purposes of claiming this



1 credit only, a minor child receiving support from the department
2 of human services of the State, social security survivor's
3 benefits, and the like, may be considered a dependent and a
4 qualified exemption of the parent or guardian.

5 (d) The tax credit under this section shall not be
6 available to:

7 (1) Any person who has been convicted of a felony and who
8 has been committed to prison and has been physically
9 confined for the full taxable year;

10 (2) Any person who would otherwise be eligible to be
11 claimed as a dependent but who has been committed to a
12 youth correctional facility and has resided at the
13 facility for the full taxable year; or

14 (3) Any misdemeanor who has been committed to jail and
15 has been physically confined for the full taxable
16 year.

17 (e) The tax credits claimed by a taxpayer pursuant to this
18 section shall be deductible from the taxpayer's individual
19 income tax liability, if any, for the tax year in which they are
20 properly claimed. If the tax credits claimed by a taxpayer
21 exceed the amount of income tax payment due from the taxpayer,



1 the excess of credits over payments due shall be refunded to the
2 taxpayer; provided that tax credits properly claimed by [an]
3 individual who has no income tax liability shall be paid to the
4 individual; and provided further that no refunds or payment on
5 account of the tax credits allowed by this section shall be made
6 for amounts less than \$1.

7 (f) All claims for tax credits under this section,
8 including any amended claims, shall be filed on or before the
9 end of the twelfth month following the close of the taxable year
10 for which the credits may be claimed. Failure to comply with
11 the foregoing provision shall constitute a waiver of the right
12 to claim the credit.

13 (g) This section shall not apply to taxable years
14 beginning after December 31, 2028.

15 [~~(g)~~] (h) For the purposes of this section, "adjusted
16 gross income" means adjusted gross income as defined by the
17 Internal Revenue Code."

18 SECTION 5. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 6. This Act, upon its approval, shall apply to
21 taxable years beginning after December 31, 2022.



Report Title:

Income Tax; Child and Dependent Care Tax Credit; Refundable
Earned Income Tax Credit; Refundable Food/Excise Tax Credit

Description:

Increases the applicable percentage of employment-related expenses that is used to calculate the amount of the child and dependent care tax credit. Increases the cap amount on employment-related expenses that may be used to claim the child and dependent care tax credit. Annually adjusts the threshold amount of the child and dependent care tax credit by a cost-of-living adjustment factor. Increases the amount of the refundable earned income tax credit. Increases the income thresholds and credit amounts of the refundable food/excise tax credit. Sunsets these tax credits on December 31, 2028. (SD2)

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

