
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 be appropriately designated
3 and to read as follows:

4 "§235- Employer child care tax credit. (a) There
5 shall be allowed to each taxpayer subject to the taxes imposed
6 by this chapter, an employer child care tax credit that shall be
7 deductible from the taxpayer's net income tax liability, if any,
8 imposed by this chapter for the taxable year in which the credit
9 is properly claimed.

10 The amount of the tax credit shall be equal to:

11 (1) Thirty per cent of the cost of operation to an
12 employer less any amounts paid for by employees during
13 a taxable year; or

14 (2) Twenty per cent of the costs incurred by an employer
15 as a result of providing employer-sponsored child care
16 at a child care facility within a reasonable distance
17 from the employer's workplace premises.



1 In the case of a partnership, S corporation, estate, or
2 trust, the tax credit allowable is for the cost of operation
3 incurred by the entity for the taxable year.

4 (b) The tax credit allowed under this section shall be
5 subject to the following conditions and limitations:

6 (1) The credit shall not exceed fifty per cent of the
7 amount of the taxpayer's income tax liability for the
8 taxable year as computed without regard to any other
9 credits;

10 (2) Any credit claimed but not used in any taxable year
11 may be carried forward for five years from the close
12 of the taxable year in which the cost of operation was
13 incurred; and

14 (3) The employer shall certify to the department the names
15 of the employees, name of the child care provider, and
16 other information as may be required by the department
17 to ensure that credits are granted only to employers
18 who provide or sponsor approved child care pursuant to
19 this section.

20 (c) In addition to the tax credit provided under this
21 section, a taxpayer shall be allowed a credit against the tax



1 imposed under this chapter for the taxable year in which the
2 taxpayer first places in service qualified child care property
3 and for each of the ensuing nine taxable years following such
4 taxable year. The aggregate amount of the credit shall equal
5 one hundred per cent of the cost of all qualified child care
6 property purchased or acquired by the taxpayer and first placed
7 in service during a taxable year, and the credit may be claimed
8 at a rate of ten per cent per year over a period of ten taxable
9 years.

10 (d) The tax credit allowable under subsection (c) shall be
11 subject to the following conditions and limitations:

12 (1) Any credit claimed in any taxable year but not used in
13 that taxable year may be carried forward for three
14 years from the close of that taxable year; provided
15 that the sale, merger, acquisition, or bankruptcy of
16 any taxpayer shall not create new eligibility for the
17 credit to any succeeding taxpayer;

18 (2) In no event shall the amount of the tax credit,
19 including any carryover of the credit from a prior
20 taxable year, exceed fifty per cent of the taxpayer's



1 income tax liability as determined without regard to
2 any other credits; and
3 (3) For every year in which a taxpayer claims the credit,
4 the taxpayer shall attach a schedule to the taxpayer's
5 Hawaii income tax return setting forth the following
6 information with respect to the tax credit:
7 (A) A description of the child care facility;
8 (B) The amount of qualified child care property
9 acquired during the taxable year and the cost of
10 the property;
11 (C) The amount of tax credit claimed for the taxable
12 year;
13 (D) The amount of qualified child care property
14 acquired in prior taxable years and the cost of
15 the property;
16 (E) Any tax credit utilized by the taxpayer in prior
17 taxable years;
18 (F) The amount of tax credit carried over from prior
19 years;
20 (G) The amount of tax credit used by the taxpayer in
21 the current taxable year;



- 1 (H) The amount of tax credit to be carried forward to
2 subsequent tax years; and
- 3 (I) A description of any recapture event occurring
4 during the taxable year, a calculation of the
5 resulting reduction in tax credits allowable for
6 the recapture year and future taxable years, and
7 a calculation of the resulting increase in tax
8 for the recapture year.
- 9 (e) If a recapture event occurs with respect to qualified
10 child care property:
- 11 (1) The credit otherwise allowable under subsection (c)
12 with respect to the property for the recapture year
13 and all subsequent taxable years shall be reduced by
14 the applicable recapture percentage; and
- 15 (2) All credits previously claimed with respect to the
16 property under subsection (c) shall be recaptured as
17 follows:
- 18 (A) Any carryover attributable to credits under
19 subsection (d) (1) shall be reduced, but not below
20 zero, by the recapture amount;



1 (B) The tax credit otherwise allowable under
2 subsection (c) for the recapture year, if any, as
3 reduced under paragraph (1), shall be further
4 reduced, but not below zero, by the excess of the
5 recapture amount over the amount taken into
6 account under subparagraph (A); and

7 (C) The tax imposed under this section for the
8 recapture year shall be increased by the excess
9 of the recapture amount over the amounts taken
10 into account under subparagraphs (A) and (B), as
11 applicable.

12 (f) The director of taxation shall:

13 (1) Prepare any forms that may be necessary to claim a tax
14 credit under this section; and

15 (2) Adopt rules pursuant to chapter 91 to effectuate the
16 purposes of this section.

17 (g) For the purposes of this section:

18 "Cost of operation" means reasonable direct operational
19 costs incurred by an employer as a result of providing employer-
20 provided child care facilities; provided that the term "cost of



1 operation" excludes the cost of any property that is qualified
2 child care property.

3 "Employer" means any employer upon whom an income tax is
4 imposed by this chapter.

5 "Employer-provided" means child care offered on the
6 premises of the employer.

7 "Employer-sponsored" means a contractual arrangement with a
8 child care facility that is paid for by the employer.

9 "Premises of the employer" means any location within the
10 State and located on the workplace premises of the employer
11 providing the child care or one of the employers providing the
12 child care in the event that the child care property is owned
13 jointly or severally by the taxpayer and one or more employers;
14 provided that if such workplace premises are impracticable or
15 otherwise unsuitable for the on-site location of such child care
16 facility, as determined by the director of human services, such
17 facility may be located within a reasonable distance of the
18 employer's workplace premises.

19 "Qualified child care property" means all real property and
20 tangible personal property purchased or acquired on or after
21 December 31, 1999, or which property is first placed in service



1 on or after December 31, 1999, for use exclusively in the
2 construction, expansion, improvement, or operation of an
3 employer-provided child care facility; provided that:
4 (1) The facility is licensed and approved by the
5 department of human services;
6 (2) At least ninety-five per cent of the children who use
7 the facility are children of employees of:
8 (A) The taxpayer and other employers in the event
9 that the child care property is owned jointly or
10 severally by the taxpayer and one or more
11 employers; or
12 (B) A corporation that is a member of the taxpayer's
13 affiliated group, as defined by section 1504(a)
14 of the federal Internal Revenue Code of 1986; and
15 (C) The taxpayer has not previously claimed any tax
16 credit for the cost of operation for the
17 qualified child care property placed in service
18 prior to taxable years beginning on or after
19 January 1, 2000.
20 "Qualified child care property" includes but is not limited to
21 amounts expended on land acquisition, improvements, buildings,



1 building improvements, and furniture, fixtures, and equipment
2 for the child care facility.

3 "Recapture amount" means, with respect to property as to
4 which a recapture event has occurred, an amount equal to the
5 applicable recapture percentage of the aggregate credits claimed
6 under subsection (c) for all taxable years preceding the
7 recapture year, whether or not such credits were used.

8 "Recapture event" means any disposition of qualified child
9 care property by the taxpayer, or any other event or
10 circumstance under which property ceases to be qualified child
11 care property with respect to the taxpayer, except for:

- 12 (1) Any transfer by reason of death;
13 (2) Any transfer between spouses or incident to divorce;
14 (3) Any change in the form of conducting the taxpayer's
15 trade or business; provided that the property is
16 retained in the trade or business as qualified child
17 care property and the taxpayer retains a substantial
18 interest in the trade or business; or
19 (4) Any accident or casualty.

20 "Recapture percentage" means the applicable percentage set
21 forth as follows:



- 1 (1) If the recapture event occurs within five years after
2 the qualified child care property is placed in
3 service, the percentage shall be one hundred per cent;
- 4 (2) If the recapture event occurs within six years after
5 the qualified child care property is placed in
6 service, the percentage shall be ninety per cent;
- 7 (3) If the recapture event occurs within seven years after
8 the qualified child care property is placed in
9 service, the percentage shall be eighty per cent;
- 10 (4) If the recapture event occurs within eight years after
11 the qualified child care property is placed in
12 service, the percentage shall be seventy per cent;
- 13 (5) If the recapture event occurs within nine years after
14 the qualified child care property is placed in
15 service, the percentage shall be sixty per cent;
- 16 (6) If the recapture event occurs within ten years after
17 the qualified child care property is placed in
18 service, the percentage shall be fifty per cent;
- 19 (7) If the recapture event occurs within eleven years
20 after the qualified child care property is placed in
21 service, the percentage shall be forty per cent;



- 1 (8) If the recapture event occurs within twelve years
- 2 after the qualified child care property is placed in
- 3 service, the percentage shall be thirty per cent;
- 4 (9) If the recapture event occurs within thirteen years
- 5 after the qualified child care property is placed in
- 6 service, the percentage shall be twenty per cent;
- 7 (10) If the recapture event occurs within fourteen years
- 8 after the qualified child care property is placed in
- 9 service, the percentage shall be ten per cent; and
- 10 (11) For any period after the close of fourteen years after
- 11 the qualified child care property is placed in
- 12 service, the percentage shall be zero.

13 "Recapture year" means the taxable year in which a
 14 recapture event occurs with respect to qualified child care
 15 property."

16 SECTION 2. New statutory material is underscored.

17 SECTION 3. This Act shall take effect on June 30, 3000,
 18 and shall apply to taxable years beginning after December 31,
 19 2022.

20



H.B. NO. 1203 H.D. 1

Report Title:

Taxation; Tax Credit; Child Care; Employer; Department of
Taxation; DHS

Description:

Establishes an employer child care tax credit for employers who
provide or sponsor approved child care. Effective 6/30/3000.
(HD1)

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

2023-1704 HB1203 HD1 HMSO

