
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) 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) per cent of the costs incurred by an
15 employer as a result of providing employer-sponsored
16 child care at a child care facility within a



1 reasonable distance from the employer's workplace
2 premises.

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

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

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

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

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



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

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

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

20 (2) In no event shall the amount of the tax credit,
21 including any carryover of the credit from a prior



1 taxable year, exceed fifty per cent of the taxpayer's
2 income tax liability as determined without regard to
3 any other credits; and

4 (3) For every year in which a taxpayer claims the credit,
5 the taxpayer shall attach a schedule to the taxpayer's
6 Hawaii income tax return setting forth the following
7 information with respect to the tax credit:

8 (A) A description of the child care facility;

9 (B) The amount of qualified child care property
10 acquired during the taxable year and the cost of
11 the property;

12 (C) The amount of tax credit claimed for the taxable
13 year;

14 (D) The amount of qualified child care property
15 acquired in prior taxable years and the cost of
16 the property;

17 (E) Any tax credit utilized by the taxpayer in prior
18 taxable years;

19 (F) The amount of tax credit carried over from prior
20 years;



- 1 (G) The amount of tax credit used by the taxpayer in
2 the current taxable year;
- 3 (H) The amount of tax credit to be carried forward to
4 subsequent tax years; and
- 5 (I) A description of any recapture event occurring
6 during the taxable year, a calculation of the
7 resulting reduction in tax credits allowable for
8 the recapture year and future taxable years, and
9 a calculation of the resulting increase in tax
10 for the recapture year.
- 11 (e) If a recapture event occurs with respect to qualified
12 child care property:
- 13 (1) The credit otherwise allowable under subsection (c)
14 with respect to the property for the recapture year
15 and all subsequent taxable years shall be reduced by
16 the applicable recapture percentage; and
- 17 (2) All credits previously claimed with respect to the
18 property under subsection (c) shall be recaptured as
19 follows:



- 1 (A) Any carryover attributable to credits under
2 subsection (d)(1) shall be reduced, but not below
3 zero, by the recapture amount;
- 4 (B) The tax credit otherwise allowable under
5 subsection (c) for the recapture year, if any, as
6 reduced under paragraph (1), shall be further
7 reduced, but not below zero, by the excess of the
8 recapture amount over the amount taken into
9 account under subparagraph (A); and
- 10 (C) The tax imposed under this section for the
11 recapture year shall be increased by the excess
12 of the recapture amount over the amounts taken
13 into account under subparagraphs (A) and (B), as
14 applicable.
- 15 (f) The director of taxation:
- 16 (1) Shall prepare any forms that may be necessary to claim
17 a tax credit under this section; and
- 18 (2) Shall adopt rules pursuant to chapter 91 to effectuate
19 the purposes of this section.
- 20 (g) For the purposes of this section:



1 "Cost of operation" means reasonable direct operational
2 costs incurred by an employer as a result of providing employer-
3 provided child care facilities; provided that the term "cost of
4 operation" excludes the cost of any property that is qualified
5 child care property.

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

8 "Employer-provided" means child care offered on the
9 premises of the employer.

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

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



1 "Qualified child care property" means all real property and
2 tangible personal property purchased or acquired on or after
3 December 31, 1999, or which property is first placed in service
4 on or after December 31, 1999, for use exclusively in the
5 construction, expansion, improvement, or operation of an
6 employer-provided child care facility; provided that:

7 (1) The facility is licensed and approved by the
8 department of human services; and

9 (2) At least ninety-five per cent of the children who use
10 the facility are children of employees of:

11 (A) The taxpayer and other employers in the event
12 that the child care property is owned jointly or
13 severally by the taxpayer and one or more
14 employers; or

15 (B) A corporation that is a member of the taxpayer's
16 affiliated group, as defined by section 1504(a)
17 of the Internal Revenue Code of 1986, as amended;
18 and

19 (C) The taxpayer has not previously claimed any tax
20 credit for the cost of operation for the
21 qualified child care property placed in service



1 prior to taxable years beginning on or after
2 January 1, 2000.

3 "Qualified child care property" includes but is not limited to
4 amounts expended on land acquisition, improvements, buildings,
5 building improvements, and furniture, fixtures, and equipment
6 for the child care facility.

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

12 "Recapture event" means any disposition of qualified child
13 care property by the taxpayer, or any other event or
14 circumstance under which property ceases to be qualified child
15 care property with respect to the taxpayer, except for:

- 16 (1) Any transfer by reason of death;
17 (2) Any transfer between spouses or incident to divorce;
18 (3) Any change in the form of conducting the taxpayer's
19 trade or business; provided that the property is
20 retained in the trade or business as qualified child



1 care property and the taxpayer retains a substantial
2 interest in the trade or business; or

3 (4) Any accident or casualty.

4 "Recapture percentage" means the applicable percentage set
5 forth as follows:

6 (1) If the recapture event occurs within five years after
7 the qualified child care property is placed in
8 service, the percentage shall be one hundred per cent;

9 (2) If the recapture event occurs within six years after
10 the qualified child care property is placed in
11 service, the percentage shall be ninety per cent;

12 (3) If the recapture event occurs within seven years after
13 the qualified child care property is placed in
14 service, the percentage shall be eighty per cent;

15 (4) If the recapture event occurs within eight years after
16 the qualified child care property is placed in
17 service, the percentage shall be seventy per cent;

18 (5) If the recapture event occurs within nine years after
19 the qualified child care property is placed in
20 service, the percentage shall be sixty per cent;



- 1 (6) If the recapture event occurs within ten years after
2 the qualified child care property is placed in
3 service, the percentage shall be fifty per cent;
- 4 (7) If the recapture event occurs within eleven years
5 after the qualified child care property is placed in
6 service, the percentage shall be forty per cent;
- 7 (8) If the recapture event occurs within twelve years
8 after the qualified child care property is placed in
9 service, the percentage shall be thirty per cent;
- 10 (9) If the recapture event occurs within thirteen years
11 after the qualified child care property is placed in
12 service, the percentage shall be twenty per cent;
- 13 (10) If the recapture event occurs within fourteen years
14 after the qualified child care property is placed in
15 service, the percentage shall be ten per cent; and
- 16 (11) For any period after the close of fourteen years after
17 the qualified child care property is placed in
18 service, the percentage shall be zero.
- 19 "Recapture year" means the taxable year in which a
20 recapture event occurs with respect to qualified child care
21 property."



1 SECTION 2. New statutory material is underscored.

2 SECTION 3. This Act shall take effect on June 30, 3000,
3 and shall apply to taxable years beginning after December 31,
4 2022.

5



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.
(HD2)

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

