
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. The legislature finds that child care is a
2 critical component to alleviating the worker shortage crisis.
3 The lack of child care in the State, along with its cost
4 skyrocketing in recent years, is keeping people out of the
5 workforce. Today, many families with young children must choose
6 between spending a significant portion of their income on child
7 care or leaving the workforce altogether to become a full-time
8 caregiver. This dilemma is compounded by the reality that a
9 lower cost child care option may potentially provide lower
10 quality care.

11 The legislature further finds that employers in the State
12 provide resources to employees that help those employees live
13 their day to day lives, including paid time off, health care,
14 and other benefits. The legislature believes that by
15 incentivizing employers to provide child care as an employee
16 benefit would attract more people back into the workforce and



1 reduce the financial burden on families who are struggling to
2 make ends meet.

3 The purpose of this Act is to establish:

4 (1) An employer-provided or -sponsored child care income
5 tax credit for employers that provide or sponsor child
6 care as an employee benefit; and

7 (2) An employer child care property income tax credit for
8 the purchase or acquisition of child care property by
9 an employer for employer-provided child care.

10 SECTION 2. Chapter 235, Hawaii Revised Statutes, is
11 amended by adding two new sections to be appropriately
12 designated and to read as follows:

13 **"§235-A Employer-provided or -sponsored child care tax**
14 **credit.** (a) Notwithstanding any law to the contrary, there
15 shall be allowed to each taxpayer subject to the taxes imposed
16 by this chapter, an income tax credit as provided in this
17 section that shall be deductible from the taxpayer's net income
18 tax liability, if any, imposed by this chapter for the taxable
19 year in which the credit is properly claimed. For each taxpayer
20 that employs at least one employee in the State and provides
21 employer-provided child care or employer-sponsored child care to



1 those employees, the amount of the credit shall be equal to
2 seventy-five per cent of the cost of operation to the employer
3 less any amounts paid by the employees during the taxable year.

4 (b) In the case of a partnership, S corporation, estate,
5 or trust, the tax credit allowable is for the cost of operation
6 by the entity for the taxable year. The cost upon which the tax
7 credit is computed shall be determined at the entity level.
8 Distribution and share of credit shall be determined by rule.

9 The sale, merger, acquisition, or bankruptcy of any
10 taxpayer shall not create new eligibility in any succeeding
11 taxpayer.

12 (c) The amount of the credit applied under this section
13 against the tax imposed for a taxable year shall not exceed
14 fifty per cent of the tax liability otherwise due without regard
15 to any other credits allowed against the tax imposed. Any
16 unused credit resulting from the limitations of this section may
17 be carried forward, if necessary, for use in the five taxable
18 years following the taxable year in which the cost of operation
19 was incurred.

20 All claims for the tax credit under this section, including
21 amended claims, shall be filed on or before the end of the



1 twelfth month following the close of the taxable year for which
2 the credit may be claimed. Failure to comply with the foregoing
3 provision shall constitute a waiver of the right to claim the
4 credit.

5 (d) Employer-taxpayers shall maintain records necessary
6 for certifying the cost of operation to the department. These
7 records shall include:

8 (1) The names of the employees who utilize the employer-
9 provided child care or employer-sponsored child care;

10 (2) The names of the child care providers; and

11 (3) Any other information deemed necessary to ascertain
12 the validity of the claim for credit made under this
13 section.

14 (e) The director:

15 (1) Shall prepare forms as may be necessary to claim a
16 credit under this section;

17 (2) May audit and adjust the tax credit amount to conform
18 to the information filed by the taxpayer; and

19 (3) May adopt rules necessary to effectuate the purposes
20 of this section pursuant to chapter 91.

21 (f) As used in this section:



1 "Child care property" has the same meaning as in section
2 235-B.

3 "Cost of operation" means reasonable direct operational
4 costs incurred by the employer-taxpayer as a result of providing
5 employer-provided child care or employer-sponsored child care.

6 "Cost of operation" does not include the cost of any property
7 that is child care property.

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

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

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



1 facility may be located within a reasonable distance of the
2 premises of the employer.

3 **§235-B Employer child care property tax credit.** (a)

4 Notwithstanding any law to the contrary, there shall be allowed
5 to each taxpayer subject to the taxes imposed by this chapter,
6 an income tax credit as provided in this section 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. The credit may be claimed for the taxable
10 year in which the taxpayer first places in service the child
11 care property and for each of the nine taxable years following
12 that taxable year. For each taxpayer that employs at least one
13 employee in the State, the aggregate amount of the credit shall
14 equal one hundred per cent of the cost of child care property
15 purchased or acquired by the taxpayer and first placed in
16 service during the taxable year and the credit may be claimed at
17 a rate of ten per cent per year for ten years.

18 (b) In the case of a partnership, S corporation, estate,
19 or trust, the tax credit allowable is for the cost of operation
20 by the entity for the taxable year. The cost upon which the tax



1 credit is computed shall be determined at the entity level.
2 Distribution and share of credit shall be determined by rule.

3 The sale, merger, acquisition, or bankruptcy of any
4 taxpayer shall not create new eligibility in any succeeding
5 taxpayer.

6 (c) The amount of the credit applied under this section
7 against the tax imposed for a taxable year shall not exceed
8 fifty per cent of the tax liability otherwise due without regard
9 to any other credits allowed against the tax imposed. Any
10 unused credit resulting from the limitations of this section may
11 be carried forward, if necessary, for use in the three taxable
12 years following the taxable year in which the credit is claimed.

13 All claims for the tax credit under this section, including
14 amended claims, shall be filed on or before the end of the
15 twelfth month following the close of the taxable year for which
16 the credit may be claimed. Failure to comply with the foregoing
17 provision shall constitute a waiver of the right to claim the
18 credit.

19 (d) The director of taxation:

20 (1) Shall prepare forms as may be necessary to claim a
21 credit under this section;



1 (2) May also require the taxpayer to furnish information
2 to ascertain the validity of the claim for credit made
3 under this section;

4 (3) May audit and adjust the tax credit amount to conform
5 to the information filed by the taxpayer; and

6 (4) May adopt rules necessary to effectuate the purposes
7 of this section pursuant to chapter 91.

8 (e) As used in this section:

9 "Child care property" means all real and tangible personal
10 property purchased or acquired for use exclusively in the
11 construction, expansion, improvement, or operation of a facility
12 for employer-provided child care.

13 "Employer-provided child care" has the same meaning as in
14 section 235-A."

15 SECTION 3. New statutory material is underscored.

16 SECTION 4. This Act, upon its approval, shall apply to
17 taxable years beginning after December 31, 2022.

18

INTRODUCED BY:

DO HEA

JAN 20 2023



H.B. NO. 400

Report Title:

Taxation; Income Tax Credit; Employer-Provided Child Care;
Employer-Sponsored Child Care; Child Care Property; Property

Description:

Establishes an employer-provided or -sponsored child care income tax credit for employers that make available child care services to their employees. Establishes an employer child care property income tax credit for the cost of child care property purchased or acquired by an employer and put into service for employer-provided child care. Applies to taxable years after 12/31/2022.

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