
A BILL FOR AN ACT

RELATING TO THE HOUSEHOLD AND DEPENDENT CARE SERVICES TAX
CREDIT.

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

1 SECTION 1. Section 235-2.4, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsection (c) to read:

4 "(c) Section 68 (with respect to the overall limitation on
5 itemized deductions) of the Internal Revenue Code shall be
6 operative; provided that [~~the~~]:

7 (1) [~~Thresholds~~] The thresholds shall be [~~those~~] the
8 applicable amounts under section 68(b)(1) of the
9 Internal Revenue Code that were operative for federal
10 tax year [~~2009;~~] 2013; and

11 (2) Suspension in section 68(f) shall not be operative for
12 purposes of this chapter."

13 2. By amending subsection (k) to read:

14 "(k) Section 164 (with respect to taxes) of the Internal
15 Revenue Code shall be operative for the purposes of this
16 chapter, except that:



- 1 (1) Section 164(b)(6)(B) (limiting the deduction for state
2 and local taxes) shall not be operative for the
3 purposes of this chapter;
- 4 (2) The deductions under section 164(a)(3) and (b)(5)
5 shall not be operative for corporate taxpayers [~~and~~
6 ~~shall be operative only for the following individual~~
7 ~~taxpayers:~~
- 8 ~~(A) A taxpayer filing a single return or a married~~
9 ~~person filing separately with a federal adjusted~~
10 ~~gross income of less than \$100,000;~~
- 11 ~~(B) A taxpayer filing as a head of household with a~~
12 ~~federal adjusted gross income of less than~~
13 ~~\$150,000; and~~
- 14 ~~(C) A taxpayer filing a joint return or as a~~
15 ~~surviving spouse with a federal adjusted gross~~
16 ~~income of less than \$200,000]; and~~
- 17 (3) Section 164(a)(3) shall not be operative for any
18 amounts for which the credit under section 235-55 has
19 been claimed."



1 SECTION 2. Section 235-51, Hawaii Revised Statutes, is
2 amended by amending subsections (a), (b), and (c) to read as
3 follows:

4 "(a) There is hereby imposed on the taxable income of
5 every:

- 6 (1) Taxpayer who files a joint return under section 235-
- 7 93; and
- 8 (2) Surviving spouse,

9 a tax determined in accordance with the following table:

10 ~~[In the case of any taxable year beginning after December~~
11 ~~31, 2017:~~

If the taxable income is:	The tax shall be:
Not over \$4,800	1.40% of taxable income
Over \$4,800 but not over \$9,600	\$67.00 plus 3.20% of excess over \$4,800
Over \$9,600 but not over \$19,200	\$221.00 plus 5.50% of excess over \$9,600
Over \$19,200 but not over \$28,800	\$749.00 plus 6.40% of excess over \$19,200
Over \$28,800 but not over \$38,400	\$1,363.00 plus 6.80% of excess over \$28,800



1 not over \$10,560 excess over \$5,280
2 Over \$10,560 but \$ _____ plus _____ % of
3 not over \$21,120 excess over \$10,560
4 Over \$21,120 but \$ _____ plus _____ % of
5 not over \$31,680 excess over \$21,120
6 Over \$31,680 but \$ _____ plus _____ % of
7 not over \$42,240 excess over \$31,680
8 Over \$42,240 but \$ _____ plus _____ % of
9 not over \$52,800 excess over \$42,240
10 Over \$52,800 but \$ _____ plus _____ % of
11 not over \$79,200 excess over \$52,800
12 Over \$79,200 but \$ _____ plus _____ % of
13 not over \$105,600 excess over \$79,200
14 Over \$105,600 but \$ _____ plus _____ % of
15 not over \$330,000 excess over \$105,600
16 Over \$330,000 but \$ _____ plus _____ % of
17 not over \$385,000 excess over \$330,000
18 Over \$385,000 but \$ _____ plus _____ % of
19 not over \$440,000 excess over \$385,000
20 Over \$440,000 \$ _____ plus _____ % of
21 excess over \$440,000.



1 (b) There is hereby imposed on the taxable income of every
2 head of a household a tax determined in accordance with the
3 following table:

4 ~~[In the case of any taxable year beginning after December~~
5 ~~31, 2017:~~

6	If the taxable income is:	The tax shall be:
7	Not over \$3,600	1.40% of taxable income
8	Over \$3,600 but	\$50.00 plus 3.20% of
9	not over \$7,200	excess over \$3,600
10	Over \$7,200 but	\$166.00 plus 5.50% of
11	not over \$14,400	excess over \$7,200
12	Over \$14,400 but	\$562.00 plus 6.40% of
13	not over \$21,600	excess over \$14,400
14	Over \$21,600 but	\$1,022.00 plus 6.80% of
15	not over \$28,800	excess over \$21,600
16	Over \$28,800 but	\$1,512.00 plus 7.20% of
17	not over \$36,000	excess over \$28,800
18	Over \$36,000 but	\$2,030.00 plus 7.60% of
19	not over \$54,000	excess over \$36,000
20	Over \$54,000 but	\$3,398.00 plus 7.90% of
21	not over \$72,000	excess over \$54,000



1	<u>not over \$39,600</u>	<u>excess over \$31,680</u>
2	<u>Over \$39,600 but</u>	\$ _____ plus _____ % of
3	<u>not over \$59,400</u>	<u>excess over \$39,600</u>
4	<u>Over \$59,400 but</u>	\$ _____ plus _____ % of
5	<u>not over \$79,200</u>	<u>excess over \$59,400</u>
6	<u>Over \$79,200 but</u>	\$ _____ plus _____ % of
7	<u>not over \$247,500</u>	<u>excess over \$79,200</u>
8	<u>Over \$247,500 but</u>	\$ _____ plus _____ % of
9	<u>not over \$288,750</u>	<u>excess over \$247,500</u>
10	<u>Over \$288,750 but</u>	\$ _____ plus _____ % of
11	<u>not over \$330,000</u>	<u>excess over \$288,750</u>
12	<u>Over \$330,000</u>	\$ _____ plus _____ % of
13		<u>excess over \$330,000.</u>

14 (c) There is hereby imposed on the taxable income of (1)
 15 every unmarried individual (other than a surviving spouse, or
 16 the head of a household) and (2) on the taxable income of every
 17 married individual who does not make a single return jointly
 18 with the individual's spouse under section 235-93 a tax
 19 determined in accordance with the following table:

20 ~~[In the case of any taxable year beginning after December~~
 21 ~~31, 2017:]~~



1	If the taxable income is:	The tax shall be:
2	Not over \$2,400	1.40% of taxable income
3	Over \$2,400 but	\$34.00 plus 3.20% of
4	not over \$4,800	excess over \$2,400
5	Over \$4,800 but	\$110.00 plus 5.50% of
6	not over \$9,600	excess over \$4,800
7	Over \$9,600 but	\$374.00 plus 6.40% of
8	not over \$14,400	excess over \$9,600
9	Over \$14,400 but	\$682.00 plus 6.80% of
10	not over \$19,200	excess over \$14,400
11	Over \$19,200 but	\$1,008.00 plus 7.20% of
12	not over \$24,000	excess over \$19,200
13	Over \$24,000 but	\$1,354.00 plus 7.60% of
14	not over \$36,000	excess over \$24,000
15	Over \$36,000 but	\$2,266.00 plus 7.90% of
16	not over \$48,000	excess over \$36,000
17	Over \$48,000 but	\$3,214.00 plus 8.25% of
18	not over \$150,000	excess over \$48,000
19	Over \$150,000 but	\$11,629.00 plus 9.00% of
20	not over \$175,000	excess over \$150,000
21	Over \$175,000 but	\$13,879.00 plus 10.00% of



1 ~~not over \$200,000~~ ~~excess over \$175,000~~
2 ~~Over \$200,000~~ ~~\$16,379.00 plus 11.00% of~~
3 ~~excess over \$200,000.]~~

4 In the case of any taxable year beginning after
5 December 31, 2023:

<u>If the taxable income is:</u>	<u>The tax shall be:</u>
6 <u>Not over \$2,640</u>	<u> % of taxable income</u>
7 <u>Over \$2,640 but</u>	\$ <u> </u> plus <u> % of</u>
8 <u> not over \$5,280</u>	<u> excess over \$2,640</u>
9 <u>Over \$5,280 but</u>	\$ <u> </u> plus <u> % of</u>
10 <u> not over \$10,560</u>	<u> excess over \$5,280</u>
11 <u>Over \$10,560 but</u>	\$ <u> </u> plus <u> % of</u>
12 <u> not over \$15,840</u>	<u> excess over \$10,560</u>
13 <u>Over \$15,840 but</u>	\$ <u> </u> plus <u> % of</u>
14 <u> not over \$21,120</u>	<u> excess over \$15,840</u>
15 <u>Over \$21,120 but</u>	\$ <u> </u> plus <u> % of</u>
16 <u> not over \$26,400</u>	<u> excess over \$21,120</u>
17 <u>Over \$26,400 but</u>	\$ <u> </u> plus <u> % of</u>
18 <u> not over \$39,600</u>	<u> excess over \$26,400</u>
19 <u>Over \$39,600 but</u>	\$ <u> </u> plus <u> % of</u>
20 <u> not over \$52,800</u>	<u> excess over \$39,600</u>



1 against the tax imposed by this chapter for the
 2 taxable year an amount equal to the applicable
 3 percentage of the employment-related expenses (as
 4 defined in subsection (b)(2)) paid by the individual
 5 during the taxable year. If the tax credit claimed by
 6 a resident taxpayer exceeds the amount of income tax
 7 payment due from the resident taxpayer, the excess of
 8 the credit over payments due shall be refunded to the
 9 resident taxpayer; provided that tax credit properly
 10 claimed by a resident individual who has no income tax
 11 liability shall be paid to the resident individual;
 12 and provided further that no refunds or payment on
 13 account of the tax credit allowed by this section
 14 shall be made for amounts less than \$1.

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

	Adjusted gross income	Applicable percentage
	Not over \$25,000	25%
	Over \$25,000 but	24%
	not over \$30,000	



1	Over \$30,000 but	23%
2	not over \$35,000	
3	Over \$35,000 but	22%
4	not over \$40,000	
5	Over \$40,000 but	21%
6	not over \$45,000	
7	Over \$45,000 but	20%
8	not over \$50,000	
9	Over \$50,000	15%.]

10 equal to _____ per cent reduced by one percentage point
 11 for each \$ _____, or fraction thereof, by which
 12 the taxpayer's adjusted gross income exceeds the
 13 threshold amount; provided that the applicable
 14 percentage shall not be reduced below _____ per cent.

15 (3) Threshold amount. For purposes of paragraph (2), for
 16 taxable years beginning after December 31, 2023, the
 17 threshold amount shall be \$ _____.

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

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



- 1 (A) A dependent of the taxpayer who is under the age
- 2 of thirteen and with respect to whom the taxpayer
- 3 is entitled to a deduction under section
- 4 235-54(a),
- 5 (B) A dependent of the taxpayer who is physically or
- 6 mentally incapable of caring for oneself, or
- 7 (C) The spouse of the taxpayer, if the spouse is
- 8 physically or mentally incapable of caring for
- 9 oneself.
- 10 (2) Employment-related expenses.
- 11 (A) In general. The term "employment-related
- 12 expenses" means amounts paid for the following
- 13 expenses, but only if such expenses are incurred
- 14 to enable the taxpayer to be gainfully employed
- 15 for any period for which there are one or more
- 16 qualifying individuals with respect to the
- 17 taxpayer:
- 18 (i) Expenses for household services, and
- 19 (ii) Expenses for the care of a qualifying
- 20 individual.



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

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

10 (i) A qualifying individual described in
11 paragraph (1)(A), or

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

16 (C) Dependent care centers. Employment-related
17 expenses described in subparagraph (A) which are
18 incurred for services provided outside the
19 taxpayer's household by a dependent care center
20 (as defined in subparagraph (D)) shall be taken
21 into account only if:



- 1 (i) Such center complies with all applicable
- 2 laws, rules, and regulations of this State,
- 3 if the center is located within the
- 4 jurisdiction of this State; or
- 5 (ii) Such center complies with all applicable
- 6 laws, rules, and regulations of the
- 7 jurisdiction in which the center is located,
- 8 if the center is located outside the State;
- 9 and
- 10 (iii) The requirements of subparagraph (B) are
- 11 met.
- 12 (D) Dependent care center defined. For purposes of
- 13 this paragraph, the term "dependent care center"
- 14 means any facility which:
 - 15 (i) Provides care for more than six individuals
 - 16 (other than individuals who reside at the
 - 17 facility), and
 - 18 (ii) Receives a fee, payment, or grant for
 - 19 providing services for any of the
 - 20 individuals (regardless of whether such
 - 21 facility is operated for profit).



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

- 5 (1) \$10,000 if there is one qualifying individual with
6 respect to the taxpayer for such taxable year, or
- 7 (2) \$20,000 if there are two or more qualifying
8 individuals with respect to the taxpayer for such
9 taxable year.

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

15 (d) Earned income limitation.

- 16 (1) In general. Except as otherwise provided in this
17 subsection, the amount of the employment-related
18 expenses incurred during any taxable year which may be
19 taken into account under subsection (a) shall not
20 exceed:



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

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

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

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

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



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

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

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

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

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

20 (4) Certain married individuals living apart. If:



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



1 SECTION 5. This Act shall take effect on December 31,
2 2050, and shall apply to taxable years beginning after
3 December 31, 2023; provided that on December 31, 2027, the
4 amendments to section 235-55.6(a), Hawaii Revised Statutes, in
5 section 3 of this Act shall be repealed and section 235-55.6(a),
6 Hawaii Revised Statutes, shall be reenacted in the form in which
7 it read on the day before the effective date of this Act.



Report Title:

Income Tax; Itemized Deduction; Income Tax Brackets; Child and Dependent Care Tax Credit; Conformity with Federal Deductions

Description:

Amends income tax brackets. Temporarily amends the applicable percentage of the employment-related expenses for which the child and dependent care income tax credit may be claimed and permanently provides for a disallowance period when there is a final administrative or judicial decision finding that the claim was due to fraud or disallowing the credit. Amends state conformity with certain federal deductions. Takes effect 12/31/2050. (SD1)

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

