
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. The legislature finds that the average cost of
2 full-time child care in Hawaii currently exceeds \$13,000 per
3 year for working families. The rising cost of child care should
4 be reflected in the income tax credits allowed for expenses for
5 household and dependent care services, which include child care
6 services. Such services facilitate the academic and social
7 development of young children and allow parents to obtain stable
8 employment, thereby increasing the economic well-being of the
9 family as a whole.

10 The legislature further finds that Act 163, Session Laws of
11 Hawaii 2023 (Act 163), partially strengthened the household and
12 dependent care services tax credit by raising the amount of the
13 employment-related expenses incurred during any taxable year
14 that may be taken into account for the purposes of the tax
15 credit. Yet, Act 163 did not increase the maximum percentage of
16 household and dependent care expenses that may be claimed for



1 the purposes of the tax credit. Without adjusting the maximum
2 percentage of expenses that taxpayers can claim, the increases
3 to the claimable amounts of the household and dependent care
4 services tax credit provide limited benefit to working families.

5 The legislature additionally finds that in statements to
6 the media, public officials said that they intended to provide
7 approximately \$47,000,000 of financial relief to working
8 families through the household and dependent care services tax
9 credit under Act 163. The department of taxation later
10 estimated the cost of the provisions of Act 163 relating to the
11 household and dependent care services tax credit at only about
12 \$9,500,000. This discrepancy can be rectified by amending the
13 tax credit to increase the percentage of child and dependent
14 care expenses for which the credit may be applied, thereby
15 fulfilling the legislature's original intent for Act 163.

16 The purpose of this Act is to increase the taxpayer's
17 applicable percentage of employment-related expenses that may be
18 claimed for the household and dependent care services tax
19 credit.



1 SECTION 2. 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
6 Consumer Price Index for All Urban Consumers for all items, as
7 published by the United States Department of Labor, from July of
8 the preceding calendar year to July of the current calendar
9 year; provided that if the 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 3. 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.

18 (1) In general. For each resident taxpayer, who files an
19 individual income tax return for a taxable year, and
20 who is not claimed or is not otherwise eligible to be
21 claimed as a dependent by another taxpayer for federal



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

19 (2) Applicable percentage. For purposes of paragraph (1),
20 the taxpayer's applicable percentage shall be
21 ~~determined as follows:~~



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Adjusted gross income	Applicable percentage
Not over \$25,000	25%
Over \$25,000 but	24%
not over \$30,000	
Over \$30,000 but	23%
not over \$35,000	
Over \$35,000 but	22%
not over \$40,000	
Over \$40,000 but	21%
not over \$45,000	
Over \$45,000 but	20%
not over \$50,000	
Over \$50,000	15%.]

equal to fifty per cent reduced by one percentage
point for each \$3,000, or fraction thereof, by which
the taxpayer's adjusted gross income exceeds the
threshold amount; provided that the applicable
percentage shall not be reduced below twenty-five per
cent.

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



1 is entitled to a deduction under section 235-
2 54(a),

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

5 (C) The spouse of the taxpayer, if the spouse is
6 physically or mentally incapable of caring for
7 oneself.

8 (2) Employment-related expenses.

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

- 16 (i) Expenses for household services, and
- 17 (ii) Expenses for the care of a qualifying
18 individual.

19 Such term shall not include any amount paid for
20 services outside the taxpayer's household at a



1 camp where the qualifying individual stays
2 overnight.

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

8 (i) A qualifying individual described in
9 paragraph (1) (A), or

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

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

20 (i) Such center complies with all applicable
21 laws, rules, and regulations of this State,



1 if the center is located within the
2 jurisdiction of this State; or
3 (ii) Such center complies with all applicable
4 laws, rules, and regulations of the
5 jurisdiction in which the center is located,
6 if the center is located outside the State;
7 and
8 (iii) The requirements of subparagraph (B) are
9 met.

10 (D) Dependent care center defined. For purposes of
11 this paragraph, the term "dependent care center"
12 means any facility which:

13 (i) Provides care for more than six individuals
14 (other than individuals who reside at the
15 facility), and
16 (ii) Receives a fee, payment, or grant for
17 providing services for any of the
18 individuals (regardless of whether such
19 facility is operated for profit).

20 (c) Dollar limit on amount creditable. The amount of the
21 employment-related expenses incurred during any taxable year



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

3 (1) \$10,000 if there is one qualifying individual with
4 respect to the taxpayer for such taxable year, or

5 (2) \$20,000 if there are two or more qualifying
6 individuals with respect to the taxpayer for such
7 taxable year.

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

13 (d) Earned income limitation.

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

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



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

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

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

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

18 In the case of any husband and wife, this paragraph
19 shall apply with respect to only one spouse for any
20 one month.

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



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- 1 (1) Maintaining household. An individual shall be treated
2 as maintaining a household for any period only if over
3 half the cost of maintaining the household for the
4 period is furnished by the individual (or, if the
5 individual is married during the period, is furnished
6 by the individual and the individual's spouse).
- 7 (2) Married couples must file joint return. If the
8 taxpayer is married at the close of the taxable year,
9 the credit shall be allowed under subsection (a) only
10 if the taxpayer and the taxpayer's spouse file a joint
11 return for the taxable year.
- 12 (3) Marital status. An individual legally separated from
13 the individual's spouse under a decree of divorce or
14 of separate maintenance shall not be considered as
15 married.
- 16 (4) Certain married individuals living apart. If:
17 (A) An individual who is married and who files a
18 separate return:
19 (i) Maintains as the individual's home a
20 household that constitutes for more than
21 one-half of the taxable year the principal



1 place of abode of a qualifying individual,
2 and
3 (ii) Furnishes over half of the cost of
4 maintaining the household during the taxable
5 year, and
6 (B) During the last six months of the taxable year
7 the individual's spouse is not a member of the
8 household,
9 the individual shall not be considered as married.
10 (5) Special dependency test in case of divorced parents,
11 etc. If:
12 (A) Paragraph (2) or (4) of section 152(e) of the
13 Internal Revenue Code of 1986, as amended,
14 applies to any child with respect to any calendar
15 year, and
16 (B) The child is under age thirteen or is physically
17 or mentally incompetent of caring for the child's
18 self,
19 in the case of any taxable year beginning in the
20 calendar year, the child shall be treated as a
21 qualifying individual described in subsection



1 (b) (1) (A) or (B) (whichever is appropriate) with
2 respect to the custodial parent (within the meaning of
3 section 152(e) (1) of the Internal Revenue Code of
4 1986, as amended), and shall not be treated as a
5 qualifying individual with respect to the noncustodial
6 parent.

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

10 (A) With respect to whom, for the taxable year, a
11 deduction under section 151(c) of the Internal
12 Revenue Code of 1986, as amended (relating to
13 deduction for personal exemptions for dependents)
14 is allowable either to the taxpayer or the
15 taxpayer's spouse, or

16 (B) Who is a child of the taxpayer (within the
17 meaning of section 151(c) (3) of the Internal
18 Revenue Code of 1986, as amended) who has not
19 attained the age of nineteen at the close of the
20 taxable year.



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1 For purposes of this paragraph, the term "taxable
2 year" means the taxable year of the taxpayer in which
3 the service is performed.

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

8 (8) Educational organization. The term "educational
9 organization" means a school operated by the
10 department of education under chapter 302A, an
11 educational organization described in section
12 170 (b) (1) (A) (ii) of the Internal Revenue Code of 1986,
13 as amended, or a university, college, or community
14 college.

15 (9) Identifying information required with respect to
16 service provider. No credit shall be allowed under
17 subsection (a) for any amount paid to any person
18 unless:

19 (A) The name, address, taxpayer identification
20 number, and general excise tax license number of



1 the person are included on the return claiming
2 the credit,

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

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

16 In the case of a failure to provide the information
17 required under the preceding sentence, the preceding
18 sentence shall not apply if it is shown that the
19 taxpayer exercised due diligence in attempting to
20 provide the information so required.



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

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

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

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

16 SECTION 4. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 5. This Act, upon its approval, shall apply to
19 taxable years beginning after December 31, 2024; provided that
20 on June 30, 2030, this Act shall be repealed and section 235-
21 55.6, Hawaii Revised Statutes, shall be reenacted in the form in



1 which it read on the day prior to the effective date of this
2 Act.
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INTRODUCED BY:



JAN 16 2025



H.B. NO. 325

Report Title:

Taxation; Household and Dependent Care Services; Tax Credit;
Employment-Related Expenses

Description:

Increases a taxpayer's applicable percentage of employment-related expenses that may be claimed for the household and dependent care services tax credit for five years. Repeals 6/30/2030.

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

