
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 credit.
15 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 quotient of the per cent change
6 in the Consumer Price Index for All Urban Consumers for Urban
7 Hawaii published by the United States Department of Labor for
8 all items divided by one hundred, from July of the preceding
9 calendar year to July of the current calendar year; provided
10 that if the Consumer Price Index for All Urban Consumers for
11 Urban Hawaii is discontinued, the Chained Consumer Price Index
12 for All Urban Consumers, as published by the United States
13 Department of Labor, shall be used to calculate the cost-of-
14 living adjustment factor."

15 SECTION 3. Section 235-55.6, Hawaii Revised Statutes, is
16 amended to read as follows:

17 **"§235-55.6 Expenses for household and dependent care**
18 **services necessary for gainful employment.** (a) Allowance of
19 credit.

20 (1) In general. For each resident taxpayer, who files an
21 individual income tax return for a taxable year, and



1 who is not claimed or is not otherwise eligible to be
2 claimed as a dependent by another taxpayer for federal
3 or Hawaii state individual income tax purposes, who
4 maintains a household which includes as a member one
5 or more qualifying individuals (as defined in
6 subsection (b)(1)), there shall be allowed as a credit
7 against the tax imposed by this chapter for the
8 taxable year an amount equal to the applicable
9 percentage of the employment-related expenses (as
10 defined in subsection (b)(2)) paid by the individual
11 during the taxable year. If the tax credit claimed by
12 a resident taxpayer exceeds the amount of income tax
13 payment due from the resident taxpayer, the excess of
14 the credit over payments due shall be refunded to the
15 resident taxpayer; provided that tax credit properly
16 claimed by a resident individual who has no income tax
17 liability shall be paid to the resident individual;
18 and provided further that no refunds or payment on
19 account of the tax credit allowed by this section
20 shall be made for amounts less than \$1.



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

4	Adjusted gross income	Applicable percentage
5	Not over \$25,000	25%
6	Over \$25,000 but	24%
7	not over \$30,000	
8	Over \$30,000 but	23%
9	not over \$35,000	
10	Over \$35,000 but	22%
11	not over \$40,000	
12	Over \$40,000 but	21%
13	not over \$45,000	
14	Over \$45,000 but	20%
15	not over \$50,000	
16	Over \$50,000	15%.]

17
 18 equal to fifty per cent reduced by one percentage
 19 point for each \$3,000, or fraction thereof, by which
 20 the taxpayer's adjusted gross income exceeds the
 21 threshold amount; provided that the applicable



1 percentage shall not be reduced below twenty-five per
2 cent.

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

4 (A) For taxable years beginning after December 31,
5 2025, the threshold amount shall be \$150,000; and

6 (B) For each taxable year beginning after December
7 31, 2026, the director of taxation, no later than
8 December 15 of the preceding calendar year, shall
9 recompute the threshold amount by multiplying the
10 dollar amount for the preceding taxable year by
11 the cost-of-living adjustment factor, if the
12 cost-of-living adjustment factor is greater than
13 1.0, and rounding off the resulting product to
14 the nearest \$1; provided that if the cost-of-
15 living adjustment factor is less than or equal to
16 1.0 in a given year, then no adjustment shall
17 occur in the following year.

18 (b) Definitions of qualifying individual and employment-
19 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 235-
- 4 54(a) [7];
- 5 (B) A dependent of the taxpayer who is physically or
- 6 mentally incapable of caring for oneself [7]; 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 [7]; 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) [7]; 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~~] that:
- 15 (i) Provides care for more than six individuals
- 16 (other than individuals who reside at the
- 17 facility) [~~7~~]; 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[~~7~~]; 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[7]; 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[7]; 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
- 7 individual[7]; and
- 8 (ii) Furnishes over half of the cost of
- 9 maintaining the household during the taxable
- 10 year[7]; 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[7]; 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[~~r~~]; or



1 (B) Who is a child of the taxpayer (within the
2 meaning of section [~~151(e)(3)~~] 152(c)(1) of the
3 Internal Revenue Code of 1986, as amended) who
4 has not attained the age of nineteen at the close
5 of the 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];

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[7]; 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. Act 163, Session Laws of Hawaii 2023, is
20 amended by amending section 5 to read as follows:



1 "SECTION 5. This Act, upon its approval, shall apply to
2 taxable years beginning after December 31, 2022; provided that
3 [en]:

- 4 (1) On December 31, 2027, sections 2 and 3 of this Act
5 shall be repealed and sections [235-55.6(e),] 235-
6 55.75(a) [7] and 235-55.85(b), Hawaii Revised Statutes,
7 shall be reenacted in the form in which they read on
8 the day prior to the effective date of this Act[-];
9 and
- 10 (2) On June 30, 2030, section 1 of this Act shall be
11 repealed and section 235-55.6(c), Hawaii Revised
12 Statutes, shall be reenacted in the form in which it
13 read on the day prior to the effective date of this
14 Act."

15 SECTION 5. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 6. This Act shall take effect on July 1, 3000, and
18 shall apply to taxable years beginning after December 31, 2025;
19 provided that on June 30, 2030:

- 20 (1) Sections 2 and 3 of this Act shall be repealed and
21 section 235-55.6, Hawaii Revised Statutes, shall be



1 reenacted in the form in which it read on the day
2 prior to the effective date of this Act; and
3 (2) Pursuant to Act 163, Session Laws of Hawaii 2023, as
4 amended by section 4 of this Act, section 235-55.6(c),
5 Hawaii Revised Statutes, shall be reenacted in the
6 form in which it read on the day prior to the
7 effective date of Act 163, Session Laws of Hawaii
8 2023.



Report Title:

Taxation; Household and Dependent Care Services Tax Credit;
Applicable Percentage; Employment-related Expenses

Description:

Increases a taxpayer's applicable percentage of employment-related expenses that is used to calculate the household and dependent care services tax credit. Extends the sunset date of the temporary increase in maximum employment-related expenses that are used to calculate the household and dependent care services tax credit, established by Act 163, SLH 2023, to 6/30/2030. Sunsets 6/30/2030. Effective 7/1/3000. (HD2)

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

