
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.

20 SECTION 2. Section 235-55.6, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§235-55.6 Expenses for household and dependent care
2 services necessary for gainful employment. (a) Allowance of
3 credit.

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



1 liability shall be paid to the resident individual;
 2 and provided further that no refunds or payment on
 3 account of the tax credit allowed by this section
 4 shall be made for amounts less than \$1.

5 (2) Applicable percentage. For purposes of paragraph (1),
 6 the taxpayer's applicable percentage shall be
 7 determined as follows:

Adjusted gross income	Applicable percentage
Not over [\$25,000] <u>\$80,000</u>	[25%] <u>50%</u>
Over [\$25,000] <u>\$80,000</u> but	[24%] <u>45%</u>
not over [\$30,000] <u>\$90,000</u>	
Over [\$30,000] <u>\$90,000</u> but	[23%] <u>40%</u>
not over [\$35,000] <u>\$100,000</u>	
Over [\$35,000] <u>\$100,000</u> but	[22%] <u>35%</u>
not over [\$40,000] <u>\$110,000</u>	
Over [\$40,000] <u>\$110,000</u> but	[21%] <u>30%</u>
not over [\$45,000] <u>\$120,000</u>	
Over [\$45,000] <u>\$120,000</u> but	[20%] <u>25%</u>
not over [\$50,000] <u>\$130,000</u>	
Over [\$50,000] <u>\$130,000</u> but	[15%] <u>20%</u>



1	<u>not over \$140,000</u>	
2	<u>Over \$140,000 but</u>	<u>15%</u>
3	<u>not over \$150,000</u>	
4	<u>Over \$150,000 but</u>	<u>10%</u>
5	<u>not over \$160,000</u>	
6	<u>Over \$160,000</u>	<u>5%.</u>

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

9 (1) Qualifying individual. The term "qualifying
10 individual" means:

11 (A) A dependent of the taxpayer who is under the age
12 of thirteen and with respect to whom the taxpayer
13 is entitled to a deduction under section 235-
14 54(a) [7];

15 (B) A dependent of the taxpayer who is physically or
16 mentally incapable of caring for oneself [7]; or

17 (C) The spouse of the taxpayer, if the spouse is
18 physically or mentally incapable of caring for
19 oneself.

20 (2) Employment-related expenses.



1 (A) In general. The term "employment-related
2 expenses" means amounts paid for the following
3 expenses, but only if such expenses are incurred
4 to enable the taxpayer to be gainfully employed
5 for any period for which there are one or more
6 qualifying individuals with respect to the
7 taxpayer:

- 8 (i) Expenses for household services~~;~~; and
9 (ii) Expenses for the care of a qualifying
10 individual.

11 Such term shall not include any amount paid for
12 services outside the taxpayer's household at a
13 camp where the qualifying individual stays
14 overnight.

15 (B) Exception. Employment-related expenses described
16 in subparagraph (A) which are incurred for
17 services outside the taxpayer's household shall
18 be taken into account only if incurred for the
19 care of:

- 20 (i) A qualifying individual described in
21 paragraph (1) (A) ~~;~~; or



- 1 (ii) A qualifying individual (not described in
- 2 paragraph (1)(A)) who regularly spends at
- 3 least eight hours each day in the taxpayer's
- 4 household.

- 5 (C) Dependent care centers. Employment-related
- 6 expenses described in subparagraph (A) which are
- 7 incurred for services provided outside the
- 8 taxpayer's household by a dependent care center
- 9 (as defined in subparagraph (D)) shall be taken
- 10 into account only if:

- 11 (i) Such center complies with all applicable
- 12 laws, rules, and regulations of this State,
- 13 if the center is located within the
- 14 jurisdiction of this State; or

- 15 (ii) Such center complies with all applicable
- 16 laws, rules, and regulations of the
- 17 jurisdiction in which the center is located,
- 18 if the center is located outside the State;
- 19 and

- 20 (iii) The requirements of subparagraph (B) are
- 21 met.



1 (D) Dependent care center defined. For purposes of
2 this paragraph, the term "dependent care center"
3 means any facility [~~which:~~] that:

4 (i) Provides care for more than six individuals
5 (other than individuals who reside at the
6 facility) [~~7~~]; and

7 (ii) Receives a fee, payment, or grant for
8 providing services for any of the
9 individuals (regardless of whether such
10 facility is operated for profit).

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

15 (1) \$10,000 if there is one qualifying individual with
16 respect to the taxpayer for such taxable year [~~7~~]; or

17 (2) \$20,000 if there are two or more qualifying
18 individuals with respect to the taxpayer for such
19 taxable year.

20 The amount determined under paragraph (1) or (2) (whichever is
21 applicable) shall be reduced by the aggregate amount excludable



1 from gross income under section 129 (with respect to dependent
2 care assistance programs) of the Internal Revenue Code for the
3 taxable year.

4 (d) Earned income limitation.

5 (1) In general. Except as otherwise provided in this
6 subsection, the amount of the employment-related
7 expenses incurred during any taxable year which may be
8 taken into account under subsection (a) shall not
9 exceed:

10 (A) In the case of an individual who is not married
11 at the close of such year, such individual's
12 earned income for such year~~7~~; or

13 (B) In the case of an individual who is married at
14 the close of such year, the lesser of such
15 individual's earned income or the earned income
16 of the individual's spouse for such year.

17 (2) Special rule for spouse who is a student or incapable
18 of caring for oneself. In the case of a spouse who is
19 a student or a qualified individual described in
20 subsection (b) (1) (C), for purposes of paragraph (1),
21 such spouse shall be deemed for each month during



1 which such spouse is a full-time student at an
2 educational institution, or is such a qualifying
3 individual, to be gainfully employed and to have
4 earned income of not less than:

5 (A) \$200 if subsection (c)(1) applies for the taxable
6 year^[7]; or

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

9 In the case of any husband and wife, this paragraph
10 shall apply with respect to only one spouse for any
11 one month.

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

13 (1) Maintaining household. An individual shall be treated
14 as maintaining a household for any period only if over
15 half the cost of maintaining the household for the
16 period is furnished by the individual (or, if the
17 individual is married during the period, is furnished
18 by the individual and the individual's spouse).

19 (2) Married couples must file joint return. If the
20 taxpayer is married at the close of the taxable year,
21 the credit shall be allowed under subsection (a) only



1 if the taxpayer and the taxpayer's spouse file a joint
2 return for the taxable year.

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

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

8 (A) An individual who is married and who files a
9 separate return:

10 (i) Maintains as the individual's home a
11 household that constitutes for more than
12 one-half of the taxable year the principal
13 place of abode of a qualifying
14 individual[7]; and

15 (ii) Furnishes over half of the cost of
16 maintaining the household during the taxable
17 year[7]; and

18 (B) During the last six months of the taxable year
19 the individual's spouse is not a member of the
20 household,

21 the individual shall not be considered as married.



- 1 (5) Special dependency test in case of divorced parents,
2 etc. If:
- 3 (A) Paragraph (2) or (4) of section 152(e) of the
4 Internal Revenue Code of 1986, as amended,
5 applies to any child with respect to any calendar
6 year[~~7~~]; and
- 7 (B) The child is under age thirteen or is physically
8 or mentally incompetent of caring for the child's
9 self,
- 10 in the case of any taxable year beginning in the
11 calendar year, the child shall be treated as a
12 qualifying individual described in subsection
13 (b) (1) (A) or (B) (whichever is appropriate) with
14 respect to the custodial parent (within the meaning of
15 section 152(e) (1) of the Internal Revenue Code of
16 1986, as amended), and shall not be treated as a
17 qualifying individual with respect to the noncustodial
18 parent.
- 19 (6) Payments to related individuals. No credit shall be
20 allowed under subsection (a) for any amount paid by
21 the taxpayer to an individual:



1 (A) With respect to whom, for the taxable year, a
2 deduction under section 151(c) of the Internal
3 Revenue Code of 1986, as amended (relating to
4 deduction for personal exemptions for dependents)
5 is allowable either to the taxpayer or the
6 taxpayer's spouse~~[r]~~i; or

7 (B) Who is a child of the taxpayer (within the
8 meaning of section ~~[151(c)(3)]~~ 152(c)(1) of the
9 Internal Revenue Code of 1986, as amended) who
10 has not attained the age of nineteen at the close
11 of the taxable year.

12 For purposes of this paragraph, the term "taxable
13 year" means the taxable year of the taxpayer in which
14 the service is performed.

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

19 (8) Educational organization. The term "educational
20 organization" means a school operated by the
21 department of education under chapter 302A, an



1 educational organization described in section
2 170(b)(1)(A)(ii) of the Internal Revenue Code of 1986,
3 as amended, or a university, college, or community
4 college.

5 (9) Identifying information required with respect to
6 service provider. No credit shall be allowed under
7 subsection (a) for any amount paid to any person
8 unless:

9 (A) The name, address, taxpayer identification
10 number, and general excise tax license number of
11 the person are included on the return claiming
12 the credit[~~7~~];

13 (B) If the person is located outside the State, the
14 name, address, and taxpayer identification
15 number, if any, of the person and a statement
16 indicating that the service provider is located
17 outside the State and that the general excise tax
18 license and, if applicable, the taxpayer
19 identification numbers are not required[~~7~~]; or

20 (C) If the person is an organization described in
21 section 501(c)(3) of the Internal Revenue Code



1 and exempt from tax under section 501(a) of the
2 Internal Revenue Code, the name and address of
3 the person are included on the return claiming
4 the credit.

5 In the case of a failure to provide the information
6 required under the preceding sentence, the preceding
7 sentence shall not apply if it is shown that the
8 taxpayer exercised due diligence in attempting to
9 provide the information so required.

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

13 (1) The period of ten taxable years after the most recent
14 taxable year for which there was a final
15 administrative or judicial decision that the
16 taxpayer's claim for credit under this section was due
17 to fraud; and

18 (2) The period of two taxable years after the most recent
19 taxable year for which there was a final
20 administrative or judicial decision disallowing the
21 taxpayer's claim for credit.



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

4 SECTION 3. Act 163, Session Laws of Hawaii 2023, is
5 amended by amending section 5 to read as follows:

6 "SECTION 5. This Act, upon its approval, shall apply to
7 taxable years beginning after December 31, 2022; provided that
8 ~~[(e)]~~:

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

20 SECTION 4. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 5. This Act shall take effect on July 1, 3000, and
2 shall apply to taxable years beginning after December 31, 2025;
3 provided that on June 30, 2030:

4 (1) Section 2 of this Act shall be repealed and section
5 235-55.6, Hawaii Revised Statutes, shall be reenacted
6 in the form in which it read on the day prior to the
7 effective date of this Act; and

8 (2) Pursuant to Act 163, Session Laws of Hawaii 2023, as
9 amended by section 3 of this Act, section 235-55.6(c),
10 Hawaii Revised Statutes, shall be reenacted in the
11 form in which it read on the day prior to the
12 effective date of Act 163, Session Laws of Hawaii
13 2023.



Report Title:

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

Description:

Increases a taxpayer's applicable percentage of employment-related expenses that is used to calculate the household and dependent care services tax credit. Establishes certain disallowance periods following a final decision that a claim for the credit was due to fraud and that the claim was disallowed. 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. (HD3)

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

