

ACT 23

H.B. NO. 20-S

A Bill for an Act Relating to the Medical Services Excise Tax Credit.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 235-55.9, Hawaii Revised Statutes, is amended to read as follows:

“§235-55.9 Medical services excise tax credit. (a) Each resident individual taxpayer, who files an individual income tax return for a taxable year, and who is not claimed or is not otherwise eligible to be claimed as a dependent by another taxpayer for Hawaii state individual income tax purposes, may claim a medical services excise tax credit against the resident taxpayer’s individual income tax liability for the taxable year for which the individual income tax return is being filed; provided that a resident individual who has no income or no income taxable under this chapter and who is not claimed or is not otherwise eligible to be claimed as a dependent by a taxpayer for Hawaii state individual income tax purposes may claim this credit.

(b) The medical services excise tax credit shall be [four per cent of qualified medical expenses paid by the resident individual during the taxable year plus] six per cent of the nursing facilities expenses paid by or for the resident individual during the taxable year. [For individual resident taxpayers residing for more than two hundred days of the taxable year in the aggregate in a county in which the county general excise and use tax surcharge is in effect, the medical services excise tax credit shall be four and one-half per cent of qualified medical expenses paid by the resident individual during the taxable year plus six per cent of nursing facilities expenses paid by the resident individual during the taxable year. The portion of the tax credit attributable to medical expenses claimed on each individual income tax return shall not exceed:

- (1) \$200;
- (2) \$400 for a resident individual sixty-five years of age or over; or
- (3) \$600 for a resident individual and spouse both sixty-five years of age or over.

The preceding limitations shall not apply to the portion of the credit attributable to nursing facilities expenses; provided that a husband and wife filing separate returns for a taxable year for which a joint return could have been filed by them shall claim only the tax credit to which they would have been entitled had a joint return been filed.]

(c) For the purposes of this section[, the term “qualified medical expenses” is defined to include those medical expenses paid for the taxpayer or the taxpayer’s dependent allowable as deductions for income tax purposes under section 213 (with respect to medical, dental, etc., expenses) of the Internal Revenue Code; provided that the medical expense was subject to the imposition and payment of the general excise tax under chapter 237. “Qualified medical expenses” shall not include the following:

- (1) Capital improvements; or
- (2) Prescription drugs or prosthetic devices exempt under section 237-24.3(7).

“Nursing] “nursing facility expenses” are amounts actually paid by the taxpayer for services provided to the taxpayer or to any individual who bears a relationship to the taxpayer as described in section 152(a) (with respect to dependent defined) of the Internal Revenue Code by a nursing facility licensed under section 321-9 and 321-11 and any intermediate care facility for mentally retarded persons

under sections 321-9 and 321-11; provided that the nursing facility expense was subject to the imposition and payment of the tax imposed by chapter 346E.

The amount of [medical expenses and] nursing facility expenses paid during the taxable year shall not be reduced by any insurance reimbursement.

(d) The tax credits claimed by a resident taxpayer pursuant to this section shall be deductible from the resident taxpayer's individual income tax liability, if any, for the tax year in which they are properly claimed. If the tax credits claimed by a resident taxpayer exceed the amount of income tax payment due from the resident taxpayer, the excess of credits over payments due shall be refunded to the resident taxpayer; provided that tax credits properly claimed by a resident individual who has no income tax liability shall be paid to the resident individual; and provided further that no refunds or payment on account of the tax credits allowed by this section shall be made for amounts less than \$1.

(e) The director of taxation shall prepare such forms as may be necessary to claim a credit under this section. The director may also require the taxpayer to furnish reasonable information in order that the director may ascertain the validity of the claim for credit made under this section and the director may adopt rules necessary to effectuate the purposes of this section pursuant to chapter 91.

(f) [If the tax credit claimed by an individual includes qualified medical expenses calculated at the rate of four and one-half per cent, and the individual resides in a county in which the county general excise and use tax surcharge is not in effect, or if the tax credit that includes qualified medical expenses calculated at the rate of four and one-half per cent is claimed in a county that has a county general excise and use tax surcharge in effect by an individual who has resided in that county for not more than two hundred days of the taxable year in the aggregate, there shall be added to and become part of the tax liability of the individual:

- (1) The amount of the tax credit claimed under this section multiplied by three; or
- (2) Ten per cent of the income tax liability for the taxable year for which the individual income tax return is being filed,

whichever is greater.]

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

(g) This section shall not be effective after [December 31, 1996.] June 30, 1997."

SECTION 2. The provisions of this Act shall supersede any amendment or repeal of section 235-55.9, Hawaii Revised Statutes, in any Act enacted by the regular session of 1995, as though no amendment or repeal of section 235-55.9, Hawaii Revised Statutes, were enacted in any Act of the regular session of 1995 whether the effective date of any such Act is before or after the effective date of this Act.

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act, upon its approval, shall apply to taxable years beginning after December 31, 1994.

(Approved June 29, 1995.)