

## ACT 84

H.B. NO. 35

A Bill for an Act Relating to Income Tax Credit.

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

SECTION 1. The legislature finds that article VII, section 6, of the Hawaii Constitution requires the legislature to provide a tax refund or tax credit when certain factors are met. The legislature finds that these factors have been met for the second year in a row and that the legislature is constitutionally required to provide a tax credit or tax refund to taxpayers.

The purpose of this Act is to provide for an income tax credit of \$1 multiplied by the number of the taxpayer's qualified exemptions to every resident individual taxpayer of the state to satisfy constitutionally mandated requirements.

SECTION 2. (a) There shall be allowed to each resident individual taxpayer, who files an individual income tax return for the taxable year 2009, and who is not claimed or is not otherwise eligible to be claimed as a dependent by another taxpayer for federal or Hawaii state individual income tax purposes, a general income tax credit of \$1 that shall be deducted from income tax liability computed under chapter 235, Hawaii Revised Statutes; provided that a resident individual who has no income or no income taxable under chapter 235, Hawaii Revised Statutes, and who is not claimed or is not otherwise eligible to be claimed as a dependent by a taxpayer for federal or Hawaii state individual income tax purposes, may claim this credit.

Each resident individual taxpayer may claim the general income tax credit multiplied by the number of qualified exemptions to which the taxpayer is entitled.

Each person for whom the general income tax credit is claimed shall have been a resident of the state, as defined in section 235-1, Hawaii Revised Statutes, for at least nine months regardless of whether the qualified resident was physically in the state for nine months. Multiple exemptions shall not be granted for the general income tax credit because of age or deficiencies in vision, hearing, or other disability.

The general income tax credit shall not be available to:

- (1) Any person who has been convicted of a felony and who has been committed to prison and has been physically confined for the full taxable year;
- (2) Any person who would otherwise be eligible to be claimed as a dependent but who has been committed to a youth correctional facility and has resided at the facility for the full taxable year; or
- (3) Any misdemeanor who has been committed to jail and has been physically confined for the full taxable year.

The tax credit claimed by a resident taxpayer pursuant to this Act shall be deductible from the resident taxpayer's individual income tax liability for the taxable year 2009. If the tax credit claimed by a resident taxpayer exceeds 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 a tax credit properly claimed by a resident individual who has no income tax liability shall be paid to the resident individual.

All claims for tax credits under this Act, including any amended claims, shall 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 this filing requirement shall constitute a waiver of the right to claim the credit.

(b) This section implements the provisions of article VII, section 6, of the Hawaii Constitution, proposed by the 1978 constitutional convention, and enacted by the voters on November 7, 1978, which reads as follows:

**“DISPOSITION OF EXCESS REVENUES**

**Section 6.** Whenever the state general fund balance at the close of each of two successive fiscal years exceeds five percent of general fund revenues for each of the two fiscal years, the legislature in the next regular session shall provide for a tax refund or tax credit to the taxpayers of the State, as provided by law.”

SECTION 3. This Act shall take effect upon its approval.

(Approved June 2, 2009.)