
A BILL FOR AN ACT

RELATING TO TAXATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that taxpayers with
2 children in Hawaii face a daunting challenge due to Hawaii's
3 high cost of living. From birth, children require items
4 necessary to ensure their safety and growth, both physically and
5 mentally. From playpens and safety rails for young children to
6 backpacks, pencils, and paper for school-aged children, parents
7 are faced with providing these necessities to their children.
8 Providing an additional exemption per child would help Hawaii's
9 struggling families cope with these expenses.

10 In addition, Hawaii's high cost of living has forced more
11 and more families and dependent providers to enter the workforce
12 in order to make ends meet. The cost of childcare and elder-
13 dependent care has skyrocketed because of the high demand and
14 absolute need for such services in Hawaii.

15 The legislature finds that families are faced with little
16 alternative with regard to caring for dependents -- either work
17 and pay for care or not work, care for dependents, and verge on



1 succumbing to poverty. The legislature further finds that the
2 foregoing alternatives are unacceptable for Hawaii taxpayers.

3 The purpose of this Act is to provide meaningful financial
4 relief to the ohana that care for children and dependents in
5 Hawaii by:

6 (1) Providing an additional personal exemption for any
7 dependent age eighteen or younger for families with a
8 federal adjusted gross income of \$200,000 or less; and

9 (2) Increasing the tax relief provided by the child and
10 dependent care credit in section 235-55.6, Hawaii
11 Revised Statutes.

12 SECTION 2. Section 235-54, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§235-54 Exemptions.** (a) In computing the taxable income
15 of any individual, there shall be deducted, in lieu of the
16 personal exemptions allowed by the Internal Revenue Code,
17 personal exemptions computed as follows: Ascertain the number
18 of exemptions which the individual can lawfully claim under the
19 Internal Revenue Code, add an additional exemption for the
20 taxpayer or the taxpayer's spouse who is sixty-five years of age
21 or older within the taxable year, and multiply that number by
22 \$1,040, for taxable years beginning after December 31, 1984. A



1 nonresident shall prorate the personal exemptions on account of
2 income from sources outside the State as provided in section
3 235-5. In the case of an individual with respect to whom an
4 exemption under this section is allowable to another taxpayer
5 for a taxable year beginning in the calendar year in which the
6 individual's taxable year begins, the personal exemption amount
7 applicable to such individual under this subsection for such
8 individual's taxable year shall be zero.

9 (b) In computing the taxable income of an estate or trust
10 there shall be allowed, in lieu of the deductions allowed under
11 subsection (a), the following:

- 12 (1) An estate shall be allowed a deduction of \$400[-];
13 (2) A trust which, under its governing instrument, is
14 required to distribute all of its income currently
15 shall be allowed a deduction of \$200[-]; and
16 (3) All other trusts shall be allowed a deduction of \$80.

17 (c) A blind person, a deaf person, and any totally
18 disabled person [~~totally disabled~~], in lieu of the personal
19 exemptions allowed by the Internal Revenue Code, shall be
20 allowed, and there shall be deducted in computing the taxable
21 income of a blind person, a deaf person, or a totally disabled



1 person, instead of the exemptions provided by subsection (a),
2 the amount of \$7,000.

3 (d) For taxable years beginning after December 31, 2006,
4 there may be claimed by each individual taxpayer an additional
5 exemption, in addition to the other exemptions in this section.
6 The taxpayer may ascertain the additional exemption by
7 multiplying the number of qualified dependents age eighteen and
8 under that may be lawfully claimed under the Internal Revenue
9 Code by the exemption amount for the respective federal adjusted
10 gross income below:

<u>Federal adjusted gross income</u>	<u>Exemption amount</u>
<u>\$100,000 and under</u>	<u>\$1,000</u>
<u>Over \$100,001 to \$200,000</u>	<u>\$500</u>
<u>Over \$200,000</u>	<u>\$0</u>

15 For purposes of this subsection, a married couple filing a
16 joint return shall be treated as one taxpayer for purposes of
17 determining the adjusted gross income limitation. A husband and
18 wife filing separate returns for a taxable year for which a
19 joint return could have been filed by them shall claim only the
20 additional exemptions to which they would have been entitled had
21 a joint return been filed."



1 SECTION 3. Section 235-55.6, Hawaii Revised Statutes, is
2 amended by amending subsections (a), (b), and (c) to read as
3 follows:

4 "(a) Allowance of credit.

5 (1) In general. For each resident taxpayer[7] who files
6 an individual income tax return for a taxable year,
7 ~~[and]~~ who is not claimed or is not otherwise eligible
8 to be claimed as a dependent by another taxpayer for
9 federal or Hawaii state individual income tax
10 purposes, ~~[who maintains a household which includes as~~
11 ~~a member one or more qualifying individuals (as~~
12 ~~defined in subsection (b) (1)),]~~ and for which there
13 are one or more qualifying individuals, as defined in
14 subsection (b) (1) with respect to that individual,
15 there shall be allowed as a credit against the tax
16 imposed by this chapter for the taxable year an amount
17 equal to the applicable percentage of the employment-
18 related expenses [~~+~~]as defined in subsection (b) (2) [~~+~~]
19 paid by such individual during the taxable year. If
20 the tax credit claimed by a resident taxpayer exceeds
21 the amount of income tax payment due from the resident
22 taxpayer, the excess of the credit over payments due



1 shall be refunded to the resident taxpayer; provided
2 that a tax credit properly claimed by a resident
3 individual who has no income tax liability shall be
4 paid to the resident individual; and provided further
5 that no refunds or payment on account of the tax
6 credit allowed by this section shall be made for
7 amounts less than \$1.

8 (2) Applicable percentage defined. For purposes of
9 paragraph (1), the term "applicable percentage" means
10 twenty-five per cent reduced (but not below fifteen
11 per cent) by one percentage point of each \$2,000 [~~+~~]or
12 fraction thereof[~~+~~] by which the taxpayer's adjusted
13 gross income for the taxable year exceeds \$22,000.

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

16 (1) Qualifying individual. The term "qualifying
17 individual" means:

18 (A) A dependent of the taxpayer who is under the age
19 of thirteen and with respect to whom the taxpayer
20 is entitled to a deduction under section 235-
21 54(a) [~~7~~];



1 (B) A dependent of the taxpayer who is physically or
2 mentally incapable of caring for oneself [~~or~~] and
3 who has the same principal place of abode as the
4 taxpayer for more than one-half of the taxable
5 year; or

6 (C) The spouse of the taxpayer, if the spouse is
7 physically or mentally incapable of caring for
8 oneself [~~or~~] and has the same principal place of
9 abode as the taxpayer for more than one-half of
10 the taxable year.

11 (2) Employment-related expenses.

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

- 19 (i) Expenses for household services, and
20 (ii) Expenses for the care of a qualifying
21 individual.



1 ~~[Such]~~ The term shall not include any amount paid
2 for 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]~~ that are incurred for
7 services outside the taxpayer's household shall be
8 taken into account only if incurred for the care
9 of:

10 (i) A qualifying individual described in
11 paragraph (1) (A) ~~[7]~~ i 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
21 taken into account only if:



- 1 (i) [~~Such~~] The center complies with all
2 applicable laws, rules, and regulations of
3 this State, if the center is located within
4 the jurisdiction of this State; or
- 5 (ii) [~~Such~~] The center complies with all
6 applicable laws, rules, and regulations of
7 the jurisdiction in which the center is
8 located, if the center is located outside
9 the State; 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[~~+~~], 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]~~ that may be taken into account under subsection (a)
4 shall not exceed[+]

5 ~~(1) \$2,400 if there is one qualifying individual with~~
6 ~~respect to the taxpayer for such taxable year, or~~

7 ~~(2) \$4,800 if there are two or more qualifying individuals~~
8 ~~with respect to the taxpayer for such taxable year.]~~

9 \$5,000 for each qualifying individual with respect to the
10 taxpayer for the taxable year.

11 The amount ~~[determined under paragraph (1) or (2)~~
12 ~~(whichever is applicable)]~~ of the employment-related expenses
13 shall be reduced by the aggregate amount excludable from gross
14 income under section 129 (with respect to dependent care
15 assistance programs) of the Internal Revenue Code for the
16 taxable year."

17 SECTION 4. Section 235-55.6, Hawaii Revised Statutes, is
18 amended by amending subsection (e) to read as follows:

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

20 (1) ~~[Maintaining household. An individual shall be~~
21 ~~treated as maintaining a household for any period only~~
22 ~~if over half the cost of maintaining the household for~~



1 ~~the period is furnished by the individual (or, if the~~
2 ~~individual is married during the period, is furnished~~
3 ~~by the individual and the individual's spouse).] Place~~
4 of abode. An individual shall not be treated as
5 having the same principal place of abode as the
6 taxpayer if at any time during the taxable year of the
7 taxpayer the relationship between the individual and
8 the taxpayer is in violation of state law or county
9 ordinance.

10 (2) Married couples must file joint return. If the
11 taxpayer is married at the close of the taxable year,
12 the credit shall be allowed under subsection (a) only
13 if the taxpayer and the taxpayer's spouse file a joint
14 return for the taxable year.

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

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

20 (A) An individual who is married and who files a
21 separate return:



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



1 in the case of any taxable year beginning in the
2 calendar year, the child shall be treated as a
3 qualifying individual described in subsection
4 (b) (1) (A) or (B) (whichever is appropriate) with
5 respect to the custodial parent (within the meaning of
6 section 152(e) (1) of the Internal Revenue Code of
7 1986, as amended), and shall not be treated as a
8 qualifying individual with respect to the noncustodial
9 parent.

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

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

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



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 number,
20 and general excise tax license number of the person
21 are included on the return claiming the credit [7];



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

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

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

19 SECTION 5. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.



1 SECTION 6. This Act shall take effect upon its approval
2 and shall apply to taxable years beginning after December 31,
3 2006.



Report Title:

Taxation

Description:

Provides an additional personal exemption for any dependent age eighteen and younger for certain households; increases the dependent care employment-related expense credit expenditure ceiling; and makes amendments to section 235-55.6, Hawaii Revised Statutes, to conform to the Internal Revenue Code.
(SD1)

