

JAN 19 2007

A BILL FOR AN ACT

RELATING TO THE UNIVERSITY OF HAWAII LIFETIME LEARNING TAX
CREDIT.

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

1 SECTION 1. The legislature finds that the tuition at the
2 University of Hawaii system is rising at a rate that makes
3 higher education unaffordable for many of Hawaii's residents.
4 Current tuition is set at \$4,320 at the Manoa campus for the
5 2006-2007 academic year, which will continue to gradually rise
6 annually to \$8,400 by the 2011-2012 academic year. The
7 University of Hawaii, Hilo and West Oahu campuses, and the
8 community colleges, are also raising tuition but by lesser
9 amounts.

10 Although the University of Hawaii has endeavored to
11 ameliorate the tuition rise by gradually increasing the tuition
12 over a six-year period, the amount is still high for students
13 and their parents who have to work harder to afford the tuition
14 and expenses. The legislature further finds that students will
15 be discouraged from pursuing higher education in Hawaii, which
16 would curtail the State's efforts to cultivate an educated
17 workforce. The long-term consequences to the State are dire. A



1 comparatively uneducated workforce ultimately translates into an
2 economy in which menial jobs predominate, an increase in social
3 welfare programs, and drastically reduced state revenues.

4 On the federal level, the United States Congress has
5 enacted the lifetime learning tax credit against federal income
6 taxes in recognition of the problem with the lack of
7 affordability of a college education.

8 The purpose of this Act is to enact an income tax credit
9 for eligible residents for tuition and related expenses paid to
10 the University of Hawaii.

11 SECTION 2. Chapter 235, Hawaii Revised Statutes, is
12 amended by adding a new section to be appropriately designated
13 and to read as follows:

14 "§235- Lifetime learning tax credit. (a) Section 25A
15 (with respect to hope and lifetime learning credits) of the
16 Internal Revenue Code shall be operative for the purposes of
17 this chapter, except as provided in subsection (c); provided
18 that section 25A(g) (6), relating to credit for married
19 individuals filing separate returns, and section 25A(h),
20 relating to inflation adjustments, of the Internal Revenue Code
21 shall not be operative; and provided further that the tax credit



1 provided under this section shall be available for taxable years
2 beginning after December 31, 2006, to December 31, 2012.

3 (b) Each taxpayer subject to the tax imposed by this
4 chapter, who has filed a net income tax return for a taxable
5 year, may claim a lifetime learning tax credit against the
6 taxpayer's net income tax liability. The amount of the credit
7 shall be deductible from the taxpayer's net income tax
8 liability, if any, imposed by this chapter for the taxable year
9 in which the credit is properly claimed on a timely basis.

10 (c) The lifetime learning tax credit shall be twenty per
11 cent of the tuition and related expenses paid by the taxpayer
12 during the taxable year (for education furnished during any
13 academic period in that taxable year) at the University of
14 Hawaii, Manoa campus, West Oahu campus, or Hilo campus, or any
15 of the community colleges of the University of Hawaii, not to
16 exceed \$5,000.

17 (d) The credit allowed under this section shall be claimed
18 against net income tax liability for the taxable year. For the
19 purpose of deducting this tax credit, "net income tax liability"
20 means net income tax liability reduced by all other credits
21 allowed the taxpayer under this chapter.



1 A tax credit under this section that exceeds the taxpayer's
2 net income tax liability may be used as a credit against the
3 taxpayer's income tax liability in subsequent years until
4 exhausted. All claims for a tax credit under this section shall
5 be filed on or before the end of the twelfth month following the
6 close of the taxable year for which the credit may be claimed.
7 Failure to properly and timely claim the credit shall constitute
8 a waiver of the right to claim the credit.

9 Section 469 (with respect to passive activity losses and
10 credits limited) of the Internal Revenue Code shall be applied
11 in claiming the credit under this section.

12 (e) The director of taxation may adopt rules under chapter
13 91 and prepare any forms necessary to carry out this section."

14 SECTION 2. Section 235-2.3, Hawaii Revised Statutes, is
15 amended by amending subsection (b) to read as follows:

16 "(b) The following Internal Revenue Code subchapters,
17 parts of subchapters, sections, subsections, and parts of
18 subsections shall not be operative for the purposes of this
19 chapter, unless otherwise provided:

20 (1) Subchapter A (sections 1 to 59A) (with respect to
21 determination of tax liability), except section
22 1(h) (2) (relating to net capital gain reduced by the



1 amount taken into account as investment income),
2 except sections 2(a), 2(b), and 2(c) (with respect to
3 the definition of "surviving spouse" and "head of
4 household"), except section 25A (with respect to hope
5 and lifetime learning credits), except section 41
6 (with respect to the credit for increasing research
7 activities), except section 42 (with respect to low-
8 income housing credit), and except sections 47 and 48,
9 as amended, as of December 31, 1984 (with respect to
10 certain depreciable tangible personal property). For
11 treatment, see sections 235-110.91, 235-110.7, [~~and~~]
12 235-110.8[+], and 235-__ ;

13 (2) Section 78 (with respect to dividends received from
14 certain foreign corporations by domestic corporations
15 choosing foreign tax credit);

16 (3) Section 86 (with respect to social security and tier 1
17 railroad retirement benefits);

18 (4) Section 103 (with respect to interest on state and
19 local bonds). For treatment, see section 235-7(b);

20 (5) Section 114 (with respect to extraterritorial income).
21 For treatment, any transaction as specified in the
22 transitional rule for 2005 and 2006 as specified in



- 1 the American Jobs Creation Act of 2004 section 101(d)
2 and any transaction that has occurred pursuant to a
3 binding contract as specified in the American Jobs
4 Creation Act of 2004 section 101(f) are inoperative;
- 5 (6) Section 120 (with respect to amounts received under
6 qualified group legal services plans). For treatment,
7 see section 235-7(a)(9) to (11);
- 8 (7) Section 122 (with respect to certain reduced uniformed
9 services retirement pay). For treatment, see section
10 235-7(a)(3);
- 11 (8) Section 135 (with respect to income from United States
12 savings bonds used to pay higher education tuition and
13 fees). For treatment, see section 235-7(a)(1);
- 14 (9) Subchapter B (sections 141 to 150) (with respect to
15 tax exemption requirements for state and local bonds);
- 16 (10) Section 151 (with respect to allowance of deductions
17 for personal exemptions). For treatment, see section
18 235-54;
- 19 (11) Section 179B (with respect to expensing of capital
20 costs incurred in complying with Environmental
21 Protection Agency sulphur regulations);



- 1 (12) Section 181 (with respect to special rules for certain
2 film and television productions);
- 3 (13) Section 196 (with respect to deduction for certain
4 unused investment credits);
- 5 (14) Section 199 (with respect to the U.S. production
6 activities deduction);
- 7 (15) Section 222 (with respect to qualified tuition and
8 related expenses);
- 9 (16) Sections 241 to 247 (with respect to special
10 deductions for corporations). For treatment, see
11 section 235-7(c);
- 12 (17) Section 280C (with respect to certain expenses for
13 which credits are allowable). For treatment, see
14 section 235-110.91;
- 15 (18) Section 291 (with respect to special rules relating to
16 corporate preference items);
- 17 (19) Section 367 (with respect to foreign corporations);
- 18 (20) Section 501(c)(12), (15), (16) (with respect to exempt
19 organizations);
- 20 (21) Section 515 (with respect to taxes of foreign
21 countries and possessions of the United States);



- 1 (22) Subchapter G (sections 531 to 565) (with respect to
2 corporations used to avoid income tax on
3 shareholders);
- 4 (23) Subchapter H (sections 581 to 597) (with respect to
5 banking institutions), except section 584 (with
6 respect to common trust funds). For treatment, see
7 chapter 241;
- 8 (24) Section 642(a) and (b) (with respect to special rules
9 for credits and deductions applicable to trusts). For
10 treatment, see sections 235-54(b) and 235-55;
- 11 (25) Section 646 (with respect to tax treatment of electing
12 Alaska Native settlement trusts);
- 13 (26) Section 668 (with respect to interest charge on
14 accumulation distributions from foreign trusts);
- 15 (27) Subchapter L (sections 801 to 848) (with respect to
16 insurance companies). For treatment, see sections
17 431:7-202 and 431:7-204;
- 18 (28) Section 853 (with respect to foreign tax credit
19 allowed to shareholders). For treatment, see section
20 235-55;
- 21 (29) Subchapter N (sections 861 to 999) (with respect to
22 tax based on income from sources within or without the



- 1 United States), except sections 985 to 989 (with
2 respect to foreign currency transactions). For
3 treatment, see sections 235-4, 235-5, and 235-7(b),
4 and 235-55;
- 5 (30) Section 1042(g) (with respect to sales of stock in
6 agricultural refiners and processors to eligible farm
7 cooperatives);
- 8 (31) Section 1055 (with respect to redeemable ground
9 rents);
- 10 (32) Section 1057 (with respect to election to treat
11 transfer to foreign trust, etc., as taxable exchange);
- 12 (33) Sections 1291 to 1298 (with respect to treatment of
13 passive foreign investment companies);
- 14 (34) Subchapter Q (sections 1311 to 1351) (with respect to
15 readjustment of tax between years and special
16 limitations);
- 17 (35) Subchapter R (sections 1352 to 1359) (with respect to
18 election to determine corporate tax on certain
19 international shipping activities using per ton rate);
- 20 (36) Subchapter U (sections 1391 to 1397F) (with respect to
21 designation and treatment of empowerment zones,



- 1 enterprise communities, and rural development
- 2 investment areas). For treatment, see chapter 209E;
- 3 (37) Subchapter W (sections 1400 to 1400C) (with respect to
- 4 District of Columbia enterprise zone);
- 5 (38) Section 14000 (with respect to education tax
- 6 benefits);
- 7 (39) Section 1400P (with respect to housing tax benefits);
- 8 (40) Section 1400R (with respect to employment relief); and
- 9 (41) Section 1400T (with respect to special rules for
- 10 mortgage revenue bonds)."

11 SECTION 3. Statutory material to be repealed is bracketed
 12 and stricken. New statutory material is underscored.

13 SECTION 4. This Act, upon its approval, shall apply to
 14 taxable years beginning after December 31, 2006.

15

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April 2, 2007



Report Title:

UH; Tax Credit; Lifetime Learning

Description:

Provides a tax credit for eligible taxpayers for twenty per cent of tuition and related expenses at any University of Hawaii campus, not to exceed \$5,000 per year.

