
A BILL FOR AN ACT

RELATING TO TAXATION.

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

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

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

15 The legislature finds that in many cases families must
16 either work and pay for care services, or care for dependents
17 themselves rather than working. Many of these families are on
18 the verge of succumbing to poverty.



1 The purpose of this Act is to provide financial relief to
2 families that provide care for children and dependents in Hawaii
3 by providing an additional personal income tax exemption for any
4 dependent age eighteen or younger for qualified families and by
5 increasing the tax relief provided by the child and dependent
6 care income tax credit.

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

9 "**§235-54 Exemptions.** (a) In computing the taxable income
10 of any individual, there shall be deducted, in lieu of the
11 personal exemptions allowed by the Internal Revenue Code,
12 personal exemptions computed as follows: Ascertain the number
13 of exemptions which the individual can lawfully claim under the
14 Internal Revenue Code, add an additional exemption for the
15 taxpayer or the taxpayer's spouse who is sixty-five years of age
16 or older within the taxable year, and multiply that number by
17 \$1,040, for taxable years beginning after December 31, 1984. A
18 nonresident shall prorate the personal exemptions on account of
19 income from sources outside the State as provided in section
20 235-5. In the case of an individual with respect to whom an
21 exemption under this section is allowable to another taxpayer
22 for a taxable year beginning in the calendar year in which the



1 individual's taxable year begins, the personal exemption amount
2 applicable to such individual under this subsection for such
3 individual's taxable year shall be zero.

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

7 (1) An estate shall be allowed a deduction of \$400.

8 (2) A trust which, under its governing instrument, is
9 required to distribute all of its income currently
10 shall be allowed a deduction of \$200.

11 (3) All other trusts shall be allowed a deduction of \$80.

12 (c) A blind person, a deaf person, and any person totally
13 disabled, in lieu of the personal exemptions allowed by the
14 Internal Revenue Code, shall be allowed, and there shall be
15 deducted in computing the taxable income of a blind person, a
16 deaf person, or a totally disabled person, instead of the
17 exemptions provided by subsection (a), the amount of \$7,000.

18 (d) For taxable years beginning after December 31, 2008,
19 an individual taxpayer may claim an additional exemption known
20 as the "ohana exemption". This additional exemption may be
21 claimed for each qualified dependent, age eighteen and under,
22 who the taxpayer may lawfully claim under the Internal Revenue



1 Code. The exemption is calculated by multiplying the number of
2 qualified dependents age eighteen and under that may be lawfully
3 claimed under the Internal Revenue Code by the appropriate
4 exemption amount for the respective federal adjusted gross
5 income below:

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

10 For purposes of this subsection, including the
11 determination of an adjusted gross income limitation, a married
12 couple filing a joint return shall be treated as one taxpayer.
13 A husband and wife filing separate returns for a taxable year
14 for which a joint return could have been filed shall claim only
15 the exemptions to which they would have been entitled had a
16 joint return been filed."

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

20 "(a) Allowance of credit.

21 (1) In general. For each resident taxpayer, who files an
22 individual income tax return for a taxable year, and



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



1 (2) Applicable percentage defined. For purposes of
2 paragraph (1), the term "applicable percentage" means
3 twenty-five per cent reduced (but not below fifteen
4 per cent) by one percentage point of each \$2,000 (or
5 fraction thereof) by which the taxpayer's adjusted
6 gross income for the taxable year exceeds \$22,000.

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
14 235-54(a),

15 (B) A dependent of the taxpayer who is physically or
16 mentally incapable of caring for oneself[~~-er~~] and
17 who has the same principal place of abode as the
18 taxpayer for more than one-half of such taxable
19 year, or

20 (C) The spouse of the taxpayer, if the spouse is
21 physically or mentally incapable of caring for
22 oneself[~~-er~~] and who has the same principal place



1 of abode as the taxpayer for more than one-half
2 of such taxable year.

3 (2) Employment-related expenses.

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

- 11 (i) Expenses for household services, and
- 12 (ii) Expenses for the care of a qualifying
13 individual.

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

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



- 1 (i) A qualifying individual described in
2 paragraph (1)(A), or
- 3 (ii) A qualifying individual (not described in
4 paragraph (1)(A)) who regularly spends at
5 least eight hours each day in the taxpayer's
6 household.
- 7 (C) Dependent care centers. Employment-related
8 expenses described in subparagraph (A) which are
9 incurred for services provided outside the
10 taxpayer's household by a dependent care center
11 (as defined in subparagraph (D)) shall be taken
12 into account only if:
- 13 (i) Such center complies with all applicable laws,
14 rules, and regulations of this State, if the
15 center is located within the jurisdiction of
16 this State; or
- 17 (ii) Such center complies with all applicable
18 laws, rules, and regulations of the
19 jurisdiction in which the center is located,
20 if the center is located outside the State;
21 and



1 (iii) The requirements of subparagraph (B) are
2 met.

3 (D) Dependent care center defined. For purposes of
4 this paragraph, the term "dependent care center"
5 means any facility which:

6 (i) Provides care for more than six individuals
7 (other than individuals who reside at the
8 facility), and

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

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

17 ~~(1) \$2,400 if there is one qualifying individual with
18 respect to the taxpayer for such taxable year, or~~

19 ~~(2) \$4,800 if there are two or more qualifying individuals
20 with respect to the taxpayer for such taxable year.]~~

21 \$5,000 for each qualifying individual with respect to the
22 taxpayer for such taxable year.



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

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

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

10 (1) [~~Maintaining household. An individual shall be treated~~
11 ~~as maintaining a household for any period only if over~~
12 ~~half the cost of maintaining the household for the~~
13 ~~period is furnished by the individual (or, if the~~
14 ~~individual is married during the period, is furnished~~
15 ~~by the individual and the individual's spouse).] Place
16 of abode. An individual shall not be treated as having
17 the same principal place of abode of the taxpayer if at
18 any time during the taxable year of the taxpayer the
19 relationship between the individual and the taxpayer is
20 in violation of the law.~~

21 (2) Married couples must file joint return. If the
22 taxpayer is married at the close of the taxable year,



1 the credit shall be allowed under subsection (a) only
2 if the taxpayer and the taxpayer's spouse file a joint
3 return for the taxable year.

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

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

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

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

15 (ii) Furnishes over half of the cost of maintaining
16 the household during the taxable year, and

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

20 the individual shall not be considered as married.

21 (5) Special dependency test in case of divorced parents,
22 etc. If:



1 (A) Paragraph (2) or (4) of section 152(e) of the
2 Internal Revenue Code of 1986, as amended,
3 applies to any child with respect to any calendar
4 year, and

5 (B) The child is under age thirteen or is physically
6 or mentally incompetent of caring for the child's
7 self,

8 in the case of any taxable year beginning in the
9 calendar year, the child shall be treated as a
10 qualifying individual described in subsection
11 (b)(1)(A) or (B) (whichever is appropriate) with
12 respect to the custodial parent (within the meaning of
13 section 152(e)(1) of the Internal Revenue Code of
14 1986, as amended), and shall not be treated as a
15 qualifying individual with respect to the noncustodial
16 parent.

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

20 (A) With respect to whom, for the taxable year, a
21 deduction under section 151(c) of the Internal
22 Revenue Code of 1986, as amended (relating to



1 deduction for personal exemptions for dependents)
2 is allowable either to the taxpayer or the
3 taxpayer's spouse, or

4 (B) Who is a child of the taxpayer (within the
5 meaning of section 151(c)(3) of the Internal
6 Revenue Code of 1986, as amended) who has not
7 attained the age of nineteen at the close of the
8 taxable year.

9 For purposes of this paragraph, the term "taxable
10 year" means the taxable year of the taxpayer in which
11 the service is performed.

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

16 (8) Educational organization. The term "educational
17 organization" means a school operated by the
18 department of education under chapter 302A, an
19 educational organization described in section
20 170(b)(1)(A)(ii) of the Internal Revenue Code of 1986,
21 as amended, or a university, college, or community
22 college.



1 (9) Identifying information required with respect to
2 service provider. No credit shall be allowed under
3 subsection (a) for any amount paid to any person
4 unless:
5 (A) The name, address, taxpayer identification
6 number, and general excise tax license number of
7 the person are included on the return claiming
8 the credit,
9 (B) If the person is located outside the State, the
10 name, address, and taxpayer identification
11 number, if any, of the person and a statement
12 indicating that the service provider is located
13 outside the State and that the general excise tax
14 license and, if applicable, the taxpayer
15 identification numbers are not required, or
16 (C) If the person is an organization described in
17 section 501(c)(3) of the Internal Revenue Code
18 and exempt from tax under section 501(a) of the
19 Internal Revenue Code, the name and address of
20 the person are included on the return claiming
21 the credit.

1 In the case of a failure to provide the information
2 required under the preceding sentence, the preceding
3 sentence shall not apply if it is shown that the
4 taxpayer exercised due diligence in attempting to
5 provide the information so required."

6 SECTION 5. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 6. This Act shall take effect upon its approval
9 and shall apply to taxable years beginning after December 31,
10 2007; provided that section 2 relating to amendments made to
11 section 235-54, Hawaii Revised Statutes, shall apply to taxable
12 years beginning after December 31, 2008.



Report Title:

Income Tax Relief; Ohana Tax Reduction Act

Description:

Provides an additional exemption for those with a dependent aged 18 and under with adjusted gross incomes of \$200,000 or less.

Modifies and increases the child and dependent care credit.

(SD1)

