

L E G I S L A T I V E

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Care home accessibility features tax credit

BILL NUMBER: HB 3031

INTRODUCED BY: Sonson, Awana, Belatti, Brower, Cabanilla, Magaoay, Manahan, Mizuno, Rhoads, Shimabukuro, Tsuji and 2 Democrats

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to allow taxpayers to claim a care home accessibility tax credit that shall be deductible from a taxpayer's income tax liability for the year the credit is properly claimed. The credit is available to: (1) licensed adult residential care homes under HRS sections 321-15.6 and 15.62, both types I and II; (2) licensed developmental disabilities domiciliary homes under HRS section 321-15.9; or (3) certified adult foster homes under HRS section 321-11.2, provided the operators are in compliance with all applicable federal, state, and county statutes, rules, and regulations.

The amount of the credit for a taxpayer, including a husband and wife filing jointly, shall be \$ _____ or _____% of the costs related to fitting or retrofitting accessibility features in care homes or hiring someone to fit or retrofit accessibility features in a care home. A husband and wife filing separate returns when they could have filed jointly shall only be entitled to the amount of credit as if they had filed jointly.

Credits in excess of a taxpayer's income tax liability shall be refunded to the taxpayer provided: (1) the credit is properly claimed by a taxpayer who has no income tax liability; and (2) the credit amount is at least a \$1. If the taxpayer claims a credit or deduction for the accessibility features for federal income tax purposes, no tax credit shall be allowed under this section. Claims for the credit, including any amended claims, must be filed on or before the end of the twelfth month following the close of the taxable year. The director of taxation may adopt rules pursuant to HRS chapter 91 and prepare the necessary forms to claim the credit and may require proof of the claim for the credit.

Defines "net income tax liability" and "accessibility features" for purposes of the measure.

EFFECTIVE DATE: Tax years beginning after December 31, 2007

STAFF COMMENTS: This measure proposes to allow taxpayers to claim an income tax credit equal to _____% of the cost of renovations made to a care home or foster home to make it handicapped accessible.

It should be noted that the tax credit proposed in this measure does not have any bearing on the claimant's ability to pay state income taxes that might be due. In fact, the credit would be made available to those who may have no income tax liability. Thus, this measure would merely use the tax system to hand out a subsidy for accessibility feature retrofits.

Since this measure would amount to nothing more than an appropriation of taxpayer dollars through the back door by way of the tax credit, its enactment cannot be justified. It should be remembered that

HB 3031 - Continued

revenues foregone because of this credit mean that those not so favored will have to pick up the cost of the lost revenues.

Given that such care homes are in a business of providing a service for which they will be compensated, such accessibility features are a necessary part of the service they provide, the cost of which will be recovered in the fees they charge. If the concern is that the care home operator may not otherwise provide such accessibility features because of the cost, then the credit would be of no benefit anyway as the care home operator must first shell out the funds to make the improvements before he or she will be able to claim the credit. If this latter issue is of concern, then a system of low-interest loans would be far more attractive as it would allow the care home operator to make the improvements and then pay the amount back over time as the cost is recovered in the fees charged.

Digested 2/06/08