

L E G I S L A T I V E

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SUBJECT: INCOME, Telecommuting tax credit**BILL NUMBER:** HB 3271**INTRODUCED BY:** Awana, Bertram, Green, Hanohano, McKelvey, Mizuno, Morita, Rhoads and 9 Democrats

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to allow each taxpayer to claim a telecommuting tax credit which shall be deducted from each taxpayer's net income tax liability for the taxable year the credit is properly claimed. A taxpayer qualifies for the credit if he: (1) is an employer who permits one or more full-time employees to telecommute; and (2) is in compliance with all federal, state, and county rules and regulations. The amount of credit shall be ___% of an employer's cost related to allowing an employee to telecommute, multiplied by the number of employees who have telecommuted for the year.

"Telecommute" is a work arrangement between an employer and employee where the employee performs at least 75% of the employee's job at the employee's residence instead of commuting to the place of employment situated away from the employee's residence.

Credits in excess of a taxpayer's income tax liability shall be refunded to the taxpayer provided such amounts are over \$1. Requires all claims, including amended claims, to be filed on or before the end of the twelfth month following the close of the taxable year for which the credit is claimed. Failure to comply with such provision shall constitute a waiver of the right to claim the credit. Further requires the director of taxation to prepare the necessary forms to claim the credit, requires proof of the claim for the credit, and adopts rules pursuant to HRS chapter 91.

EFFECTIVE DATE: Tax years beginning after December 31, 2007

STAFF COMMENTS: This measure proposes an incentive in the form of an income tax credit to encourage employers to allow their employees to telecommute and perform their work at home in an effort to alleviate heavy traffic congestion. It should be noted that the tax system is not an efficient means for accomplishing this goal.

It should be noted that income tax credits are designed to reduce the tax burden by providing relief for taxes paid. Tax credits are justified on the basis that low-income taxpayers, those with a lesser ability to pay, should be granted relief for taxes imposed. The proposed measure would merely result in a partial subsidy by the state of costs incurred by an employer to allow an employee to telecommute.

While the measure establishes a tax credit for the employer's costs related to allowing an employee to telecommute, the measure does not define or delineate such costs. Would costs for a high speed Internet connection, telephone line and equipment, or computer equipment, fax machine, office furniture and supplies, etc., qualify for the credit? Nor does the measure specify that the employee has to be located a

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certain distance away from the employee. An employee may live within walking distance of the employer and the employer would still be eligible for the credit under the proposed measure.

The ambiguities in what costs will qualify for the credit and also no evidence of the need for tax relief by recipients of the proposed tax credit make the adoption of this measure unjustified. More importantly, it discriminates against those employers who need the physical presence of their employees at the workplace and against employers who may not have the means to allow their employees to telecommute. At the same time, the loss of revenues without a concurrent reduction in spending will insure that all taxpayers will continue to struggle with Hawaii's heavy burden of taxes.

Digested 2/11/08