

JAN 28 2009

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# A BILL FOR AN ACT

RELATING TO INCOME TAX CREDIT.

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

1           SECTION 1. The legislature finds that article VII, section  
2 6, of the Hawaii Constitution requires the legislature to  
3 provide a tax refund or tax credit when certain factors are met.  
4 The legislature finds that these factors have been met for the  
5 second year in a row and that the legislature is  
6 constitutionally required to provide a tax credit or tax refund  
7 to taxpayers.

8           The purpose of this Act is to provide for an income tax  
9 credit of \$           , multiplied by the number of the taxpayer's  
10 qualified exemptions, to every resident individual taxpayer of  
11 the state to satisfy constitutionally mandated requirements.

12           SECTION 2. (a) There shall be allowed each resident  
13 individual taxpayer who files an individual income tax return  
14 for the taxable year 2009 and who is not claimed or is not  
15 otherwise eligible to be claimed as a dependent by another  
16 taxpayer for federal or Hawaii state individual income tax  
17 purposes, a general income tax credit of \$           , which shall  
18 be deducted from income tax liability computed under chapter



1 235, Hawaii Revised Statutes; provided that a resident  
2 individual who has no income or no income taxable under chapter  
3 235, Hawaii Revised Statutes, and who is not claimed or is not  
4 otherwise eligible to be claimed as a dependent by a taxpayer  
5 for federal or Hawaii state individual income tax purposes may  
6 claim this credit.

7 Each resident individual taxpayer may claim the general  
8 income tax credit multiplied by the number of qualified  
9 exemptions to which the taxpayer is entitled.

10 Each person for whom the general income tax credit is  
11 claimed shall have been a resident of the state, as defined in  
12 section 235-1, Hawaii Revised Statutes, for at least nine months  
13 regardless of whether the qualified resident was physically in  
14 the state for nine months. Multiple exemptions shall not be  
15 granted for the general income tax credit because of age or  
16 deficiencies in vision, hearing, or other disability.

17 The general income tax credit shall not be available to:

18 (1) Any person who has been convicted of a felony and who  
19 has been committed to prison and has been physically  
20 confined for the full taxable year;

21 (2) Any person who would otherwise be eligible to be  
22 claimed as a dependent but who has been committed to a



1 youth correctional facility and has resided at the  
2 facility for the full taxable year; or

3 (3) Any misdemeanor who has been committed to jail and  
4 has been physically confined for the full taxable  
5 year.

6 The tax credit claimed by a resident taxpayer pursuant to  
7 this Act shall be deductible from the resident taxpayer's  
8 individual income tax liability for the taxable year 2009. If  
9 the tax credit claimed by a resident taxpayer exceeds the amount  
10 of income tax payment due from the resident taxpayer, the excess  
11 of credits over payments due shall be refunded to the resident  
12 taxpayer; provided that a tax credit properly claimed by a  
13 resident individual who has no income tax liability shall be  
14 paid to the resident individual.

15 All claims for tax credits under this Act, including any  
16 amended claims, shall be filed on or before the end of the  
17 twelfth month following the close of the taxable year for which  
18 the credits may be claimed. Failure to comply with this filing  
19 requirement shall constitute a waiver of the right to claim the  
20 credit.

21 (b) This section implements the provisions of article VII,  
22 section 6, of the Hawaii Constitution, proposed by the 1978



1 constitutional convention, and enacted by the voters on November  
2 7, 1978, which reads as follows:

3 "DISPOSITION OF EXCESS REVENUES

4 Section 6. Whenever the state general fund balance at the  
5 close of each of two successive fiscal years exceeds five  
6 percent of general fund revenues for each of the two fiscal  
7 years, the legislature in the next regular session shall provide  
8 for a tax refund or tax credit to the taxpayers of the State, as  
9 provided by law."

10 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY: \_\_\_\_\_

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By Request



**Report Title:**

Mandatory Tax Credit; Constitution

**Description:**

Provides a mandatory tax credit to taxpayers pursuant to article VII, section 6 of the Hawaii Constitution.

