

JAN 20 2012

A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. The legislature finds that since 1980, the
2 elderly population in Hawaii has steadily increased each year
3 and according to the 2000 United States Census the elderly
4 population in Hawaii comprised of 207,000 persons. According to
5 a May 2006 report prepared by the executive office on aging,
6 *Profile of Hawaii's Older Adults and Their Caregivers*, by the
7 year 2020, persons age sixty and older will constitute nearly
8 one-third of Hawaii's adult population, and over one-third of
9 this population is expected to have functional disabilities.
10 Moreover, the number of persons who are eighty-five years of age
11 and older is projected to continue to increase dramatically,
12 from 5,561 in 1980 to 33,800 in 2020.

13 These projections have proven remarkably accurate.
14 According to the 2010 United States Census, over twenty-seven
15 per cent of the State's population is over age sixty, and 30,238
16 are over age eighty-five.

17 The legislature further finds that providing support for
18 caregivers of this population is critically important if



1 individuals and families are to meet the multi-faceted needs of
2 older adults and those with disabilities.

3 The purpose of this Act is to provide support for
4 caregivers of older adults and the disabled by establishing
5 three new tax credits:

- 6 (1) A small business tax credit for a percentage of the
7 cost of providing a paid caregiver leave to an
8 employee of the small business;
- 9 (2) A caregiver tax credit based on a percentage of
10 adjusted gross income of the caretaker; and
- 11 (3) A caregiver educational costs tax credit.

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

15 "§235- Small business caregiver leave tax credit. (a)
16 There shall be allowed to each resident taxpayer subject to the
17 tax imposed by this chapter who owns a small business, as
18 defined in this section, a small business caregiver leave tax
19 credit for a portion of the payroll cost of allowing an employee
20 of the small business to serve as a caregiver. The tax credit
21 shall be deductible from the taxpayer's net income tax



1 liability, if any, imposed by this chapter for the taxable year
2 in which the credit is properly claimed.

3 (b) The amount of the tax credit shall be equal to
4 per cent of the payroll cost of the employee of the small
5 business on caregiver leave for the taxable year up to a maximum
6 of \$ _____ in payroll costs per taxpayer in any taxable
7 year.

8 (c) The tax credit under this section, when claimed by:

9 (1) Either an individual resident taxpayer or a husband
10 and wife filing a joint return that own a small
11 business; or

12 (2) A small business that is a business entity;
13 may be claimed only once in the taxable year with respect to the
14 small business, regardless of the number of owners under
15 paragraph (1) or the number of shareholders, partners, members,
16 or other owners under paragraph (2); provided that a resident
17 husband and wife filing separate tax returns for a taxable year
18 for which a joint return could have been filed by them shall
19 claim only the tax credit to which they would have been entitled
20 under this section had a joint return been filed.

21 (d) If the tax credit under this section exceeds the
22 taxpayer's net income tax liability, the excess of credit over



1 liability may be used as a tax credit against the taxpayer's net
2 income tax liability in subsequent years until exhausted. All
3 claims, including any amended claims, for tax credits under this
4 section shall be filed on or before the end of the twelfth month
5 following the close of the taxable year for which the credit may
6 be claimed. Failure to comply with the foregoing provision
7 shall constitute a waiver of the right to claim the credit.

8 (e) The director of taxation shall prepare any forms that
9 may be necessary to claim a credit under this section. The
10 director may also require the taxpayer to furnish information to
11 ascertain the validity of the claims for credits made under this
12 section and may adopt rules necessary to effectuate the purposes
13 of this section pursuant to chapter 91.

14 (f) For the purposes of this section:

15 "Caregiver" means any person who has undertaken the care,
16 custody, or physical assistance of an elderly or disabled
17 relative.

18 "Caregiver leave" means leave with pay of up to _____ weeks
19 annually for an employee of the small business.

20 "Relative" means a spouse, child, parent, sibling, legal
21 guardian, reciprocal beneficiaries as that term is defined in
22 section 572C-3, a partner as that term is defined in section



1 572B-1, or any other person who is related to a qualified care
2 recipient by blood, marriage, or adoption.

3 "Small business" means a for-profit enterprise that is a
4 corporation, partnership, limited liability company, sole
5 proprietorship, or other form of business entity having fewer
6 than one hundred full-time or part-time employees.

7 §235- Caregiver tax credit. (a) There shall be allowed
8 to each eligible taxpayer subject to the tax imposed by this
9 chapter who is not claimed, and is not otherwise eligible to be
10 claimed, as a dependent by another taxpayer for federal or
11 Hawaii state individual income tax purposes a caregiver tax
12 credit for the costs of providing care to a qualified care
13 recipient. The tax credit shall be deductible from the
14 taxpayer's net income tax liability, if any, imposed by this
15 chapter for the taxable year in which the credit is properly
16 claimed.

17 (b) The caregiver tax credit shall not exceed \$,
18 based on the following schedule; provided that a husband and
19 wife filing separate tax returns for a taxable year for which a
20 joint return could have been filed by them shall claim only the
21 tax credit to which they would have been entitled had a joint
22 return been filed:



TAX CREDIT SCHEDULE

1	<u>TAX CREDIT SCHEDULE</u>	
2	<u>Adjusted Gross Income</u>	<u>Tax Credit Percentage of \$</u>
3	<u>Under \$30,000</u>	<u> per cent</u>
4	<u>\$30,000 to under \$50,000</u>	<u> per cent</u>
5	<u>\$50,000 to under \$75,000</u>	<u> per cent</u>
6	<u>\$75,000 and over</u>	<u> per cent</u>

7 (c) The credit allowed under this section shall be claimed
8 against net income tax liability for the taxable year. If the
9 tax credit under this section exceeds the taxpayer's net income
10 tax liability, the excess of credit over liability may be used
11 as a tax credit against the taxpayer's net income tax liability
12 in subsequent years until exhausted. For the purpose of
13 deducting this tax credit, "net income tax" liability means net
14 income tax liability reduced by all other credits allowed to the
15 eligible taxpayer under this chapter.

16 (d) An eligible taxpayer may claim the tax credit for
17 every taxable year or part thereof that the eligible taxpayer
18 provides care to a qualified care recipient. Only one eligible
19 taxpayer per household may claim a tax credit for any qualified
20 care recipient cared for in a taxable year. An eligible
21 taxpayer shall not claim multiple tax credits under this section



1 in a taxable year, regardless of the number of qualified care
2 recipients receiving care from the eligible taxpayer.

3 (e) A maximum of \$ _____ of tax credits in the
4 aggregate for all eligible taxpayers may be used in any one
5 taxable year.

6 (f) Every claim, including amended claims, for the tax
7 credit under this section shall be filed on or before the end of
8 the twelfth month following the close of the taxable year for
9 which the tax credit may be claimed. Failure to meet the filing
10 requirements of this subsection shall constitute a waiver of the
11 right to claim the tax credit.

12 (g) The director of taxation shall prepare any forms that
13 may be necessary to claim a credit under this section. The
14 director may also require the taxpayer to furnish information to
15 ascertain the validity of the claims for credits made under this
16 section and may adopt rules necessary to effectuate the purposes
17 of this section pursuant to chapter 91.

18 (h) As used in this section:

19 "Cognitive impairment" means a diminished mental capacity
20 or a loss of the ability to process, learn, and remember
21 information.



1 "Eligible taxpayer" means a caregiver or person who cares
2 for a qualified care recipient.

3 "Qualified care recipient" means a person with a disability
4 as that term is defined under section 515-2. The term also
5 means a person who is sixty years of age or older, a citizen or
6 resident alien of the United States, and a relative of an
7 eligible taxpayer who:

8 (1) Has resided with the eligible taxpayer for at least
9 six months of the taxable year for which the credit is
10 claimed or has received more than fifty per cent of
11 the qualified care recipient's financial support
12 during the taxable year from the eligible taxpayer;
13 and

14 (2) Is certified by a physician licensed under chapter
15 453, or an advanced practice registered nurse licensed
16 under chapter 457, as requiring one of the following:

17 (A) Substantial supervision to protect the qualified
18 care recipient's health or safety due to a
19 cognitive impairment; or

20 (B) Substantial assistance to perform at least two of
21 the following activities of daily living:

22 (i) Bathing;



- 1 (ii) Eating;
2 (iii) Using the toilet;
3 (iv) Dressing; or
4 (v) Transferring, such as from a bed to a
5 wheelchair.

6 "Relative" means a spouse, child, parent, sibling, legal
7 guardian, a reciprocal beneficiary as that term is defined in
8 section 572C-3, a partner as that term is defined in section
9 572B-1, or any other person who is related to a qualified care
10 recipient by blood, marriage, or adoption.

11 §235- Caregiver educational cost tax credit. (a) There
12 shall be allowed to each qualified taxpayer subject to the tax
13 imposed by this chapter a caregiver educational cost tax credit
14 which shall be deductible from the taxpayer's net income tax
15 liability, if any, imposed by this chapter for the taxable year
16 in which the credit is properly claimed.

17 (b) The amount of the tax credit shall be equal to
18 per cent of the qualified educational costs incurred by the
19 taxpayer during the taxable year up to a maximum of \$
20 in qualified educational costs in any taxable year.

21 (c) If the tax credit under this section exceeds the
22 taxpayer's net income tax liability, the excess of credit over



1 liability may be used as a tax credit against the taxpayer's net
2 income tax liability in subsequent years until exhausted. All
3 claims for a tax credit under this section, including amended
4 claims, shall be filed on or before the end of the twelfth month
5 following the close of the taxable year for which the tax credit
6 may be claimed. Failure to comply with the foregoing provision
7 shall constitute a waiver of the right to claim the tax credit.

8 (d) The director of taxation shall prepare any forms that
9 may be necessary to claim a credit under this section. The
10 director may also require the taxpayer to furnish information to
11 ascertain the validity of the claim for the tax credit made
12 under this section and may adopt rules necessary to effectuate
13 the purposes of this section pursuant to chapter 91.

14 (e) For the purposes of this section:
15 "Qualified educational costs" means tuition, fees, books,
16 and other educational costs of caregiver courses or programs
17 offered through the University of Hawaii system."

18 SECTION 3. New statutory material is underscored.
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1 SECTION 4. This Act, upon its approval, shall apply to
2 taxable years beginning after December 31, 2011.

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INTRODUCED BY: Erzanne Chun O'Connell

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Carol Zukerman

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S.B. NO. 2317

Report Title:

Caregivers; Tax Credits

Description:

Establishes three new tax credits for caregivers: small business caregiver leave tax credit; caregiver tax credit based on a percentage of adjusted gross income; caregiver educational cost tax credit.

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