
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 207,000 persons. According to a
5 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 who are sixty years of age and older will
8 constitute nearly one-third of Hawaii's adult population, and
9 over one-third of those persons are expected to have functional
10 disabilities. Moreover, the number of persons who are eighty-
11 five years of age and older is projected to continue increasing
12 dramatically, 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 sixty years of age,
16 and 30,238 are over eighty-five years of age.

17 The legislature further finds that providing support for
18 caregivers of the elderly 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 the
5 following tax credits:

- 6 (1) A small business caregiver leave tax credit;
- 7 (2) A caregiver tax credit; and
- 8 (3) A caregiver educational costs tax credit.

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

12 "§235- Small business caregiver leave tax credit. (a)
13 There shall be allowed to each resident taxpayer subject to the
14 tax imposed by this chapter who owns a small business, a small
15 business caregiver leave tax credit for a portion of the payroll
16 cost of allowing an employee of the small business to serve as a
17 caregiver. The tax credit shall be deductible from the
18 taxpayer's net income tax liability, if any, imposed by this
19 chapter for the taxable year in which the credit is properly
20 claimed.

21 (b) The amount of the tax credit shall be equal to
22 per cent of the payroll cost of the employee of the small



1 business on caregiver leave for the taxable year; provided that
2 the amount of the tax credit shall not exceed \$ in any
3 taxable year.

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

5 (1) Either an individual resident taxpayer or a husband
6 and wife filing a joint return that own a small
7 business; or

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

17 (d) If the tax credit under this section exceeds the
18 taxpayer's net income tax liability, the excess of credit over
19 liability may be used as a tax credit against the taxpayer's net
20 income tax liability in subsequent years until exhausted. All
21 claims, including any amended claims, for tax credits under this
22 section shall be filed on or before the end of the twelfth month



1 following the close of the taxable year for which the credit may
2 be claimed. Failure to comply with the foregoing provision
3 shall constitute a waiver of the right to claim the credit.

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

10 (f) For the purposes of this section:

11 "Caregiver" means any person who has undertaken the care,
12 custody, or physical assistance of an elderly or disabled
13 relative.

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

16 "Relative" means a spouse, child, parent, sibling, legal
17 guardian, a reciprocal beneficiary as that term is defined in
18 section 572C-3, a partner as that term is defined in section
19 572B-1, or any other person who is related to a qualified care
20 recipient by blood, marriage, or adoption.

21 "Small business" means a for-profit enterprise that is a
22 corporation, partnership, limited liability company, sole



1 proprietorship, or other form of business entity having fewer
2 than one hundred full-time or part-time employees.

3 §235- Caregiver tax credit. (a) There shall be allowed
4 to each eligible taxpayer subject to the tax imposed by this
5 chapter who is not claimed or is not otherwise eligible to be
6 claimed as a dependent by another taxpayer for federal or Hawaii
7 state individual income tax purposes, a caregiver tax credit for
8 the costs of providing care to a qualified care recipient. The
9 tax credit shall be deductible from the taxpayer's net income
10 tax liability, if any, imposed by this chapter for the taxable
11 year in which the credit is properly claimed.

12 (b) The amount of the tax credit claimed by a taxpayer
13 under this section shall not exceed \$ _____, based on the
14 following schedule; provided that a husband and wife filing
15 separate tax returns for a taxable year for which a joint return
16 could have been filed by them shall claim only the tax credit to
17 which they would have been entitled had a joint return been
18 filed:



TAX CREDIT SCHEDULE

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| <u>Adjusted Gross Income</u> | <u>Tax Credit Amount</u> |
|-----------------------------------|------------------------------|
| <u>Under \$30,000</u> | <u>_____ per cent of</u> |
| | <u>adjusted gross income</u> |
| <u>\$30,000 to under \$50,000</u> | <u>_____ per cent of</u> |
| | <u>adjusted gross income</u> |
| <u>\$50,000 to under \$75,000</u> | <u>_____ per cent of</u> |
| | <u>adjusted gross income</u> |
| <u>\$75,000 and over</u> | <u>_____ per cent of</u> |
| | <u>adjusted gross income</u> |

(c) If the tax credit under this section exceeds the taxpayer's net income tax liability, the excess of credit over liability may be used as a tax credit against the taxpayer's net income tax liability in subsequent years until exhausted. For this section, "net income tax liability" means net income tax liability reduced by all other credits allowed under this chapter.

(d) An eligible taxpayer may claim the tax credit for every taxable year or part thereof that the eligible taxpayer provides care to a qualified care recipient. Only one eligible taxpayer per household may claim a tax credit for any qualified care recipient cared for in a taxable year. An eligible



1 taxpayer shall not claim multiple tax credits under this section
2 in a taxable year, regardless of the number of qualified care
3 recipients receiving care from the eligible taxpayer.

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

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

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

19 (h) As used in this section:

20 "Cognitive impairment" means a diminished mental capacity
21 or a loss of the ability to process, learn, and remember
22 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:

- 6 (1) Is sixty years of age or older;
- 7 (2) Is a citizen or resident alien of the United States;
- 8 (3) Is a relative of an eligible taxpayer;
- 9 (4) Has resided with the eligible taxpayer for at least
10 six months of the taxable year for which the credit is
11 claimed or has received more than fifty per cent of
12 the qualified care recipient's financial support
13 during the taxable year from the eligible taxpayer;
14 and

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

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



- 1 (B) Substantial assistance to perform at least two of
- 2 the following activities of daily living:
- 3 (i) Bathing;
- 4 (ii) Eating;
- 5 (iii) Using the toilet;
- 6 (iv) Dressing; or
- 7 (v) Transferring, such as from a bed to a
- 8 wheelchair.

9 "Relative" means a spouse, child, parent, sibling, legal
 10 guardian, a reciprocal beneficiary as that term is defined in
 11 section 572C-3, a partner as that term is defined in section
 12 572B-1, or any other person who is related to a qualified care
 13 recipient by blood, marriage, or adoption.

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

20 (b) The amount of the tax credit shall be equal to
 21 per cent of the qualified educational costs incurred by the

1 taxpayer during the taxable year; provided that the amount of
2 the tax credit shall not exceed \$ _____ in any taxable year.

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

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

18 (e) For the purposes of this section:

19 "Qualified educational costs" means tuition, fees, books,
20 and other educational costs of caregiver courses or programs
21 offered through the University of Hawaii system."



1 SECTION 3. New statutory material is underscored.

2 SECTION 4. This Act shall take effect on July 1, 2050, and
3 apply to taxable years beginning after December 31, 2011.



Report Title:

Caregivers; Tax Credits

Description:

Establishes three new tax credits for caregivers: small business caregiver leave tax credit; caregiver tax credit; and caregiver educational cost tax credit. Effective 7/1/2050.
(SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

