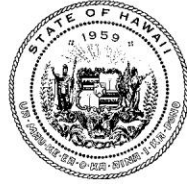


NEIL ABERCROMBIE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1530
FAX NO: (808) 587-1584

FREDERICK D. PABLO
DIRECTOR OF TAXATION

JOSHUA WISCH
DEPUTY DIRECTOR

To: The Honorable Sylvia Luke, Chair
and Members of the House Committee on Finance

Date: Tuesday, February 25, 2014
Time: 2:00 p.m.
Place: Conference Room 308, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: H.B. No. 2478, H.D. 1, Relating to Taxation

The Department of Taxation (Department) appreciates the intent of H.B. 2478, H.D. 1, to provide a tax credit for hiring an individual with a disability and provides the following comments for your consideration.

H.B. 2478, H.D. 1 creates an income tax credit against an employer's income tax liability equal to 50 per cent of qualified wages paid to a newly hired individual with a disability during the individual's first six months of employment. The bill provides that the disability must be certified by a qualified physician. The proposed tax credit has a defective effective date of December 31, 2050.

The Department defers to the Department of Health on the merits of this bill, and offers the following comments and technical amendments to the bill.

First, the Department notes that the proposed credit is similar to an existing credit at section 235-55.91, Hawaii Revised Statutes. That credit is equal to twenty per cent of wages paid to vocational rehabilitation referrals during the first year of employment. To qualify for this credit the employee must have a physical or mental disability. The operation of the credit is very detailed and enlists the Departments of Human Services and Labor and Industrial Relations to certify qualifications. The existing tax credit also prohibits deductions for amounts used to calculate the credit.

Second, the Department recommends that the first sentence of subsection (b) be amended

to read:

(b) The amount of the credit shall be equal to fifty per cent of the qualified wages for the first six months after an individual with a disability is initially hired.

This amendment will bolster the prohibition on firing and rehiring the same individual with a disability in order to extend eligibility for the credit.

Third, the Department notes that the wages allowed as the base of this credit are also allowed as a deduction to the employer. Thus, the employer would be provided a double tax benefit; the employer could claim both a deduction from income and a tax credit for the same amount expended. The Department recommends the addition of a provision to disallow the tax deduction for any amounts used to calculate the tax credit.

Fourth, the Department recommends that the Internal Revenue Code (IRC) references in subsection (e)(1) be revised. On page 3, line 6, there is a reference to IRC section 152(a)(1) to (8) to describe certain relationships. There is no longer a subsection (a)(3) through (a)(8) in IRC section 152. Instead, the Department recommends reference to section 152(d)(2)(A) through (G). The Department also recommends an identical substitution for subsection (e)(1)(B) on page 3, line 15 and 16. Similarly, in subsection (e)(1)(C), the Department recommends the reference to IRC section 152(a)(9) be replaced with reference to IRC section 152(d)(2)(H). These substitute references are substantially similar to the original references in earlier versions of the IRC, but are not identical.

Finally, the Department suggests that subsection (d) be amended so that all wages paid to a non-qualified employee will be disqualified. This is consistent with general tax compliance policy that tax returns should only reflect information that is correct. Once information is discovered to be incorrect, all taxpayers have the duty to notify the Department by reporting the items correctly on initial filings, amending returns or any other means that the Department allows. Subsection (d), as written, would prevent any amounts from being disqualified, even if the Department found those amounts not to qualify for the credit.

Thank you for the opportunity to provide testimony.

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Credit for hiring an individual with a disability

BILL NUMBER: HB 2478, HD-1

INTRODUCED BY: House Committee on Human Services

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to allow employers to claim an income tax credit for the hiring of an individual with a disability equal to 50% of the qualified wages for the first six months after the individual is hired.

Tax credits that exceed the taxpayer's income tax liability may be used as a credit against the taxpayer's income tax liability in subsequent years until exhausted. In no taxable year shall the total amount of tax credits claimed under this section exceed \$ _____.

Defines "individual with a disability" as having a physical or intellectual impairment that substantially limits one or more major life activity, having a record of that impairment, or being regarded as having that impairment provided that the disabling impairment is certified by a qualified physician.

Delineates provisions relating to the application and certification of the credit. Also specifies which wages are ineligible for the credit.

Requires the director of taxation to prepare any forms necessary to claim a credit, may require a taxpayer to furnish reasonable information in order to validate a claim for the credit, and adopt rules pursuant to HRS chapter 91. Requires claims for the credit, including any amended claims, to be filed on or before the end of the twelfth month following the taxable year for which the credit is claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the tax credit.

EFFECTIVE DATE: Tax years beginning after December 31, 2050

STAFF COMMENTS: This measure is proposed as an incentive to entice employers to hire an individual who is physically or intellectually disabled, but the tax system is a poor means of achieving such social goals. Providing such credits against the state income tax merely reduces state revenues, and if the size of government does not go down, then the tax burden shifts to other taxpayers who are not able to claim the credit.

As the Committee on Human Services noted, there are technical issues with the bill as it is now drafted. First, an employer is able to "double dip" by getting a tax benefit from the tax deduction for the wages paid as well as a credit for the same wages. Second, there is no obvious prohibition against an employer terminating and then rehiring the same worker to restart the six-month credit period.

In addition, the employee becomes credit eligible upon receiving a doctor's certification of a disability, defined as a "physical or intellectual impairment that substantially limits one or more major life activities." Those criteria would appear to allow qualification of temporary impairment, such as someone who has a back strain and has to stay in bed for a couple of days.

Digested 2/23/14



STATE OF HAWAII
STATE COUNCIL
ON DEVELOPMENTAL DISABILITIES
919 ALA MOANA BOULEVARD, ROOM 113
HONOLULU, HAWAII 96814
TELEPHONE: (808) 586-8100 FAX: (808) 586-7543
February 25, 2014

The Honorable Sylvia Luke, Chair
House Committee on Finance
Twenty-Seventh Legislature
State Capitol
State of Hawaii
Honolulu, Hawaii 96813

Dear Representative Luke and Members of the Committee:

SUBJECT: HB 2478 HD1 – RELATING TO TAXATION

The State Council on Developmental Disabilities **SUPPORTS HB 2478 HD1**. The bill provides a tax payer who hires an individual who has a disability a non-refundable tax credit for the six-month period the individual is initially hired by the tax payer.

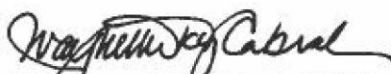
Employment of individuals with intellectual and developmental disabilities (I/DD) is a means toward economic self-sufficiency, contributing to their communities as tax paying citizens, establishing relationships and social networking. Employment of people with I/DD is a priority for the Council and is reflected in our 2012-2016 State Plan Employment Goal that states “People with I/DD will have supports to obtain and sustain their chosen life goal to prepare students at all educational levels for the transition from high school to adult life, including employment, self-employment, and/or post-secondary education and training.”

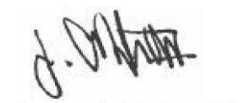
HB 2478 HD1 represents one component of providing employment opportunities of hiring people with disabilities. Another component includes educating and training private and public employers about accommodating people with disabilities in the workforce and the benefits of this. Both of these components combined would have a positive impact in increasing employment opportunities, as well as meeting the workforce demands of the private and public sectors.

The Council appreciates the Legislature’s initiative to provide incentives, such as tax credits for hiring people with disabilities.

Thank you for the opportunity to submit testimony **supporting HB 2478 HD1**.

Sincerely,


Waynette K.Y. Cabral, MSW
Executive Administrator


J. Curtis Tyler, III
Chair

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