

# HB 2478

## HD1

<b>Measure Title:</b>	RELATING TO TAXATION.
<b>Report Title:</b>	Individual with a Disability; Employment; Income Tax Credit
<b>Description:</b>	Provides a taxpayer who hires an individual with a disability a nonrefundable tax credit for the six-month period after the individual is initially hired by the taxpayer. Applies to taxable years beginning after December 31, 2050. (HB2478 HD1)
<b>Companion:</b>	
<b>Package:</b>	None
<b>Current Referral:</b>	HMS, WAM
<b>Introducer(s):</b>	KAWAKAMI, BROWER, CREAGAN, CULLEN, FUKUMOTO, HASHEM, ICHIYAMA, ITO, KOBAYASHI, LOWEN, MCKELVEY, MORIKAWA, SOUKI, TOKIOKA, WOODSON, Belatti, Luke, Rhoads, Ward

NEIL ABERCROMBIE  
GOVERNOR

SHAN TSUTSUI  
LT. GOVERNOR



FREDERICK D. PABLO  
DIRECTOR OF TAXATION

JOSHUA WISCH  
DEPUTY DIRECTOR

STATE OF HAWAII  
**DEPARTMENT OF TAXATION**  
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To: The Honorable Suzanne Chun Oakland, Chair  
and Members of the Senate Committee on Human Services

Date: Tuesday, March 11, 2014  
Time: 1:30 p.m.  
Place: Conference Room 016, 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 and recommendations 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 tax credit set forth in section 235-55.91, Hawaii Revised Statutes (HRS). The existing 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.

Given that there currently exists a similar tax credit, the Department suggests amending the existing credit at section 235-55.91, HRS, to include the wages intended to qualify under this measure. In the alternative, if the Legislature prefers this measure, the Department recommends

repeal of the existing credit in section 235-55.91, HRS, to avoid any unnecessary duplication. Additionally, it should be made clear that any amount paid as wages that had been previously used to claim a tax deduction or tax credit, prior to the effective date of this measure, may not be used to claim a tax credit proposed under this measure.

Second, the Department also 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.

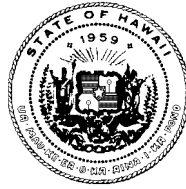
This amendment will bolster the prohibition on firing and rehiring the same individual with a disability to extend eligibility for the credit.

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 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 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. As a substitute, the Department recommends reference to section 152(d)(2)(A) through (G). The Department recommends an identical substitution for subsection (e)(1)(B) on page 3, lines 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 to disqualify all wages paid to a non-qualified employee. 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.



STATE OF HAWAII  
**DEPARTMENT OF HUMAN SERVICES**

P. O. Box 339  
Honolulu, Hawaii 96809-0339

March 11, 2014

**MEMORANDUM:**

TO: The Honorable Suzanne Chun Oakland, Chair  
Senate Committee on Human Services

FROM: Barbara Yamashita, Deputy Director

SUBJECT: **H.B. 2478, H.D.1 – RELATING TO TAXATION**

Hearing: Tuesday, March 11, 2014; 1:30 p.m.  
Conference Room 016, State Capitol

**PURPOSE:** The purpose of this bill is to provide a taxpayer who hires an individual with a disability a nonrefundable tax credit for the six-month period the individual is initially hired by the taxpayer.

**DEPARTMENT'S POSITION:** The Division of Vocational Rehabilitation encourages initiatives that support the hiring of persons with disabilities. The Department of Labor and Industrial Relations has reported an unemployment rate of 4.5% as of December 2013. However, national data from the Bureau of Labor Statistics reported that individuals with disabilities within the working age (16 to 64), have a far higher unemployment rate when compared to non-disabled individuals within the same age group; 14.6% compared to 7.9%.

H.B. 2478, H.D.1, provides an incentive to employers to hire individuals with disabilities. Incentives such as this tax credit may provide an employer the motivation to provide a person with a disability an opportunity and a chance.

The DHS defers to the Department of Taxation on the feasibility of implementing this bill.

Thank you for this opportunity to submit testimony to this Committee.



**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  
March 11, 2014

The Honorable Suzanne Chun Oakland  
Senate Committee on Human Services  
Twenty-Seventh Legislature  
State Capitol  
State of Hawaii  
Honolulu, Hawaii 96813

Dear Senator Chun Oakland 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.

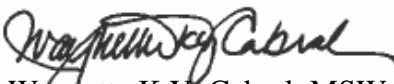
Employment of individuals with intellectual and developmental disabilities (I/DD) is a means toward economic self-sufficiency, contributing to their communities as tax paying citizens, establishing relationships and social networking. Employment of people with I/DD is a priority for the Council and is 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.”

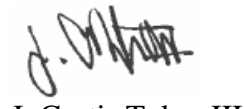
HB 2478 HD1 represents one component of providing employment opportunities of hiring people with disabilities. Another component includes educating and training private and public employers about accommodating people with disabilities in the workforce and the benefits of this. Both of these components 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



## **HAWAII DISABILITY RIGHTS CENTER**

1132 Bishop Street, Suite 2102, Honolulu, Hawaii 96813

Phone/TTY: (808) 949-2922 Toll Free: 1-800-882-1057 Fax: (808) 949-2928

E-mail: [info@hawaiidisabilityrights.org](mailto:info@hawaiidisabilityrights.org) Website: [www.hawaiidisabilityrights.org](http://www.hawaiidisabilityrights.org)

### **THE SENATE THE TWENTY-SEVENTH LEGISLATURE REGULAR SESSION OF 2014**

**Committee on Human Services  
Testimony in Support of H.B. 2478, HD1  
Relating to Taxation  
Tuesday, March 11, 25, 2014, 1:30 P.M.  
Conference Room 016**

Chair Chun-Oakland and Members of the Committee:

The Hawaii Disability Rights Center testifies in support of this bill. While a fair amount of progress has been made in implementing the Olmstead Supreme Court case and integrating individuals with disabilities into the community in terms of residential placements and day to day services, one of the major areas that has truly lagged behind has been the effort to provide integrated, competitive employment for individuals with disabilities. The unemployment rate for individuals with disabilities far surpasses the overall unemployment rate in our country. Many individuals with disabilities, when they are employed, are in sheltered workshops or low paying "training programs" .

For that reason, one of the next challenges that are faced in the disability movement is to achieve integrated, competitive employment. There are a variety of ways in which this can be accomplished. One of those certainly is to provide tax incentives to employers to hire these individuals. The hope of course is that the employers will come to realize the value that individuals with disabilities bring to the workplace. However, to the extent that incentives are needed to "jump start" this process, we believe that tax credits as outlined in this bill are an excellent idea.

Thank you for the opportunity to testify in support of this measure.







The Arc in Hawaii  
3989 Diamond Head Road  
Honolulu HI 96816  
808 737-7995

March 11, 2014

The Honorable Suzanne Chun Oakland, Chair  
Senate Committee on Human Services  
Twenty-Seventh Legislature  
State Capitol  
State of Hawaii  
Honolulu, Hawaii 96813

RE; **HB 2478 HD1 - RELATING TO TAXATION**  
Tax Credit for Hiring an Individual with a Disability  
Hearing: Tuesday March 11, 2014 1:30 P.M.  
Conference Room 016

Dear Senator Chun Oakland and Members of the Committee:

The Arc in Hawaii (The Arc) **supports** HB 2478 HD1.

Getting a job is a life-changing path that a person with intellectual or other disabilities can take to achieve, independence, self-sufficiency, and full participation in our community as a taxpayer. The Arc in Hawaii and others assist people with disabilities to prepare them for work and to help them find and keep a job. Several very large employers do provide jobs in their stores, offices and facilities to their own benefit as well as the well being of their disabled employees. However, not as many job opportunities for people with disabilities are found among smaller employers in the local economy. Many small employers are hesitant to try something new, cautious because of the slow economy, and uncertain about the ability of a person with a disability to do the job. Also, they have ready availability of job-seekers without disabilities.

Further incentives are necessary to increase employment of people with disabilities. A reasonable tax credit would be one very important component of a strategy to bring all of Hawaii's citizens into active participation in the work economy, regardless of perceived disabilities.

We thank the Legislature for addressing this critical issue.

Thank you for the opportunity to provide testimony.

Thomas P. Huber  
President  
The Arc in Hawaii

# 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

**EXECUTIVE SUMMARY:** Establishes an income tax credit for the hiring of disabled individuals of 50% of the wages paid to such individual for the first six months. The adoption of this credit would provide tax relief to taxpayers regardless of their need for tax relief. It also may provide unintended tax relief (*i.e.*, leakage) because the criteria to qualify appears broad. The proposed measure may allow employers to receive a double tax benefit by allowing an employer to claim a deduction and a tax credit. Technical amendments are also needed, such as updated references to the Internal Revenue Code (IRC).

**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 a temporary impairment, such as someone who has a back strain and has to stay in bed for a couple of days.

Further, the measure contains references to the Internal Revenue Code (IRC) that need to be updated. References to IRC section 152(a)(1) to (8) that describe certain relationships should be changed to section 152(d)(2)(A) through (G) and reference to IRC section 152(a)(9) should be changed to IRC section 152(d)(2)(H), due to amendments that occurred at the federal level.

Digested 3/10/14

**HB2478**

Submitted on: 3/7/2014

Testimony for HMS on Mar 11, 2014 13:30PM in Conference Room 16

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Javier Mendez-Alvarez	Individual	Support	No

Comments: