

JAN 19 2018

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# A BILL FOR AN ACT

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RELATING TO TAXATION.

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

1       SECTION 1. Chapter 235, Hawaii Revised Statutes, is  
2       amended by adding a new section to part I to be appropriately  
3       designated and to read as follows:

4       "§235-       Hiring an individual with a disability; income  
5       tax credit. (a) There shall be allowed to each taxpayer  
6       subject to the tax imposed by this chapter, a credit for the  
7       hiring of an individual with a disability, which shall be  
8       deductible from the taxpayer's net income tax liability, if any,  
9       imposed by this chapter for the taxable year in which the credit  
10       is properly claimed.

11       (b) The amount of the credit shall be equal to fifty per  
12       cent of the qualified wages for the first six months after an  
13       individual with a disability is initially hired. A tax credit  
14       that exceeds the taxpayer's income tax liability may be used as  
15       a credit against the taxpayer's income tax liability in  
16       subsequent years until exhausted; provided that in no taxable



1 year shall the total amount of the tax credit claimed under this  
2 section exceed \$        per taxpayer.

3 (c) Certification of an individual with a disability for  
4 the purpose of claiming a credit under this section shall be  
5 submitted to the department of taxation on forms prescribed by  
6 the department of taxation.

7 (d) An individual shall not be treated as an individual  
8 with a disability unless, on or before the day on which the  
9 individual begins work for the employer, the employer has  
10 received certification from a qualified physician. If an  
11 individual has been certified as an individual with a disability  
12 and the certification is incorrect because it was based on false  
13 information provided by the individual, the certification shall  
14 be revoked and wages paid by the employer after the date on  
15 which notice of revocation is received by the employer shall not  
16 be treated as qualified wages.

17 In any request for a certification of an individual as an  
18 individual with a disability, the employer shall certify that a  
19 good faith effort was made to determine that the individual is  
20 an individual with a disability.



1       (e) The following wages paid to an individual with a  
2 disability are ineligible to be claimed by the employer for this  
3 credit:

4       (1) Wages paid to an individual with a disability who:

5       (A) Bears any of the relationships described in  
6 section 152(d)(2)(A) through (G) of the Internal  
7 Revenue Code to the taxpayer, or, if the taxpayer  
8 is a corporation, to an individual who owns,  
9 directly or indirectly, more than fifty per cent  
10 in value of the outstanding stock of the  
11 corporation (determined with the application of  
12 section 267(c) of the Internal Revenue Code);

13       (B) If the taxpayer is an estate or trust, is a  
14 grantor, beneficiary, or fiduciary of the estate  
15 or trust, or is an individual who bears any of  
16 the relationships described in section  
17 152(d)(2)(A) through (G) of the Internal Revenue  
18 Code to a grantor, beneficiary, or fiduciary of  
19 the estate or trust; or

20       (C) Is a dependent (described in section 152(d)(2)(H)  
21 of the Internal Revenue Code) of the taxpayer,



1           or, if the taxpayer is an estate or trust, of a  
2           grantor, beneficiary, or fiduciary of the estate  
3           or trust; and

4       (2) Wages paid to an individual with a disability if,  
5           prior to the day the individual is hired by the  
6           employer, the individual had been employed by the  
7           employer at any time.

8       (f) In the case of a successor employer referred to in  
9       section 3306(b)(1) of the Internal Revenue Code, the  
10       determination of the amount of the tax credit allowable under  
11       this section with respect to wages paid by the successor  
12       employer shall be made in the same manner as if the wages were  
13       paid by the predecessor employer referred to in section  
14       3306(b)(1) of the Internal Revenue Code.

15       (g) Claims for the tax credit under this section,  
16       including any amended claims, shall be filed on or before the  
17       end of the twelfth month following the taxable year for which  
18       the credit may be claimed. Failure to comply with the foregoing  
19       provision shall constitute a waiver of the right to claim the  
20       tax credit.

21       (h) The director of taxation:



(1) Shall prepare any forms necessary to claim a credit under this section;

(2) May require a taxpayer to furnish reasonable information to ascertain the validity of a claim for credit; and

(3) May adopt rules pursuant to chapter 91 to effectuate the purposes of this section.

(i) For purposes of this section:

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

"Qualified physician" means:

(1) A physician or osteopathic physician licensed under chapter 453;

(2) A qualified out-of-state physician who is currently licensed to practice in the state in which the physician resides; or



1        (3) A commissioned medical officer in the United States  
2        Army, Navy, Marine Corps, or Public Health Service,  
3        engaged in the discharge of one's official duty.

4        "Qualified wages" means wages attributable to work rendered  
5        by an individual with a disability for the six-month period  
6        after the individual is initially hired.

7        "Wages" means wages, commissions, fees, salaries, bonuses,  
8        and every and all other kinds of remuneration for, or  
9        compensation attributable to, services performed by an employee  
10       for the employee's employer, including the cash value of all  
11       remuneration paid in any medium other than cash and the cost-of-  
12       living allowances and other payments included in gross income by  
13       section 235-7(b), but excluding income excluded from gross  
14       income by section 235-7 or other provisions of this chapter."

15       SECTION 2. New statutory material is underscored.

16       SECTION 3. This Act, upon its approval, shall apply to  
17       taxable years beginning after December 31, 2017.

18  
INTRODUCED BY:

  
By Request



# S.B. NO. 2191

**Report Title:**

Kauai County Package; Taxation; Income Tax Credit; Persons with Disabilities; Employment

**Description:**

Provides to a taxpayer who hires an individual with a disability a nonrefundable tax credit for the 6-month period after the individual is initially hired by the taxpayer.

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