



STATE OF HAWAII
DEPARTMENT OF TAXATION
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To: The Honorable Sylvia Luke, Chair
and Members of the House Committee on Finance

Date: Thursday, February 1, 2018
Time: 2:00 P.M.
Place: Conference Room 308, State Capitol

From: Linda Chu Takayama, Director
Department of Taxation

Re: H.B. 2245, Relating to Taxation

The Department of Taxation (Department) has serious concerns about its ability to administer H.B. 2245 and offers the following comments for the Committee's consideration.

H.B. 2245 amends the state earned income tax credit (EITC) from a nonrefundable credit to refundable credit, meaning the excess of the tax credit over liability may be refunded to the taxpayer. The bill requires that the state EITC, which is 20% of properly claimed federal EITC, be made in twelve monthly payments, unless the taxpayer opts to receive the refund as a lump sum. The bill is effective upon approval, and applies to taxable years beginning after December 31, 2017.

First, the Department notes that pilot program discussed in Section 1 of this measure involved a group of agencies in periodic disbursements of tax refunds based on the federal EITC to Chicago residents. The Center for Economic Progress (CEP) served as the program administrator. The Chicago Housing Authority (CHA) provided the necessary capital to serve as a pool of loan funds to advance the payments to the participants. The Office of the Chicago Mayor and Chicago Department of Family and Support Services served as program advisors, and provided guidance on the eligibility requirements and program administration. Advent Financial distributed the periodic electronic EITC payments to the participants.

Under the pilot program, participants were advanced an amount equal to half of their estimated 2014 EITC refund in four installments throughout the year with the maximum amount that could be advanced capped at \$2,000. Qualified participants are limited to taxpayers with at least one qualifying child with 2013 EITC of at least \$600. The advancements constituted a loan to be repaid in 2015 from 2014 tax year refund. Participants were expected to have their 2014 federal tax return prepared by CEP¹.

¹ CEP enrolled a total of 343 CHA residents to participate in receiving an advanced 2014 EITC in four periodic payments. The Internal Revenue Service reported a total of 1 million Illinois residents claimed 2014 EITC. The participants in this pilot project represents a mere 0.03% of qualified Illinois EITC claimants.

H.B. 2245 proposes a very different structure where the taxpayer would file their return and any refund due from claiming the state EITC would be paid to the taxpayer in 12 monthly installments. The Department has serious concerns about its ability to administer such a requirement in that according to federal data, approximately 100,000 Hawaii taxpayers claimed the federal EITC. If each of these taxpayers were to receive a refund in 12 installments, 1.2 million refund issuances would be necessary. The Department issues approximately 500,000 refunds to individual taxpayer each year, the additional refunds that this bill would necessitate is more than twice the amount of refunds issued for currently all taxpayers.

Second, the Department notes that amendment to Hawaii Revised Statutes (HRS) section 231-23(c) does not create an account from which tax refunds can be advanced. If the intent of the measure is to advance tax refunds, a separate account would need to be created, funded and monitored for repayment. Currently, tax refunds are only paid in a form of a "refund voucher" prepared by the Department after a taxpayer has a filed a return, and forwarded to the Comptroller. The Comptroller then issues a warrant for the payment of such refund.

Third, if the intent of the measure is to increase the amount of money that taxpayers have on a monthly basis, the Department suggests amending HRS section 235-61(c) to clarify that the state EITC may be considered in calculating the proper withholding tax amount. This way taxpayers will receive a greater portion of their paycheck on a regular basis.

Fourth, the state EITC is much smaller than the federal EITC. As such, the benefit of paying the state EITC refunds in twelve monthly payments may not outweigh the difficulty in administration. The following table illustrates the effect of splitting the state EITC refunds into twelve monthly payments if the credit is made refundable:

Number of Children	Income Thresholds (Maximum Income)		2017 Maximum Federal EITC	Hawaii EITC (20%)	Monthly Payments
	Single	Married			
3 or more	\$48,340	\$53,930	\$6,318	\$1,264	\$105.33
2	\$45,007	\$50,597	\$5,616	\$1,123	\$93.58
1	\$39,617	\$45,207	\$3,400	\$680	\$56.67
None	\$15,010	\$20,600	\$510	\$102	\$8.50

Finally, the Department suggests keeping the EITC as a nonrefundable credit because refundable tax credits often lead to improper claims and create a potential for fraud. Nonrefundable tax credits limit the incentive for fraud because they only benefit taxpayers to the extent of their tax liability. A nonrefundable credit would not generate the number of improper claims as the federal EITC (ranging from 23% to 27%).

In addition, beginning on January 1, 2017, the federal Protecting Americans from Tax Hikes Act of 2015 requires that the IRS hold any refunds where EITC is claimed until at least February 15. This new law is intended to provide the IRS more time to verify claims thereby reducing the number of improper claims. The Department suggests monitoring the effectiveness of this new policy before amending the state EITC from nonrefundable to refundable credit.

Thank you for the opportunity to provide comments.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

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SUBJECT: INCOME, Make EITC Refundable and Disburse in Monthly Payments

BILL NUMBER: HB 2245

INTRODUCED BY: C. LEE, BELATTI, FUKUMOTO, ICHIYAMA, JOHANSON, LOPRESTI, LOWEN, LUKE, MORIKAWA, NAKASHIMA, NISHIMOTO, TAKUMI, THIELEN

EXECUTIVE SUMMARY: Makes the Hawaii version of the earned income tax credit (EITC) refundable, and provides for paying it out to taxpayers monthly. It appears to be a major headache for an average monthly payment of \$30-40.

SYNOPSIS: Amends section 235-55.75, HRS, to change the credit to a refundable one. Provides that a refund shall be made in twelve monthly payments, unless the taxpayer opts to receive the refund as a lump sum.

EFFECTIVE DATE: Taxable years beginning after December 31, 2017.

STAFF COMMENTS: In Act ___, SLH 2017, Hawaii adopted an earned income tax credit that is 20% of the federal credit provided by section 32, IRC.

At the time, the Hawaii credit was made nonrefundable to address the risks, fraud for example, that are presented by a refundable credit. Proponents of the credit passionately argued that a nonrefundable credit doesn't provide enough relief for poor working families.

At the same time, it appears that proponents of this bill realized that there was a substantial time lag between the credit claim and issuance of a refund check. This time lag could be hurtful to the poor working families.

To address similar concerns, the federal government used to have a program called "Advance EITC" whereby each employee could receive a proportionate part of the employee's EITC with each paycheck. (See, for example, Treas. Reg. sec. 31.3507-1.) Beginning in 1993, Congress required the IRS to notify eligible taxpayers of the advance payment option, but participation in the advance payment option remained limited to a small percentage of eligible taxpayers.

In the Omnibus Budget Reconciliation Act of 1990, Pub. L. No. 101-508, the federal government expressed concern about why there was a low rate of participation in the advance EITC program and funded a study to see why this was so. H.R. Conf. Rep. No. 964, 101st Cong., 2d Sess., reprinted in 1990 U.S. Code Cong. & Ad. News 2374, 2448.

There were other issues besides program participation. The Government Accountability Office (GAO) found in 2007 that the Advance EITC program is rife with administrative problems and errors. GAO, Report No. 07-1110, Advance Earned Income Tax Credit: Low Use and Small Dollars Paid Impede IRS's Efforts to Reduce High Noncompliance (2007). The GAO found a

large amount of noncompliance from taxpayers, including failing to file the required tax return, failing to provide valid social security numbers, and misreporting the amount of Advance EITC received. In all, 80 percent of Advance EITC recipients failed to comply with at least one of the program's requirements.

The advance EITC program was repealed in 2010. Education Jobs and Medicaid Assistance Act of 2010, sec. 219, Pub. L. No. 111-226.

In Hawaii, are we thinking of going down the same path again, hoping for a different outcome?

Note, also, that in the IRS' Statistics for Tax Returns with EITC, a Hawaii EITC claimant would expect to get, on average, \$2,174 for the year. Twenty percent of that, or about \$400, is what the State of Hawaii would kick in. Twelve installments for adding to that sum of money leaves the size of each payment at about \$33. Is it worth it, and how much are we going to have to pay in administrative costs?

Digested 1/31/2018



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COMMITTEE ON FINANCE
THURSDAY, FEBRUARY 1, 2 PM, Room 308
HB2245, RELATING TO TAXATION

TESTIMONY

Beppie Shapiro, Legislative Committee, League of Women Voters of Hawaii

Chair LUKE, Vice-Chair CULLEN and Committee Members:

The League of Women Voters of Hawaii strongly supports HB2245 that would make the earned income tax credit refundable.

In Hawai'i, we have many renters (43% of households per US Census). Far too many of these renters are paying more than they can afford for housing - almost 3/4 of the poorest renters pay more than half of their income for rent. For example, if you are a family of four at poverty level (\$2,406 dollars income per month), this means spending more than \$1,203 per month for rent, leaving less than \$1,203 each month to cover food, utilities, transportation, medical care, and clothing. Think of your own budget and you can only wonder how such a family can survive.

The preamble to HB2245 presents ample evidence that our poorest residents need help. Making the EITC refundable will provide some relief for those who struggle to meet the minimum expenditures necessary for basic expenses, and don't have enough income to owe taxes greater than the amount of the EITC.

Please pass HB2245.

Thank you for the opportunity to submit testimony.



HAWAII APPLESEED

CENTER FOR LAW & ECONOMIC JUSTICE

Testimony of Hawai‘i Appleseed Center for Law and Economic Justice

Supporting HB 2245 – Relating to Taxation

House Committee on Finance

Scheduled for hearing at 2:00 pm on Thursday, February 1, 2018, in Conference Room 308

Dear Chair Luke, Vice Chair Cullen, and members of the Committee:

Thank you for the opportunity to testify in SUPPORT of **HB 2245**, which would make our state earned income tax credit (EITC) refundable and payable in twelve monthly payments. While we support the intent of the bill, we are concerned that the current language might not accomplish all that is intended.

We commend you for passing the Hawai‘i state EITC last session. It will help thousands of low-income and working-class families in Hawai‘i keep more of their hard-earned money. However, because our state EITC is not refundable -- meaning that taxpayers can't get back more than what they owe in state income tax -- its effectiveness is limited.

For example, a single parent of two children, working full-time at the minimum wage, earns \$21,000 annually, and would owe Hawai‘i about \$432 in state income tax. Her state EITC would total about \$883, but because it is not refundable, she would only be able to zero out her income tax bill with the credit.

On the other hand, if the EITC were refundable -- as it is on the federal level and in 24 of the 29 other states with EITCs -- she'd receive a tax refund of \$451, which would go a long way towards paying down bills and debts. That is why making the EITC refundable, as HB 2245 would do, is so important to our low-income and working-class families.

Other language in HB 2245 states that the refundable portion of the EITC “shall be made in twelve monthly payments, unless the taxpayer opts to receive the refund as a lump sum.” If the intent of the bill is to get tax refunds into workers’ pockets faster, it is not clear that this language would accomplish that goal. In fact, it appears that breaking refunds into twelve monthly payments would cause taxpayers to have to wait longer to get their refunds, compared to receiving the full amount as a lump sum.

If you would like to explore periodic payment options, we suggest that you consider a pilot project, similar to the one described in the preamble of this bill. That pilot involved a small number of participants, who met specific eligibility requirements, in order to receive no-cost loans from a local non-profit organization, as a method to prepay their EITC refunds to them on a quarterly basis.

If you would like to quickly and regularly get more money to our low-income residents, we suggest that you consider eliminating income tax liability for all workers struggling in poverty in our state. Combined with making our state EITC refundable, that change would provide truly significant financial relief to those who need it most.

Mahalo for your consideration of this testimony.

The Hawai‘i Appleseed Center for Law and Economic Justice is committed to a more socially just Hawai‘i, where everyone has genuine opportunities to achieve economic security and fulfill their potential. We change systems that perpetuate inequality and injustice through policy development, advocacy, and coalition building.



LATE

January 31, 2018

TIM VANDEVEER
Chair

MARGARET WILLE
Legislative Committee Chair

To: House Members on the Committee on Finance
Rep. Sylvia Luke, Chair
Rep. Ty J.K. Cullen, Vice Chair

**Supporting HB 2245, Relating To Taxation
Submitted On Behalf of the Democratic Party of Hawai'i**

Aloha Committee Members-

The abiding values of the Democratic Party of Hawai'i include social and economic justice. At the heart of our party lies a fundamental conviction that Americans must not only be free, but they must live in a fair society. These values compel us to integrate democratic ideals in all aspects of economic, social, educational, and cultural life in our communities, our state and our nation. Our party platform states that:

“We believe that all families should have an equal opportunity to build their assets and become self-sufficient; and we support a strong safety net of programs that will afford them the opportunity to do so.”

As such, the Democratic Party of Hawai'i wholeheartedly supports efforts aimed at helping families finance monthly expenses and making them less susceptible to debt through changes to the earned income tax credit (EITC), including making it refundable. For these reasons, we strongly support HB 2245.

Respectfully submitted,

Tim Vandever
Chair of the Democratic Party of Hawai'i

/s/ Margaret Wille
Legislative Committee Chair

DEMOCRATIC PARTY OF HAWAII

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