
A BILL FOR AN ACT

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 that 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 twenty-five
12 per cent of the qualified wages for the first twelve months
13 after the individual with a disability is initially hired;
14 provided that in no taxable year shall the total amount of the
15 tax credit claimed under this section exceed \$ per
16 taxpayer.



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

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

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

19 (e) The following wages paid to an individual with a
20 disability are ineligible to be claimed by the taxpayer for this
21 credit:



- 1 (1) Wages paid to an individual with a disability:
- 2 (A) Who bears to the taxpayer any of the
- 3 relationships described in section 152(d) (2) (A)
- 4 through (H) of the Internal Revenue Code;
- 5 (B) If the taxpayer is a corporation and the
- 6 individual with a disability owns, directly or
- 7 indirectly, more than fifty per cent in value of
- 8 the outstanding stock of the corporation, as
- 9 determined through the application of section
- 10 267(c) of the Internal Revenue Code; or
- 11 (C) If the taxpayer is an estate or trust and the
- 12 individual with disability is a grantor,
- 13 beneficiary, or fiduciary of the estate or trust,
- 14 or bears to a grantor, beneficiary, or fiduciary
- 15 of the estate or trust any of the relationships
- 16 described in section 152(d) (2) (A) through (H) of
- 17 the Internal Revenue Code; and
- 18 (2) Wages paid to any individual with a disability if,
- 19 prior to the day the individual is hired by the
- 20 taxpayer, the individual had been employed by the
- 21 taxpayer at any time.



1 (f) In the case of a successor employer referred to in
2 section 3306(b)(1) of the Internal Revenue Code, the
3 determination of the amount of the tax credit allowable under
4 this section with respect to wages paid by the successor
5 employer shall be made in the same manner as if the wages were
6 paid by the predecessor referred to in section 3306(b)(1) of the
7 Internal Revenue Code.

8 (g) A tax credit that exceeds the taxpayer's income tax
9 liability may be used as a credit against the taxpayer's income
10 tax liability in subsequent years until exhausted.

11 Claims for the tax credit under this section, including any
12 amended claims, shall be filed on or before the end of the
13 twelfth month following the taxable year for which the credit
14 may be claimed. Failure to comply with the foregoing provision
15 shall constitute a waiver of the right to claim the tax credit.

16 (h) If, during the twelve-month period following the close
17 of the taxable year for which a credit is claimed under this
18 section, the individual with a disability whose employment
19 formed the basis of the claim for credit is terminated from
20 employment by the taxpayer, the credit claimed under this
21 section shall be recaptured. The amount of the recaptured tax



1 credit determined under this subsection shall be added to the
2 taxpayer's tax liability for the taxable year in which the
3 recapture occurs under this subsection.

4 (i) The director of taxation:

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

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

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

12 (j) For purposes of this section:

13 "Individual with a disability" means an individual having a
14 physical or intellectual impairment that is not temporary in
15 nature and that substantially limits one or more major life
16 activities, having a record of that impairment, or being
17 regarded as having that impairment; provided that the disabling
18 impairment is certified by a qualified physician.

19 "Qualified physician" means:

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



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

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

8 "Qualified wages" means wages attributable to work rendered
9 by an individual with a disability for the twelve-month period
10 after the individual is initially hired, but does not include
11 amounts for which another credit is claimed or for which a
12 deduction is taken.

13 "Wages" means wages, commissions, fees, salaries, bonuses,
14 and all other kinds of remuneration for, or compensation
15 attributable to, services performed by an employee for the
16 employee's employer that are paid in cash, but excluding income
17 excluded from gross income by section 235-7 or other provisions
18 of this chapter."

19 SECTION 2. New statutory material is underscored.

20 SECTION 3. This Act shall take effect on July 1, 2050, and
21 shall apply to taxable years beginning after December 31, 2019.



S.B. NO. 161
S.D. 2

Report Title:

Hawaii State Association of Counties Package; Disability;
Employment; Income Tax Credit

Description:

Provides to a taxpayer who hires an individual with a disability a nonrefundable tax credit for the 12-month period after the individual is initially hired by the taxpayer. Applies to taxable years beginning after 12/31/2019. Effective 7/1/2050.
(SD2)

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