HOUSE OF REPRESENTATIVES
THIRTY-SECOND LEGISLATURE, 2023
STATE OF HAWAII

H.B. NO. 944

A BILL FOR AN ACT

RELATING TO TAXATION.

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

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

"**§235- Job creation income tax credit.** (a) Notwithstanding any law to the contrary, there shall be allowed to each taxpayer subject to the taxes imposed by this chapter, a job creation income tax credit that shall be deductible from the taxpayer's net income tax liability, if any, imposed by this chapter for the taxable year in which the credit is properly claimed. The amount of the credit shall be equal to:

(1) $3,000 for each new full-time employee hired in a qualified employment position in the first year or partial year of employment;

(2) $3,000 for each new full-time employee in a qualified employment position for the full taxable year in the second year of continuous employment; and

(3) $3,000 for each new full-time employee in a qualified employment position for the full taxable year in the third year of continuous employment;

provided that the first year tax credit may only be claimed for one thousand new full-time employees across all taxpayers.

(b) In the case of a partnership, S corporation, estate, or trust, the tax credit allowable is for net increases in full-time employees hired in qualified employment positions in the State as computed and certified by the department of taxation for the taxable year. The cost upon which the tax credit is computed shall be determined at the entity level. Distribution and share of credit shall be determined by rule.

(c) The credit allowed under this section shall be claimed against the net income tax liability for the taxable year. If the tax credit claimed by the taxpayer under this section exceeds the amount of the income tax payments due from the taxpayer, the excess of credits over payments due may be carried forward as a tax credit against subsequent years' tax liability for a period not exceeding five taxable years. All claims, including amended claims, for a tax credit under this section shall be filed on or before the end of the twelfth month following the close of the taxable year for which the credit may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit.

(d) To qualify for this tax credit, and subject to certification by the department pursuant to subsection (e), the taxpayer shall:

(1) Have capital investments of at least $50,000; and

(2) Hire at least one new full-time employee in a qualified employment position for each location of its business before it claims a first year tax credit for the designated location.

provided that all requirements of this subsection shall be met within twelve months after the start of the capital investments made pursuant to paragraph (1).

(e) Every taxpayer, before March 31 of each year in which a capital investment in a qualified employment position was made in the previous taxable year, shall submit a written, certified statement to the director of taxation identifying:

(1) Capital investments, if any, expended in the previous taxable year;

(2) The number of new full-time employees of the taxpayer hired in qualified employment positions in the previous taxable year;

(3) The following information for each new full-time employee the taxpayer hired in a qualified employment position in the previous tax year:

(A) The date of initial employment:

(B) The number of hours worked during the year;

(C) Whether the position is a full-time position;

(D) The employee's annual compensation; and

(E) The total cost of health insurance for the employee and the cost paid by the employer; and

(4) The amount of tax credits claimed pursuant to this section, if any, in the previous taxable year.

(f) A taxpayer that meets the requirements of subsection (d) shall be eligible to claim a first year tax credit for three years beginning with the taxable year in which the requirements have been met. Employees hired at the designated location before the beginning of the taxable year but during the twelve-month period allowed by subsection (d) shall be considered a new employee for the taxable year in which the requirements of subsection (d) are met. Employees that are considered new employees for the taxable year under this subsection shall not be included in the average number of full-time employees during the tax year immediately preceding the tax year in which the first year tax credit is claimed. An employee working at a temporary worksite in the State while the designated location is under construction shall be considered to be working at the designated location if:

(1) The employee is hired at the start of the required investment at the designated location;

(2) The employee is hired to work at the designated location after construction is completed;

(3) The payroll for the employee at the designated location is segregated from other employees; and

(4) The employee is moved to the designated location within thirty days after construction is completed.

(g) For each year in which the taxpayer earned and claimed or used the tax credit, or for each year in which the taxpayer is carrying forward amounts from previously earned and claimed credits, the taxpayer, subject to the requirements of subsection (i), shall submit a written, certified statement to the director of taxation identifying the following information:

(1) The business name, mailing address, and any other contact information for the taxpayer requested by the department;

(2) The physical address of the designated location or locations and the number of employees qualified for the credit at each location;

(3) The average hourly wage and total compensation paid to all employees;

(4) The total number of qualified employment positions and the amount of income tax or other tax credits the taxpayer qualified for in the taxable year;

(5) The estimated amount of tax credits to be used in the taxable year to offset tax liability;

(6) The estimated amount of tax credits to be available to carry forward in the taxable year and the year in which the credits expire;

(7) The number of jobs and the amount of credits earned and claimed on the prior year's tax return;

(8) The amount of credits used to offset tax liabilities on the prior year's tax return;

(9) The amount of credits available to carry forward as reported on the prior year's tax return and the year the credit's expire;

(10) Capital investments made during the taxable year and the preceding taxable year; and

(11) Other information as requested by the department for the management and reporting of the tax credit provided by this section.

(h) For any year in which the taxpayer is claiming a first year credit, the taxpayer, subject to the requirements of subsection (i), shall submit a written, certified statement to the director of taxation that:

(1) The net increase in the number of qualified employment positions for which the credit is sought is the lesser of:

(A) The total number of filled qualified employment positions created at the designated location or locations during the taxable year; or

(B) The difference between the average number of full-time employees employed by the taxpayer in the State in the current taxable year and the average number of full-time employees employed by the taxpayer in the State during the immediately preceding taxable year;

(2) All employees filling a qualified position were employed for at least ninety days during the taxable year in which the first year credit is claimed; provided that employees hired in the last ninety days of the taxable year in which the first year credit is claimed are excluded from that taxable year and are considered to be new employees for the following taxable year;

(3) No employee filing a qualified employment position was employed by the taxpayer during the twelve months before the current date of hire, except for those relocating to the State;

(4) All employees for whom second and third year tax credits are claimed are in qualified employment positions for which first year credits were allowed

and claimed by the taxpayer on the original first and second year tax returns for those employees; and

(5) All employees for whom credits are claimed performed their job duties primarily at the designated location of the business.

(i) To qualify for this tax credit, the taxpayer shall:

(1) For the first year tax credit, submit the information required by subsections (g) and (h) by the earlier of:

(A) Six months after the end of the taxable year in which the qualified employment positions were created; or

(B) March 31 for the taxable year in which the qualified employment positions were created;

(2) For the second year tax credit, submit the information required by subsection (g) by the earlier of:

(A) Six months after the end of the taxable year; or

(B) March 31 for the taxable year in which the second year credit is allowed; and

(3) For the third year tax credit, submit the information required by subsection (g) by the earlier of:

(A) Six months after the end of the taxable year; or

(B) March 31 for the taxable year in which the third year credit is allowed.

(j) If a business is sold or changes ownership through reorganization, stock purchase, or merger, the taxpayer who assumes new ownership of the business may claim first year credits only for the qualified employment positions that were created and filled with an eligible employee after the sale or change of ownership was complete; provided that the taxpayer may claim the second or third year credit if the taxpayer meets the other eligibility requirements of this section. Credits for which a taxpayer qualified before the business was sold or changed ownership through reorganization, stock purchase, or merger are terminated and shall be lost at the time of sale or change in ownership.

(k) If a full-time employee in a qualified employment position leaves during the taxable year, the employee may be replaced with another new full-time employee in the same employment position and the new employee will be treated as being in the employee's second or third full year of continuous employment for the purposes of this credit if:

(1) The total time the position was vacant from the date the employment position was originally filled to the end of the current tax year totals ninety days or less; and

(2) The new employee meets the same requirements the original employee was required to meet.

(1) The department shall:

(1) Maintain records of the names and addresses of the taxpayers claiming the credits under this section and the total amount of the qualified employment positions upon which the tax credit is based;

(2) Verify the nature and amount of the capital investments and qualified employment positions;

(3) Total all capital investments and qualified employment positions that the department certifies; and

(4) Certify the amount of the tax credit for each taxable year and cumulative amount of the tax credit.

Upon each determination made under this subsection, the department shall issue a certificate to the taxpayer verifying information submitted to the department, including capital investment amounts, number of new full-time employees, and number of qualified employment positions, the credit amount certified for each taxable year, and the cumulative amount of the tax credit during the credit period. The taxpayer shall file the certificate with the taxpayer's tax return with the department.

(m) The director of taxation:

(1) Shall prepare forms as may be necessary to claim a credit under this section;

(2) May audit and adjust the tax credit amount to conform to the facts; and

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

(n) The department shall submit a report to the governor, president of the senate, speaker of the house of representatives, and chairpersons of the senate ways and means committee and house of representatives finance committee no later than September 30 of each year. The report shall include the following information:

(1) The business names, locations, number of employees, and amount of compensation paid to employees qualifying for this tax credit;

(2) The total amount of capital investment made during the preceding fiscal year; and

(3) The total amount of this tax credit allowed for the preceding taxable year and the number of qualified employment positions for which the tax credit was claimed.

(o) For the purposes of this section,

"Capital investment" means an expenditure to acquire, lease, or improve property that is used in operating a business, including land, buildings, machinery, fixtures, and equipment.

"Designated location" means the location at which the required capital investment is made.

"Location" means a single parcel or contiguous parcel of owned or leased land, and the structures and personal property contained on the land or any part of the structures occupied by the owner or leasee.

"Net income tax liability" means net income tax liability reduced by all other credits allowed under this chapter.

"New full-time employee" means a full-time employee who:

(1) First became employed by the taxpayer within the fiscal year whose hire results in a net increase in the taxpayer's full-time employees in the State; and

(2) Is receiving compensation at least equal to or above the fiscal year's self-sufficiency standard established by the department of business, economic development, and tourism pursuant to section 201-3(5).

"New full-time employee" does not include a person who was previously employed in the State by the taxpayer, whose position was subsequently terminated or eliminated, and who was later rehired by the taxpayer.

"Qualified employment position" means employment that meets the following requirements:

(1) The position consists of at least 1,750 hours per year of full-time permanent employment; and

(2) The job duties are performed primarily at the location or locations of the taxpayer's business in the State."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act, upon its approval, shall apply to taxable years beginning after June 30, 2023.

H.B. NO. 944

INTRODUCED BY: ______________________

JAN 23 2023

H.B. NO. 944

Report Title:
Job Creation Income Tax Credit; Qualified Employment Positions; Capital Expenditures

Description:
Establishes a job creation income tax credit for employers who increase the number of full-time employees in the State and make certain capital investment expenditures.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.