

JAN 20 2023

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# A BILL FOR AN ACT

RELATING TO TAXATION.

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

1           SECTION 1. The legislature finds that providing additional  
2 support to Hawaii's organic agriculture industry could help to  
3 reduce reliance on agricultural imports and to foster job growth  
4 in the State. The legislature further finds that organic  
5 farming practices improves soil fertility and structure,  
6 promotes biodiversity, and reduces the risks of human, animal,  
7 and environmental exposure to toxic materials. The legislature  
8 believes that reducing the burden on the emerging number of  
9 small farmers seeking costly, but necessary, organic  
10 certifications and inspections will help to promote the  
11 production and availability of locally-grown organic food in  
12 Hawaii.

13           The legislature further finds that Act 258, Session Laws of  
14 Hawaii 2016, established an organic foods production tax credit,  
15 which met substantial resistance from the department of  
16 agriculture. The department of agriculture first lobbied to  
17 repeal this credit, then delayed its implementation by three



1 years, and in 2021, the last year of the program, farmers were  
2 widely notified of its availability only a few months before it  
3 was set to expire.

4 The purpose of this Act is to reestablish the 2016 organic  
5 foods production tax credit that expired in 2021. This tax  
6 credit supports farmers, ranchers, and producers seeking to  
7 obtain organic certification by reimbursing costs invested into  
8 the economically burdensome certification process. By easing  
9 the burdens of this process, organic producers in Hawaii can  
10 more competitively compete with agricultural organic imports  
11 that dominate local markets and enjoy the price premiums  
12 afforded to them by the certified organic food label.

13 SECTION 2. Chapter 235, Hawaii Revised Statutes, is  
14 amended by adding a new section to be appropriately designated  
15 and to read as follows:

16 "§235- Organic foods production tax credit. (a) There  
17 shall be allowed to each qualified taxpayer subject to the tax  
18 imposed under this chapter, an income tax credit that shall be  
19 deductible from the taxpayer's net income tax liability, if any,  
20 imposed by this chapter for the taxable year in which the credit  
21 is properly claimed.



1        (b) The amount of the tax credit shall be equal to the  
2 qualified expenses of the qualified taxpayer, up to a maximum of  
3 \$25,000.

4        (c) In the case of a partnership, S corporation, estate,  
5 or trust, the tax credit allowable is for qualified expenses  
6 incurred by the entity for the taxable year. The expenses upon  
7 which the tax credit is computed shall be determined at the  
8 entity level. Distribution and share of credit shall be  
9 determined by rule.

10       (d) The total amount of tax credits allowed under this  
11 section shall not exceed \$2,000,000 for all qualified taxpayers  
12 in any taxable year; provided that any taxpayer who is not  
13 eligible to claim the credit in a taxable year due to the  
14 \$2,000,000 cap having been exceeded for that taxable year shall  
15 be eligible to claim the credit in the subsequent taxable year.

16       (e) Every qualified taxpayer, before March 31 of each year  
17 in which qualified expenses were incurred by the taxpayer in the  
18 previous taxable year, shall submit a written, certified  
19 statement to the chairperson of the board of agriculture  
20 identifying:



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- 1        (1) Qualified expenses incurred in the previous taxable  
2            year; and
- 3        (2) The amount of the tax credit claimed by the taxpayer  
4            pursuant to this section, if any, in the previous  
5            taxable year.
- 6        (f) The department of agriculture shall:
- 7            (1) Maintain records of the names and addresses of the  
8            qualified taxpayers claiming the credits under this  
9            section and the total amount of the qualified expenses  
10           upon which the tax credits are based;
- 11          (2) Verify the nature and amount of the qualified  
12           expenses;
- 13          (3) Total all qualified and cumulative expenses that the  
14           department certifies; and
- 15          (4) Certify the amount of the tax credit for each taxpayer  
16           for each taxable year and the cumulative amount of the  
17           tax credit.

18        Upon each determination made under this subsection, the  
19        department of agriculture shall issue a certificate to the  
20        taxpayer verifying information submitted to the department of  
21        agriculture, including amounts of qualified expenses, the credit



1 amount certified for the taxpayer for each taxable year, and the  
2 cumulative amount of tax credits certified. The taxpayer shall  
3 file the certificate with the taxpayer's tax return with the  
4 department of taxation.

5 The board of agriculture may assess and collect a fee to  
6 offset the costs of certifying tax credit claims under this  
7 section.

8 (g) The director of taxation:

9 (1) Shall prepare any forms that may be necessary to claim  
10 a tax credit under this section;

11 (2) May require the taxpayer to furnish reasonable  
12 information to ascertain the validity of the claim for  
13 the tax credit made under this section; and

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

16 (h) If the tax credit under this section exceeds the  
17 taxpayer's net income tax liability, the excess of the credit  
18 over liability may be used as a credit against the taxpayer's  
19 net income tax liability in subsequent years until exhausted.

20 All claims for the tax credit under this section, including  
21 amended claims, shall be filed on or before the end of the



1 twelfth month following the close of the taxable year for which  
2 the credit may be claimed. Failure to comply with the foregoing  
3 provision shall constitute a waiver of the right to claim the  
4 credit.

5 (i) As used in this section:

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

8 "Organic Foods Production Act" means the federal Organic  
9 Foods Production Act of 1990, as amended (7 United States Code  
10 section 6501 et seq.).

11 "Organic system plan" has the same meaning as provided in 7  
12 Code of Federal Regulations section 205.2.

13 "Qualified expenses" means expenses incurred by a qualified  
14 taxpayer to produce organically produced agricultural products,  
15 including expenses incurred to obtain organic certification from  
16 the United States Department of Agriculture, pursuant to the  
17 Organic Foods Production Act. "Qualified expenses" includes:

18 (1) Application fees;

19 (2) Inspection costs;



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- 1        (3) Fees related to equivalency agreement/arrangement  
2        requirements, travel/per diem for inspectors, user  
3        fees, sales assessments, and postage; and  
4        (4) Costs for any equipment, materials, or supplies  
5        necessary for organic certification or production of  
6        agricultural products, in accordance with the  
7        qualified taxpayer's organic system plan and the  
8        organic production and handling requirements of the  
9        National Organic Program, codified at 7 Code of  
10       Federal Regulations part 205, subpart C, including but  
11       not limited to certified organic seed, cover crops, or  
12       animal feed.

13 "Qualified expenses" does not include any amount refunded or to  
14 be refunded to the taxpayer by the United States Department of  
15 Agriculture's organic certification cost-share program or any  
16 other similar financial assistance program.

17        "Qualified taxpayer" means a producer, handler, or handling  
18 operation, as those terms are defined in title 7 United States  
19 Code section 6502:





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**Report Title:**

Organic Food Production Tax Credit

**Description:**

Establishes an organic foods production tax credit for farmers investing into the organic certification process.

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

