

DAVID Y. IGE
GOVERNOR

JOSH GREEN M.D.
LT. GOVERNOR



ISAAC W. CHOY
DIRECTOR OF TAXATION

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

To: The Honorable Donovan M. Dela Cruz, Chair;
The Honorable Gilbert S.C. Keith-Agaran, Vice Chair;
and Members of the Senate Committee on Ways and Means

From: Isaac W. Choy, Director
Department of Taxation

Date: February 16, 2021
Time: 10:00 A.M.
Place: Via Video Conference, State Capitol

Re: S.B. 662 S.D. 1, Relating to Tax Credits

The Department of Taxation (Department) offers the following comments regarding S.B. 662, S.D. 1. This measure requires that any new income tax credit either include a five-year sunset of the credit or a gradual reduction of the credit after the fifth year. The Senate Committee on Judiciary adopted the Department's recommendation, clarifying that it applies to credits established (or renewed) after December 31, 2021. The measure is effective on July 1, 2021.

This Department is able to administer the measure as written as it does not create a substantial administrative burden.

Thank you for the opportunity to provide comments.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Requires new tax credits to sunset or reduce over time

BILL NUMBER: SB 662, SD-1

INTRODUCED BY: Senate Committee on Judiciary

EXECUTIVE SUMMARY: Requires that new income tax credits established or renewed after 12/31/2021 include a 5 year sunset or an annual reduction.

SYNOPSIS: Adds a new section to chapter 235, HRS, providing that any income tax credit established or renewed under this chapter after December 31, 2021, shall include either: (1) A five-year sunset date; or (2) Beginning with the sixth year of the credit, a one-third annual reduction in the credit amount allowed to be claimed, over a three-year period.

EFFECTIVE DATE: 7/1/2021.

STAFF COMMENTS: We have concerns over whether this bill, if enacted, would be effective. Normally a current legislature can't bind a future legislature, and later enacted legislation normally prevails over older legislation when the two conflict. Thus, if a future legislature were to pass a bill adding a new tax credit with neither a sunset nor a phaseout, and the bill were signed into law, the law would be effective with neither a sunset nor a phaseout.

We note that the State Auditor is required to review existing income tax credits under HRS sections 23-91 to 23-96 on a five-year rolling basis, and the reports issued by the Auditor are supposed to trigger legislative review. New credits are supposed to be added to the list in those sections of chapter 23, but none of these sections were amended after 2017.

Digested 2/11/2021