
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 be appropriately designated
3 and to read as follows:

4 "§235- Agribusiness investment tax credit. (a) There
5 shall be allowed to each taxpayer operating a qualified
6 agribusiness and subject to the tax imposed by this chapter an
7 agribusiness investment tax credit that shall be deductible from
8 the taxpayer's net income tax liability, if any, imposed by this
9 chapter for the taxable year in which qualified agribusiness
10 expenses were paid or incurred and for the following four years;
11 provided the credit is properly claimed. The tax credit shall
12 be applied as follows:

- 13 (1) In the year the qualified agribusiness expenses were
14 paid or incurred, fifty per cent;
15 (2) In the first year following the year in which the
16 qualified agribusiness expenses were paid or incurred,
17 twenty per cent;



1 (3) In the second year following the year in which the
2 qualified agribusiness expenses were paid or incurred,
3 ten per cent;
4 (4) In the third year following the year in which the
5 qualified agribusiness expenses were paid or incurred,
6 ten per cent; and
7 (5) In the fourth year following the year in which the
8 qualified agribusiness expenses were paid or incurred,
9 ten per cent,
10 of the qualified agribusiness expenses paid or incurred by a
11 qualified agribusiness. The maximum amount of qualified
12 agribusiness expenses eligible for the credit in each year shall
13 be \$2,500,000.

14 (b) The credit allowed under this section shall be claimed
15 against the net income tax liability for the taxable year. For
16 the purposes of this section, "net income tax liability" means
17 net income tax liability reduced by all other credits allowed
18 under this chapter.

19 (c) If the tax credit under this section exceeds the
20 taxpayer's income tax liability for any of the five years in
21 which the credit is taken, the excess of the tax credit over
22 liability may be used as a credit against the taxpayer's income



1 tax liability in subsequent years until exhausted. Every claim,
2 including amended claims, for a tax credit under this section
3 shall be filed on or before the end of the twelfth month
4 following the close of the taxable year for which the credit may
5 be claimed. Failure to comply with the foregoing provision
6 shall constitute a waiver of the right to claim the credit.

7 (d) If at the close of any taxable year during the five-
8 year period set forth in subsection (a), the business no longer
9 qualifies as a qualified agribusiness, the credit claimed under
10 this section shall be recaptured. The recapture shall be equal
11 to ten per cent of the amount of the total tax credit claimed
12 under this section in the preceding two taxable years. The
13 amount of the recaptured tax credit determined under this
14 subsection shall be added to the taxpayer's tax liability for
15 the taxable year in which the recapture occurs under this
16 subsection.

17 (e) Before March 31 of each year following the year in
18 which qualified agribusiness expenses were paid or incurred,
19 every taxpayer operating a qualified agribusiness shall submit a
20 written, certified statement to the director of taxation
21 identifying:



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

19 Upon each determination made under this subsection and with
20 the assistance of the department of agriculture, the department
21 shall issue a certificate to the qualified agribusiness
22 verifying the information submitted to the department.



1 The director of taxation may assess and collect a fee to
2 offset the costs of certifying tax credit claims under this
3 section. All fees collected under this section shall be
4 deposited into the tax administration special fund established
5 under section 235-20.5.

6 (g) The taxpayer operating the qualified agribusiness
7 shall file the certificate at the same time that the taxpayer
8 files the taxpayer's tax return with the department.

9 Taxpayers claiming the credit shall provide additional
10 information, as prescribed by the department of agriculture, to
11 the department of agriculture on an annual basis, upon request,
12 that will enable the department of agriculture to perform a
13 quantitative and qualitative assessment of the outcomes of the
14 tax credit.

15 (h) The tax credit allowed under this section shall be
16 available for taxable years beginning after December 31, 2007,
17 and shall not be available for taxable years beginning after
18 December 31, 2017.

19 (i) As used in this section:

20 "Farm production expenses" means those direct current
21 expenses paid or incurred in connection with the operation of an
22 agribusiness. "Farm production expenses" includes but is not



1 limited to fertilizer, lime, and soil conditioners; chemicals;
2 seeds, plants, vines, and trees; livestock and poultry; breeding
3 livestock; other livestock and poultry; feed; gasoline, fuels,
4 and oils; utilities; supplies, repairs, and maintenance; hired
5 farm labor; contract labor; custom work and custom hauling; rent
6 for land, buildings, and grazing fees; rent and leave (lease);
7 expenses for machinery, equipment, and farm share of vehicles;
8 interest expense; and property taxes paid. The cost of real
9 property shall not be considered farm production expenses.

10 "Qualified agribusiness" means a business actively engaged
11 in commercial agriculture, as determined by the department of
12 agriculture, with a portion of the lands used in the business
13 identified and designated as important agricultural lands under
14 article XI, section 3, of the state constitution. An entity
15 disregarded as an entity separate from its owner may operate a
16 qualified agribusiness.

17 "Qualified agribusiness expenses" means farm production
18 expenses and, in the case of a small agribusiness, overhead
19 expenses as well as farm production expenses.

20 "Small agribusiness" means an agribusiness whose average
21 annual gross receipts over the past three years do not exceed
22 \$5,000,000. If the agribusiness has not been in existence for



1 three years, the average annual gross receipts shall be based on
2 the number of years the agribusiness has existed.

3 "Small agribusiness overhead expenses" means overhead
4 expenses paid or incurred to operate a small agribusiness.

5 "Small agribusiness overhead expenses" includes but is not
6 limited to legal, accounting, other professional fees, and
7 managerial and non-farm labor expenses."

8 SECTION 2. Section 235-20.5, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "[~~§~~235-20.5[~~]~~] **Tax administration special fund;**

11 **established.** There is established a tax administration special
12 fund into which shall be deposited fees collected under sections
13 235-20, 235-110.9, [~~and~~] 235-110.91[~~-~~], and 235-_____. The
14 moneys in the fund shall be expended by the department to offset
15 the costs associated with:

- 16 (1) Issuing comfort letters[~~-~~] under section 235-20;
- 17 (2) Issuing certificates under section 235-110.9; [~~and~~]
- 18 (3) Issuing certificates under section 235-110.91[~~-~~]; and
- 19 (4) Certifying tax-credit claims under section 235-_____."

20 SECTION 3. There is appropriated out of the general
21 revenues of the State of Hawaii the sum of \$ _____ or so much
22 thereof as may be necessary for fiscal year 2007-2008 and the



1 same sum or so much thereof as may be necessary for fiscal year
2 2008-2009 to collect and analyze data concerning the
3 agribusiness investment tax credit.

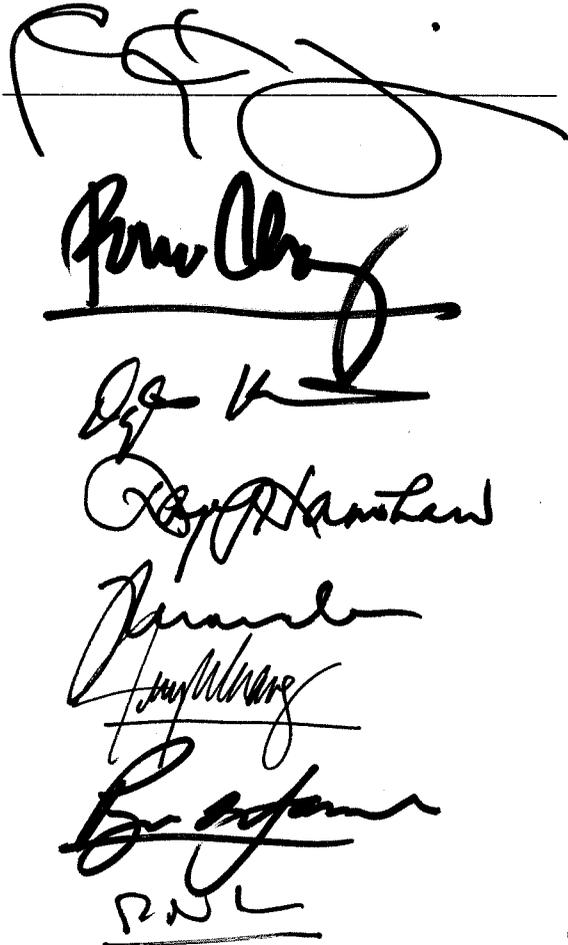
4 The sums appropriated shall be expended by the department
5 of agriculture for the purposes of this Act.

6 SECTION 4. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 5. This Act shall take effect upon its approval;
9 provided that section 2 shall take effect on July 1, 2007.

10

INTRODUCED BY:





Report Title:

Agribusiness Investment Tax Credit

Description:

Establishes an agribusiness investment tax credit.

