
A BILL FOR AN ACT

RELATING TO IMPORTANT AGRICULTURAL LANDS.

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

1 PART I

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

5 "§235- Rental income from agricultural leases on
6 important agricultural lands excluded from gross income. (a)
7 In addition to the exclusions in section 235-7, there shall be
8 excluded from gross income, adjusted gross income, and taxable
9 income, rental income, including lease rents, received by a
10 taxpayer subject to the taxes imposed by this chapter that are
11 derived from agricultural leases on lands identified and
12 designated as important agricultural lands pursuant to part III,
13 chapter 205, for the taxable year the rental income was
14 realized; provided that:

- 15 (1) The minimum length of the lease term shall be:
16 (A) Twenty years; or
17 (B) Any other lease term length mutually agreeable to
18 lessor and lessee, if the amount of the lease



1 rent is set by an independent appraisal using the
2 lower of the comparable value or agricultural
3 capitalization appraisal methodologies;

4 and

5 (2) The lease is in effect and the lessee is continuously
6 and substantially undertaking agricultural activity on
7 the leased land, pursuant to chapter 205, as verified
8 by the department of agriculture on a regular basis
9 using a process determined by the department of
10 agriculture; provided that the exclusion shall not
11 apply if the lease is terminated or the department of
12 agriculture determines that the leased land is not
13 continuously and substantially being used for
14 agricultural activity.

15 The taxpayer shall be eligible for the exclusion initially for
16 up to twenty years; provided that the time period may be
17 extended for every year the term of the lease is extended;
18 provided further that the assignment of the original lease to
19 another lessee shall be for the time period remaining on the
20 original lease, unless the terms of the lease are renegotiated.

21 (b) Each taxpayer who claims the exclusion under this
22 section shall annually provide any necessary information



1 determined by and to the department of agriculture in the manner
2 prescribed by the department of agriculture to enable an
3 aggregated quantitative and qualitative assessment of the impact
4 of the exclusion."

5 SECTION 2. Section 237-24.75, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "[+]§237-24.75[+] **Additional exemptions.** In addition to
8 the amounts exempt under section 237-24, this chapter shall not
9 apply to [~~amounts~~]:

- 10 (1) Amounts received as a beverage container deposit
- 11 collected under chapter 342G, part VIII[-]; and
- 12 (2) Rental income, including lease rents, derived from
- 13 agricultural leases on lands identified and designated
- 14 as important agricultural lands pursuant to part III,
- 15 chapter 205, for the taxable year the rental income
- 16 was realized; provided that:
- 17 (A) The minimum length of the lease term shall be:
 - 18 (i) Twenty years; or
 - 19 (ii) Any other lease term length mutually
 - 20 agreeable to lessor and lessee, if the
 - 21 amount of the lease rent is set by an
 - 22 independent appraisal using the lower of the



1 imposed by this chapter, an important agricultural lands real
2 property tax credit that shall be deductible from the taxpayer's
3 net income tax liability, if any, imposed by this chapter for
4 the taxable year in which the credit is properly claimed.

5 (b) The amount of the credit shall be equal to one hundred
6 per cent of the actual amount of county real property taxes paid
7 by the taxpayer during the taxable year in which real property
8 tax was assessed on lands identified and designated as important
9 agricultural lands pursuant to part III, chapter 205.

10 In the case of a partnership, S corporation, estate, or
11 trust, the amount upon which the credit is computed shall be
12 determined at the entity level. Distribution and share of
13 credit shall be determined by rule.

14 (c) The tax credit shall be allowed only for the entity
15 incurring the actual cost of the real property tax. If the real
16 property tax is part of the lease rent and not otherwise
17 specified in the lease agreement, the lessor shall provide the
18 lessee with the amount of the real property tax included as part
19 of the lease rent upon request.

20 (d) The total aggregate credits claimed for each taxable
21 year shall not exceed \$10,000,000.



1 (e) If the classification of the important agricultural
2 lands subject to the credit is redesignated, the credit shall no
3 longer be available.

4 (f) If the credit under this section exceeds the
5 taxpayer's tax payments due for the taxable year, the excess of
6 the credits over tax payments due shall be refunded to the
7 taxpayer; provided that the credit properly claimed by the
8 taxpayer who has no income tax liability shall be paid to the
9 taxpayer; and provided further that no refunds or payments on
10 account of the credits allowed by this section shall be made for
11 amounts less than \$1.

12 All claims for a credit under this section shall be filed
13 on or before the end of the twelfth month following the close of
14 the taxable year for which the credit may be claimed. Failure
15 to comply with the foregoing provision shall constitute a waiver
16 of the right to claim the credit.

17 (g) The director of taxation shall prepare forms that may
18 be necessary to claim a credit under this section. The director
19 may also require the taxpayer to furnish information to
20 ascertain the validity of the claim for credit made under this
21 section by rule pursuant to chapter 91.



1 situated; provided that the immediate family members
2 of a farmer may live in separate dwelling units
3 situated on the same designated land as the farmer's
4 family's dwelling unit;

5 (2) The employee dwelling units shall be used exclusively
6 by employees and their immediate family members who
7 actively and currently work on the designated
8 important agricultural land upon which the dwelling is
9 situated; provided that the immediate family members
10 of the employee shall not live in separate dwelling
11 units and shall live with the employee;

12 (3) The total land area upon which the combined total of
13 farmer and employee dwelling units and all
14 appurtenances are situated shall not occupy more than
15 twenty per cent of the total important agricultural
16 land area controlled by the farmer or the employee's
17 employer;

18 (4) The farmers' and employee dwelling units meet all
19 applicable building code requirements;

20 (5) Notwithstanding section 205-4.5(a)(12), the landowner
21 shall not plan or develop a residential subdivision on
22 the designated important agricultural land; and



1 (6) The plans for farmers' and employee dwelling units
2 shall be supported by agricultural plans that are
3 approved by the department of agriculture."

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

6 SECTION 8. This Act shall take effect on July 1, 2020;
7 provided that sections 1 and 5 shall apply to taxable years
8 beginning after December 31, 2008; and provided further that
9 section 2 shall take effect on July 1, 2009, and shall apply to
10 gross income or gross proceeds received after June 30, 2009.



Report Title:

Important Agricultural Lands; Tax Incentives

Description:

Excludes rental income derived from agricultural leases on important agricultural lands from gross and adjusted gross income, and taxable income, under certain conditions, and exempts rental income derived from agricultural leases on important agricultural lands from the general excise tax law, under certain conditions; establishes a reimbursable real property tax credit for one hundred per cent of the actual amount of real property tax paid by taxpayers real property tax assessed on lands designated as important agricultural lands; provides farmer and employee housing on lands designated as important agricultural lands. (SD2)

