S.B. NO. ¹⁹⁹ S.D. 1 H.D. 1 C.D. 1

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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. Chapter 235, Hawaii Revised Statutes, is
2	amended by adding two new sections to be appropriately
3	designated and to read as follows:
4	<pre>"§235-A Income tax credit allocation; temporary treatment</pre>
5	for pass-through entities. Notwithstanding any other law to the
6	contrary, for taxable years beginning January 1, 2009, and
7	ending before January 1, 2011, allocation of tax credits under
8	this chapter shall be made in accordance with subchapter K,
9	subchapter J, or subchapter S of the Internal Revenue Code.
10	§235-B Credits against income; claim limitation. (a)
11	Notwithstanding any law to the contrary providing for a tax
12	credit that may be claimed against a taxpayer's net income tax
13	liability under section 235-110.51, 235-110.9, 241-4.8, or
14	431:7-209 for taxable years beginning on or after January 1,
15	2009, and ending before January 1, 2011, no claim for these tax
16	credits, including carryover tax credits from prior taxable

S.B. NO. ¹⁹⁹ S.D. 1 H.D. 2 C.D. 2
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1	years, shall exceed ninety per cent of the taxpayer's tax
2	liability for the taxable year in which the credit is claimed.
3	(b) Any tax credits under section 235-110.51, 235-110.9,
4	241-4.8, or 431:7-209, generated between January 1, 2009, and
5	December 31, 2010, shall be subject to the credit claim
6	limitation provided in subsection (a) and shall not result in a
7	credit carryover in subsequent taxable years.
8	(c) Any tax credits generated under section 235-110.51,
9	235-110.9, 241-4.8, or 431:7-209, in taxable years beginning
10	before January 1, 2009, that resulted in a credit carryover
11	shall be subject to the credit claim limitation provided in
12	subsection (a); provided that notwithstanding any provision
13	creating a waiver of a tax credit by failing to make a claim
14	within a specified period of time for any tax credit, a tax
15	credit carryover generated under section 235-110.51, 235-110.9,
16	241-4.8, or 431:7-209, that is applicable to a taxable year
17	beginning before January 1, 2009, may be used against tax
18	liability in taxable years beginning on or after January 1,
19	2011, until exhausted.
20	(d) Tax credits generated under section 235-110.51,
21	235-110.9, 241-4.8, or 431:7-209, during taxable years beginning
22	on or after January 1, 2009, and ending before January 1, 2011,
	SB199 CD1.DOC

SB199 CD1.DOC

SB199 CD1.DOC

Page 3



1	shall be claimed first, and tax credits generated in taxable		
2	years beginning prior to January 1, 2009, shall be claimed		
3	thereafter; provided that, with regard to any tax credit under		
4	section 235-110.51, 235-110.9, 241-4.8, or 431:7-209, that is		
5	properly claimed for a taxable year beginning before January 1,		
6	2009, the specified period of time established to exhaust the		
7	tax credit shall be tolled until such time that the tax credits		
8	accrued for the period beginning January 1, 2009, and ending		
9	January 1, 2011, have been exhausted."		
10	SECTION 2. Section 235-2.45, Hawaii Revised Statutes, is		
11	amended by amending subsection (d) to read as follows:		
12	"(d) Section 704 of the Internal Revenue Code (with		
13	respect to a partner's distributive share) shall be operative		
14	for purposes of this chapter; except that section 704(b)(2)		
15	shall not apply to:		
16	[(1) Allocations of the high technology business investment		
17	tax credit allowed by section 235-110.9;		
18	[(2)] <u>(1)</u> Allocations of net operating loss pursuant to		
19	section 235-111.5;		
20	$\left[\frac{(3)}{(2)}\right]$ Allocations of the attractions and educational		
21	facilities tax credit allowed by section 235-110.46;		
22	or		
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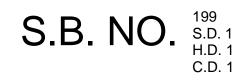
Page 4

S.B. NO. ¹⁹⁹ S.D. 1 H.D. 1 C.D. 1

4

1	[(4)] <u>(3)</u> Allocations of low-income housing tax credits
2	among partners under section 235-110.8."
3	SECTION 3. Section 235-110.7, Hawaii Revised Statutes, is
4	amended by amending subsection (a) to read as follows:
5	"(a) There shall be allowed to each taxpayer subject to
6	the tax imposed by this chapter a capital goods excise tax
7	credit which shall be deductible from the taxpayer's net income
8	tax liability, if any, imposed by this chapter for the taxable
9	year in which the credit is properly claimed.
10	The amount of the tax credit shall be determined by the
11	application of the following rates against the cost of the
12	eligible depreciable tangible personal property used by the
13	taxpayer in a trade or business and placed in service within
14	Hawaii after December 31, 1987. For calendar years beginning
15	after:
16	(1) December 31, 1987, the applicable rate shall be three
17	per cent;
18	(2) December 31, 1988, [and thereafter,] the applicable
19	rate shall be four per cent $[-]$;
20	(3) December 31, 2008, the applicable rate shall be zero
21	per cent; and

SB199 CD1.DOC *SB199 CD1.DOC* *SB199 CD1.DOC* Page 5

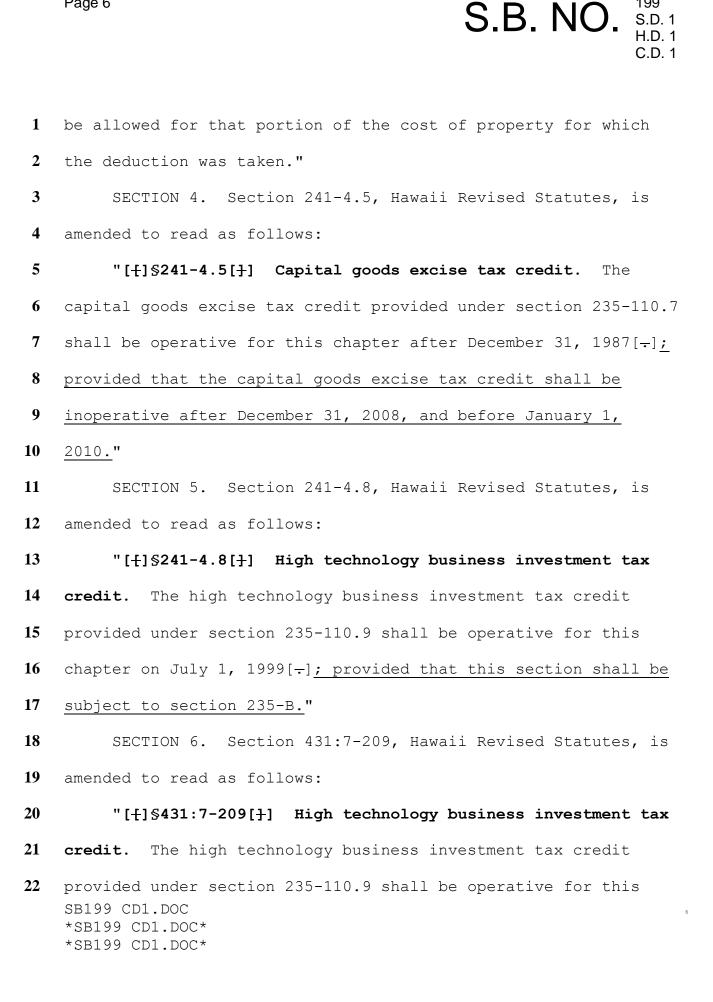


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1	(4) December 31, 2009, and thereafter, the applicable rate
2	shall be four per cent.
3	For taxpayers with fiscal taxable years, the applicable
4	rate shall be the rate for the calendar year in which the
5	eligible depreciable tangible personal property used in the
6	trade or business is placed in service within Hawaii.
7	In the case of a partnership, S corporation, estate, or
8	trust, the tax credit allowable is for eligible depreciable
9	tangible personal property which is placed in service by the
10	entity. The cost upon which the tax credit is computed shall be
11	determined at the entity level. Distribution and share of
12	credit shall be determined by rules.
13	In the case of eligible depreciable tangible personal
14	property for which a credit for sales or use taxes paid to
15	another state is allowable under section 238-3(i), the amount of
16	the tax credit allowed under this section shall not exceed the
17	amount of use tax actually paid under chapter 238 relating to
18	such tangible personal property.

19 If a deduction is taken under section 179 (with respect to 20 election to expense certain depreciable business assets) of the 21 Internal Revenue Code of 1954, as amended, no tax credit shall

SB199 CD1.DOC
SB199 CD1.DOC
SB199 CD1.DOC



199

S.B.	NO.	199 S.D. 1 H.D. 1 C.D. 1
		C.D. 1

7

1	chapter on July 1, 1999[\cdot]; provided that this section shall be
2	subject to section 235-B."
3	SECTION 7. In codifying the new sections added by section
4	1 of this Act, the revisor of statutes shall substitute
5	appropriate section numbers for the letters used in designating
6	the new sections in this Act.
7	SECTION 8. Statutory material to be repealed is bracketed
8	and stricken. New statutory material is underscored.
9	SECTION 9. This Act shall take effect upon its approval
10	and shall apply to taxable years beginning on or after
11	January 1, 2009; provided that this Act shall be repealed on
12	January 1, 2012, and sections 235-2.45, 235-110.7, 241-4.5, 241-
13	4.8, and 431:7-209, Hawaii Revised Statutes, shall be reenacted
14	in the forms in which they read on the day before the effective
15	date of this Act.

SB199 CD1.DOC *SB199 CD1.DOC* *SB199 CD1.DOC*

S.B. NO. 199 S.D. 1 H.D. 1 C.D. 1

Report Title:

Tax Credits; Partner's Distributive Share

Description:

Provides temporary treatment for pass-through entities, for income tax credit allocation purposes. Establishes a temporary 90% tax credit cap and restricts any carryover credits for the high technology business investment tax credit and the technology infrastructure renovation tax credit. Temporarily removes the partner distributive share tax incentive for the high technology business investment tax credit. Temporarily suspends the capital goods excise tax credit for one year. (SB199 CD1)