
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Section 235-110.3, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending the section heading and subsections (a)
4 through (c) to read:

5 "§235-110.3 ~~[Ethanol]~~ Renewable fuels facility tax credit.

6 (a) Each year during the credit period, there shall be allowed
7 to each taxpayer subject to the taxes imposed by this chapter,
8 ~~[an ethanol]~~ a renewable fuels facility tax credit that shall be
9 applied to the taxpayer's net income tax liability, if any,
10 imposed by this chapter for the taxable year in which the credit
11 is properly claimed.

12 For each ~~[qualified ethanol]~~ qualifying renewable fuels
13 production facility, the annual dollar amount of the ~~[ethanol]~~
14 renewable fuels facility tax credit during the eight-year period
15 shall be equal to thirty per cent of its annual nameplate
16 capacity if the facility's nameplate capacity is greater than
17 five hundred thousand but less than fifteen million gallons. A



1 taxpayer may claim this credit for each qualifying [~~ethanol~~]
2 renewable fuels facility; provided that:

3 (1) The claim for this credit by any taxpayer of a
4 qualifying [~~ethanol~~] renewable fuels production
5 facility shall not exceed one hundred per cent of the
6 total of all investments made by the taxpayer in the
7 qualifying [~~ethanol~~] renewable fuels production
8 facility during the credit period;

9 (2) The qualifying [~~ethanol~~] renewable fuels production
10 facility operated at a level of production of at least
11 seventy-five per cent of its nameplate capacity on an
12 annualized basis;

13 (3) The qualifying [~~ethanol~~] renewable fuels production
14 facility is in production on or before January 1,
15 2017; and

16 (4) No taxpayer that claims the credit under this section
17 shall use the investment upon which the claim under
18 this section is made to claim any other tax credit
19 under this chapter for the same taxable year.

20 (b) As used in this section:



1 "Credit period" means a maximum period of eight years
2 beginning from the first taxable year in which the qualifying
3 [~~ethanol~~] renewable fuels production facility begins production
4 even if actual production is not at seventy-five per cent of
5 nameplate capacity.

6 "Investment" means a nonrefundable capital expenditure
7 related to the development and construction of any qualifying
8 [~~ethanol~~] renewable fuels production facility, including
9 processing equipment, boilers, turbines, generators, waste
10 treatment systems, pipelines, and liquid storage tanks at the
11 facility or remote locations, including expansions or
12 modifications. Capital expenditures shall be those direct and
13 certain indirect costs determined in accordance with section
14 263A of the Internal Revenue Code, relating to uniform
15 capitalization costs, but shall not include expenses for
16 compensation paid to officers of the taxpayer, pension and other
17 related costs, rent for land, the costs of repairing and
18 maintaining the equipment or facilities, training of operating
19 personnel, utility costs during construction, property taxes,
20 costs relating to negotiation of commercial agreements not
21 related to development or construction, or service costs that



1 can be identified specifically with a service department or
2 function or that directly benefit or are incurred by reason of a
3 service department or function. For the purposes of determining
4 a capital expenditure under this section, the provisions of
5 section 263A of the Internal Revenue Code shall apply as it read
6 on March 1, 2004. For purposes of this section, investment
7 excludes land costs and includes any investment for which the
8 taxpayer is at risk, as that term is used in section 465 of the
9 Internal Revenue Code (with respect to deductions limited to
10 amount at risk).

11 "Nameplate capacity" means the qualifying [~~ethanol~~]
12 renewable fuels production facility's net production design
13 capacity, in gallons of [~~meter~~] fuel grade [~~ethanol~~] renewable
14 fuels per year.

15 "Net income tax liability" means net income tax liability
16 reduced by all other credits allowed under this chapter.

17 "Qualifying [~~ethanol~~] renewable fuels production" means
18 [~~ethanol~~] fuel produced or generated from renewable [~~, or organic~~]
19 feedstocks [~~, or waste materials, including municipal solid~~
20 waste]. All qualifying production shall be fermented,
21 distilled, transesterified, gasified, pyrolized, combusted, or



1 produced by physical, chemical, biochemical, or thermochemical
2 ~~conversion methods [such as reformation and catalytic conversion~~
3 ~~and dehydrated]~~ at the facility.

4 "Qualifying ~~[ethanol]~~ renewable fuels production facility"
5 or "facility" means a facility located in Hawaii ~~[which]~~ that
6 produces ~~[methane]~~ or generates, directly from renewable
7 feedstocks, fuel grade [ethanol] renewable fuels meeting the
8 ~~[minimum specifications by the American Society of Testing and~~
9 ~~Materials standard D 4806, as amended.]~~ relevant ASTM
10 International specifications for the particular fuel or other
11 industry specifications for liquid or gaseous fuels, including
12 but not limited to:

- 13 (1) Methanol, ethanol, or other alcohols;
14 (2) Hydrogen;
15 (3) Biodiesel or renewable diesel;
16 (4) Biogas;
17 (5) Other biofuels; or
18 (6) Renewable jet fuel or renewable gasoline.

19 "Renewable feedstocks" means:

- 20 (1) Biomass crops;
21 (2) Agricultural residues;



- 1 (3) Oil crops, including but not limited to algae, canola,
- 2 jatropha, palm, soybean, and sunflower;
- 3 (4) Sugar and starch crops, including but not limited to
- 4 sugar cane and cassava;
- 5 (5) Other agricultural crops;
- 6 (6) Grease and waste cooking oil;
- 7 (7) Food wastes;
- 8 (8) Municipal solid wastes and industrial wastes;
- 9 (9) Water; and
- 10 (10) Animal residues and wastes,
- 11 that can be used to generate energy.

12 (c) In the case of a taxable year in which the cumulative
13 claims for the credit by the taxpayer of a qualifying [~~ethanol~~]
14 renewable fuels production facility [~~exceeds~~] exceed the
15 cumulative investment made in the qualifying [~~ethanol~~] renewable
16 fuels production facility by the taxpayer, only that portion
17 that does not exceed the cumulative investment shall be claimed
18 and allowed."

19 2. By amending subsections (f) through (m) to read:

20 "(f) If a qualifying [~~ethanol~~] renewable fuels production
21 facility or an interest therein is acquired by a taxpayer prior



1 to the expiration of the credit period, the credit allowable
2 under subsection (a) for any period after ~~[such]~~ the acquisition
3 shall be equal to the credit that would have been allowable
4 under subsection (a) to the prior taxpayer had the taxpayer not
5 disposed of the interest. If an interest is disposed of during
6 any year for which the credit is allowable under subsection (a),
7 the credit shall be allowable between the parties on the basis
8 of the number of days during the year the interest was held by
9 each taxpayer. In no case shall the credit allowed under
10 subsection (a) be allowed after the expiration of the credit
11 period.

12 (g) Once the total nameplate capacities of qualifying
13 ~~[ethanol]~~ renewable fuels production facilities built within the
14 State reaches or exceeds a level of forty million gallons per
15 year, credits under this section shall not be allowed for new
16 ~~[ethanol]~~ renewable fuels production facilities. If a new
17 facility's production capacity would cause the statewide
18 ~~[ethanol]~~ renewable fuels production capacity to exceed forty
19 million gallons per year, only the ~~[ethanol]~~ renewable fuels
20 production capacity that does not exceed the statewide forty
21 million gallon per year level shall be eligible for the credit.



1 (h) Prior to construction of any new qualifying [~~ethanol~~]
2 renewable fuels production facility, the taxpayer shall provide
3 written notice of the taxpayer's intention to begin construction
4 of a qualifying [~~ethanol~~] renewable fuels production facility.
5 The information shall be provided to the department of taxation
6 and the department of business, economic development, and
7 tourism on forms provided by the department of business,
8 economic development, and tourism, and shall include information
9 on the taxpayer, facility location, facility production
10 capacity, anticipated production start date, and the taxpayer's
11 contact information. Notwithstanding any other law to the
12 contrary, this information shall be available for public
13 inspection and dissemination under chapter 92F.

14 (i) The taxpayer shall provide written notice to the
15 director of taxation and the director of business, economic
16 development, and tourism within thirty days following the start
17 of production. The notice shall include the production start
18 date and expected [~~ethanol-fuel~~] renewable fuels production for
19 the next twenty-four months. Notwithstanding any other law to
20 the contrary, this information shall be available for public
21 inspection and dissemination under chapter 92F.



1 (j) If a qualifying [~~ethanol~~] renewable fuels production
2 facility fails to achieve an average annual production of at
3 least seventy-five per cent of its nameplate capacity for two
4 consecutive years, the stated capacity of that facility may be
5 revised by the director of business, economic development, and
6 tourism to reflect actual production for the purposes of
7 determining statewide production capacity under subsection (g)
8 and allowable credits for that facility under subsection (a).
9 Notwithstanding any other law to the contrary, this information
10 shall be available for public inspection and dissemination under
11 chapter 92F.

12 (k) Each calendar year during the credit period, the
13 taxpayer shall provide information to the director of business,
14 economic development, and tourism on the number of gallons and
15 type of [~~ethanol~~] renewable fuels produced and sold during the
16 previous calendar year, how much was sold in Hawaii versus
17 overseas, feedstocks used for [~~ethanol~~] renewable fuels
18 production, the number of employees of the facility, and the
19 projected number of gallons of [~~ethanol~~] renewable fuels
20 production for the succeeding year.



1 (1) In the case of a partnership, S corporation, estate,
2 or trust, the tax credit allowable is for every qualifying
3 ~~[ethanol]~~ renewable fuels production facility. The cost upon
4 which the tax credit is computed shall be determined at the
5 entity level. Distribution and share of credit shall be
6 determined pursuant to section 235-110.7(a).

7 (m) Following each year in which a credit under this
8 section has been claimed, the director of business, economic
9 development, and tourism shall submit a written report to the
10 governor and legislature regarding the production and sale of
11 ~~[ethanol]~~ renewable fuels. The report shall include:

- 12 (1) The number, location, and nameplate capacities of
13 qualifying ~~[ethanol]~~ renewable fuels production
14 facilities in the State;
- 15 (2) The total number of gallons of ~~[ethanol]~~ renewable
16 fuels produced and sold during the previous year; and
- 17 (3) The projected number of gallons of ~~[ethanol]~~
18 ~~production]~~ renewable fuels expected to be produced
19 for the succeeding year."

20 SECTION 2. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



H.B. NO. 1689

1 SECTION 3. This Act, upon its approval, shall apply to
2 taxable years beginning after December 31, 2015.

3

INTRODUCED BY:



JAN 21 2016



H.B. NO. 1689

Report Title:

Renewable Fuels Facility Tax Credit

Description:

Amends the existing ethanol facility income tax credit to include other renewable fuels.

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

