

JAN 27 2016

S.B. NO. 3084

A BILL FOR AN ACT

RELATING TO CESSPOOLS.

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

1 SECTION 1. Section 235-16.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 " [+] §235-16.5 [+] Cesspool upgrade, conversion, or
4 connection; income tax credit. (a) There shall be allowed to
5 each taxpayer subject to the tax imposed under this chapter, a
6 cesspool upgrade, conversion, or connection income tax credit
7 that shall be deductible from the taxpayer's net income tax
8 liability, if any, imposed by this chapter for the taxable year
9 in which the credit is properly claimed.

10 (b) In the case of a partnership, S corporation, estate,
11 or trust, the tax credit allowable is for qualified expenses
12 incurred by the entity for the taxable year. The expenses upon
13 which the tax credit is computed shall be determined at the
14 entity level. Distribution and share of credit shall be
15 determined by rule.

16 (c) The cesspool upgrade, conversion, or connection income
17 tax credit shall be equal to the qualified expenses of the



1 taxpayer, up to a maximum of \$10,000; provided that, in the case
2 of a qualified cesspool that is a residential large capacity
3 cesspool, the amount of the credit shall be equal to the
4 qualified expenses of the taxpayer, up to a maximum of \$10,000
5 per residential dwelling connected to the cesspool, as certified
6 by the department of health pursuant to subsection (e). There
7 shall be allowed a maximum of one cesspool upgrade, conversion,
8 or connection income tax credit per qualified cesspool. The
9 cesspool upgrade, conversion, or connection income tax credit
10 shall be available only for the taxable year in which the
11 taxpayer's qualified expenses are certified by the appropriate
12 government agency.

13 (d) The total amount of tax credits allowed under this
14 section shall not exceed \$5,000,000 for all taxpayers in any
15 taxable year; provided that any taxpayer who is not eligible to
16 claim the credit in a taxable year due to the \$5,000,000 cap
17 having been exceeded for that taxable year shall be eligible to
18 claim the credit in the subsequent taxable year.

19 (e) The department of health shall:

20 (1) Certify all qualified cesspools for the purposes of
21 this section; provided that, as a pilot program, the



department of health, in its discretion, may certify no more than two residential large capacity cesspools as qualified cesspools;

(2) Collect and maintain a record of all qualified expenses certified by an appropriate government agency for the taxable year; and

(3) Certify to each taxpayer the amount of credit the taxpayer may claim; provided that if, in any year, the annual amount of certified credits reaches \$5,000,000 in the aggregate, the department of health shall immediately discontinue certifying credits and notify the department of taxation.

The director of health may adopt rules under chapter 91 as necessary to implement the certification requirements under this section.

(f) The director of taxation:

(1) Shall prepare any forms that may be necessary to claim a tax credit under this section;

(2) May require the taxpayer to furnish reasonable information to ascertain the validity of the claim for the tax credit made under this section; and



(3) May adopt rules under chapter 91 necessary to effectuate the purposes of this section.

(g) If the tax credit under this section exceeds the taxpayer's income tax liability, the excess of the credit over liability may be used as a credit against the taxpayer's income tax liability in subsequent years until exhausted. All claims for the tax credit under this section, including amended claims, shall be filed on or before the end of the twelfth month following the close of the taxable year for which the credit may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit.

(h) This section shall not apply to taxable years beginning after December 31, 2020.

(i) The tax credit under this section shall not be available to the following:

(1) A taxpayer filing a single return or a married person filing separately with an adjusted gross income of \$100,000 or more;

(2) A taxpayer filing as a head of household with an adjusted gross income of \$150,000 or more; or



1 (3) A taxpayer filing a joint return or as a surviving
2 spouse with an adjusted gross income of \$200,000 or
3 more.

4 ~~[(i)]~~ (j) As used in this section:

5 "Aerobic treatment unit system" means an individual
6 wastewater system that consists of an aerobic treatment unit
7 tank, aeration device, piping, and a discharge method that is in
8 accordance with rules adopted by the department of health
9 relating to household aerobic units.

10 "Cesspool" means an individual wastewater system consisting
11 of an excavation in the ground whose depth is greater than its
12 widest surface dimension, which receives untreated wastewater,
13 and retains or is designed to retain the organic matter and
14 solids discharged into it, but permits the liquid to seep
15 through its bottom or sides to gain access to the underground
16 geographic formation.

17 "Qualified cesspool" means a cesspool that is certified by
18 the department of health as being:

19 (1) Located within:

20 (A) Two hundred feet of a shoreline, perennial
21 stream, or wetland; or



1 (B) A source water assessment program area (two year
2 time of travel from a cesspool to a public
3 drinking water source); or

4 (2) A residential large capacity cesspool.

5 "Qualified expenses" means costs that are necessary and
6 directly incurred by the taxpayer for upgrading or converting a
7 qualified cesspool into a septic system or an aerobic treatment
8 unit system, or connecting a qualified cesspool to a sewer
9 system, and that are certified as such by the appropriate
10 government agency.

11 "Residential large capacity cesspool" means a cesspool that
12 is connected to more than one residential dwelling.

13 "Septic system" means an individual wastewater system that
14 typically consists of a septic tank, piping, and a drainage
15 field where there is natural biological decontamination as
16 wastewater discharged into the system is filtered through soil.

17 "Sewer system" means a system of piping, with
18 appurtenances, for collecting and conveying wastewater from
19 source to discharge following treatment.



1 "Wastewater" means any liquid waste, whether or not treated
2 and whether animal, mineral, or vegetable, including
3 agricultural, industrial, and thermal wastes."

4 SECTION 2. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

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

8

INTRODUCED BY: *Randy H. Becker*



S.B. NO. 3084

Report Title:

Income Tax Credit; Cesspool Upgrade, Conversion, or Connection

Description:

Disallows the tax credit for cesspool upgrade, conversion, or connection for taxpayers whose adjusted gross income exceeds certain amounts.

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

