
A BILL FOR AN ACT

RELATING TO CESSPOOLS.

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

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

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

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

(c) The cesspool upgrade, conversion, or connection income 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 or per
9 tax map key number where more than one residence is connected to
10 a residential large-capacity cesspool. The cesspool upgrade,
11 conversion, or connection income tax credit shall be available
12 only for the taxable year in which the taxpayer's qualified
13 expenses are certified by the appropriate government agency.

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

20 (e) The department of health shall:



(1) Certify all qualified cesspools for the purposes of 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 and having an adjusted gross income of \$ _____ or more;



1 (2) A taxpayer filing as a head of household and having an
2 adjusted gross income of \$ or more; or

3 (3) A taxpayer filing a joint return or as a surviving
4 spouse and having an adjusted gross income of
5 \$ or more.

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

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

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

19 "Qualified cesspool" means a cesspool that is:

20 (1) Certified by the department of health to be:

21 (A) Located within:



- 1 (i) Five hundred feet of a [~~shoreline,~~
2 perennial stream~~[-]~~ or wetland~~[+]~~, or within
3 feet of a shoreline; or
- 4 (ii) A source water assessment program area (two
5 year time of travel from a cesspool to a
6 public drinking water source);
- 7 (B) Shown to impact drinking water supplies or
8 recreational waters; or
- 9 (C) A residential large capacity cesspool; or
- 10 (2) Certified by a county or private sewer company to be
11 appropriate for connection to its existing sewer
12 system.
- 13 "Qualified expenses" means costs that are necessary and
14 directly incurred by the taxpayer for upgrading or converting a
15 qualified cesspool into a septic system or an aerobic treatment
16 unit system, or connecting a qualified cesspool to a sewer
17 system, and that are certified as such by the appropriate
18 government agency.
- 19 "Residential large capacity cesspool" means a cesspool that
20 is connected to more than one residential dwelling.



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

5 "Sewer system" means a system of piping, with
6 appurtenances, for collecting and conveying wastewater from
7 source to discharge following treatment.

8 "Wastewater" means any liquid waste, whether or not treated
9 and whether animal, mineral, or vegetable, including
10 agricultural, industrial, and thermal wastes."

11 SECTION 2. Act 120, Session Laws of Hawaii 2015, is
12 amended by amending section 4 to read as follows:

13 "SECTION 4. This Act shall take effect on July 1, 2015,
14 and shall apply to taxable years beginning after December 31,
15 2015; provided that this Act shall be repealed on December 31,
16 ~~[2020-]~~ _____."

17 SECTION 3. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.



1 SECTION 4. This Act shall take effect upon its approval;
2 provided that section 1 shall apply to taxable years beginning
3 after December 31, 2017.
4

INTRODUCED BY: _____

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JAN 24 2018



H.B. NO. 2676

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. Amends the definition of "qualified cesspool" to include cesspools located an unspecified distance from a shoreline. Extends the repeal date of the tax credit to an unspecified date.

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