

JAN 20 2017

A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

1 SECTION 1. Section 235-110.93, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§235-110.93 Important agricultural land qualified**
4 **agricultural cost tax credit.** (a) There shall be allowed to
5 each taxpayer an important agricultural land qualified
6 agricultural cost tax credit that [~~may be claimed in taxable~~
7 ~~years beginning after the taxable year during which the tax~~
8 ~~credit under section 235-110.46 is repealed, exhausted, or~~
9 ~~expired. The credit~~] shall be deductible from the taxpayer's
10 net income tax liability, if any, imposed by this chapter for
11 the taxable year in which the credit is properly claimed. The
12 tax credit amount shall be determined as follows:

13 (1) In the first year in which the credit is claimed, the
14 lesser of the following:

15 (A) Twenty-five per cent of the qualified
16 agricultural costs incurred by the taxpayer after
17 July 1, 2008; or



- 1 (B) \$625,000;
- 2 (2) In the second year in which the credit is claimed, the
- 3 lesser of the following:
- 4 (A) Fifteen per cent of qualified agricultural costs
- 5 incurred by the taxpayer after July 1, 2008; or
- 6 (B) \$250,000; and
- 7 (3) In the third year in which the credit is claimed, the
- 8 lesser of the following:
- 9 (A) Ten per cent of the qualified agricultural costs
- 10 incurred by the taxpayer after July 1, 2008; or
- 11 (B) \$125,000.

12 The taxpayer may incur qualified agricultural costs during

13 a taxable year in anticipation of claiming the credit in future

14 taxable years during which the credit is available. The

15 taxpayer may claim the credit in any taxable year after the

16 taxable year during which the taxpayer incurred the qualified

17 agricultural costs upon which the credit is claimed. The

18 taxpayer also may claim the credit in consecutive or

19 inconsecutive taxable years until exhausted.



1 (b) No other credit may be claimed under this chapter for
2 qualified agricultural costs for which a credit is claimed under
3 this section for the taxable year.

4 (c) The amount of the qualified agricultural costs
5 eligible to be claimed under this section shall be reduced by
6 the amount of funds received by the taxpayer during the taxable
7 year from the irrigation repair and maintenance special fund
8 under section 167-24.

9 (d) The cost upon which the tax credit is computed shall
10 be determined at the entity level. In the case of a
11 partnership, S corporation, estate, trust, or other pass through
12 entity, distribution and share of the credit shall be determined
13 pursuant to section 235-110.7(a).

14 If a deduction is taken under section 179 (with respect to
15 election to expense depreciable business assets) of the Internal
16 Revenue Code, no tax credit shall be allowed for that portion of
17 the qualified agricultural cost for which a deduction was taken.

18 The basis of eligible property for depreciation or
19 accelerated cost recovery system purposes for state income taxes
20 shall be reduced by the amount of credit allowable and claimed.

21 No deduction shall be allowed for that portion of otherwise



1 deductible qualified agricultural costs on which a credit is
2 claimed under this section.

3 (e) If the credit under this section exceeds the
4 taxpayer's net income tax liability for the taxable year, the
5 excess of the credit over liability shall be refunded to the
6 taxpayer; provided that no refunds or payments on account of the
7 credits allowed by this section shall be made for amounts less
8 than \$1.

9 All claims for a tax credit under this section, including
10 amended claims, shall be filed on or before the end of the
11 twelfth month following the close of the taxable year for which
12 the credit is claimed. Failure to comply with the foregoing
13 provision shall constitute a waiver of the right to claim the
14 credit.

15 (f) The director of taxation:

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

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



1 (3) May adopt rules pursuant to chapter 91 to effectuate
2 this section.

3 (g) The department of agriculture shall:

4 (1) Maintain records of the total amount of qualified
5 agricultural costs for each taxpayer claiming a
6 credit;

7 (2) Verify the amount of the qualified agricultural costs
8 claimed;

9 (3) Total all qualified agricultural costs claimed; and

10 (4) Certify the total amount of the tax credit for each
11 taxable year.

12 Upon each determination, the department of agriculture
13 shall issue a certificate to the taxpayer verifying the
14 qualifying agricultural costs and the credit amount certified
15 for each taxable year. For a taxable year, the department of
16 agriculture may certify a credit for a taxpayer who could have
17 claimed the credit in a previous taxable year, but chose not to
18 because the maximum annual credit amount under subsection (h)
19 was reached in that taxable year.

20 The taxpayer shall file the certificate with the taxpayer's
21 tax return with the department of taxation. Notwithstanding the



1 department of agriculture's certification authority under this
2 section, the director of taxation may audit and adjust
3 certification to conform to the facts.

4 Notwithstanding any other law to the contrary, the
5 information required by this subsection shall be available for
6 public inspection and dissemination under chapter 92F.

7 (h) If in any taxable year the annual amount of certified
8 credits reaches \$7,500,000 in the aggregate, the department of
9 agriculture shall immediately discontinue certifying credits and
10 notify the department of taxation. In no instance shall the
11 department of agriculture certify a total amount of credits
12 exceeding \$7,500,000 per taxable year. To comply with this
13 restriction, the department of agriculture shall certify credits
14 on a first come, first served basis.

15 The department of taxation shall not allow the aggregate
16 amount of credits claimed to exceed that amount per taxable
17 year.

18 (i) The department of agriculture, in consultation with
19 the department of taxation, shall annually determine the
20 information necessary to provide a quantitative and qualitative
21 assessment of the outcomes of the tax credit.



1 Every taxpayer, no later than the last day of the taxable
2 year following the close of the taxpayer's taxable year in which
3 the credit is claimed, shall submit a certified written
4 statement to the department of agriculture. Failure to provide
5 the information shall result in ineligibility and a recapture of
6 any credit already claimed for that taxable year. The amount of
7 the recaptured tax credit shall be added to the taxpayer's tax
8 liability for the taxable year in which the recapture occurs.

9 Notwithstanding any law to the contrary, a statement
10 submitted under this subsection shall be a public document.

11 (j) The department of agriculture, in consultation with
12 the department of taxation, shall annually submit a report
13 evaluating the effectiveness of the tax credit. The report
14 shall include but not be limited to findings and recommendations
15 to improve the effectiveness of the tax credit to further
16 encourage the development of agricultural businesses.

17 (k) As used in this section:

18 "Agricultural business" means any person with a commercial
19 agricultural, silvicultural, or aquacultural facility or
20 operation, including:



1 (1) The care and production of livestock and livestock
2 products, poultry and poultry products, apiary
3 products, and plant and animal production for nonfood
4 uses;

5 (2) The planting, cultivating, harvesting, and processing
6 of crops; and

7 (3) The farming or ranching of any plant or animal species
8 in a controlled salt, brackish, or freshwater
9 environment;

10 provided that the principal place of the agricultural business
11 is maintained in the State and more than fifty per cent of the
12 land the agricultural business owns or leases, excluding land
13 classified as conservation land, is important agricultural land.

14 "Important agricultural lands" means lands identified and
15 designated as important agricultural lands pursuant to part III
16 of chapter 205.

17 "Net income tax liability" means income tax liability
18 reduced by all other credits allowed under this chapter.

19 "Qualified agricultural costs" means expenditures for:

20 (1) The plans, design, engineering, construction,
21 renovation, repair, maintenance, and equipment for:



- 1 (A) Roads or utilities, primarily for agricultural
2 purposes, where the majority of the lands
3 serviced by the roads or utilities, excluding
4 lands classified as conservation lands, are
5 important agricultural lands;
- 6 (B) Agricultural processing facilities in the State,
7 primarily for agricultural purposes, where the
8 majority of the crops or livestock processed,
9 harvested, treated, washed, handled, or packaged
10 are from agricultural businesses;
- 11 (C) Water wells, reservoirs, dams, water storage
12 facilities, water pipelines, ditches, or
13 irrigation systems in the State, primarily for
14 agricultural purposes, providing water for lands,
15 the majority of which, excluding lands classified
16 as conservation lands, are important agricultural
17 lands; and
- 18 (D) Agricultural housing in the State, exclusively
19 for agricultural purposes; provided that:
- 20 (i) The housing units are occupied solely by
21 farmers or employees for agricultural



- 1 businesses and their immediate family
- 2 members;
- 3 (ii) The housing units are owned by the
- 4 agricultural business;
- 5 (iii) The housing units are in the general
- 6 vicinity, as determined by the department of
- 7 agriculture, of agricultural lands owned or
- 8 leased by the agricultural business; and
- 9 (iv) The housing units conform to any other
- 10 conditions that may be required by the
- 11 department of agriculture;
- 12 (2) Feasibility studies, regulatory processing, and legal
- 13 and accounting services related to the items under
- 14 paragraph (1);
- 15 (3) Equipment, primarily for agricultural purposes, used
- 16 to cultivate, grow, harvest, or process agricultural
- 17 products by an agricultural business; [and]
- 18 (4) Regulatory processing, studies, and legal and other
- 19 consultant services related to obtaining or retaining
- 20 sufficient water for agricultural activities and



1 retaining the right to farm on lands identified as
2 important agricultural lands[-]; and

3 (5) The clearing, removal of trees and debris, and soil
4 restoration of former sugar and pineapple plantation
5 lands that have been out of use for more than five
6 years.

7 [~~(1) The department of agriculture shall cease certifying~~
8 ~~credits pursuant to this section after the fourth taxable year~~
9 ~~following the taxable year during which the credits are first~~
10 ~~claimed; provided that a taxpayer with accumulated, but~~
11 ~~unclaimed, certified credits may continue claiming the credits~~
12 ~~in subsequent taxable years until exhausted.~~

13 ~~(m)]~~ (1) The department of taxation, in consultation with
14 the department of agriculture, shall submit to the legislature
15 an annual report, no later than twenty days prior to the
16 convening of each regular session, beginning with the regular
17 session of 2010, regarding the quantitative and qualitative
18 assessment of the impact of the important agricultural land
19 qualified agricultural cost tax credit."

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



1 SECTION 3. This Act shall take effect on January 1, 2018.

2

INTRODUCED BY:

Nike Hubbard
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S.B. NO. 783

Report Title:

Qualified Agricultural Costs

Description:

Repeals the provision that makes the claiming of tax credit for agricultural costs contingent upon the tax credit for the aquarium and marine science research facility at Ko Olina Resort and the training and educational facilities at Makaha Resort being repealed, exhausted, or expired. Clarifies definition of "qualified agricultural costs." Repeals the provision that the Department of Agriculture must cease certifying credits after 2017.

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

