

JAN 27 2021

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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. The legislature finds that in enacting Act 183,  
2 Session Laws of Hawaii 2005 (Act 183), it took an initial step  
3 towards implementing the mandate set forth in article XI,  
4 section 3, of the Constitution of the State of Hawaii to  
5 identify, conserve, and protect important agricultural lands.  
6 Part of Act 183, codified as section 205-43, Hawaii Revised  
7 Statutes, provided that the tax policy of the State shall  
8 promote the long-term viability of agricultural use of important  
9 agricultural lands by, among other things, promoting the  
10 maintenance of essential agricultural infrastructure systems,  
11 including irrigation systems.

12           In 2008, in furtherance of this policy, the legislature  
13 established the important agricultural land qualified  
14 agricultural cost tax credit. The purpose of the tax credit was  
15 to provide this incentive as a critical component in  
16 establishing and maintaining the long-term viability of  
17 agriculture on important agricultural lands in the State.



1 However, since 2008, very few agricultural entities have been  
2 able to utilize the tax credit due to the enormous costs  
3 associated with agricultural operations and the planning,  
4 construction, repair, and maintenance of agricultural  
5 infrastructure in the State.

6 The legislature continues to find that it is in the  
7 public's interest to assist agricultural businesses in  
8 establishing and sustaining viable agricultural operations on  
9 important agricultural lands by providing incentives, such as  
10 income tax credits, to promote, among other things, the  
11 development of agricultural infrastructure projects.

12 Accordingly, the purpose of this Act is to remove the  
13 barriers in the current law to better utilize the important  
14 agricultural land qualified agricultural cost tax credit by  
15 removing the cap amount on the tax credit that may be claimed by  
16 a taxpayer in the first, second, and third year of a project's  
17 existence. This will allow a greater number of projects to be  
18 financially viable, leading to greater investments in  
19 agricultural businesses to ensure future sustainability of  
20 agriculture in the State. It is believed that the removal of  
21 these barriers will allow for greater improvements to the



1 agricultural businesses in the State and the development of  
2 significant and long-lived agricultural infrastructure projects.

3 SECTION 2. Section 235-110.93, Hawaii Revised Statutes, is  
4 amended as follows:

5 1. By amending subsection (a) to read:

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

15 (1) In the first year in which the credit is claimed, [~~the~~  
16 ~~lesser of the following:~~

17 ~~(A) Twenty-five]~~ twenty-five per cent of the  
18 qualified agricultural costs incurred by the  
19 taxpayer after July 1, 2008 [~~or~~

20 ~~(B) \$625,000];~~



1           (2) In the second year in which the credit is claimed,  
2           ~~[the lesser of the following:~~  
3           ~~(A) Fifteen]~~ fifteen per cent of qualified  
4           agricultural costs incurred by the taxpayer after  
5           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]~~ ten per cent of the qualified agricultural  
10           costs incurred by the taxpayer after July 1,  
11           2008 [~~or~~  
12           ~~(B) \$125,000]~~.

13 The taxpayer may incur qualified agricultural costs during a  
14 taxable year in anticipation of claiming the credit in future  
15 taxable years during which the credit is available. The  
16 taxpayer may claim the credit in any taxable year after the  
17 taxable year during which the taxpayer incurred the qualified  
18 agricultural costs upon which the credit is claimed. The  
19 taxpayer also may claim the credit in consecutive or  
20 inconsecutive taxable years until exhausted."

21           2. By amending subsection (1) to read:



# S.B. NO. 985

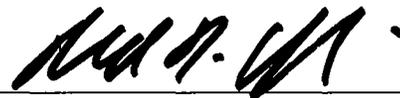
1           "(1) The department of agriculture shall cease certifying  
2 credits pursuant to this section for taxable years beginning  
3 after December 31, [~~2021~~] 2030; provided that a taxpayer with  
4 accumulated, but unclaimed, certified credits may continue  
5 claiming the credits in subsequent taxable years until  
6 exhausted."

7           SECTION 3. Statutory material to be repealed is bracketed  
8 and stricken. New statutory material is underscored.

9           SECTION 4. This Act, upon its approval, shall apply to  
10 taxable years beginning after December 31, 2020.

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INTRODUCED BY: \_\_\_\_\_



**By Request**



# S.B. NO. 985

**Report Title:**

HDOA; Income Tax; Important Agricultural Land Qualified  
Agricultural Cost Tax Credit

**Description:**

Amends the important agricultural land qualified agricultural cost tax credit by repealing the cap amount of the tax credit. Extends by nine years the time period that the department of agriculture may certify important agricultural lands qualified agricultural costs.

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