

JAN 21 2022

A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Hawaii is vulnerable to soaring prices or
2 disruptions of its energy imports, which can hinder, cripple, or
3 even devastate the State's economy and the well-being of its
4 inhabitants. As the most isolated land mass on Earth, Hawaii
5 imports nearly ninety per cent of its energy and almost one
6 hundred per cent of its transportation resources. The
7 legislature finds that it is critical for Hawaii to ensure
8 greater energy security by becoming more self-sufficient in its
9 energy and food supply.

10 The legislature also finds that Act 202, Session Laws of
11 Hawaii 2016, established a renewable fuels production tax credit
12 for the purpose of achieving greater energy security for Hawaii.
13 However, the tax credit was repealed on December 31, 2021.

14 Accordingly, the purpose of this Act is to reinstate the
15 renewable fuels production tax credit.



SECTION 2. Chapter 235, Hawaii Revised Statutes, is amended by adding a new section to part VI to be appropriately designated and to read as follows:

"§235- Renewable fuels production tax credit. (a)
Each year during the credit period, there shall be allowed to each taxpayer subject to the taxes imposed by this chapter a renewable fuels production tax credit that shall be applied to the taxpayer's net income tax liability, if any, imposed by this chapter for the taxable year in which the credit is properly claimed.

For each taxpayer producing renewable fuels, the annual dollar amount of the renewable fuels production tax credit during the five-year credit period shall be equal to 20 cents per seventy-six thousand British thermal units of renewable fuels using the lower heating value sold for distribution in Hawaii; provided that the taxpayer's production of renewable fuels is not less than two billion five hundred million British thermal units of renewable fuels per calendar year; provided further that the amount of the tax credit claimed under this section by a taxpayer shall not exceed \$3,000,000 per taxable year. No other tax credit may be claimed under this chapter for



1 the costs incurred in producing the renewable fuels that are
2 used to properly claim a tax credit under this section for the
3 taxable year.

4 (b) In the case of a partnership, S corporation, estate,
5 or trust, distribution and share of the renewable fuels
6 production tax credit shall be determined pursuant to section
7 704(b) (with respect to a partner's distributive share) of the
8 Internal Revenue Code of 1986, as amended. For a fiscal year
9 taxpayer, the taxpayer shall report the credit in the taxable
10 year in which the calendar year end is included.

11 (c) Not later than thirty days following the close of the
12 calendar year, every taxpayer claiming a credit under this
13 section shall complete and file an independent, third-party
14 certified statement, at the taxpayer's sole expense, with and in
15 the form prescribed by the department of business, economic
16 development, and tourism, providing the following information:

17 (1) The type, quantity, and British thermal unit value,
18 using the lower heating value, of each qualified fuel,
19 broken down by the type of fuel, produced and sold
20 during the previous calendar year;

21 (2) The feedstock used for each type of qualified fuel;



1 (3) The proposed total amount of credit to which the
2 taxpayer is entitled for each calendar year and the
3 cumulative amount of the tax credit the taxpayer
4 received during the credit period;

5 (4) The number of full-time and number of part-time
6 employees of the facility and those employees' states
7 of residency, totaled per state; and

8 (5) The number and location of all renewable fuel
9 production facilities within and outside of the State.

10 (d) Within thirty calendar days after the due date of the
11 statement required under subsection (c), the department of
12 business, economic development, and tourism shall:

13 (1) Acknowledge, in writing, receipt of the statement; and

14 (2) Issue a certificate to the taxpayer reporting the
15 amount of renewable fuels produced and sold, the
16 amount of credit that the taxpayer is entitled to
17 claim for the previous calendar year, and the
18 cumulative amount of the tax credit during the credit
19 period.

20 (e) The taxpayer shall file the certificate issued under
21 subsection (d) with the taxpayer's tax return with the



1 department of taxation. The director of taxation may audit and
2 adjust the certification to conform to the facts.

3 (f) The total amount of tax credits allowed under this
4 section shall not exceed \$3,000,000 for all eligible taxpayers
5 in any calendar year. In the event that the credit claims under
6 this section exceed \$3,000,000 for all eligible taxpayers in any
7 given calendar year, the \$3,000,000 shall be divided between all
8 eligible taxpayers for that year in proportion to the total
9 amount of renewable fuels produced by all eligible taxpayers.

10 Upon reaching \$3,000,000 in the aggregate, the department of
11 business, economic development, and tourism shall immediately
12 discontinue issuing certificates and notify the department of
13 taxation. In no instance shall the total dollar amount of
14 certificates issued exceed \$3,000,000 per year.

15 (g) Notwithstanding any other law to the contrary, the
16 information collected and compiled by the department of
17 business, economic development, and tourism under subsections
18 (c) and (d) for the purposes of the renewable fuels production
19 tax credit shall be available for public inspection and
20 dissemination subject to chapter 92F.



1 (h) If the credit under this section exceeds the
2 taxpayer's net income tax liability, the excess of the credit
3 over liability may be used as a credit against the taxpayer's
4 net income tax liability in subsequent years until exhausted.
5 All claims for a credit under this section shall be properly
6 filed on or before the end of the twelfth month following the
7 close of the taxable year for which the credit may be claimed.
8 Failure to comply with the foregoing provision or to provide the
9 certified statement required under subsection (c) shall
10 constitute a waiver of the right to claim the credit.

11 (i) Prior to production of any renewable fuels for the
12 calendar year, the taxpayer shall provide written notice of the
13 taxpayer's intention to begin production of renewable fuels.
14 The written notice shall be provided to the department of
15 taxation and the department of business, economic development,
16 and tourism and shall include information on the taxpayer,
17 facility location, facility production capacity, anticipated
18 production start date, and the taxpayer's contact information.
19 Notwithstanding any other law to the contrary, the written
20 notice described in this subsection, including taxpayer and



1 facility information, shall be available for public inspection
2 and dissemination subject to chapter 92F.

3 (j) The taxpayer shall provide written notice to the
4 director of taxation and the director of business, economic
5 development, and tourism within thirty days following the start
6 of production. The notice shall include the production start
7 date and expected renewable fuels production for the next twelve
8 months. Notwithstanding any other law to the contrary, the
9 written notice described in this subsection shall be available
10 for public inspection and dissemination subject to chapter 92F.

11 (k) Following each calendar year in which a credit under
12 this section has been claimed, the director of business,
13 economic development, and tourism shall submit a written report
14 to the governor and legislature regarding the production and
15 sale of renewable fuels. The report shall include:

16 (1) The number and location of renewable fuels production
17 facilities in the State and outside the State that
18 have claimed a credit under this section;

19 (2) The total number of British thermal units of renewable
20 fuels, broken down by type of fuel produced and sold
21 during the previous calendar year; and



1 (3) The projected number of British thermal units of
2 renewable fuels production for the succeeding year.

3 (1) The director of taxation:

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

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

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

11 (m) As used in this section:

12 "Credit period" means a maximum period of five consecutive
13 years, beginning from the first taxable year in which a taxpayer
14 begins renewable fuels production at a level of at least two
15 billion five-hundred million British thermal units of renewable
16 fuels per calendar year.

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

19 "Renewable feedstocks" means:



1 (1) Biomass crops and other renewable organic material,
2 including but not limited to logs, wood chips, wood
3 pellets, and wood bark;
4 (2) Agricultural residues;
5 (3) Oil crops, including but not limited to algae, canola,
6 jatropha, palm, soybean, and sunflower;
7 (4) Sugar and starch crops, including but not limited to
8 sugar cane and cassava;
9 (5) Other agricultural crops;
10 (6) Grease and waste cooking oil;
11 (7) Food wastes;
12 (8) Municipal solid wastes and industrial wastes;
13 (9) Water; and
14 (10) Animal residues and wastes,
15 that can be used to generate energy.

16 "Renewable fuels" means fuels produced from renewable
17 feedstocks, provided that the fuel:

18 (1) Is sold as a fuel in Hawaii; and
19 (2) Meets the relevant ASTM International specifications
20 or other industry specifications for the particular
21 fuel, including but not limited to:

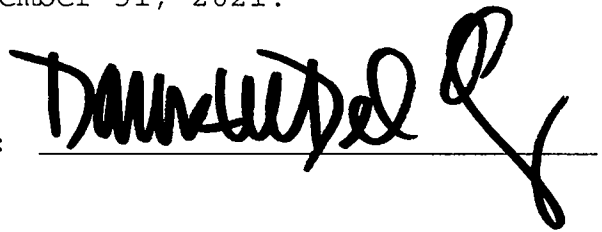


- 1 (A) Methanol, ethanol, or other alcohols;
2 (B) Hydrogen;
3 (C) Biodiesel or renewable diesel;
4 (D) Biogas;
5 (E) Other biofuels;
6 (F) Renewable jet fuel or renewable gasoline; or
7 (G) Logs, wood chips, wood pellets, or wood bark."

8 SECTION 3. New statutory material is underscored.

9 SECTION 4. This Act, upon its approval, shall apply to
10 taxable years beginning after December 31, 2021.

11
INTRODUCED BY:





S.B. NO. 2478

Report Title:

Income Tax; Renewable Fuels Production Tax Credit

Description:

Reinstates the renewable fuels production tax credit.

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