
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Chapter 235, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "\$235- Renewable fuels production tax credit. (a)
5 Each year during the credit period, there shall be allowed to
6 each taxpayer subject to the taxes imposed by this chapter a
7 renewable fuels production tax credit that shall be applied to
8 the taxpayer's net income tax liability, if any, imposed by this
9 chapter for the taxable year in which the credit is properly
10 claimed.

11 For each taxpayer producing renewable fuels, the annual
12 dollar amount of the renewable fuels production tax credit
13 during the ten-year credit period shall be equal to 20 cents per
14 seventy-six thousand British thermal units of renewable fuels
15 using the lower heating value produced for distribution in the
16 State; provided that the taxpayer's production of renewable
17 fuels is no less than fifteen billion British thermal units of



1 renewable fuels per year; provided further that the amount of
2 the tax credit claimed under this section by a taxpayer shall
3 not exceed \$ _____ per taxable year. No other tax credit
4 shall be claimed under this chapter for the costs related to
5 renewable fuels production that are used to properly claim a tax
6 credit under this section for the taxable year.

7 (b) Within thirty calendar days after the due date of the
8 statements required pursuant to subsection (f), the Hawaii state
9 energy office shall:

10 (1) Acknowledge receipt of the statements in writing;

11 (2) Total all renewable fuels production that the Hawaii
12 state energy office certifies as eligible for the tax
13 credit for the calendar year;

14 (3) In the event the verified credit claims under this
15 section exceed \$3,000,000 for all eligible taxpayers
16 in any given calendar year, divide the \$3,000,000
17 between all eligible taxpayers for that year in
18 proportion to the lower heating value of renewable
19 fuels produced by all eligible taxpayers. Upon
20 reaching \$3,000,000 in the aggregate, the Hawaii state
21 energy office shall immediately notify the department



1 of taxation. In no instance shall the total dollar
2 amount of certificates issued exceed \$3,000,000 per
3 year; and

4 (4) Issue a certificate to the taxpayer verifying the
5 amount of renewable fuels produced and sold in the
6 taxable year, the credit amount certified for the
7 taxable year, the cumulative amount of the tax credit
8 during the credit period, and that the renewable fuels
9 have life cycle emissions substantially below that of
10 fossil fuels. The taxpayer shall file the certificate
11 with the taxpayer's tax return with the department of
12 taxation.

13 Notwithstanding the Hawaii state energy office's certification
14 authority under this section, the director of taxation may audit
15 and adjust the certification to conform to the facts.

16 (c) If the credit under this section exceeds the
17 taxpayer's net income tax liability, the excess of the credit
18 over liability may be used as a credit against the taxpayer's
19 net income tax liability in subsequent years until exhausted.

20 All claims for a credit under this section shall be properly
21 filed on or before the end of the twelfth month following the



1 close of the taxable year for which the credit may be claimed.
2 Failure to comply with the foregoing provision shall constitute
3 a waiver of the right to claim the credit.

4 (d) Prior to production of any renewable fuels for the
5 year, the taxpayer shall provide written notice of the
6 taxpayer's intention to begin production of renewable fuels.
7 The information shall be provided to the department of taxation
8 and the Hawaii state energy office on forms provided by the
9 Hawaii state energy office and shall include information on the
10 taxpayer, facility location, facility production capacity,
11 anticipated production start day, and taxpayer's contact
12 information.

13 (e) The taxpayer shall provide written notice to the
14 director of taxation and chief energy officer of the Hawaii
15 state energy office within thirty days following the start of
16 production of any renewable fuels. The notice shall include the
17 production start date and expected renewable fuels production
18 for the next twelve months.

19 (f) No later than thirty days following the close of each
20 calendar year during the credit period, the taxpayer claiming a
21 credit under this section shall complete and file an



1 independent, third-party certified statement, at the taxpayer's
2 sole expense, with the chief energy officer of the Hawaii state
3 energy office. The statement shall be in the form prescribed by
4 the chief energy officer of the Hawaii state energy office and
5 shall include the following information:

6 (1) For each type of renewable fuel produced for which a
7 credit is claimed:

8 (A) The type of fuel produced;

9 (B) The volume of fuel produced;

10 (C) The volume of fuel sold;

11 (D) The lower heating value in British thermal units
12 of fuel produced and sold during the previous
13 calendar year;

14 (E) The feedstock used;

15 (F) The lifecycle greenhouse gas emissions of the
16 fuel produced and sold; and

17 (G) The lifecycle greenhouse gas emissions of the
18 fossil fuel displaced by the renewable fuel;

19 (2) The dollar amount of renewable fuels production tax
20 credit claimed by the taxpayer for renewable fuel
21 produced and sold during the calendar year, not to



1 exceed the amount per taxpayer pursuant to subsection
2 (a);
3 (3) The cumulative amount of renewable fuels production
4 tax credits received by the taxpayer during prior
5 years during the credit period;
6 (4) The number of employees of the renewable fuels
7 production facility and each employee's state of
8 residency;
9 (5) The projected lower heating value in British thermal
10 units of renewable fuels production for the succeeding
11 year; and
12 (6) Whether a renewable fuels production tax credit is
13 anticipated to be claimed in the succeeding year.
14 (g) In the case of a partnership, S corporation, estate,
15 or trust, distribution and share of the renewable fuels
16 production tax credit shall be determined pursuant to section
17 704(b) of the Internal Revenue Code of 1986, as amended, with
18 respect to a partner's distributive share.
19 (h) Following each year in which a credit under this
20 section has been claimed, the chief energy officer of the Hawaii
21 state energy office shall submit a written report to the



1 governor and legislature regarding the production and sale of
2 renewable fuels. The report shall include:

3 (1) The aggregate number and aggregate number of locations
4 of renewable fuels production facilities in the State
5 and outside the State that have claimed a credit under
6 this section;

7 (2) The total number of British thermal units of renewable
8 fuels, itemized by type of fuel produced and sold
9 during the previous year; and

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

12 (i) Notwithstanding any other provision in this section or
13 any other law to the contrary, the information collected and
14 compiled by the Hawaii state energy office under this section
15 for the purposes of the renewable fuels production tax credit
16 shall be kept confidential; provided that the Hawaii state
17 energy office may make such information that is aggregated to
18 prevent identification of a provider with the specific data
19 furnished by that provider available for public inspection and
20 dissemination subject to chapter 92F and any applicable



1 exceptions under section 92F-13; provided further that the
2 Hawaii state energy office shall:

3 (1) Be prohibited from:

4 (A) Using the information furnished or obtained for
5 any purpose other than the purposes for which it
6 was supplied; and

7 (B) Making any publication whereby the data furnished
8 by any person can be identified;

9 (2) Ensure the security and confidentiality of the
10 information;

11 (3) Protect against any anticipated threats or hazards to
12 the security or integrity of the information; and

13 (4) Protect against unauthorized access to or use of the
14 information that could result in personal or
15 competitive harm to individuals or providers.

16 (j) The director of taxation:

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

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



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

3 (k) Each taxpayer, together with all of its related
4 entities, as determined under section 267(b) of the Internal
5 Revenue Code of 1986, as amended, and all business entities
6 under common control, as determined under sections 414(b),
7 414(c), and 1563(a) of the Internal Revenue Code of 1986, as
8 amended, shall not be eligible for more than a single ten-year
9 credit period.

10 (l) As used in this section:

11 "Credit period" means a maximum period of ten consecutive
12 years, beginning from the first taxable year in which a taxpayer
13 begins renewable fuels production at a level of at least fifteen
14 billion British thermal units of renewable fuels per year.

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

17 "Renewable feedstocks" means:

18 (1) Biomass crops;

19 (2) Agricultural residue;

20 (3) Oil crops, including but not limited to algae, canola,
21 jatropha, palm, soybean, and sunflower;



- 1 (4) Sugar and starch crops, including but not limited to
2 sugar cane and cassava;
3 (5) Other agricultural crops;
4 (6) Grease and waste cooking oil;
5 (7) Food wastes;
6 (8) Municipal solid wastes and industrial wastes;
7 (9) Water; and
8 (10) Animal residues and wastes.

9 "Renewable fuels" means fuels produced from renewable
10 feedstocks; provided that the fuel:

- 11 (1) Is sold as a fuel; and
12 (2) Meets the relevant ASTM International specifications
13 for the particular fuel or other industry
14 specification for the particular fuel or other
15 industry specifications for liquid or gaseous fuels,
16 including but not limited to:
17 (A) Methanol, ethanol, or other alcohols;
18 (B) Hydrogen;
19 (C) Biodiesel or renewable diesel;
20 (D) Biogas;
21 (E) Other biofuels; or



1 (F) Renewable jet fuel or renewable gasoline."

2 SECTION 2. New statutory material is underscored.

3 SECTION 3. This Act shall take effect on July 1, 2100, and

4 shall apply to taxable years beginning after December 31, 2022.



S.B. NO. 2478 S.D. 2 H.D. 1

Report Title:

Income Tax; Renewable Fuels Production Tax Credit

Description:

Reinstates the renewable fuels production tax credit. Applies to taxable years after 12/31/2022. Effective 7/1/2010. (HD1)

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